

WSR 13-04-005
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed January 24, 2013, 11:37 a.m., effective February 24, 2013]

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

Purpose: The division of developmental disabilities (DDD) is adopting new sections and amending others in chapter 388-845 WAC to comply with federal and state laws. These changes are required to maintain compliance with home and community based waiver programs for DDD that was approved by the Centers for Medicare and Medicaid Services (CMS). This also addresses obsolete language that is in conflict in all of the approved home and community based services (HCBS) waivers, clarify language to ensure that services are implemented and consistent with services contained in the approved HCBS waiver program, or to update language that is no longer in compliance with federal and state laws. These changes ensure the division is in compliance with the HCBS waiver program and to ensure the division can continue to collect federal financial match for the receipt of services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-845-0005, 388-845-0010, 388-845-0030, 388-845-0045, 388-845-0050, 388-845-0060, 388-845-0070, 388-845-0105, 388-845-0310, 388-845-0400, 388-845-0405, 388-845-0410, 388-845-0500, 388-845-0501, 388-845-0510, 388-845-0750, 388-845-0900, 388-845-1100, 388-845-1155, 388-845-1160, 388-845-1310, 388-845-1600, 388-845-1605, 388-845-1610, 388-845-1615, 388-845-1620, 388-845-1710, 388-845-1800, 388-845-1900, 388-845-1910, 388-845-2000, 388-845-2200, 388-845-3000, 388-845-3055, 388-845-3056, 388-845-3060, 388-845-3061, 388-845-3062, 388-845-3065, 388-845-3070, 388-845-3075, 388-845-3080, 388-845-3085, 388-845-4000, and 388-845-4005.

Statutory Authority for Adoption: RCW 71A.12.030, 74.08.090.

Other Authority: SSB 6384, RCW 71A.12.030, 74.08.-090.

Adopted under notice filed as WSR 12-17-036 on August 7, 2012.

Changes Other than Editing from Proposed to Adopted Version: The department has removed some of the sections that were originally proposed. Those sections are not being permanently adopted at this time. The sections that are being permanently adopted have not changed since being proposed under WSR 12-17-036.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 45, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 45, Repealed 0.

Date Adopted: January 22, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0005 What are home and community based services (HCBS) waivers? (1) Home and community based services (HCBS) waivers are services approved by the Centers For Medicare and Medicaid Services (CMS) under section 1915(c) of the Social Security Act as an alternative to intermediate care facility for the ~~((mentally retarded (ICF/MR) care))~~ individuals with intellectual disabilities (ICF/ID).

(2) Certain federal regulations are "waived" enabling the provision of services in the home and community to individuals who would otherwise require the services provided in an ~~((ICF/MR))~~ ICF/ID as defined in chapters 388-835 and 388-837 WAC.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0010 What is the purpose of HCBS waivers? The purpose of HCBS waivers is to provide services in the community to individuals with ~~((ICF/MR))~~ ICF/ID level of need to prevent their placement in an ~~((ICF/MR))~~ ICF/ID.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-0030 Do I meet criteria for HCBS waiver-funded services? You meet criteria for DDD HCBS waiver-funded services if you meet all of the following:

(1) You have been determined eligible for DDD services per RCW 71A.10.020(3).

(2) You have been determined to meet ~~((ICF/MR))~~ ICF/ID level of care per WAC 388-845-0070, 388-828-3060 and 388-828-3080.

(3) You meet disability criteria established in the Social Security Act.

(4) You meet financial eligibility requirements as defined in WAC 388-515-1510.

(5) You choose to receive services in the community rather than in an ~~((ICF/MR))~~ ICF/ID facility.

(6) You have a need for waiver services as identified in your ~~((plan of care or))~~ individual support plan.

(7) You are not residing in hospital, jail, prison, nursing facility, ~~((ICF/MR))~~ ICF/ID, or other institution.

(8) Additionally, for the Children's Intensive In-Home Behavioral Support (CIIBS) waiver-funded services:

(a) You are age eight or older and under the age of eighteen for initial enrollment and under age twenty-one for continued enrollment;

(b) You have been determined to meet CIIBS program eligibility per chapter 388-828 WAC prior to initial enrollment only;

(c) You live with your family; and

(d) Your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s), have signed the participation agreement.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDD determine who will be enrolled? When there is capacity on a waiver and available funding for new waiver participants, DDD may enroll people from the statewide data base in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDD may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDD has determined to be in immediate risk of ((~~ICF/MR~~)) ICF/ID admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(i).

(3) For the Basic waiver only, DDD may consider persons who need the waiver services available in the Basic waiver to maintain them in their family's home or in their own home.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-0050 How do I request to be enrolled in a waiver? (1) You can contact DDD and request to be enrolled in a waiver or to enroll in a different waiver at any time.

(2) If you are assessed as meeting ((~~ICF/MR~~)) ICF/ID level of care as defined in WAC 388-845-0070 and chapter 388-828 WAC, your request for waiver enrollment will be documented by DDD in a statewide data base.

(3) For the Children's Intensive In-Home Behavioral Support (CIIBS) waiver only, if you are assessed as meeting both ((~~ICF/MR~~)) ICF/ID level of care and CIIBS eligibility as defined in WAC 388-845-0030 and chapter 388-828 WAC, your request for waiver enrollment will be documented by DDD in a statewide data base.

AMENDATORY SECTION (Amending WSR 09-10-021, filed 4/28/09, effective 5/29/09)

WAC 388-845-0060 Can my waiver enrollment be terminated? DDD may terminate your waiver enrollment if DDD determines that:

(1) Your health and welfare needs cannot be met in your current waiver or for one of the following reasons:

(a) You no longer meet one or more of the requirements listed in WAC 388-845-0030;

(b) You do not have an identified need for a waiver service at the time of your annual ((~~plan of care or~~)) individual support plan;

(c) You do not use a waiver service at least once in every thirty consecutive days and your health and welfare do not require monthly monitoring;

(d) You are on the community protection waiver and:

(i) You choose not to be served by a certified residential community protection provider-intensive supported living services (CP-ISLS);

(ii) You engage in any behaviors identified in WAC 388-831-0240 (1) through (4); and

(iii) DDD determines that your health and safety needs or the health and safety needs of the community cannot be met in the community protection program.

(e) You choose to disenroll from the waiver;

(f) You reside out-of-state;

(g) You cannot be located or do not make yourself available for the annual waiver reassessment of eligibility;

(h) You refuse to participate with DDD in:

(i) Service planning;

(ii) Required quality assurance and program monitoring activities; or

(iii) Accepting services agreed to in your ((~~plan of care or~~)) individual support plan as necessary to meet your health and welfare needs.

(i) You are residing in a hospital, jail, prison, nursing facility, ((~~ICF/MR~~)) ICF/ID, or other institution and remain in residence at least one full calendar month, and are still in residence:

(i) At the end of the twelfth month following the effective date of your current ((~~plan of care or~~)) individual support plan, as described in WAC 388-845-3060; or

(ii) The end of the waiver fiscal year, whichever date occurs first.

(j) Your needs exceed the maximum funding level or scope of services under the Basic or Basic Plus waiver as specified in WAC 388-845-3080; or

(k) Your needs exceed what can be provided under WAC 388-845-3085; or

(2) Services offered on a different waiver can meet your health and welfare needs and DDD enrolls you on a different waiver.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0070 What determines if I need ((~~ICF/MR~~)) ICF/ID level of care? DDD determines if you need ((~~ICF/MR~~)) ICF/ID level of care based on your need for

waiver services. To reach this decision, DDD uses the DDD assessment as specified in chapter 388-828 WAC.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0105 What criteria determine assignment to the community protection waiver? DDD may assign you to the community protection waiver only if you are at least eighteen years of age, not currently residing in a hospital, jail or other institution, and meet the following criteria:

(1) You have been identified by DDD as a person who meets one or more of the following:

(a) You have been convicted of or charged with a crime of sexual violence as defined in chapter 71.09 RCW;

(b) You have been convicted of or charged with acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists;

(c) You have been convicted of or charged with a sexually violent offense and/or predatory act, and may constitute a future danger as determined by a qualified professional;

(d) You have not been convicted and/or charged, but you have a history of stalking, sexually violent, predatory and/or opportunistic behavior which demonstrates a likelihood to commit a sexually violent and/or predatory act based on current behaviors that may escalate to violence, as determined by a qualified professional; or

(e) You have committed one or more violent offense, as defined in RCW 9.94A.030.

(2) You receive or agree to receive residential services from certified residential community protection provider-intensive supported living services (CP-ISLS); and

(3) You comply with the specialized supports and restrictions in your:

(a) ~~(Plan of care or)~~ Individual support plan;

(b) Individual instruction and support plan (IISP); and/or

(c) Treatment plan provided by DDD approved certified individuals and agencies.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0310 Are there limits to the AFH services I can receive? Adult family homes services are limited by the following:

(1) AFH services are defined and limited per chapter 388-106 WAC ~~((and chapter 388-71 WAC))~~ governing medicaid personal care and the comprehensive assessment and reporting evaluation (CARE).

(2) Rates are determined by and limited to department published rates for the level of care generated by CARE.

(3) AFH reimbursement cannot be supplemented by other department funding.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0400 What are adult residential care (ARC) services? Adult residential care (ARC) facilities may provide residential care to adults. This service is available in the Basic Plus waiver.

(1) An ARC is a licensed ~~((boarding home))~~ assisted living facility for seven or more unrelated adults.

(2) Services include, but are not limited to, individual and group activities; assistance with arranging transportation; assistance with obtaining and maintaining functional aids and equipment; housework; laundry; self-administration of medications and treatments; therapeutic diets; cuing and providing physical assistance with bathing, eating, dressing, locomotion and toileting; stand-by one person assistance for transferring.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0405 Who is a qualified provider of ARC services? The provider of ARC services must:

(1) Be a licensed ~~((boarding home))~~ assisted living facility;

(2) Be contracted with ADSA to provide ARC services; and

(3) Have completed the required and approved DDD specialty training.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0410 Are there limits to the ARC services I can receive? ARC services are limited by the following:

(1) ARC services are defined and limited by ~~((boarding home))~~ assisted living facility licensure and rules in chapter 388-78A WAC, and chapter 388-106 WAC ~~((and chapter 388-71 WAC))~~ governing medicaid personal care and the comprehensive assessment and reporting evaluation (CARE).

(2) Rates are determined and limited to department published rates for the level of care generated by CARE.

(3) ARC reimbursement cannot be supplemented by other department funding.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-0500 What is behavior ~~((management))~~ support and consultation? (1) Behavior ~~((management))~~ support and consultation may be provided to persons on any of the DDD HCBS waivers and includes the development and implementation of programs designed to support waiver participants using:

(a) Individualized strategies for effectively relating to caregivers and other people in the waiver participant's life; and

(b) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other

behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling, conducting a functional assessment, development and implementation of a positive behavior support plan).

(2) Behavior ((~~management~~) support) and consultation may also be provided as a ((~~mental~~) behavioral) health stabilization service in accordance with WAC 388-845-1150 through 388-845-1160.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-0501 What is included in behavior ((~~management~~) support) and consultation for the children's intensive in-home behavioral support (CIIBS) waiver? (1) In addition to the definition in WAC 388-845-0500, behavior ((~~management~~) support) and consultation in the CIIBS waiver must include the following characteristics:

(a) Treatment must be evidence based, driven by individual outcome data, and consistent with DDD's positive behavior support guidelines as outlined in contract;

(b) The following written components will be developed in partnership with the child and family by a behavior specialist as defined in WAC 388-845-0506:

(i) Functional behavioral assessment; and

(ii) Positive behavior support plan based on functional behavioral assessment.

(c) Treatment goals must be objective and measurable. The goals must relate to an increase in skill development and a resulting decrease in challenging behaviors that impede quality of life for the child and family; and

(d) Behavioral support strategies will be individualized and coordinated across all environments, such as home, school, and community, in order to promote a consistent approach among all involved persons.

(2) Behavior ((~~management~~) support) and consultation in the CIIBS waiver may also include the following components:

(a) Positive behavior support plans may be implemented by a behavioral technician as defined in WAC 388-845-0506 and include 1:1 behavior interventions and skill development activity.

(b) Positive behavior support plans may include recommendations by a music and/or recreation therapist, as defined in WAC 388-845-0506.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0510 Are there limits to the behavior ((~~management~~) support) and consultation I can receive? The following limits apply to your receipt of behavior ((~~management~~) support) and consultation:

(1) DDD and the treating professional will determine the need and amount of service you will receive, subject to the limitations in subsection (2) below.

(2) The dollar limitations for aggregate services in your Basic and Basic Plus waiver limit the amount of service unless provided as a ((~~mental~~) behavioral) health stabilization service.

(3) DDD reserves the right to require a second opinion from a department-selected provider.

(4) Behavior ((~~management~~) support) and consultation not provided as a ((~~mental~~) behavioral) health stabilization service requires prior approval by the DDD regional administrator or designee.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-0750 What are community transition services? (1) Community transition services are reasonable costs (necessary expenses in the judgment of the state for you to establish your basic living arrangement) associated with moving from:

(a) An institutional setting to a community setting in which you are living in your own home or apartment, responsible for your own living expenses and receiving services from a DDD certified residential habilitation services provider as defined in WAC 388-845-1505 and 388-845-1510; or

(b) A provider operated setting, such as a group home, staffed residential, adult family home or companion home in the community to a community setting in which you are living in your own home or apartment, responsible for your own living expenses, and receiving services from a DDD certified residential habilitation services provider as defined in WAC 388-845-1505 and 388-845-1510.

(2) Community transition services include:

(a) Security deposits (not to exceed the equivalent of two month's rent) that are required to obtain a lease on an apartment or home;

(b) Essential furnishings such as a bed, a table, chairs, window blinds, eating utensils and food preparation items;

(c) Moving expenses required to occupy your own home or apartment;

(d) Set-up fees or deposits for utility or service access (e.g., telephone, electricity, heating); and

(e) Health and safety assurances, such as pest eradication, allergen control or one-time cleaning prior to occupancy.

(3) Community transition services are available in the CORE and community protection waivers.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-0900 What are environmental accessibility adaptations? (1) Environmental accessibility adaptations are available in all of the DDD HCBS waivers and provide the physical adaptations to the home required by the individual's ((~~plan of care or~~) individual support plan) needed to:

(a) Ensure the health, welfare and safety of the individual; or

(b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home.

(2) Environmental accessibility adaptations may include the installation of ramps and grab bars, widening of doorways, modification of bathroom facilities, or installing spe-

cialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) For the CIIBS waiver only, adaptations include repairs to the home necessary due to property destruction caused by the participant's behavior.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1100 What are ~~((mental))~~ behavioral health crisis diversion bed services? ~~((Mental))~~ Behavioral health crisis diversion bed services are temporary residential and behavioral services that may be provided in a client's home or licensed or certified setting. These services are available to eligible clients who are at risk of serious decline of mental functioning and who have been determined to be at risk of psychiatric hospitalization. These services are available in all four HCBS waivers administered by DDD as ~~((mental))~~ behavioral health stabilization services in accordance with WAC 388-845-1150 through 388-845-1160.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1155 Who are qualified providers of ~~((mental))~~ behavioral health stabilization services? Providers of these ~~((mental))~~ behavioral health stabilization services are listed in the rules in this chapter governing the specific services listed in WAC 388-845-1150.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1160 Are there limitations to the ~~((mental))~~ behavioral health stabilization services that I can receive? (1) ~~((Mental))~~ Behavioral health stabilization services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a mental health professional and/or DDD.

(2) The costs of ~~((mental))~~ behavioral health stabilization services do not count toward the dollar limitations for aggregate services in the Basic and Basic Plus waiver.

(3) ~~((Mental))~~ Behavioral health stabilization services require prior approval by DDD or its designee.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-1310 Are there limits to the personal care services I can receive? (1) You must meet the programmatic eligibility for medicaid personal care in chapter ~~((s))~~ 388-106 ~~((and 388-71))~~ WAC governing medicaid personal care (MPC) using the current department approved assessment form: Comprehensive assessment reporting evaluation (CARE).

(2) The maximum hours of personal care you may receive are determined by the CARE tool used as part of the DDD assessment.

(a) Provider rates are limited to the department established hourly rates for in-home medicaid personal care.

(b) Homecare agencies must be licensed through the department of health and contracted with ADSA.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1600 What is respite care? Respite care is short-term intermittent relief for persons who normally ~~((providing))~~ provide care for ~~((waiver individuals))~~ and live with you. This service is available in the Basic, Basic Plus, CIIBS, and Core waivers.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1605 Who is eligible to receive respite care? You are eligible to receive respite care if you are in the Basic, Basic Plus, CIIBS or Core waiver and:

(1) You live in a private home and no ~~((one))~~ person living with you is ~~((paid))~~ contracted by ADSA to provide ~~((personal care services to you))~~ you with a service; or

(2) You are age eighteen or older and:

(a) You live with ~~((a paid personal care provider who is))~~ your natural, step or adoptive parent(s) who is also contracted by ADSA to provide you with a service; ~~((or))~~ and

(b) No one else living with you is contracted by ADSA to provide you with a service; or

(3) You are under the age of eighteen and:

(a) You live with your natural, step or adoptive parent(s); and ~~((your paid personal care provider also lives with you; or))~~

(b) There is a person living with you who is contracted by ADSA to provide you with a service; or

(4) You live with a caregiver who is paid by DDD to provide supports as:

(a) A contracted companion home provider; or

(b) A licensed children's foster home provider.

NEW SECTION

WAC 388-845-1607 Can someone who lives with me be my respite provider? Someone who lives with you may be your respite provider as long as they are not the person who normally provides care for you.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-1610 Where can respite care be provided? (1) Respite care can be provided in the following location(s):

(a) Individual's home or place of residence;

(b) Relative's home;

(c) Licensed children's foster home;

(d) Licensed, contracted and DDD certified group home;

(e) Licensed ~~((boarding home))~~ assisted living facility contracted as an adult residential center;

(f) Adult residential rehabilitation center;

(g) Licensed and contracted adult family home;

(h) Children's licensed group home, licensed staffed residential home, or licensed childcare center;

(i) Other community settings such as camp, senior center, or adult day care center.

(2) Additionally, your respite care provider may take you into the community while providing respite services.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-1615 Who are qualified providers of respite care? Providers of respite care can be any of the following individuals or agencies contracted with DDD for respite care:

(1) Individuals meeting the provider qualifications under chapter 388-825 WAC;

(2) Homecare/home health agencies, licensed under chapter 246-335 WAC, Part 1;

(3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes and foster group care homes;

(4) Licensed and contracted adult family home;

(5) Licensed and contracted adult residential care facility;

(6) Licensed and contracted adult residential treatment facility under chapter 246-337 WAC;

(7) Licensed childcare center under chapter 170-295 WAC;

(8) Licensed child daycare center under chapter 170-295 WAC;

(9) Adult daycare ~~((centers))~~ providers under chapter 388-71 WAC contracted with DDD;

(10) Certified provider under chapter 388-101 WAC when respite is provided within the DDD contract for certified residential services; or

(11) Other DDD contracted providers such as community center, senior center, parks and recreation, summer programs, adult day care.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1620 Are there limits to the respite care I can receive? The following limitations apply to the respite care you can receive:

(1) The DDD assessment will determine how much respite you can receive per chapter 388-828 WAC.

(2) ~~((Prior approval by the DDD regional administrator or designee is required:~~

~~(a) To exceed fourteen days of respite care per month; or~~

~~(b) To pay for more than eight hours in a twenty-four hour period of time for respite care in any setting other than your home or place of residence. This limitation does not prohibit your respite care provider from taking you into the community, per WAC 388-845-1610(2).~~

~~((3))~~ Respite cannot replace:

(a) Daycare while your parent or guardian is at work; and/or

(b) Personal care hours available to you. When determining your unmet need, DDD will first consider the personal care hours available to you.

~~((4))~~ (3) Respite providers have the following limitations and requirements:

(a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;

(b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.

~~((5))~~ (4) Your caregiver may not provide DDD services for you or other persons during your respite care hours.

~~((6))~~ (5) If your personal care provider is your parent, your parent provider will not be paid to provide respite services to any client in the same month that you receive respite services.

(6) If your personal care provider is your parent and you live in your parent's adult family home you may not receive respite.

(7) DDD may not pay for any fees associated with the respite care; for example, membership fees at a recreational facility, or insurance fees.

(8) If you require respite from a licensed practical nurse (LPN) or a registered nurse (RN), services may be authorized as skilled nursing services per WAC 388-845-1700 using an LPN or RN. If you are in the Basic Plus waiver, skilled nursing services are limited to the dollar limits of your aggregate services per WAC 388-845-0210.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-1710 Are there limitations to the skilled nursing services I can receive? The following limitations apply to your receipt of skilled nursing services:

(1) Skilled nursing services with the exception of nurse delegation and nursing evaluations require prior approval by the DDD regional administrator or designee.

(2) DDD and the treating professional determine the need for and amount of service.

(3) DDD reserves the right to require a second opinion by a department-selected provider.

(4) The dollar limitation for aggregate services in your Basic Plus waiver limit the amount of skilled nursing services unless provided as a ~~((mental))~~ behavioral health stabilization service.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1800 What are specialized medical equipment and supplies? (1) Specialized medical equipment and supplies are durable and nondurable medical equipment not available through medicaid or the state plan which enables individuals to:

(a) Increase their abilities to perform their activities of daily living; or

(b) Perceive, control or communicate with the environment in which they live.

(2) Durable and nondurable medical equipment are defined in WAC ~~((388-543-1000))~~ 182-543-1000 and ~~((388-543-2800))~~ 182-543-2800 respectively.

(3) Also included are items necessary for life support; and ancillary supplies and equipment necessary to the proper functioning of the equipment and supplies described in subsection (1) above.

(4) Specialized medical equipment and supplies are available in all DDD HCBS waivers.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-1900 What are specialized psychiatric services? (1) Specialized psychiatric services are specific to the individual needs of persons with developmental disabilities who are experiencing mental health symptoms. These services are available in all DDD HCBS waivers.

(2) Service may be any of the following:

- (a) Psychiatric evaluation,
- (b) Medication evaluation and monitoring,
- (c) Psychiatric consultation.

(3) These services are also available as a ~~((mental))~~ behavioral health stabilization service in accordance with WAC 388-845-1150 through 388-845-1160.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-1910 Are there limitations to the specialized psychiatric services I can receive? (1) Specialized psychiatric services are excluded if they are available through other medicaid programs.

(2) The dollar limitations for aggregate service in your Basic and Basic Plus waiver limit the amount of specialized psychiatric services unless provided as a ~~((mental))~~ behavioral health stabilization service.

(3) Specialized psychiatric services require prior approval by the DDD regional administrator or designee.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-2000 What is staff/family consultation and training? (1) Staff/family consultation and training is professional assistance to families or direct service providers to help them better meet the needs of the waiver person. This service is available in all DDD HCBS waivers.

(2) Consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of the waiver participant as outlined in the individual's ~~((plan of care or))~~ individual support plan, including:

- (a) Health and medication monitoring;
- (b) Positioning and transfer;
- (c) Basic and advanced instructional techniques;
- (d) Positive behavior support;
- (e) Augmentative communication systems;
- (f) Diet and nutritional guidance;
- (g) Disability information and education;
- (h) Strategies for effectively and therapeutically interacting with the participant;
- (i) Environmental consultation; and
- (j) For the CIIBS waiver only, individual and family counseling.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-2200 What are transportation services? Transportation services provide reimbursement to a provider when the transportation is required and specified in the waiver ~~((plan of care or))~~ individual support plan. This service is available in all DDD HCBS waivers if the cost and responsibility for transportation is not already included in your provider's contract and payment.

(1) Transportation provides you access to waiver services, specified by your ~~((plan of care or))~~ individual support plan.

(2) Whenever possible, you must use family, neighbors, friends, or community agencies that can provide this service without charge.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-3000 What is the process for determining the services I need? Your service needs are determined through the DDD assessment and the service planning process as defined in chapter 388-828 WAC. Only identified health and welfare needs will be authorized for payment in the ISP.

(1) You receive an initial and annual assessment of your needs using a department-approved form.

(a) You meet the eligibility requirements for ~~((ICF/MR))~~ ICF/ID level of care.

(b) The "comprehensive assessment reporting evaluation (CARE)" tool will determine your eligibility and amount of personal care services.

(c) If you are in the Basic, Basic Plus, CIIBS, or Core waiver, the DDD assessment will determine the amount of respite care available to you.

(2) From the assessment, DDD develops your waiver ~~((plan of care or))~~ individual support plan (ISP) with you and/or your legal representative and others who are involved in your life such as your parent or guardian, advocate and service providers.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3055 What is a waiver individual support plan (ISP)? (1) The individual support plan (ISP) ~~((replaces the plan of care and))~~ is the primary tool DDD uses to determine and document your needs and to identify the services to meet those needs. ~~((Your plan of care remains in effect until a new ISP is developed.))~~

(2) Your ISP must include:

- (a) Your identified health and welfare needs;
- (b) Both paid and unpaid services and supports approved to meet your identified health and welfare needs as identified in WAC 388-828-8040 and 388-828-8060; and
- (c) How often you will receive each waiver service; how long you will need it; and who will provide it.

(3) For an initial ISP, you or your legal representative must sign or give verbal consent to the plan indicating your agreement to the receipt of services.

(4) For a reassessment or review of your ISP, you or your legal representative must sign or give verbal consent to the plan indicating your agreement to the receipt of services.

(5) You may choose any qualified provider for the service, who meets all of the following:

- (a) Is able to meet your needs within the scope of their contract, licensure and certification;
- (b) Is reasonably available;
- (c) Meets provider qualifications in chapters 388-845 and 388-825 WAC for contracting; and
- (d) Agrees to provide the service at department rates.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3056 What if I need assistance to understand my ~~((plan of care or))~~ individual support plan? If you are unable to understand your ~~((plan of care or))~~ individual support plan and the individual who has agreed to provide assistance to you as your necessary supplemental accommodation representative is unable to assist you with understanding your individual support plan, DDD will take the following steps:

(1) Consult with the office of the attorney general to determine if you require a legal representative or guardian to assist you with your ~~((plan of care or))~~ individual support plan.

(2) Continue your current waiver services.

(3) If the office of the attorney general or a court determines that you do not need a legal representative, DDD will continue to try to provide necessary supplemental accommodations in order to help you understand your ~~((plan of care or))~~ individual support plan.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3060 When is my ~~((plan of care or))~~ individual support plan effective? ~~((1) For an initial plan of care or individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.~~

~~((2) For a reassessment or review of a plan of care or individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.))~~ Your individual support plan is effective the last day of the month in which DDD signs it after a signature or consent is obtained.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3061 Can a change in my ~~((plan of care or))~~ individual support plan be effective before I sign it? If you verbally request a change in service to occur immediately, DDD can sign the ~~((plan of care or))~~ individual support plan and approve it prior to receiving your signature.

(1) Your ~~((plan of care or))~~ individual support plan will be mailed to you for signature.

(2) You retain the same appeal rights as if you had signed the ~~((plan of care or))~~ individual support plan.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3062 Who is required to sign or give verbal consent to the ~~((plan of care or))~~ individual support plan? (1) If you do not have a legal representative, you must sign or give verbal consent to the ~~((plan of care or))~~ individual support plan.

(2) If you have a legal representative, your legal representative must sign or give verbal consent to the ~~((plan of care or))~~ individual support plan.

(3) If you need assistance to understand your ~~((plan of care or))~~ individual support plan, DDD will follow the steps outlined in WAC 388-845-3056 (1) and (3).

NEW SECTION

WAC 388-845-3063 Can my individual support plan be effective before the end of the month? You may request to DDD to have your individual support plan effective prior to the end of the month. The effective date will be the date DDD signs it after receiving your signature or verbal consent.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3065 How long is my plan effective? ~~((1) Your plan of care is effective until it is replaced by your individual support plan.~~

~~((2))~~ Your individual support plan is effective through the last day of the twelfth month following the effective date or until another ISP is completed, whichever occurs sooner.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3070 What happens if I do not sign or verbally consent to my individual support plan (ISP)? If DDD is unable to obtain the necessary signature or verbal consent for an initial, reassessment or review of your individual support plan (ISP), DDD will take one or more of the following actions:

(1) If this individual support plan is an initial plan, DDD will be unable to provide waiver services. DDD will not assume consent for an initial plan and will follow the steps described in WAC 388-845-3056 (1) and (3).

(2) If this individual support plan is a reassessment or review and you are able to understand your ISP:

(a) DDD will continue providing services as identified in your most current ~~((plan of care or))~~ ISP until the end of the ten-day advance notice period as stated in WAC 388-825-105.

(b) At the end of the ten-day advance notice period, unless you file an appeal, DDD will assume consent and implement the new ISP without the required signature or verbal consent as defined in WAC 388-845-3062 above.

(3) If this individual support plan is a reassessment or review and you are not able to understand your ISP, DDD will continue your existing services and take the steps described in WAC 388-845-3056.

(4) You will be provided written notification and appeal rights to this action to implement the new ISP.

(5) Your appeal rights are in WAC 388-845-4000 and 388-825-120 through 388-825-165.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3075 What if my needs change? You may request a review of your ((~~plan of care or~~)) individual support plan at any time by calling your case manager. If there is a significant change in your condition or circumstances, DDD must reassess your ((~~plan of care or~~)) individual support plan with you and amend the plan to reflect any significant changes. This reassessment does not affect the end date of your annual ((~~plan of care or~~)) individual support plan.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-3080 What if my needs exceed the maximum yearly funding limit or the scope of services under the Basic or Basic Plus waiver? (1) If you are on the Basic or Basic Plus waiver and your assessed need for services exceeds the maximum permitted, DDD will make the following efforts to meet your health and welfare needs:

(a) Identify more available natural supports;

(b) Initiate an exception to rule to access available non-waiver services not included in the Basic or Basic Plus waiver other than natural supports;

(c) Authorize emergency services up to six thousand dollars per year if your needs meet the definition of emergency services in WAC 388-845-0800.

(2) If emergency services and other efforts are not sufficient to meet your needs, you will be offered:

(a) An opportunity to apply for an alternate waiver that has the services you need;

(b) Priority for placement on the alternative waiver when there is capacity to add people to that waiver;

(c) Placement in an ((~~ICF/MR~~)) ICF/ID.

(3) If none of the options in subsections (1) and (2) above is successful in meeting your health and welfare needs, DDD may terminate your waiver eligibility.

(4) If you are terminated from a waiver, you will remain eligible for nonwaiver DDD services but access to state-only funded DDD services is limited by availability of funding.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-3085 What if my needs exceed what can be provided under the CIIBS, Core or Community Protection waiver? (1) If you are on the CIIBS, Core or Community Protection waiver and your assessed need for services exceeds the scope of services provided under your waiver, DDD will make the following efforts to meet your health and welfare needs:

(a) Identify more available natural supports;

(b) Initiate an exception to rule to access available non-waiver services not included in the CIIBS, Core or Community Protection waiver other than natural supports;

(c) Offer you the opportunity to apply for an alternate waiver that has the services you need, subject to WAC 388-845-0045;

(d) Offer you placement in an ((~~ICF/MR~~)) ICF/ID.

(2) If none of the above options is successful in meeting your health and welfare needs, DDD may terminate your waiver eligibility.

(3) If you are terminated from a waiver, you will remain eligible for nonwaiver DDD services but access to state-only funded DDD services is limited by availability of funding.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-4000 What are my appeal rights under the waiver? In addition to your appeal rights under WAC 388-825-120, you have the right to appeal the following decisions:

(1) Disenrollment from a waiver under WAC 388-845-0060, including a disenrollment from a waiver and enrollment in a different waiver.

(2) A denial of your request to receive ((~~ICF/MR~~)) ICF/ID services instead of waiver services; or

(3) A denial of your request to be enrolled in a waiver, subject to the limitations described in WAC 388-845-4005.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? (1) If you are not enrolled in a waiver and your request to be enrolled in a waiver is denied, your appeal rights are limited to the decision that you are not eligible to have your request documented in a statewide data base due to the following:

(a) You do not need ((~~ICF/MR~~)) ICF/ID level of care per WAC 388-845-0070, 388-828-8040 and 388-828-8060; or

(b) You requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.

(2) If you are enrolled in a waiver and your request to be enrolled in a different waiver is denied, your appeal rights are limited to the following:

(a) DDD's decision that the services contained in a different waiver are not necessary to meet your health and welfare needs and that the services available on your current waiver can meet your health and welfare needs; or

(b) DDD's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.

(3) If DDD determines that the services offered in a different waiver are necessary to meet your health and welfare needs, but there is not capacity on the different waiver, you do not have the right to appeal any denial of enrollment on a different waiver when DDD determines there is not capacity to enroll you on a different waiver.

WSR 13-04-093
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed February 6, 2013, 9:57 a.m., effective March 9, 2013]

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

Purpose: The department is amending these rules to be consistent with federal regulations and newly passed state laws: SHB 2056, relating to assisted living facilities; SHB [ESSB] 5708, relating to reshaping the delivery of long-term care services; 20 United States Code 1140 ("Rosa's law"); 42 Code of Federal Regulations 483.20(d); and Social Security Act section 1128I(h) as added by section 6113 of the Affordable Care Act.

Citation of Existing Rules Affected by this Order: Amending WAC 388-97-0001, 388-97-0040, 388-97-1000, 388-97-1620, 388-97-1640, 388-97-2020, and 388-97-2180.

Statutory Authority for Adoption: Chapters 18.51 and 74.42 RCW.

Adopted under notice filed as WSR 12-23-058 on November 19, 2012.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Date Adopted: January 31, 2013.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-22-077, filed 11/1/11, effective 12/2/11)

WAC 388-97-0001 Definitions. "Abandonment" means action or inaction by an individual or entity with a duty of care for a vulnerable adult that leaves the vulnerable individual without the means or ability to obtain necessary food, clothing, shelter, or health care.

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment of a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(1) **"Mental abuse"** means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(2) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or restraints including chemical restraints, unless the restraint is consistent with licensing requirements.

(3) **"Sexual abuse"** means any form of nonconsensual sexual contact, including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or cuing or encouraging a resident to perform sexual acts. Sexual abuse includes any sexual contact between a staff person and a resident, whether or not it is consensual.

(4) **"Exploitation"** means an act of forcing, compelling, or exerting undue influence over a resident causing the resident to act in a way that is inconsistent with relevant past behavior, or causing the resident to perform services for the benefit of another.

"Administrative hearing" is a formal hearing proceeding before a state administrative law judge that gives:

(1) A licensee an opportunity to be heard in disputes about licensing actions, including the imposition of remedies, taken by the department; or

(2) An individual an opportunity to appeal a finding of abandonment, abuse, neglect, financial exploitation of a resident, or misappropriation of a resident's funds.

"Administrative law judge (ALJ)" means an impartial decision-maker who presides over an administrative hearing. ALJs are employed by the office of administrative hearings (OAH), which is a separate state agency. ALJs are not DSHS employees or DSHS representatives.

"Administrator" means a nursing home administrator, licensed under chapter 18.52 RCW, who must be in active administrative charge of the nursing home, as that term is defined in the board of nursing home administrator's regulations.

"Advanced registered nurse practitioner (ARNP)" means an individual who is licensed to practice as an advanced registered nurse practitioner under chapter 18.79 RCW.

"Applicant" means an individual, partnership, corporation, or other legal entity seeking a license to operate a nursing home.

"ASHRAE" means the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc.

"Attending physician" means the doctor responsible for a particular individual's total medical care.

"Berm" means a bank of earth piled against a wall.

"Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat the resident's medical symptoms.

"Civil adjudication proceeding" means judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

"Civil fine" is a civil monetary penalty assessed against a nursing home as authorized by chapters 18.51 and 74.42 RCW. There are two types of civil fines, "per day" and "per instance."

(1) **"Per day fine"** means a fine imposed for each day that a nursing home is out of compliance with a specific requirement. Per day fines are assessed in accordance with WAC 388-97-4580(1); and

(2) **"Per instance fine"** means a fine imposed for the occurrence of a deficiency.

"Condition on a license" means that the department has imposed certain requirements on a license and the licensee cannot operate the nursing home unless the requirements are observed.

"Deficiency" is a nursing home's failed practice, action or inaction that violates any or all of the following:

(1) Requirements of chapters 18.51 or 74.42 RCW, or the requirements of this chapter; and

(2) In the case of a medicare and medicaid contractor, participation requirements under Title XVIII and XIX of the Social Security Act and federal medicare and medicaid regulations.

"Deficiency citation" or **"cited deficiency"** means written documentation by the department that describes a nursing home's deficiency(ies); the requirement that the deficiency(ies) violates; and the reasons for the determination of noncompliance.

"Deficient facility practice" or **"failed facility practice"** means the nursing home action(s), error(s), or lack of action(s) that provide the basis for the deficiency.

"Dementia care" means a therapeutic modality or modalities designed specifically for the care of persons with dementia.

"Denial of payment for new admissions" is an action imposed on a nursing home (facility) by the department that prohibits payment for new medicaid admissions to the nursing home after a specified date. Nursing homes certified to provide medicare and medicaid services may also be subjected to a denial of payment for new admissions by the federal Centers for Medicare and Medicaid Services.

"Department" means the state department of social and health services (DSHS).

"Department on-site monitoring" means an optional remedy of on-site visits to a nursing home by department staff according to department guidelines for the purpose of monitoring resident care or services or both.

"Dietitian" means a qualified dietitian. A qualified dietitian is one who is registered by the American Dietetic Association or certified by the state of Washington.

"Disclosure statement" means a signed statement by an individual in accordance with the requirements under RCW 43.43.834. The statement should include a disclosure of whether or not the individual has been convicted of certain crimes or has been found by any court, state licensing board, disciplinary board, or protection proceeding to have neglected, sexually abused, financially exploited, or physically abused any minor or adult individual.

"Drug" means a substance:

(1) Recognized as a drug in the official *United States Pharmacopoeia*, *Official Homeopathic Pharmacopoeia of the United States*, *Official National Formulary*, or any supplement to any of them; or

(2) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

"Drug facility" means a room or area designed and equipped for drug storage and the preparation of drugs for administration.

"Emergency closure" is an order by the department to immediately close a nursing home.

"Emergency transfer" means immediate transfer of residents from a nursing home to safe settings.

"Entity" means any type of firm, partnership, corporation, company, association, or joint stock association.

"Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person or entity's profit or advantage other than the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34.020(6).

"Habilitative services" means the planned interventions and procedures which constitute a continuing and comprehensive effort to teach an individual previously undeveloped skills.

"Highest practicable physical, mental, and psychosocial well-being" means providing each resident with the necessary individualized care and services to assist the resident to achieve or maintain the highest possible health, functional and independence level in accordance with the resident's comprehensive assessment and plan of care. Care and services provided by the nursing home must be consistent with all requirements in this chapter, chapters 74.42 and 18.51 RCW, and the resident's informed choices. For medicaid and medicare residents, care and services must also be consistent with Title XVIII and XIX of the Social Security Act and federal medicare and medicaid regulations.

"Informal department review" is a dispute resolution process that provides an opportunity for the licensee or administrator to informally present information to a department representative about disputed, cited deficiencies. Refer to WAC 388-97-4420.

"Inspection" or **"survey"** means the process by which department staff evaluates the nursing home licensee's compliance with applicable statutes and regulations.

"Intermediate care facility for ((the mentally retarded (ICF/MR))) individuals with intellectual disabilities (ICF/IID)" means an institution certified under chapter

42 C.F.R., Part 483, Subpart I, and licensed under chapter 18.51 RCW.

"License revocation" is an action taken by the department to cancel a nursing home license in accordance with RCW 18.51.060 and WAC 388-97-4220.

"License suspension" is an action taken by the department to temporarily revoke a nursing home license in accordance with RCW 18.51.060 and this chapter.

"Licensee" means an individual, partnership, corporation, or other legal entity licensed to operate a nursing home.

"Licensed practical nurse" means an individual licensed to practice as a licensed practical nurse under chapter 18.79 RCW;

"Mandated reporter" as used in this chapter means any employee of a nursing home, any health care provider subject to chapter 18.130 RCW, the Uniform Disciplinary Act, and any licensee or operator of a nursing home. Under RCW 74.34.020, mandated reporters also include any employee of the department of social and health services, law enforcement officers, social workers, professional school personnel, individual providers, employees and licensees of ((boarding home)) assisted living facility, adult family homes, soldiers' homes, residential habilitation centers, or any other facility licensed by the department, employees of social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agencies, county coroners or medical examiners, or Christian Science practitioners.

"Misappropriation of resident property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money.

"NFPA" means National Fire Protection Association, Inc.

"Neglect":

(1) In a nursing home licensed under chapter 18.51 RCW, neglect means that an individual or entity with a duty of care for nursing home residents has:

(a) By a pattern of conduct or inaction, failed to provide goods and services to maintain physical or mental health or to avoid or prevent physical or mental harm or pain to a resident; or

(b) By an act or omission, demonstrated a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the resident's health, welfare, or safety.

(2) In a skilled nursing facility or nursing facility, neglect also means a failure to provide a resident with the goods and services necessary to avoid physical harm, mental anguish, or mental illness.

"Noncompliance" means a state of being out of compliance with state and/or federal requirements for nursing homes/facilities.

"Nursing assistant" means a nursing assistant as defined under RCW 18.88A.020 or successor laws.

"Nursing facility (NF)" or **"medicaid-certified nursing facility"** means a nursing home, or any portion of a hospital, veterans' home, or residential habilitation center, that is certified to provide nursing services to medicaid recipients under Section 1919(a) of the federal Social Security Act. All beds in a nursing facility are certified to provide medicaid

services, even though one or more of the beds are also certified to provide medicare skilled nursing facility services.

"Nursing home" means any facility licensed to operate under chapter 18.51 RCW.

"Officer" means an individual serving as an officer of a corporation.

"Owner of five percent or more of the assets of a nursing home" means:

(1) The individual, and if applicable, the individual's spouse, who operates, or is applying to operate, the nursing home as a sole proprietorship;

(2) In the case of a corporation, the owner of at least five percent of the shares or capital stock of the corporation; or

(3) In the case of other types of business entities, the owner of a beneficial interest in at least five percent of the capital assets of an entity.

"Partner" means an individual in a partnership owning or operating a nursing home.

"Person" means any individual, firm, partnership, corporation, company, association or joint stock association.

"Pharmacist" means an individual licensed by the Washington state board of pharmacy under chapter 18.64 RCW.

"Pharmacy" means a place licensed under chapter 18.64 RCW where the practice of pharmacy is conducted.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, and which restricts freedom of movement or access to the resident's body.

"Physician's assistant (PA)" means a physician's assistant as defined under chapter 18.57A or 18.71A RCW or successor laws.

"Plan of correction" is a nursing home's written response to cited deficiencies that explains how it will correct the deficiencies and how it will prevent their reoccurrence.

"Reasonable accommodation" and **"reasonably accommodate"** has the meaning given in federal and state antidiscrimination laws and regulations. For the purpose of this chapter:

(1) Reasonable accommodation means that the nursing home must:

(a) Not impose admission criteria that excludes individuals unless the criteria is necessary for the provision of nursing home services;

(b) Make reasonable modification to its policies, practices or procedures if the modifications are necessary to accommodate the needs of the resident;

(c) Provide additional aids and services to the resident.

(2) Reasonable accommodations are not required if:

(a) The resident or individual applying for admission presents a significant risk to the health or safety of others that cannot be eliminated by the reasonable accommodation;

(b) The reasonable accommodations would fundamentally alter the nature of the services provided by the nursing home; or

(c) The reasonable accommodations would cause an undue burden, meaning a significant financial or administrative burden.

"Receivership" is established by a court action and results in the removal of a nursing home's current licensee and the appointment of a substitute licensee to temporarily operate the nursing home.

"Recurring deficiency" means a deficiency that was cited by the department, corrected by the nursing home, and then cited again within fifteen months of the initial deficiency citation.

"Registered nurse" means an individual licensed to practice as a registered nurse under chapter 18.79 RCW.

"Rehabilitative services" means the planned interventions and procedures which constitute a continuing and comprehensive effort to restore an individual to the individual's former functional and environmental status, or alternatively, to maintain or maximize remaining function.

"Resident" generally means an individual residing in a nursing home. Except as specified elsewhere in this chapter, for decision-making purposes, the term "resident" includes the resident's surrogate decision maker acting under state law. The term resident excludes outpatients and individuals receiving adult day or night care, or respite care.

"Resident care unit" means a functionally separate unit including resident rooms, toilets, bathing facilities, and basic service facilities.

"Respiratory isolation" is a technique or techniques instituted to prevent the transmission of pathogenic organisms by means of droplets and droplet nuclei coughed, sneezed, or breathed into the environment.

"Siphon jet clinic service sink" means a plumbing fixture of adequate size and proper design for waste disposal with siphon jet or similar action sufficient to flush solid matter of at least two and one-eighth inches in diameter.

"Skilled nursing facility (SNF)" or **"medicare-certified skilled nursing facility"** means a nursing home, a portion of a nursing home, or a long-term care wing or unit of a hospital that has been certified to provide nursing services to medicare recipients under Section 1819(a) of the federal Social Security Act.

"Social/therapeutic leave" means leave which is for the resident's social, emotional, or psychological well-being; it does not include medical leave.

"Staff work station" means a location at which nursing and other staff perform charting and related activities throughout the day.

"Stop placement" or **"stop placement order"** is an action taken by the department prohibiting nursing home admissions, readmissions, and transfers of patients into the nursing home from the outside.

"Substantial compliance" means the nursing home has no deficiencies higher than severity level 1 as described in WAC 388-97-4500, or for medicare certified facility, no deficiencies higher than a scope and severity "C."

"Surrogate decision maker" means a resident representative or representatives as outlined in WAC 388-97-0240, and as authorized by RCW 7.70.065.

"Survey" means the same as **"inspection"** as defined in this section.

"Temporary manager" means an individual or entity appointed by the department to oversee the operation of the

nursing home to ensure the health and safety of its residents, pending correction of deficiencies or closure of the facility.

"Termination" means an action taken by:

(1) The department, or the nursing home, to cancel a nursing home's medicare certification and contract; or

(2) The department of health and human services Centers for Medicare and Medicaid Services, or the nursing home, to cancel a nursing home's provider agreement to provide services to medicare or medicare recipients, or both.

"Toilet room" means a room containing at least one toilet fixture.

"Uncorrected deficiency" is a deficiency that has been cited by the department and that is not corrected by the licensee by the time the department does a revisit.

"Violation" means the same as **"deficiency"** as defined in this section.

"Volunteer" means an individual who is a regularly scheduled individual not receiving payment for services and having unsupervised access to a nursing home resident.

"Vulnerable adult" includes a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(2) Found incapacitated under chapter 11.88 RCW; or

(3) Who has a developmental disability as defined under RCW 71A.10.020; or

(4) Admitted to any facility, including any ((boarding home)) assisted living facility; or

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(6) Receiving services from an individual provider; or

(7) With a functional disability who lives in his or her own home, who is directing and supervising a paid personal aide to perform a health care task as authorized by RCW 74.39.050.

"Whistle blower" means a resident, employee of a nursing home, or any person licensed under Title 18 RCW, who in good faith reports alleged abandonment, abuse, financial exploitation, or neglect to the department, the department of health or to a law enforcement agency.

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-0040 Discrimination prohibited. (1) A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services covered under the state medicare plan for all individuals regardless of source of payment.

(2) A nursing facility must not require or request:

(a) Residents or potential residents to waive their rights to medicare or medicare;

(b) Oral or written assurance that residents or potential residents are not eligible for, or will not apply for medicare or medicare benefits; and

(c) A third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract,

without incurring personal financial liability, to provide facility payment from the resident's income or resources.

(3) A nursing facility must inform, in writing, a prospective resident, and where applicable, the resident's representative, before or at the time of admission, that a third party may not be required or requested to personally guarantee payment to the nursing home, as specified in subsection (2)(c) of this section.

(4) A nursing facility must readmit a resident, who has been hospitalized or on therapeutic leave, immediately to the first available bed in a semiprivate room if the resident:

- (a) Requires the services provided by the facility; and
- (b) Is eligible for medicaid nursing facility services.

(5) A nursing facility must not:

(a) Deny or delay admission or readmission of an individual to the facility because of the individual's status as a medicaid recipient;

(b) Transfer a resident, except from a single room to another room within the facility, because of the resident's status as a medicaid recipient;

(c) Discharge a resident from a facility because of the resident's status as a medicaid recipient; or

(d) Charge medicaid recipients any amounts in excess of the medicaid rate from the date of eligibility, except for any supplementation that may be permitted by department regulation.

(6) A nursing facility must maintain only one list of names of individuals seeking admission to the facility, which is ordered by the date of request for admission, and must:

(a) Offer admission to individuals in the order they appear on the list, except as provided in subsection (7), as long as the facility can meet the needs of the individual with available staff or through the provision of reasonable accommodations required by state or federal laws;

(b) Retain the list of individuals seeking admission for one year from the month admission was requested; and

(c) Offer admission to the portions of the facility certified under medicare and medicaid without discrimination against persons eligible for medicaid, except as provided in subsection (7).

(7) A nursing facility is permitted to give preferential admission to individuals who seek admission from ~~((a boarding home))~~ an assisted living facility, licensed under chapter 18.20 RCW, or from independent retirement housing, if:

(a) The nursing facility is owned by the same entity that owns the ~~((boarding home))~~ assisted living facility or independent housing; and

(b) They are located within the same proximate geographic area; and

(c) The purpose of the preferential admission is to allow continued provision of culturally or faith-based services, or services provided by a continuing care retirement community as defined in RCW 74.38.025.

(8) A nursing facility must develop and implement written policies and procedures to ensure nondiscrimination in accordance with this section and RCW 74.42.055.

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-1000 Resident assessment. (1) The nursing home must:

(a) Provide resident care based on a systematic, comprehensive, interdisciplinary assessment, and care planning process in which the resident participates, to the fullest extent possible;

(b) Conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity;

(c) At the time each resident is admitted:

(i) Have physician's orders for the resident's immediate care; and

(ii) Ensure that the resident's immediate care needs are identified in an admission assessment.

(d) Ensure that the comprehensive assessment of a resident's needs describes the resident's capability to perform daily life functions and significant impairments in functional capacity.

(2) The comprehensive assessment must include at least the following information:

(a) Identification and demographic information;

(b) Customary routine;

(c) Cognitive patterns;

(d) Communication;

(e) Vision;

(f) Mood and behavior patterns;

(g) Psychosocial well-being;

(h) Physical functioning and structural problems;

(i) Continence;

(j) Disease diagnosis and health conditions;

(k) Dental and nutritional status;

(l) Skin conditions;

(m) Activity pursuit;

(n) Medications;

(o) Special treatments and procedures;

(p) Discharge potential;

(q) Documentation of summary information regarding the assessment performed; and

(r) Documentation of participation in assessment.

(3) The nursing home must conduct comprehensive assessments:

(a) No later than fourteen days after the date of admission;

(b) Promptly after a significant change in the resident's physical or mental condition; and

(c) In no case less often than once every twelve months.

(4) The nursing home must ensure that:

(a) Each resident is assessed no less than once every three months, and as appropriate, the resident's assessment is revised to assure the continued accuracy of the assessment; and

(b) The results of the assessment are used to develop, review and revise the resident's comprehensive plan of care under WAC 388-97-1020.

(5) The skilled nursing facility and nursing facility must:

(a) For the required assessment, complete the state approved resident assessment instrument (RAI) for each resident in accordance with federal requirements;

(b) ~~((Place))~~ Maintain electronic or paper copies of ((the completed state approved RAI in each resident's clinical record, unless all charting is computerized)) completed resident assessments in the resident's active medical record for fifteen months; this information must be maintained in a centralized location and be easily and readily accessible;

(c) ~~((Maintain all copies of resident assessments completed within the resident's active clinical record for fifteen months))~~ Place the hard copies of the signature pages in the clinical record of each resident if a facility maintains their RAI data electronically and does not use electronic signatures;

(d) Assess each resident not less than every three months, using the state approved assessment instrument; and

(e) Transmit all state and federally required RAI information for each resident to the department:

(i) In a manner approved by the department;

(ii) Within ten days of completion of any RAI assessment required under this subsection; and

(iii) Within ten days of discharging or ~~((readmitting a resident))~~ admitting a resident for a tracking record.

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-1620 General administration. (1) The nursing home must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(2) The nursing home must:

(a) Be licensed under chapter 18.51 RCW;

(b) Operate and provide services in compliance with:

(i) All applicable federal, state and local laws, regulations, and codes;

(ii) Accepted professional standards and principles that apply to professionals providing services in nursing homes; and

(c) Have a governing body or designated individuals functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the nursing home.

(3) The governing body of the nursing home must appoint the administrator who:

(a) Is licensed by the state;

(b) Is responsible for management of the nursing home;

(c) Keeps the licensee informed of all surveys and notices of noncompliance;

(d) Complies with all requirements of chapter 18.52 RCW, and all regulations adopted under that chapter;

(e) Is an on-site, full-time individual in active administrative charge at the premises of only one nursing home, a minimum of four days and an average of forty hours per week ~~((- Exception: On-site, full-time administrator with small resident populations or in rural areas will be defined as an individual in active administrative charge at the premises of only one nursing home:))~~

~~((i) A minimum of four days and an average of twenty hours per week at facilities with one to thirty beds; or~~

~~((ii) A minimum of four days and an average of thirty hours per week at facilities with thirty one to forty nine beds)) except as provided in WAC 246-843-010.~~

(4) Nursing homes temporarily without an administrator may operate up to four continuous weeks under a responsible individual authorized to act as nursing home administrator designee.

(a) The designee must be qualified by experience to assume designated duties; and

(b) The nursing home must have a written agreement with a nursing home administrator, licensed in the state of Washington, who must be readily available to consult with the designee.

(c) The nursing home may make a written request to the department's designated aging and disability services administration field office for an extension of the four weeks by stating why an extension is needed, how a resident's safety or well-being is maintained during an extension and giving the estimated date by which a full-time, qualified nursing home administrator will be on-site.

(5) The nursing home must employ on a full-time, part time or consultant basis those professionals necessary to carry out the requirements of this chapter.

(6) If the nursing home does not employ a qualified professional individual to furnish a specific service to be provided by the nursing home, the nursing home must:

(a) Have that service furnished to residents by an individual or agency outside the nursing home under a written arrangement or agreement; and

(b) Ensure the arrangement or agreement referred to in (a) of this subsection specifies in writing that the nursing home assumes responsibility for:

(i) Obtaining services that meet professional standards and principles that apply to professionals providing services in nursing homes; and

(ii) The timeliness of services.

(7) The nursing home must:

(a) Report to the local law enforcement agency and the department any individual threatening bodily harm or causing a disturbance which threatens any individual's welfare and safety;

(b) Identify, investigate, and report incidents involving residents, according to department established nursing home guidelines; and

(c) Comply with "whistle blower" rules as defined in chapter 74.34 RCW.

(8) The department will:

(a) Investigate complaints, made to the department according to established protocols including protocols described in RCW 74.39A.060;

(b) Take action against a nursing home that is found to have used retaliatory treatment toward a resident or employee who has voiced grievances to nursing home staff or administration, or lodged a good faith complaint with the department; and

(c) Report to local law enforcement:

(i) Any mandated reporter that knowingly fails to report in accordance with WAC 388-97-0640; and

(ii) Any person that intentionally, maliciously or in bad faith makes a false report of alleged abandonment, abuse, financial exploitation, or neglect of a vulnerable adult.

(9) Refer also to WAC 388-97-1840, Retaliation.

AMENDATORY SECTION (Amending WSR 11-22-077, filed 11/1/11, effective 12/2/11)

WAC 388-97-1640 Required notification and reporting. (1) The nursing home must immediately notify the department's aging and disability services administration of:

(a) Any allegations of resident abandonment, abuse, or neglect, including substantial injuries of an unknown source, financial exploitation and misappropriation of a resident's property;

(b) Any unusual event, having an actual or potential negative impact on residents, requiring the actual or potential implementation of the nursing home's disaster plan. These unusual events include but are not limited to those listed under WAC 388-97-1740 (1)(a) through (k), and could include the evacuation of all or part of the residents to another area of the nursing home or to another address; and

(c) Circumstances which threaten the nursing home's ability to ensure continuation of services to residents.

(2) Mandated reporters must notify the department and law enforcement as directed in WAC 388-97-0640, and according to department established nursing home guidelines.

(3) The nursing home must notify the department's aging and disability services administration of:

(a) Physical plant changes, including but not limited to:

- (i) New construction;
- (ii) Proposed resident area or room use change;
- (iii) Resident room number changes; and
- (iv) Proposed bed banking.

(b) Mechanical failure of equipment important to the everyday functioning of the nursing home, which cannot be repaired within a reasonable time frame, such as an elevator; and

(c) An actual or proposed change of ownership (CHOW).

(4) The nursing home must notify, in writing, the department's aging and disability services administration and each resident, of a loss of, or change in, the nursing home's administrator or director of nursing services at the time the loss or change occurs.

(5) The nursing home licensee must notify the department's aging and disability services administration in writing of any change in the name of the licensee, or of the nursing home, at the time the change occurs.

(6) If a licensee operates in a building it does not own, the licensee must immediately notify the department of the occurrence of any event of default under the terms of the lease, or if it receives verbal or written notice that the lease agreement will be terminated, or that the lease agreement will not be renewed.

(7) The nursing home must report any case or suspected case of a reportable disease to the appropriate department of health officer and must also notify the appropriate depart-

ment(s) of other health and safety issues, according to state and local laws.

(8) ~~((The nursing home licensee must notify the department in writing))~~ In the event of a nursing home's voluntary closure(-), the nursing home must:

(a) ~~((The licensee must send this written notification sixty days before closure to the department's designated local aging and adult administration office and to))~~ Notify all residents and resident representatives(-), the department's designated aging and disability services administration office, the state long-term ombudsman, and, if the facility is medicare-certified, the Centers for Medicare and Medicaid Services:

(b) Send the written notification at least sixty days before closure:

(c) Ensure that the relocation of residents and any required notice to the Centers for Medicare and Medicaid Services and the public ((must be)) is done in accordance with WAC ((388-97-4320(2))) 388-97-4320.

(9) The nursing home licensee must ~~((notify the department and the health care authority in writing of voluntary termination of))~~ provide written notice of its intention to voluntarily terminate its medicare or medicaid contract(-), to:

(a) ~~((The licensee must send this written notification sixty days before contract termination, to the))~~ department's designated ((local)) aging and disability services administration office ((and to all residents and resident representatives-));

(b) ~~((If the contractor continues to provide nursing facility services, the contract termination will be subject to federal law prohibiting the discharge of residents who are residing in the facility on the day before the effective date of the contract termination))~~ The Washington health care authority;

(c) The Centers for Medicare and Medicaid Services;

(d) All residents and, when appropriate, resident representatives; and

(e) The public.

(10) ~~((The nursing home licensee must notify the Centers for Medicare and Medicaid Services of voluntary termination of its medicare provider agreement in accordance with the requirements of 42 C.F.R. 489.52 or successor regulations))~~ The written notice required in subsection (9) must be provided, at least sixty days before contract termination, except notice to Centers for Medicare and Medicaid Services and the public must be provided in accordance with the requirements of 42 C.F.R. 489.52.

(11) If a nursing home voluntarily withdraws from participation in the medicaid program, but continues to provide nursing facility services, the nursing home will be subject to 42 U.S.C. 1396r (c)(2)(F), which prohibits the discharge of medicaid residents who are residing in the facility before the effective date of the withdrawal.

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-2020 Intermediate care facilities for ((the mentally retarded)) individuals with intellectual disabilities. (1) ~~((ICF/MR))~~ ICF/IID nursing facilities must meet the requirements of 42 C.F.R. § 483 Subpart I and the

requirements of this subchapter except that in an (~~ICF/MR~~) ICF/IID nursing facility:

(a) There must be at least one registered nurse or licensed practical nurse on duty eight hours per day, and additional licensed staff on any shift if indicated. WAC 388-97-1080 (2)(a) and (3)(a) and (b) do not apply to ICF/MR nursing facilities; and

(b) A medical director is not required.

(2) Staff from the division of developmental disabilities will approve of social/therapeutic leave for individuals who reside in (~~ICF/MR~~) ICF/IID nursing facilities.

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-2180 (~~ICF/MR~~) ICF/IID exceptions to physical plan requirements. The following regulations do not apply to nursing homes certified exclusively under 42 C.F.R. § 483, Subpart I, or successor laws:

(1) WAC 388-97-2440, regarding the required number of square feet per bed; and

(2) WAC 388-97-2660, regarding cubicle curtains.

WSR 13-05-003
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-19—Filed February 6, 2013, 2:36 p.m., effective March 9, 2013]

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

Purpose: This proposal amends rules concerning the conditions and criteria for wildlife-property-damage compensation. The proposal modifies the criteria for compensation and services from the state, increases property owner flexibility, encourages the use of preventative measures, and clarifies priorities and assistance for property damage.

Citation of Existing Rules Affected by this Order: Amending WAC 232-36-030, 232-36-051, 232-36-100, 232-36-200, and 232-36-400.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, and 77.36.120.

Adopted under notice filed as WSR 12-20-069 on October 3, 2012.

Changes Other than Editing from Proposed to Adopted Version: **WAC 232-36-051 Killing wildlife causing private property damage.**

Changes, if any, from the text of the proposed rule and reasons for difference:

- Language in the first paragraph was changed to read:

WAC 232-36-051 Killing wildlife causing private property damage. The fish and wildlife commission is authorized to classify wildlife as game, and/or as endangered or protected species, and/or as a predatory bird, consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing property damage.

These changes were made to clarify the fish and wildlife commission's authority to classify wildlife.

- Strike the words "or pets" from subsection (1)(a)(iii). This section is specific to commercial-crop and commercial-livestock damage.

WAC 232-36-400 Commercial crop or livestock damage claim—Dispute resolution.

Changes, if any, from the text of the proposed rule and reasons for difference:

- Language in subsection (5) was changed from:

(4) If parties cannot agree upon damages, the owner may elect to apply for an adjudicative proceeding pursuant to chapter 34.05 RCW.

Adjudicative proceeding:

(5) If the owner wishes to appeal the claim denial or the department settlement offer (order), the owner may request an adjudicative proceeding consistent with chapter 34.05 RCW within sixty days of receiving the original order.

to:

(5) If parties cannot agree upon damages, or the owner wishes to appeal the claim denial or the department's settlement offer (order), the owner may request an adjudicative proceeding consistent with chapter 34.05 RCW within sixty days of receiving a copy of the department's decision.

The changes in this subsection are intended to make the standards more consistent with the Administrative Procedure Act (APA).

- Language in subsection (7) was changed from:

(7) The proceeding may only result in the reversal or modification of an order when the preponderance of evidence shows:

- (a) The order was not authorized by law or rule;
- (b) A fact stated in the order is materially incorrect;
- (c) The award amount offered is inconsistent with applicable and accepted procedures, rule, and/or law; or
- (d) Material information or evidence was made available by the owner at the time of the damage assessment, but was not considered in the order.

to:

(8) The proceeding may only result in the reversal or modification of an order when the preponderance of evidence shows:

- (a) The order was not authorized by law or rule;
- (b) A fact stated in the order is not supported by substantial evidence;
- (c) The award amount offered is inconsistent with applicable procedures; or
- (d) Material evidence was made available by the owner at the time of the damage assessment, but was not considered in the order.

The changes in this subsection are intended to make the standards more consistent with the APA.

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

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

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

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

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

Date Adopted: December 14, 2012.

Miranda Wecker, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

WAC 232-36-030 Definitions. Definitions used in rules of the fish and wildlife commission are defined in RCW 77.08.010, and the definitions for wildlife interactions are defined in RCW 77.36.010. In addition, unless otherwise provided, the following definitions are applicable to this chapter:

"Act of damaging" means that private property is in the process of being damaged by wildlife, and the wildlife are on the private property, which contains commercial crops, pasture, or livestock.

"Big game" means those animals listed in RCW 77.08.-030.

"Claim" means an application to the department for compensation under this chapter.

"Claimant" means owner of commercial crop or livestock who has filed a wildlife damage claim for cash compensation.

"Commercial crop" means a commercially raised horticultural and/or agricultural product and includes the growing or harvested product, but does not include livestock, forest land, or rangeland. For the purposes of this chapter, Christmas trees and managed pasture grown using agricultural methods including one or more of the following: Seeding, planting, fertilizing, irrigating, and all parts of horticultural trees, are considered a commercial crop and are eligible for cash compensation.

"Commercial livestock" means cattle, sheep, and horses held or raised by a person for sale.

"Compensation" means a cash payment, materials, or service.

"Completed written claim" means that all of the information required on a department crop or livestock damage claim form is supplied and complete, including all supplemental information and certifications required to process the claim.

"Damage" means economic losses caused by wildlife interactions.

"Damage claim assessment" means department approved methods to evaluate crop loss and value caused by deer or elk damage to commercial crops, or livestock losses and value caused by bear, cougar, or wolves.

"Eligible farmer" means an owner who satisfies the definition of eligible farmer pursuant to RCW 82.08.855 (4)(b) (i) through (iv).

"Emergent" means an unforeseen circumstance beyond the control of the landowner or tenant, that presents a real and immediate threat to crops, domestic animals, or fowl.

"Game animal" means wild animals that shall not be hunted except as authorized by the commission.

"Guard dog" means dogs trained for the purpose of protecting livestock from attack by wildlife or for herding livestock.

"Immediate family member" means spouse, state registered domestic partner, brother, sister, grandparent, parent, child, or grandchild.

"Immediate threat of physical harm" means that animal-to-human bodily contact is imminent; and the animal is in attack posture/mode.

"Livestock" means horses, cattle, sheep, goats, swine, donkeys, mules, llamas, and alpacas.

"Owner" means a person who has a legal right to commercial crops, commercial livestock, or other private property that was damaged during a wildlife interaction.

"Physical act of attacking" means actual or imminent animal-to-human physical contact.

"Public hunting" means an owner satisfies the "public hunting" requirement for his or her land, as defined in WAC 232-36-300.

"Wild animal" means those species of the class Mammalia whose members exist in Washington in a wild state.

"Wildlife control operator" means a person who has successfully completed the training and obtained one or more levels of certification from the department to assist landowners to prevent or control problems caused by wildlife.

"Wildlife interaction" means the negative interaction and the resultant damage between wildlife and commercial crops, commercial livestock, or other property.

AMENDATORY SECTION (Amending Order 10-291, filed 11/8/10, effective 12/9/10)

WAC 232-36-051 Killing wildlife causing private property damage. The fish and wildlife commission is authorized to classify wildlife as game, and/or as endangered or protected species, and/or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing property damage.

The conditions for killing wildlife vary, based primarily on the classification of the wildlife species, the imminent nature of the threat to damage private property, the type of private property damage, and the preventive and nonlethal methods employed by the person prior to the damage event. Additional conditions defined by the department may also be important, depending on individual situations. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 232 WAC.

(1) Killing wildlife causing damage to a commercial crop or commercial livestock.

(a) It is permissible to kill unclassified wildlife, predatory birds, and big game animals that are in the act of damag-

ing commercial crops or livestock, under the following conditions:

(i) Predatory birds (defined in RCW 77.08.010(39)) and unclassified wildlife that are in the act of damaging commercial crops or livestock may be killed with the express permission of the owner at any time on private property, to protect commercial crops or livestock.

(ii) An owner with a valid, written damage prevention agreement with the department may kill an individual (one) big game animal while it is in the act of damaging commercial crops.

(iii) An individual (one) big game animal may be killed during the physical act of attacking livestock (~~(or pets)~~).

(iv) Multiple big game animals may be killed while they are in the act of damaging commercial crops or livestock if the owner is issued a kill permit by the department.

(v) A damage prevention agreement or kill permit must include: An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal; a description of the properties where lethal removal is allowed; the species and sex of the animal that may be killed; the terms of the agreement/permit; the dates when lethal removal is authorized; who may kill the animal(s); and other conditions developed within department procedural documents.

(b) It is unlawful to kill protected species (as defined in WAC 232-12-011) or endangered species (as defined in WAC 232-12-014) unless authorized by commission rule or with a permit from the department, with the following additional requirements:

(i) Federally listed threatened or endangered species will require federal permits or federal authority, in addition to a state permit.

(ii) All migratory birds are federally protected and may require a federal permit or federal authority, in addition to a state permit.

(2) Killing wildlife causing damage or killing wildlife to prevent private property damage.

(a) An individual (one) big game animal may be killed during the physical act of attacking livestock or pets.

(b) Predatory birds (as defined in RCW 77.08.010(39)), unclassified wildlife, and eastern gray squirrels may be killed with the express permission of the property owner at any time, to prevent private property damage on private real property.

~~((b))~~ (c) Subject to subsection (6) of this section, the following list of wildlife species may be killed with the express permission of the owner, when causing damage to private property: Raccoon, fox, bobcat, beaver, muskrat, mink, river otter, weasel, hare, and cottontail rabbits.

~~((c))~~ (d) The department may make agreements with landowners to prevent private property damage by wildlife. The agreements may include special hunting season permits such as: Landowner damage prevention permits, spring black bear hunting permits, permits issued through the landowner hunting permit program, kill permits, and Master Hunter permits.

~~((d))~~ (e) Landowners are encouraged to allow general season hunters during established hunting seasons on their property to help minimize damage potential and concerns.

(3) Wildlife control operators may assist property owners under the conditions of their permit, as established in WAC 232-36-060 and 232-36-065.

(4) Tribal members may assist property owners under the conditions of valid comanagement agreements between tribes and the department. Tribes must be in compliance with the agreements including, but not limited to, adhering to reporting requirements and harvest restrictions.

(5) Hunting licenses and tags are not required to kill wildlife under this section, unless the killing is pursuant to subsections (2)(c) and (d) of this section. Tribal members operating under subsection (4) of this section are required to meet tribal hunting license, tag, and permit requirements.

(6) Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this rule are subject to the laws and rules of the state including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC.

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

WAC 232-36-100 Payment for commercial crop damage—Limitations. Owners, who have worked with the department to prevent deer and elk damage, but continue to experience losses, may be eligible to file a damage claim and receive cash compensation from money appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of a commercial crop, whether growing or harvested, and shall be paid only to the owner of the crop at the time of damage, without assignment. Cash compensation for claims from deer and elk damage shall not include damage to other real or personal property, including other vegetation or animals, lost profits, consequential damages, or any other damages. The department is authorized to pay up to ten thousand dollars to the owner per claim.

Claims for cash compensation will be denied when:

(1) The claim is for a noncommercial crop;

(2) The owner of the commercial crop does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);

(3) The loss estimate is less than one thousand dollars;

(4) No claim will be processed unless the owner provides the department with an approved checklist of the preventative and nonlethal means that have been employed, and the owner has complied with the terms and conditions of his or her agreement(s) with the department;

(5) An owner or lessee has accepted noncash compensation to offset crop damage in lieu of cash. Acceptance of non-cash compensation will constitute full and final payment for crop damages within the growing season of the damaged crop;

(6) An owner or lessee has denied the department's offer of fencing as a long-term preventative measure;

(7) Damages to the commercial crops claimed are covered by insurance or are eligible for payment from other entities. Any portion of the actual damage not covered by others is eligible for compensation from the department;

~~((7))~~ (8) The property where the damage occurred was not open to public hunting consistent with WAC 232-36-300

for the species causing the damage, unless, as determined by the department, the property is inconsistent with hunting or hunting would not address the damage problem. This includes all properties owned or leased by the owner adjacent to, contiguous to, or in the vicinity of the property where crop damage occurred;

~~((8))~~ (9) The crop is grown or stored on public property;

~~((9))~~ (10) The owner or lessee fails to provide on-site access to the department or designee for inspection and investigation of alleged damage or to verify eligibility for a claim;

~~((10))~~ (11) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within WAC 232-36-110;

~~((11))~~ (12) The owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

~~((12))~~ (13) The owner or designee has harvested commercial crops without an investigation completed under the direction of the department; or

~~((13))~~ (14) The department has expended all funds appropriated for payment of such claims for the current fiscal year.

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

WAC 232-36-200 Payment for commercial livestock damage—Limitations. Owners who have worked with the department to prevent depredation but continue to experience losses, or who experience unforeseen losses, may be eligible to file a damage claim and receive cash compensation. Cash compensation will only be provided to livestock owners by the department when specifically appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of commercial livestock caused by wild bears, cougars, or wolves and shall be paid only to the owner of the livestock (~~at the time of damage~~), without assignment. Cash compensation for livestock losses from bears, cougars, and wolves shall not include damage to other real or personal property, including other vegetation or animals, (~~lost profits~~), consequential damages, or any other damages including veterinarian services. However, livestock owners under written agreement with the department will be compensated consistent with their agreement which may extend beyond the limitations in this section. The department is authorized to pay up to two hundred dollars per sheep and one thousand five hundred dollars per head of cattle or per horse, and no more than ten thousand dollars to the commercial livestock owner per claim.

Claims for cash compensation will be denied when:

(1) Funds for livestock compensation have not been specifically appropriated by the legislature;

(2) The claim is for livestock other than sheep, cattle, or horses;

(3) The owner of the commercial livestock does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);

(4) The loss estimate is less than five hundred dollars;

(5) The owner fails to provide the department with an approved checklist of the preventative and nonlethal means that have been employed, or the owner failed to comply with the terms and conditions of his or her agreement(s) with the department;

(6) The owner has accepted noncash compensation to offset livestock losses in lieu of cash. Acceptance of noncash compensation will constitute full and final payment for livestock losses within a fiscal year;

(7) Damages to the commercial livestock claimed are covered by insurance or are eligible for payment from other entities. However, any portion of the damage not covered by others is eligible for filing a claim with the department;

(8) The owner fails to provide on-site access to the department or designee for inspection and investigation of alleged attack or to verify eligibility for claim;

(9) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within this chapter;

(10) No claim will be processed if the owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

(11) The owner or designee has salvaged or rendered the carcass or allowed it to be scavenged without an investigation completed under the direction of the department; or

(12) The department has expended all funds appropriated for payment of such claims for the current fiscal year.

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

WAC 232-36-400 Commercial crop or livestock damage claim—Dispute resolution. For claims where the owner has met all claim eligibility criteria and procedures, but ultimately rejects the written settlement offer (order) for crop or livestock loss and/or value assessment, the provisions of this section shall apply:

Informal resolution:

(1) If the owner rejects the property loss or value assessment and would like to discuss a negotiated settlement, he or she can request a meeting by notifying the department in writing within ten days of receiving the settlement offer or claim denial (order).

(2) A department representative and the owner or designee(s) will meet and attempt to come to mutual resolution.

(3) A livestock appeals committee may be established with a minimum of three citizen members appointed by state-wide livestock organization(s), a representative from the department of fish and wildlife, and a representative from the department of agriculture to review and recommend a settlement if requested by the claimant.

(4) Monetary compensation or noncash compensation, mutually agreed upon by both the department and owner, shall be binding and constitute full and final payment for claim.

~~((4))~~ (5) If parties cannot agree upon damages, ~~((the owner may elect to apply for an adjudicative proceeding pursuant to chapter 34.05 RCW.~~

~~Adjudicative proceeding.~~

~~(5)(f)~~ or the owner wishes to appeal the claim denial or the ~~((department))~~ department's settlement offer (order), the owner may request an adjudicative proceeding consistent with chapter 34.05 RCW within sixty days of receiving ~~((the original order))~~ a copy of the department's decision.

(6) The request must comply with the following:

(a) The request must be in writing, and the signed document may be mailed or submitted by fax or e-mail;

(b) It must clearly identify the order being contested (or attach a copy of the order);

(c) It must state the grounds on which the order is being contested and include the specific facts of the order that are relevant to the appeal; and

(d) The request must identify the relief being requested from the proceeding (e.g., modifying specific provisions of the order).

(7) The proceeding may only result in the reversal or modification of an order when the preponderance of evidence shows:

(a) The order was not authorized by law or rule;

(b) A fact stated in the order is ~~((materially incorrect))~~ not supported by substantial evidence;

(c) The award amount offered is inconsistent with applicable ~~((and accepted))~~ procedures ~~((, rule, and/or law))~~; or

(d) Material ~~((information or))~~ evidence was made available by the owner at the time of the damage assessment, but was not considered in the order.

(8) The burden of proof is on the appellant (owner) to show that he or she is eligible for a claim and that the damage assessment is reliable (see RCW 77.36.130(4)).

(9) Findings of the hearings officer are subject to the annual funding limits appropriated by the legislature and payment rules (WAC 232-36-110(12) ~~((and))~~, 232-36-210(9), and 232-36-260) of the commission.

WSR 13-05-005

PERMANENT RULES

DEPARTMENT OF

FINANCIAL INSTITUTIONS

(Division of Consumer Services)

[Filed February 6, 2013, 3:10 p.m., effective March 9, 2013]

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

Purpose: 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.

Citation of Existing Rules Affected by this Order: Amending WAC 208-630-110, 208-630-610, 208-630-740, and 208-630-8201.

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

Adopted under notice filed as WSR 12-24-078 on December 4, 2012.

Changes Other than Editing from Proposed to Adopted Version: None. The proposed rule was filed pursuant to OFM Guideline 3.d.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 4, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 6, 2013.

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 ~~((, 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 ~~((#))~~ 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.

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))2) 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 transaction, 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. ~~((¥))~~ 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.

WSR 13-05-006

PERMANENT RULES

HEALTH CARE AUTHORITY

(Medicaid Program)

[Filed February 6, 2013, 5:16 p.m., effective March 9, 2013]

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

Purpose: Pursuant to 2ESHB 1087, effective April 1, 2012, the health care authority (HCA) is directed to pay for only medically necessary emergency services performed in the emergency room. HCA is also adding criteria for ADATSA clients and changing the re-review and hearing processes.

Citation of Existing Rules Affected by this Order: Amending WAC 182-501-0135 Patient review and coordination.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: 2ESHB 1087.

Adopted under notice filed as WSR 12-21-113 on October 23, 2012.

Changes Other than Editing from Proposed to Adopted Version: 1. The agency made the following change to subsection (6) due to stakeholder comment:

(6) Usage guidelines for PRC placement. Agency or MCO staff use the following usage guidelines to ~~determine~~ initiate review for PRC placement.

2. For clarification, the agency changed "provider" to "PCP" in WAC 182-501-0135 (8)(b)(ii) and (10)(c)(v).

3. The agency removed reference to chapter 388-526 WAC since it is no longer applicable.

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

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

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

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

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

Date Adopted: February 6, 2013.

Kevin M. Sullivan
Rules Coordinator

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

WAC 182-501-0135 Patient review and coordination (PRC). (1) **Patient review and coordination (PRC)** is a health and safety program (~~(, formerly known as the patient review and restriction (PRR) program,)~~) that coordinates care and ensures ~~((that))~~ clients ~~((selected for enrollment))~~ enrolled in PRC use services appropriately and in accordance with ~~((department))~~ agency rules and policies.

(a) PRC applies to medical assistance fee-for-service and managed care clients. ~~((PRC does not apply to clients eligible for the family planning only program.))~~

(b) PRC is authorized under federal medicaid law by 42 U.S.C. 1396n (a)(2) and 42 C.F.R. 431.54.

(2) **Definitions.** The following definitions apply to this section only:

"Appropriate use" ~~((—))~~ — Use of health care services that are ~~((adapted to or appropriate))~~ safe and effective for a client's health care needs.

"Assigned provider" ~~((—A department-enrolled))~~ — An agency-enrolled health care provider or one participating with ~~((a department))~~ an agency-contracted managed care organization (MCO) who agrees to be assigned as a primary provider and coordinator of services for a fee-for-service or managed care client in the PRC program. Assigned providers can include a primary care provider (PCP), a pharmacy, a prescriber of controlled substances ~~((prescriber))~~, and a hospital for ~~((nonemergent hospital))~~ nonemergency services.

"At-risk" ~~((—))~~ — A term used to describe one or more of the following:

(a) A client with a medical history of:

~~((—Indications of forging or altering prescriptions;~~

•) (i) Seeking and ~~((/or))~~ obtaining health care services at a frequency or amount that is not medically necessary; or

~~((—))~~ (ii) Potential life-threatening events or life-threatening conditions that required or may require medical intervention.

(b) Behaviors or practices that could jeopardize a client's medical treatment or health including, but not limited to:

~~((—))~~ (i) Indications of forging or altering prescriptions;

(ii) Referrals from medical personnel, social services personnel, or MCO personnel about inappropriate behaviors or practices that place ~~((s))~~ the client at risk;

~~((—))~~ (iii) Noncompliance with medical or drug and alcohol treatment;

~~((—))~~ (iv) Paying cash for medical services that result in a controlled substance prescription or paying cash for controlled substances;

~~((—))~~ (v) Arrests for diverting controlled substance prescriptions;

(vi) Positive urine drug screen for illicit street drugs or nonprescribed controlled substances; ~~((or~~

•) (vii) Negative urine drug screen for prescribed controlled substances; or

(viii) Unauthorized use of a client's services card ~~((or))~~ for an unauthorized purpose.

"Care management" ~~((—))~~ — Services provided to clients with multiple health, behavioral, and social needs ~~((or order))~~ to improve care coordination, client education, and client self-management skills.

"Client" ~~((—))~~ — A person enrolled in ~~((a department))~~ an agency health care program and receiving service from fee-for-service provider(s) or ~~((a managed care organization (MCO),))~~ an MCO-contracted with the ~~((department))~~ agency.

"Conflicting" ~~((—))~~ — Drugs ~~((and/))~~ or health care services that are incompatible ~~((and/))~~ or unsuitable for use together because of undesirable chemical or physiological effects.

"Contraindicated" ~~((—To indicate or show))~~ — A medical treatment ~~((or))~~, procedure, or medication that is inadvisable or not recommended or warranted.

~~((—"Controlled substances prescriber" — Any of the following health care professionals who, within their scope of professional practice, are licensed to prescribe and administer controlled substances (see chapter 69.50 RCW, Uniform Controlled Substance Act) for a legitimate medical purpose:~~

• A physician under chapter 18.71 RCW;

• A physician assistant under chapter 18.71A RCW;

• An osteopathic physician under chapter 18.57 RCW;

• An osteopathic physician assistant under chapter 18.57A RCW; and

• An advanced registered nurse practitioner under chapter 18.79 RCW.)

"Duplicative" ~~((—))~~ — Applies to the use of the same or similar drugs and health care services without due medical justification. Example: A client receives health care services from two or more providers for the same or similar condition(s) in an overlapping time frame, or the client receives two or more similarly acting drugs in an overlapping time frame, which could result in a harmful drug interaction or an adverse reaction.

"Emergency department information exchange (EDIE)" — An internet-delivered service that enables health care providers to better identify and treat high users of the emergency department and special needs patients. When patients enter the emergency room, EDIE can proactively alert health care providers through different venues such as fax, phone, e-mail, or integration with a facility's current electronic medical records.

"Emergency medical condition" — See WAC 182-500-0030.

"Emergency services" — See 42 C.F.R. 447.53.

"Just cause" ~~((—))~~ — A legitimate reason to justify the action taken, including but not limited to, protecting the health and safety of the client.

~~((—"Managed care organization" or "MCO" — An organization having a certificate of authority or certificate of registration from the office of insurance commissioner, that contracts with the department under a comprehensive risk contract to provide prepaid health care services to eligible medical assistance clients under the department's managed care programs.))~~

"Managed care client" ~~((—))~~ — A medical assistance client enrolled in, and receiving health care services from, ~~((a department))~~ an agency-contracted managed care organization (MCO).

"Managed care organization" or "MCO" — See WAC 182-538-050.

"Prescriber of controlled substances" - Any of the following health care professionals who, within their scope of professional practice, are licensed to prescribe and administer controlled substances (see chapter 69.50 RCW, Uniform Controlled Substance Act) for a legitimate medical purpose:

- (a) A physician under chapter 18.71 RCW;
- (b) A physician assistant under chapter 18.71A RCW;
- (c) An osteopathic physician under chapter 18.57 RCW;
- (d) An osteopathic physician assistant under chapter 18.57A RCW; and
- (e) An advanced registered nurse practitioner under chapter 18.79 RCW.

"Primary care provider" or "PCP" (—) - A person licensed or certified under Title 18 RCW including, but not limited to, a physician, an advanced registered nurse practitioner (ARNP), or a physician assistant (PA) who supervises, coordinates, and provides health care services to a client, initiates referrals for specialty and ancillary care, and maintains the client's continuity of care.

(3) **Clients selected for PRC review.** The ((department)) agency or MCO selects a client for PRC review when either or both of the following occur:

(a) A ((utilization)) usage review report indicates the client has not ((utilized)) used health care services appropriately; or

(b) Medical providers, social service agencies, or other concerned parties have provided direct referrals to the ((department)) agency or MCO.

(4) **When a fee-for-service client is selected for PRC review,** the prior authorization process as defined in ((chapter 388-530)) WAC 182-500-0085 may be required:

- (a) Prior to or during a PRC review; or
- (b) When the client is currently in the PRC program.

(5) **Review for placement in the PRC program.** When the ((department)) agency or MCO selects a client for PRC review, the ((department)) agency or MCO staff, with clinical oversight, reviews ((a)) either the client's medical ((and)) history or billing history, or both, to determine if the client has ((utilized)) used health care services at a frequency or amount that is not medically necessary (42 C.F.R. 431.54(e)).

(6) **((Utilization)) Usage guidelines for PRC placement.** ((Department)) Agency or MCO staff use the following ((utilization)) usage guidelines to ((determine)) initiate review for PRC placement. A client may be placed in the PRC program when either the client's medical ((and)) history or billing ((histories document)) history, or both, documents any of the following:

(a) Any two or more of the following conditions occurred in a period of ninety consecutive calendar days in the previous twelve months. The client:

(i) Received services from four or more different providers, including physicians, ((advanced registered nurse practitioners (-)) ARNPs ((+)), and ((physician assistants (-)) PAs ((+)) not located in the same clinic or practice;

(ii) Had prescriptions filled by four or more different pharmacies;

(iii) Received ten or more prescriptions;

(iv) Had prescriptions written by four or more different prescribers not located in the same clinic or practice;

(v) Received similar services ((from two or more providers)) in the same day not located in the same clinic or practice; or

(vi) Had ten or more office visits((-));

(b) Any one of the following occurred within a period of ninety consecutive calendar days in the previous twelve months. The client:

(i) Made two or more emergency department visits;

(ii) ((Has a medical history that indicates)) Exhibits "at-risk" ((utilization)) usage patterns;

(iii) Made repeated and documented efforts to seek health care services that are not medically necessary; or

(iv) ((Has been)) Was counseled at least once by a health care provider, or ((a department)) an agency or MCO staff member((-)) with clinical oversight, about the appropriate use of health care services((-);

(c) The client received prescriptions for controlled substances from two or more different prescribers not located in the same clinic or practice in any one month ((in a period of ninety consecutive days in the previous twelve months:)) within the ninety-day review period; or

(d) The ((client's)) client has either a medical ((and)) history or billing history, or both, that demonstrates a pattern of the following at any time in the previous twelve months:

(i) ((The client has a history of)) Using health care services in a manner that is duplicative, excessive, or contraindicated; ((or))

(ii) ((The client has a history of receiving)) Seeking conflicting health care services, drugs, or supplies that are not within acceptable medical practice;

(iii) Being on substance abuse programs such as the Alcohol and Drug Abuse Treatment and Support Act (ADATSA).

(7) **PRC review results.** As a result of the PRC review, the ((department)) agency or MCO ((staff)) may take any of the following steps:

(a) Determine that no action is needed and close the client's file;

(b) Send the client and, if applicable, the client's authorized representative((-)) a one-time only letter of concern with information on specific findings and notice of potential placement in the PRC program; or

(c) Determine that the ((utilization)) usage guidelines for PRC placement establish that the client has ((utilized)) used health care services at an amount or frequency that is not medically necessary, in which case the ((department)) agency or MCO will take one or more of the following actions:

(i) Refer the client for education on appropriate use of health care services;

(ii) Refer the client to other support services or agencies; or

(iii) Place the client into the PRC program for an initial placement period of no less than twenty-four months. For clients younger than eighteen years of age, the MCO must get agency approval prior to placing the client into the PRC program.

(8) **Initial placement in the PRC program.** When a client is initially placed in the PRC program:

(a) The ~~((department))~~ agency or MCO places the client for no less than twenty-four months with one or more of the following types of health care providers:

(i) Primary care provider (PCP) ~~((as defined in subsection (2) of this section))~~;

(ii) Pharmacy for all prescriptions;

(iii) Prescriber of controlled substances ~~((prescriber))~~;

(iv) Hospital ~~((for (nonemergency hospital) nonemergency services))~~ unless referred by the assigned PCP or a specialist. A client may receive covered emergency services from any hospital; or

(v) Another qualified provider type, as determined by ~~((department))~~ agency or MCO program staff on a case-by-case basis.

(b) The managed care client will remain in the same MCO for no less than twelve months unless:

(i) The client moves to a residence outside the MCO's service area and the MCO is not available in the new location; or

(ii) The client's assigned ~~((provider))~~ PCP no longer participates with the MCO and is available in another MCO, and the client wishes to remain with the current provider; or

(iii) The client is in a voluntary enrollment program or a voluntary enrollment county.

(c) A managed care client placed in the PRC program must remain in the PRC program for ~~((the initial))~~ no less than twenty-four months ~~((period))~~ regardless of whether the client changes MCOs or becomes a fee-for-service client.

~~((d) A care management program may be offered to a client.))~~

(9) **Notifying the client about placement in the PRC program.** When the client is initially placed in the PRC program, the ~~((department))~~ agency or the MCO sends the client and, if applicable, the client's authorized representative, a written notice ~~((containing at least the following components))~~ that:

(a) Informs the client of the reason for the PRC program placement;

(b) Directs the client to respond to the ~~((department))~~ agency or MCO within ten business days of the date of the written notice ~~((about taking the following actions))~~;

(c) Directs the client to take the following actions:

(i) Select providers, subject to ~~((department))~~ agency or MCO approval;

(ii) Submit additional health care information, justifying the client's use of health care services; or

(iii) Request assistance, if needed, from the ~~((department))~~ agency or MCO program staff.

~~((e))~~ (d) Informs the client of hearing or appeal rights (see subsection (14) of this section).

~~((f))~~ (e) Informs the client that if a response is not received within ten calendar days of the date of the notice, the client will be assigned a provider(s) by the ~~((department))~~ agency or MCO.

(10) **Selection and role of assigned provider.** A client ~~((may be afforded))~~ will have a limited choice of providers.

(a) The following providers are not available:

(i) A provider who is being reviewed by the ~~((department))~~ agency or licensing authority regarding quality of care;

(ii) A provider who has been suspended or disqualified from participating as ~~((a department))~~ an agency-enrolled or MCO-contracted provider; or

(iii) A provider whose business license is suspended or revoked by the licensing authority.

(b) For a client placed in the PRC program, the assigned:

(i) Provider(s) must be located in the client's local geographic area, in the client's selected MCO, and ~~((or))~~ be reasonably accessible to the client.

(ii) ~~((Primary care provider (-)))~~ PCP(+) supervises and coordinates health care services for the client, including continuity of care and referrals to specialists when necessary. ~~((The PCP must be one of the following:))~~

(A) The PCP:

(I) Provides the plan of care for clients that have documented use of the emergency department for a reason that is not deemed to be an emergency medical condition;

(II) Files the plan of care with each emergency department that the client is using or with the emergency department information exchange;

(III) Makes referrals to substance abuse treatment for clients who are using the emergency department for substance abuse issues; and

(IV) Makes referrals to mental health treatment for clients who are using the emergency department for mental health treatment issues.

(B) The assigned PCP must be one of the following:

(I) A physician ~~((who meets the criteria as defined in chapter 388-502 WAC))~~;

~~((B))~~ (II) An advanced registered nurse practitioner (ARNP) ~~((who meets the criteria as defined in chapter 388-502 WAC))~~; or

~~((C))~~ (III) A licensed physician assistant (PA), practicing with a supervising physician.

(ii) Prescriber of controlled substances ~~((prescriber))~~ prescribes all controlled substances for the client~~((-))~~;

(iv) Pharmacy fills all prescriptions for the client~~((-))~~; and

(v) Hospital provides all ~~((nonemergency))~~ hospital none-emergency services.

(c) A client placed in the PRC program ~~((cannot change))~~ must remain with the assigned provider~~((s))~~ for twelve months after the assignments are made, unless:

(i) The client moves to a residence outside the provider's geographic area;

(ii) The provider moves out of the client's local geographic area and is no longer reasonably accessible to the client;

(iii) The provider refuses to continue to serve the client;

(iv) The client did not select the provider. The client may request to change an assigned provider once within thirty calendar days of the initial assignment; or

(v) The client's assigned ~~((provider))~~ PCP no longer participates with the MCO. In this case, the client may select a new provider from the list of available providers in the MCO or follow the assigned provider to the new MCO.

(d) When an assigned prescribing provider no longer contracts with the ~~((department))~~ agency or the MCO:

(i) All prescriptions from the provider are invalid thirty calendar days following the date the contract ends; ~~((and))~~

(ii) All prescriptions from the provider are subject to applicable prescription drugs (outpatient) rules in chapter ~~(388-530)~~ 182-530 WAC or appropriate MCO rules~~(-);~~; and

(iii) The client must choose or be assigned another provider according to the requirements in this section.

(11) PRC placement ((periods)).

~~(a) The ((length of time for a client's)) initial PRC placement ((includes:)) is no less than twenty-four consecutive months.~~

~~((a)) (b) The ((initial period of)) second PRC placement ((, which)) is ((a minimum of twenty-four consecutive months.~~

~~(b) The second period of PRC placement, which is)) no less than an additional thirty-six consecutive months.~~

~~(c) ((The third period and)) Each subsequent ((period of)) PRC placement((, which)) is ((an additional)) no less than seventy-two consecutive months.~~

(12) ((Department)) Agency or MCO review of a PRC placement period. The ((department)) agency or MCO reviews a client's use of health care services prior to the end of each PRC placement period described in subsection (11) of this section using the ((utilization)) guidelines in subsection (6) of this section.

(a) The ((department)) agency or MCO assigns the next PRC placement ((period)) if the ((utilization)) usage guidelines for PRC placement in subsection (6) of this section apply to the client.

(b) When the ((department)) agency or MCO assigns a subsequent PRC placement ((period)), the ((department)) agency or MCO sends the client and, if applicable, the client's authorized representative, a written notice informing the client:

(i) Of the reason for the subsequent PRC program placement;

(ii) Of the length of the subsequent PRC placement;

(iii) That the current providers assigned to the client continue to be assigned to the client during the subsequent PRC placement ((period));

(iv) That all PRC program rules continue to apply; ~~((and))~~

(v) Of hearing or appeal rights (see subsection (14) of this section); and

(vi) Of the rules that support the decision.

(c) The ((department)) agency may remove a client from PRC placement if the client:

(i) Successfully completes a treatment program that is provided by a chemical dependency service provider certified by the ((department)) agency under chapter 388-805 WAC;

(ii) Submits documentation of completion of the approved treatment program to the ((department)) agency; and

(iii) Maintains appropriate use of health care services within the ((utilization)) usage guidelines described in subsection (6) of this section for six consecutive months after the date the treatment ends.

(d) The ((department)) agency or MCO determines the appropriate placement ((period)) for a client who has been placed back into the program.

(e) A client will remain placed in the PRC program regardless of change in eligibility program type or change in address.

(13) Client financial responsibility. A client placed in the PRC program may be billed by a provider and held financially responsible for health care services when the client obtains ~~((nonemergent))~~ nonemergency services and the provider who renders the services is not assigned or referred under the PRC program.

(14) Right to hearing or appeal.

(a) A fee-for-service client who believes the ~~((department))~~ agency has taken an invalid action pursuant to this section may request a hearing.

(b) A managed care client who believes the MCO has taken an invalid action pursuant to this section or chapter ~~((388-538))~~ 182-538 WAC must exhaust the MCO's internal appeal process set forth in WAC ~~((388-538-110))~~ 182-538-110 prior to requesting a hearing. Managed care clients ~~((can not))~~ cannot change MCOs until the appeal or hearing is resolved and there is a final ruling.

(c) A client must request the hearing or appeal within ninety calendar days after the client receives the written notice of placement in the PRC program.

(d) The ~~((department))~~ agency conducts a hearing according to chapter ~~((388-02))~~ 182-526 WAC. Definitions for the terms "hearing," "initial order," and "final order" used in this subsection are found in WAC ~~((388-02-0010))~~ 182-526-0010.

(e) A client who requests a hearing or appeal within ten calendar days from the date of the written notice of an initial PRC placement period under subsection (11)(a) of this section will not be placed in the PRC program until the date an initial order is issued that supports the client's placement in the PRC program or otherwise ordered by an administrative law judge (ALJ).

(f) A client who requests a hearing or appeal more than ten calendar days from the date of the ~~((written))~~ notice under subsection (9) of this section will remain placed in the PRC program unless a final administrative order is entered that orders the client's removal from the program.

(g) A client who requests a hearing or appeal within ninety calendar days from the date of receiving the written notice under subsection (9) of this section and who has already been assigned providers will remain placed in the PRC program unless a final administrative order is entered that orders the client's removal from the program.

(h) An ~~((administrative law judge (-))~~ALJ~~((+))~~) may rule that the client be placed in the PRC program prior to the date the record is closed and prior to the date the initial order is issued based on a showing of just cause.

(i) The client who requests a hearing challenging placement into the PRC program has the burden of proving the ~~((department's))~~ agency's or MCO's action was invalid. For standard of proof, see ~~((WAC 388-02-0485))~~ chapter 182-526 WAC.

WSR 13-05-007
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed February 7, 2013, 9:05 a.m., effective March 10, 2013]

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

Purpose: To incorporate statutory changes made by SSB 5800 and ESSB 5585 which passed the 2011 legislature.

This amendment clarifies the comments that will print on the titles and registrations of off-road motorcycles that have been modified for road use, street rods, and custom vehicles.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-530 Vehicle brands and comments.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 13-02-049 on December 26, 2012.

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

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

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

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

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

Date Adopted: February 7, 2013.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-20-034, filed 9/23/08, effective 10/24/08)

WAC 308-56A-530 Vehicles brands and comments.

(1) **What is a brand?** For the purposes of this section a brand is a notation on the certificate of ownership or vehicle registration certificate that records a special circumstance or condition involving a vehicle.

(2) **What brands are assigned to vehicles by the department?** Brands used by the department include, but are not limited to:

(a) Former exempt, as defined in RCW ~~((46.16.020))~~ 46.16A.170;

(b) Former for hire, as defined in RCW 46.72.010;

(c) Former taxicab, as described in RCW 46.72.010;

(d) Rebuilt as required in RCW ~~((46.12.075))~~ 46.12.540, when a vehicle reported destroyed under RCW ~~((46.12.070))~~ 46.12.600 or 46.80.090 and WAC 308-56A-460 meets the definition of salvage vehicle in RCW ~~((46.12.005))~~ 46.04.514;

(e) Street rod as formerly defined in repealed section RCW 46.04.571;

(f) Nonconformity uncorrected or safety defect uncorrected as defined in RCW 19.118.021 ~~((43))~~ (14) and ~~((48))~~ (19);

(g) Nonconformity corrected or safety defect corrected as defined in RCW 19.118.021 ~~((43))~~ (14) and ~~((48))~~ (19);

(h) Returned to manufacturer;

(i) Odometer - Not actual;

(j) Odometer - Exceeds mechanical limits;

(k) Repaired - Wrecker/insurance bill of sale;

(l) Contaminated - Vehicles described in chapter 64.44 RCW;

(m) Decontaminated - Vehicles described in chapter 64.44 RCW.

(3) What brands are carried forward from the other states/jurisdictions by the department?

(a) Brands for states/jurisdictions participating in the National Motor Vehicle Title Information System (NMVTIS) program (known as "Standard Brands,") are maintained in the brands list by NMVTIS and include, but are not limited to:

(i) Rebuilt;

(ii) Junk;

(iii) Destroyed;

(iv) Salvage - Damaged;

(v) Salvage - Retention;

(vi) Salvage - Stolen;

(vii) Salvage - Other;

(viii) Flood damage;

(ix) Hail damage;

(x) Saltwater damage;

(xi) Totaled.

(b) Brands from states/jurisdictions not participating in NMVTIS that do not appear on the brands list maintained by NMVTIS (known as "unique brands") will be carried forward on Washington certificates of ownership and registration certificates exactly (or abbreviated if too long) as they appear on the foreign title.

More than one brand may appear on the vehicle registration or certificate of ownership.

(4) Will a brand be applied to destroyed vehicles that have been sold on an out-of-state wrecker or insurance bill of sale, then repaired, and inspected? Yes. Vehicles not reported to DOL as destroyed and then sold using an insurance or wrecker bill of sale in lieu of a certificate of ownership/title, then brought into Washington from another jurisdiction that is not subject to reporting under RCW ~~((46.12.070))~~ 46.12.600 repaired, and inspected will be branded. The brand will appear as "repaired-wrecker/insurance bill of sale."

The jurisdiction code will be identified as "WA."

(5) Why is a brand used? A brand is used in the circumstances above for consumer protection. The brand is used to inform any subsequent owners of the current or former condition or use of the vehicle.

(6) Will the department remove a brand? Brands stay on vehicle records indefinitely. The department will only remove a brand if the brand was applied to a Washington certificate of ownership in error; or

(a) If a former rental brand was applied prior to the effective date of this rule, it will remain on the certificate of ownership and/or vehicle registration unless applied in error.

(b) If a nonstandard brand was applied prior to the effective date of this rule, it will remain on the certificate of ownership and/or vehicle registration unless applied in error.

(7) **Where are brands located on the documents?** Brands are located in the brands section of the certificate of ownership and vehicle registration. Brands will display beginning with Washington issued brands, followed by unique brands, then standard brands. If applicable, "WA REBUILT" will show as a banner across the certificate of ownership.

(8) **What is a comment?** For the purposes of this section a comment is an indication on the certificate of ownership, vehicle title/registration application or vehicle registration certificate that relates to tax liability, type of ownership, title transaction type.

(9) **What comments could the department print on certificates of ownership?**

(a) Comments relating to the ownership that include: Bonded, leased, JTWROS.

(b) Comments relating to tax liability that include: Use tax waived - Gift, value code, value year.

(c) Comments relating to the type of title transaction, which include duplicate, and reprint.

(d) Miscellaneous comments that include: Not eligible for road use.

(10) **What comments could the department print on vehicle registration certificates?** Comments printed on vehicle registration certificates may include, but are not limited to:

(a) "CVSEF PAID" or "commercial vehicle safety enforcement fee paid";

(b) "Because scale weight exceeds gross weight, D.O.T. permit also required";

(c) "Commercial vehicle safety enforcement fee not paid";

(d) "Display tab on back license plate" only - front plate is still required;

(e) "*Check vehicle data base record for actual expiration date";

(f) "Replica";

(g) "Proof of FHVUT verified";

(h) "No title issued" or "no title issued - ownership in doubt";

(i) "Excise exempt NRM";

(j) "Excise exempt Native American";

(k) "Excise exempt van pool";

(l) "Excise exempt rideshare";

(m) "Registration only";

(n) "Prorated gross weight to be more than 16,000";

(o) "Additional owners on record";

(p) "Not eligible for road use";

(q) "Perm plt";

(r) "Use tax waived: Gift";

(s) "Permanent fleet vehicle";

(t) "*Perm";

(u) "Color";

(v) Comments relating to the ownership; bonded, leased, JTWROS, registration only;

(w) Tax liability DAV, Native American, NRM, value code/year, use tax option, rideshare, POW, tax code 95, double transfer;

(x) Title transaction type duplicate, reprint, NTI, dual registration, corrected title data, corrected registration;

(y) Miscellaneous gift, ride, previous plate VIN flag, farm vehicle restrictions, Federal Drug Program (Title 49 C.F.R. Part 382) vehicle color, odometer code, RETURN TO MFG, not eligible for road use (NEFRU), custom vehicle and street rod.

(11) **What comments would the department carry forward from other jurisdictions?** The department does not carry forward comments assigned by other jurisdictions.

(12) **Why are comments used?** Comments are used for consumer protection, to inform any subsequent owners and vehicle licensing personnel of the current tax liability, type of ownership, or title transaction type or other pertinent information.

(13) **Will the department remove a comment?** The department will remove a comment if:

(a) The comment was applied in error; or

(b) The comment no longer applies.

WSR 13-05-009

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 7, 2013, 9:58 a.m., effective March 10, 2013]

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

Purpose: To adopt rules related to the implementation of the new evaluation system for certificated classroom teachers, principals and assistant principals. Authority was granted to the office of superintendent of public instruction in RCW 28A.405.100, chapter 392-191A WAC.

Statutory Authority for Adoption: RCW 28A.405.100.

Adopted under notice filed as WSR 12-22-065 on November 6, 2012.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 24, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: December 21, 2012.

Randy Dorn
State Superintendent
of Public Instruction

Chapter 392-191A WAC

PROFESSIONAL GROWTH AND EVALUATION OF SCHOOL PERSONNEL

NEW SECTION

WAC 392-191A-010 Authority. The general authority for this chapter is RCW 28A.405.100 which authorizes the superintendent of public instruction to adopt minimum criteria for the evaluation by school districts of professional educators.

NEW SECTION

WAC 392-191A-020 Purpose. The purpose of this chapter is to establish the minimum criteria, minimum procedural standards, summative methodology and summative descriptors to be adopted in accordance with chapter 41.59 RCW by school districts for the evaluation of the professional performance capabilities and development of certificated classroom teachers, principals, assistant principals, and certificated support personnel.

NEW SECTION

WAC 392-191A-030 Definitions. The following definitions apply to the terms used in this chapter:

"Certificated classroom teacher" and "teacher" mean a certificated employee who provides academically focused instruction to students and holds one or more of the certificates pursuant to WAC 181-79A-140 (1) through (3) and (6)(a) through (e) and (g).

"Certificated principal," "principal" and "assistant principal" mean a person who is employed to supervise the operation and management of a school as provided by RCW 28A.400.100 and holds certificates pursuant to WAC 181-79A-140 (4)(a) or (6)(h).

"Certificated support personnel" and "certificate support person" mean a certificated employee who provides services to students and holds one or more of the educational staff associate certificates pursuant to WAC 181-79A-140(5).

"Evaluation" shall mean the ongoing process of identifying, gathering and using information to improve professional performance, assess total job effectiveness, and make personnel decisions.

"Evaluation criteria" means minimum evaluation criteria for classroom teachers specified in WAC 392-191-006, the minimum evaluation criteria for principals specified in WAC 392-191-014 and the minimum evaluation criteria for certificated support personnel specified in WAC 392-191-020.

"Evidence" means observed practice, products or results of a certificated classroom teacher or certificated principal's work that demonstrates knowledge and skills of the educator with respect to the four-level rating system.

"Four-level rating system" means the continuum of performance that indicates the extent to which the criteria have been met or exceeded.

"Instructional framework" means one of the approved instructional frameworks adopted by the superintendent of public instruction to support the four-level rating system pursuant to RCW 28A.405.100.

"Leadership framework" means one of the approved leadership frameworks adopted by the superintendent of public instruction to support the four-level rating system pursuant to RCW 28A.405.100.

"Observe" or "observation" means the gathering of evidence made through classroom or worksite visits for the purpose of examining evidence over time against the instructional or leadership framework rubrics pursuant to this section.

"Rubrics" or "rubric row" means the descriptions of practice used to capture evidence and data and classify teaching or leadership performance and student growth using the evaluation criteria and the four-level rating system.

"Scoring band" means the adopted range of scores used to determine the final summative score for a certificated classroom teacher or principal.

"Student growth" means the change in student achievement between two points in time.

"Student growth data" means relevant multiple measures that can include classroom-based, school-based, school district-based, and state-based tools.

"Summative performance ratings" means the four performance levels applied using the four-level rating system: Level 1 - Unsatisfactory; Level 2 - Basic; Level 3 - Proficient; Level 4 - Distinguished.

NEW SECTION

WAC 392-191A-040 Evaluation requirements. Local school districts must establish and implement on or before September 1, 2013, an evaluation program consisting of the following:

(1) Evaluation criteria meeting the minimum standards specified in WAC 392-191-010 and 392-191-020;

(2) Evaluation procedures meeting the minimum standards specified in this chapter;

(3) Evaluation criteria and procedures as specified in RCW 28A.405.100.

NEW SECTION

WAC 392-191A-050 Minimum procedural standards—Purposes of evaluation. The purposes of evaluations of certificated classroom teachers, certificated principals, and assistant principals will be, at a minimum:

(1) To acknowledge the critical importance of teacher and leadership quality in impacting student growth and support professional learning as the underpinning of the new evaluation system.

(2) To identify, in consultation with classroom teachers, principals, and assistant principals, particular areas in which the professional performance is distinguished, proficient, basic or unsatisfactory, and particular areas in which the

classroom teacher, principal, or assistant principal needs to improve his/her performance.

(3) To assist classroom teachers and certificated principals and assistant principals, who have identified areas needing improvement, in making those improvements.

NEW SECTION

WAC 392-191A-060 Minimum evaluation criteria—Certificated classroom teachers. The following are the minimum evaluation criteria and accompanying descriptors for certificated classroom teachers:

(1) Centering instruction on high expectations for student achievement. The related descriptor is: Expectations; the teacher communicates high expectations for student learning.

(2) Demonstrating effective teaching practices. The related descriptor is: Instruction; the teacher uses research-based instructional practices to meet the needs of all students.

(3) Recognizing individual student learning needs and developing strategies to address those needs. The related descriptor is: Differentiation; the teacher acquires and uses specific knowledge about students' cultural, individual, intellectual and social development and uses that knowledge to adjust their practice by employing strategies that advance student learning. Student growth data must be a substantial factor utilizing the OSPI approved student growth rubrics.

(4) Providing clear and intentional focus on subject matter content and curriculum. The related descriptor is: Content knowledge; the teacher uses content area knowledge, learning standards, appropriate pedagogy and resources to design and deliver curricula and instruction to impact student learning.

(5) Fostering and managing a safe, positive learning environment. The related descriptor is: Learning environment; the teacher fosters and manages a safe and inclusive learning environment that takes into account: Physical, emotional, and intellectual well-being of students.

(6) Using multiple student data elements to modify instruction and improve student learning. The related descriptor is: Assessment; the teacher uses multiple data elements (both formative and summative) to plan, inform and adjust instruction, and evaluate student learning. Student growth data must be a substantial factor utilizing the OSPI approved student growth rubrics.

(7) Communicating and collaborating with parents and school community. The related descriptor is: Families and community; the teacher communicates and collaborates with students, families and all educational stakeholders in an ethical and professional manner to promote student learning.

(8) Exhibiting collaborative and collegial practices focused on improving instructional practice and student learning. The related descriptor is: Professional practice; the teacher participates collaboratively in the educational community to improve instruction, advance the knowledge and practice of teaching as a profession, and ultimately impact student learning. Student growth data must be a substantial factor utilizing the OSPI approved student growth rubrics.

NEW SECTION

WAC 392-191A-070 Minimum procedural standards—Frequency of comprehensive evaluation. (1) School districts must observe all classroom teachers for the purposes of a comprehensive evaluation at least twice each school year in the performance of their assigned duties. School districts must observe all employees who are subject to a comprehensive evaluation for a period of no less than sixty minutes during each school year.

(2) School districts must observe new employees at least once for a total observation time of thirty minutes during the first ninety calendar days of the new employee's employment period.

(3) School districts must observe employees in the third year of provisional status at least three times in the performance of the employee. The total observation time for the school year must not be less than ninety minutes for such employees.

NEW SECTION

WAC 392-191A-080 Minimum procedural standards—Conduct of the comprehensive evaluation. The conduct of the evaluation of classroom teachers must include, at a minimum, the following:

(1) All eight teaching criteria must contribute to the overall summative evaluation and must be completed at least once every four years.

(2) The evaluation must include an assessment of the criteria using the instructional framework rubrics and the superintendent of public instruction's approved student growth rubrics. More than one measure of student growth data must be used in scoring the student growth rubrics.

(3) The principal or his/her designee at the school to which the certificated employee is assigned must make observations and written comments pursuant to RCW 28A.405.100.

(4) The opportunity for the employee to attach written comments to his/her evaluation report.

(5) Criterion scores, including instructional and student growth rubrics, must be determined by an analysis of evidence.

(6) An overall summative score shall be derived by a calculation of all criterion scores and determining the final four-level rating based on the superintendent of public instruction's determined summative evaluation scoring band.

(7) Upon completion of the overall summative scoring process, the evaluator will combine only the student growth rubric scores to assess the certificated classroom teacher's student growth impact rating.

(8) The student growth impact rating will be determined by the superintendent of public instruction's student impact rating scoring band.

(9) A student growth score of "1" in any of the rubric rows will result in an overall low student growth impact rating.

(10) Evaluators must analyze the student growth score in light of the overall summative score and determine outcomes.

NEW SECTION

WAC 392-191A-090 Minimum procedural standards—Outcomes of the student growth rating. The following outcomes of the student growth impact rating analysis will apply:

- (1) Certificated classroom teachers with preliminary rating of distinguished with low student growth rating will receive an overall proficient rating.
- (2) Certificated classroom teachers with low student growth rating will engage, with their evaluator, in a student growth inquiry pursuant to WAC 392-191-010.
- (3) Certificated classroom teachers with a preliminary rating of distinguished with average or high student growth rating will receive an overall distinguished rating and will be formally recognized and/or rewarded.
- (4) The evaluations of certificated classroom teachers with a preliminary rating of unsatisfactory and high student growth rating will be reviewed by the evaluator's supervisor.

NEW SECTION

WAC 392-191A-100 Minimum procedural standards—Conduct of a student growth inquiry. Within two months of receiving the low student growth score or at the beginning of the following school year, one or more of the following must be initiated by the evaluator:

- Examine student growth data in conjunction with other evidence including observation, artifacts and other student and teacher information based on appropriate classroom, school, school district and state-based tools and practices;
- Examine extenuating circumstances which may include one or more of the following: Goal setting process; content and expectations; student attendance; extent to which standards, curriculum and assessment are aligned;
- Schedule monthly conferences focused on improving student growth to include one or more of the following topics: Student growth goal revisions, refinement, and progress; best practices related to instruction areas in need of attention; best practices related to student growth data collection and interpretation;
- Create and implement a professional development plan to address student growth areas.

NEW SECTION

WAC 392-191A-110 Minimum procedural standards—Frequency of observation for focused evaluation. If the evaluation of the certificated classroom teacher includes an assessment of a criterion that requires observation the following shall apply: School districts must observe all classroom teachers for the purposes of focused evaluation at least twice each school year in the performance of their assigned duties. School districts must observe all employees who are subject to a focused evaluation for a period of no less than sixty minutes during each school year.

NEW SECTION

WAC 392-191A-120 Minimum procedural standards—Conduct of the focused evaluation. The conduct of

the evaluation of classroom teachers must include, at a minimum, the following:

- (1) One of the eight criterion for certificated classroom teachers must be assessed in every year that a comprehensive evaluation is not required.
- (2) The selected criterion must be approved by the teacher's evaluator and may have been identified in a previous comprehensive summative evaluation as benefiting from additional attention.
- (3) The evaluation must include an assessment of the criterion using the instructional framework rubrics and the superintendent of public instruction's approved student growth rubrics. More than one measure of student growth data must be used in scoring the student growth rubrics.
- (4) The focused evaluation will include the student growth rubrics of the selected criterion. If criterion 3, 6 or 8 are selected, evaluators will use those student growth rubrics. If criterion 1, 2, 4, 5, or 7 is selected, evaluators will use criterion 3 or 6 student growth rubrics.
- (5) A summative score is determined through the scoring of the instructional and student growth rubrics for the criterion selected.

NEW SECTION

WAC 392-191A-130 Minimum procedural standards—Procedures to be used in making evaluations. The following procedures must be used in making evaluations:

- (1) Following each observation, or series of observations, the principal or his/her designee must:
 - (a) Promptly document the results of the observation in writing; and
 - (b) Provide the employee with a copy of the written observation report within three days after such report is prepared.
- (2) Each classroom teacher will have the opportunity for a minimum of two confidential conferences during each school year with his/her principal or principal's designee either:
 - (a) Following receipt of the written evaluation results; or
 - (b) At a time mutually satisfactory to the participants.
- (3) The purpose of each such conference will be to provide additional evidence by either the evaluator or certificated classroom teacher to aid in the assessment of the certificated classroom teacher's professional performance against the instructional framework rubrics.
- (4) If other evaluators are used, additional procedures may be adopted pursuant to local policy.

NEW SECTION

WAC 392-191A-140 Summative performance ratings—Descriptors. (1) **Unsatisfactory:** Professional practice at Level 1 shows evidence of not understanding the concepts underlying individual components of the criteria. This level of practice is ineffective and inefficient and may represent practice that is harmful to student learning progress, professional learning environment, or individual teaching or leading practice. This level requires immediate intervention.

(2) **Basic:** Professional practice at Level 2 shows a developing understanding of the knowledge and skills of the

criteria required to practice, but performance is inconsistent over a period of time due to lack of experience, expertise, and/or commitment. This level may be considered minimally competent for teachers or principals early in their careers but insufficient for more experienced teachers or principals. This level requires specific support.

(3) **Proficient:** Professional practice at Level 3 shows evidence of thorough knowledge of all aspects of the profession. This is successful, accomplished, professional, and effective practice. Teaching and leading at this level utilizes a broad repertoire of strategies and activities to support student learning. At this level, teaching and leading a school are strengthened and expanded through purposeful, collaborative sharing and learning with colleagues as well as ongoing self-reflection and professional improvement.

(4) **Distinguished:** Professional practice at Level 4 is that of a master professional whose practices operate at a qualitatively different level from those of other professional peers. To achieve this rating, a teacher or principal would need to have received a majority of distinguished ratings on the criterion scores. A teacher or principal at this level must show evidence of average to high impact on student growth. Ongoing, reflective teaching and leading is demonstrated through the highest level of expertise and commitment to all students' learning, challenging professional growth, and collaborative practice.

NEW SECTION

WAC 392-191A-150 Minimum evaluation criteria—Certificated principals and assistant principals. The following are the minimum evaluation criteria and accompanying descriptors for certificated principals and assistant principals:

(1) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff. The related descriptor is: An effective leader advocates, nurtures, and sustains a school culture and instructional program that promote student learning and staff professional growth.

(2) Demonstrating commitment to closing the achievement gap. The related descriptor is: Effective leaders who have a commitment to closing identified gaps in achievement between groups of students, monitor subgroup data and develop and encourage strategies to eliminate those gaps. Student growth data must be a substantial factor utilizing the OSPI approved student growth rubrics.

(3) Providing for school safety. The related descriptor is: An effective leader teams with the school's community to develop routines and expectations that create a physically and emotionally safe learning environment.

(4) Leading the development, implementation and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements. The related descriptor is: Effective leaders rely on data to promote improvement through school improvement plans in all aspects of the school and across all of the eight principal evaluation criteria. Student growth data must be a substantial factor utilizing the OSPI approved student growth rubrics.

(5) Assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local school

district learning goals. The related descriptor is: An effective leader assumes responsibility to assist staff with the alignment of their teaching and classroom assessments with the state's learning goals and the school district's curriculum.

(6) Monitoring, assisting, and evaluating effective instruction and assessment practices. The related descriptor is: An effective leader monitors teaching and uses the evaluation process and other strategies to support teachers' efforts to strengthen their teaching and learning in classrooms. Student growth data must be a substantial factor utilizing the OSPI approved student growth rubrics.

(7) Managing both staff and fiscal resources to support student achievement and legal responsibilities. The related descriptor is: An effective leader manages human and fiscal resources in ways that enhance the likelihood that students will thrive and succeed in achieving the school's goals for them.

(8) Partnering with the school community to promote student learning. The related descriptor is: An effective leader engages families and the community in ways that increase the success of students.

NEW SECTION

WAC 392-191A-160 Minimum procedural standards—Conduct of the comprehensive evaluation. The conduct of the evaluation of principals and assistant principals must include, at a minimum, the following:

(1) All eight principal criteria must contribute to the overall summative evaluation.

(2) The evaluation cycle must include an assessment of the criteria using the leadership framework rubrics and the superintendent of public instruction's approved student growth rubrics. More than one measure of student growth data must be used in scoring the student growth rubrics.

(3) Criterion scores, including leadership and student growth rubrics, must be determined by an analysis of evidence.

(4) An overall summative score shall be derived by a calculation of all summative scores and determining the final four level rating based on the superintendent of public instruction's determined summative evaluation scoring band.

(5) Upon completion of the overall summative scoring process, the evaluator will combine only the student growth rubric scores to assess the certificated principal or assistant principal's student growth impact rating.

(6) The student growth impact rating will be determined by the superintendent of public instruction's student impact rating scoring band.

(7) A student growth score of "1" in any of the rubric rows will result in an overall low student growth impact rating.

NEW SECTION

WAC 392-191A-170 Minimum procedural standards—Outcomes of the comprehensive evaluation. The following outcomes of the student growth impact rating analysis will apply:

(1) Certificated principals and assistant principals with preliminary rating of distinguished with low student growth rating will receive an overall proficient rating.

(2) Certificated principals and assistant principals with low student growth rating will engage, with their evaluator, in a student growth inquiry focusing on the specific areas of weak student impact.

(3) Certificated principals and assistant principals with preliminary rating of distinguished with average or high student growth rating will receive an overall distinguished rating and will be formally recognized and/or rewarded.

(4) The evaluations of certificated principals and assistant principals with preliminary rating of unsatisfactory and high student growth rating will be reviewed by the evaluator's supervisor.

NEW SECTION

WAC 392-191A-180 Minimum procedural standards—Conduct of a student growth inquiry. Within two months of receiving the low student growth score or at the beginning of the following school year, one or more of the following must be initiated by the evaluator:

- Examine student growth data in conjunction with other evidence including observation, artifacts and other student and teacher information based on appropriate classroom, school, school district and state-based tools and practices;
- Examine extenuating circumstances which may include one or more of the following: Goal setting process; content and expectations; attendance; extent to which standards, curriculum and assessment are aligned;
- Schedule monthly conferences focused on improving student growth to include one or more of the following topics: Student growth goal revisions, refinement, and progress; best practices related to instruction areas in need of attention; best practices related to student growth data collection and interpretation;
- Create and implement a professional development plan to address student growth areas.

NEW SECTION

WAC 392-191A-190 Minimum procedural standards—Conduct of the focused evaluation. The conduct of the evaluation of principals or assistant principals must include, at a minimum, the following:

(1) One of the eight criterion for certificated principals or assistant principals must be assessed in every year that a comprehensive evaluation is not required.

(2) The selected criterion must be approved by the principal's evaluator and may have been identified in a previous comprehensive summative evaluation as benefiting from additional attention.

(3) The evaluation must include an assessment of the criterion using the leadership framework rubrics and the superintendent of public instruction's approved student growth rubrics. More than one measure of student growth data must be used in scoring the student growth rubrics.

(4) The focused evaluation will include the student growth rubrics selected by the principal or assistant principal and approved by the principal's evaluator.

(5) A summative score is determined through the scoring of the leadership and student growth rubrics for the criterion selected.

NEW SECTION

WAC 392-191A-200 Summative performance ratings—Descriptors. (1) **Unsatisfactory:** Professional practice at Level 1 shows evidence of not understanding the concepts underlying individual components of the criteria. This level of practice is ineffective and inefficient and may represent practice that is harmful to student learning progress, professional learning environment, or individual teaching or leading practice. This level requires immediate intervention.

(2) **Basic:** Professional practice at Level 2 shows a developing understanding of the knowledge and skills of the criteria required to practice, but performance is inconsistent over a period of time due to lack of experience, expertise, and/or commitment. This level may be considered minimally competent for teachers or principals early in their careers but insufficient for more experienced teachers or principals. This level requires specific support.

(3) **Proficient:** Professional practice at Level 3 shows evidence of thorough knowledge of all aspects of the profession. This is successful, accomplished, professional, and effective practice. Teaching and leading at this level utilizes a broad repertoire of strategies and activities to support student learning. At this level, teaching and leading a school are strengthened and expanded through purposeful, collaborative sharing and learning with colleagues as well as ongoing self-reflection and professional improvement.

(4) **Distinguished:** Professional practice at Level 4 is that of a master professional whose practices operate at a qualitatively different level from those of other professional peers. To achieve this rating, a teacher or principal would need to have received a majority of distinguished ratings on the criterion scores. A teacher or principal at this level must show evidence of average to high impact on student growth. Ongoing, reflective teaching and leading is demonstrated through the highest level of expertise and commitment to all students' learning, challenging professional growth, and collaborative practice.

NEW SECTION

WAC 392-191A-210 Minimum evaluation criteria—Certificated support personnel. The following are the minimum criteria for certificated support personnel:

(1) Knowledge and scholarship in special field. Each certificated support person demonstrates a depth and breadth of knowledge of theory and content in the special field. He/she demonstrates an understanding of and knowledge about common school education and the educational milieu grades K-12, and demonstrates the ability to integrate the area of specialty into the total school milieu.

(2) Specialized skills. Each certificated support person demonstrates in his/her performance a competent level of skill and knowledge in designing and conducting specialized programs of prevention, instruction, remediation and evaluation.

(3) Management of special and technical environment. Each certificated support person demonstrates an acceptable level of performance in managing and organizing the special materials, equipment and environment essential to the specialized programs.

(4) The support person as a professional. Each certificated support person demonstrates awareness of his/her limitations and strengths and demonstrates continued professional growth.

(5) Involvement in assisting pupils, parents, and educational personnel. Each certificated support person demonstrates an acceptable level of performance in offering specialized assistance in identifying those needing specialized programs.

NEW SECTION

WAC 392-191A-220 Minimum procedural standards—Frequency of evaluation for certificated support personnel. Each school year the frequency of evaluation must be as follows:

(1) All certificated support personnel must be observed for the purposes of evaluation at least twice in the performance of their assigned duties.

(2) New employees must be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(3) An employee in the third year of provisional status must be observed at least three times in the performance of his/her duties and the total observation time for the school year must not be less than ninety minutes.

(4) Total observation time for each employee for each school year must be not less than sixty minutes: Provided, that after an employee has four years of satisfactory evaluations, a school district may use a short form evaluation pursuant to RCW 28A.405.100(11).

NEW SECTION

WAC 392-191A-230 Minimum procedural standards—Procedures to be used in making evaluations for certificated support personnel. The following procedures must be used in making evaluations:

(1) The procedures stipulated in RCW 28A.405.100 must be used by principals or their designees conducting evaluations of certificated support personnel.

(2) Following each observation, or series of observations, the principal or his/her designee must promptly document the results of the observation in writing, and must provide the employee with a copy thereof within three days after such report is prepared.

(3) Each certificated support personnel must have the opportunity for a minimum of two confidential conferences during each school year with his/her principal or principal's designee either following receipt of the written observation results, or at a time mutually satisfactory to the participants. The sole purpose of each such conference must be to provide additional information to aid the principal or his/her designee in evaluating the certificated support person (e.g., providing direction, assistance, guidance, encouragement to the employee).

(4) If other evaluators are used, additional procedures may be adopted pursuant to local policy.

NEW SECTION

WAC 392-191A-240 Minimum procedural standards—Use of evaluation results. Evaluation results will be used:

(1) To acknowledge, recognize, and encourage excellence in professional performance.

(2) To document the level of performance by an employee of his/her assigned duties.

(3) To identify discrete areas according to the criteria included on the evaluation instrument in which the employee may need improvement.

(4) To document performance by an employee judged unsatisfactory based on the district evaluation criteria.

(5) Beginning with the 2015-16 school year, evaluation results for certificated classroom teachers and principals must be used as one of multiple factors in making human resource decisions.

WSR 13-05-012

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed February 7, 2013, 10:28 a.m., effective March 10, 2013]

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

Purpose: Insert and adjust limits on political contributions given to school board candidates, enacted by chapter 202, Laws of 2012, to an amount in effect for other candidates when the new limits were enacted.

Citation of Existing Rules Affected by this Order: Amending WAC 390-05-400.

Statutory Authority for Adoption: RCW 42.17A.110 and 42.17A.125.

Adopted under notice filed as WSR 12-22-049 on November 5, 2012.

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

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

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

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

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

Date Adopted: February 6, 2013.

Lori Anderson
Communications and
Training Officer

AMENDATORY SECTION (Amending WSR 12-10-041, filed 4/27/12, effective 5/28/12)

WAC 390-05-400 Changes in dollar amounts. Pursuant to the requirement in RCW 42.17A.125 that the commission biennially revise the dollar amounts found in Initiative 134 and RCW 42.17A.410 to reflect changes in economic conditions, the following revisions are made:

Code Section	Subject Matter	Amount Enacted or Last Revised	2012 Revision
.005	Definition of "Independent Expenditure"	\$800	\$900
.445(3)	Reimbursement of candidate for loan to own campaign	\$4,700	\$5,000
.630(1)	Report— Applicability of provisions to Persons who made contributions Persons who made independent expenditures	\$16,000 \$800	\$18,000 \$900
.405(2)	Contribution Limits— Candidates for state leg. office Candidates for county office Candidates for other state office Candidates for special purpose districts Candidates for city council office Candidates for mayoral office <u>Candidates for school board office</u>	\$800 \$800 \$1,600 \$1,600 \$800 \$800 <u>\$800</u>	\$900 \$900 \$1,800 \$1,800 \$900 \$900 <u>\$900</u>
.405(3)	Contribution Limits— State official up for recall or pol comm. supporting recall— State Legislative Office Other State Office	\$800 \$1,600	\$900 \$1,800
.405(4)	Contribution Limits— Contributions made by political parties and caucus committees State parties and caucus committees County and leg. district parties Limit for all county and leg. district parties to a candidate	.80 per voter .40 per voter .40 per voter	.90 per registered voter .45 per registered voter .45 per registered voter
.405(5)	Contribution Limits— Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall State parties and caucuses County and leg. district parties Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	.80 per voter .40 per voter .40 per voter	.90 per registered voter .45 per registered voter .45 per registered voter
.405(7)	Limits on contributions to political parties and caucus committees To caucus committee To political party	\$800 \$4,000	\$900 \$4,500
.410(1)	Candidates for judicial office	\$1,600	\$1,800

Code Section	Subject Matter	Amount Enacted or Last Revised	2012 Revision
.475	Contribution must be made by written instrument	\$80	\$90

WSR 13-05-014

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed February 7, 2013, 10:58 a.m., effective March 10, 2013]

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

Purpose: Adopt new WAC 390-37-182 Penalty factors.

Describes factors the public disclosure commission may consider when imposing and suspending penalties for violations of chapter 42.17A RCW, in adjudicative proceedings before the commission and in brief adjudicative proceedings conducted by a single commissioner.

Statutory Authority for Adoption: RCW 42.17A.110, 42.17A.755.

Adopted under notice filed as WSR 13-01-022 on December 10, 2012.

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

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

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

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

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

Date Adopted: February 6, 2013.

Lori Anderson
Communications and
Training Officer

[NEW SECTION]

WAC 390-37-182 Penalty factors. (1) In assessing a penalty, the commission considers the purposes of RCW 42.17A, including the public's right to know of the financing of political campaigns, lobbying and the financial affairs of elected officials and candidates as declared in the policy of RCW 42.17A.001; and, promoting compliance with the law. The commission also considers and applies RCW 42.17A.755 and may consider any of the additional factors described in (3).

(2) Under RCW 42.17A.755, the commission:

(a) May waive a penalty for a first-time violation;

(b) Shall assess a penalty for a second violation of the same rule by the same person or individual, regardless if the

person or individual committed the violation for a different political committee;

(c) Shall assess successively increased penalties for succeeding violations of the same rule.

(3) In addition to the requirements of RCW 42.17A.755, the commission may consider the nature of the violation and any relevant circumstances, including the following factors:

(a) The respondent's compliance history, including whether the non-compliance was isolated or limited in nature, indicative of systematic or on-going problems, or part of a pattern of violations by the respondent;

(b) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period;

(c) Sophistication of respondent, or respondent's organization, or size of campaign;

(d) Amount of financial activity during statement period or election cycle;

(e) Whether the non-compliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances;

(g) Whether the respondent or anyone else benefitted economically from the non-compliance;

(h) Personal emergency or illness of the respondent or member of his or her immediate family;

(i) Other emergencies such as fire, flood, or utility failure preventing filing;

(j) Commission staff or equipment error, including technical problems at the agency preventing or delaying electronic filing;

(k) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when non-compliance brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or overlimit contributions);

(l) Whether the respondent is a first-time filer;

(m) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action;

(n) Penalties imposed in factually similar cases; and,

(o) Other factors relevant to a particular case.

(4) The commission, and the presiding officer in brief adjudicative proceedings, may consider the factors in (1) - (3) in determining whether to suspend a portion or all of a penalty upon identified conditions, and whether to accept, reject, or modify a stipulated penalty amount recommended by the parties.

(5) The presiding officer in brief adjudicative proceedings may consider whether any of the factors in (1) - (3) are factors that warrant directing a case to the full commission.

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

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 13-05-016
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-21—Filed February 7, 2013,
12:11 p.m., effective March 10, 2013]

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

Purpose: These new rules establish and implement the data submission requirements for carriers that provide health benefit plans for school district employees.

Statutory Authority for Adoption: RCW 48.02.060 and 48.02.210(3).

Adopted under notice filed as WSR 12-23-069 on November 20, 2012.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-198-001, clarify rules apply to carriers and not school districts; WAC 284-198-005(8), clarify definition of "enrollee" includes dependents; WAC 284-198-020(2), clarify premium and paid claims accounted for - not reported - on monthly basis, delete reporting of administrative expenses and IBNR reserves on PMPM basis; WAC 284-198-020(3), survey instructions may permit aggregation of data for benefit packages with small enrollment; WAC 284-198-025(1), data submission deadline no earlier than April 1st, and at least sixty days after data submission instructions posted on OIC web site; WAC 284-198-025(3), deleted restrictions regarding how data must be submitted; WAC 284-198-045 (2)-(22), technical edits, clarify data elements to be reported for health benefit plans; WAC 284-198-045 (2)-(23), require reporting of additional category of administrative expenses for payments to associations, trusts, and other third parties; and WAC 284-198-045 (2)-(24)-(25), report payments received for separate disease management, wellness, and other similar programs offered with a health benefit plan, describe the offered programs.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 11, Amended 0, Repealed 0.

Date Adopted: February 7, 2013.

Mike Kreidler
Insurance Commissioner

Chapter 284-198 WAC

**K-12 EMPLOYEE HEALTH INSURANCE DATA
REPORTING RULES**

NEW SECTION

WAC 284-198-001 Scope. (1) This chapter applies to health care service contractors, health maintenance organizations, and disability insurers that offer health benefit plans to K-12 public school district employees.

(2) This chapter explains the K-12 public school district employee health benefit plan data submission requirements established pursuant to RCW 28A.400.275 and 48.02.210, for the entities listed in subsection (1) of this section.

(3) The provisions of this chapter do not apply to school districts or other entities not subject to regulation under Title 48 RCW. School district reporting requirements under RCW 28A.400.275 will be provided through separate instructions.

NEW SECTION

WAC 284-198-005 Definitions. The following definitions apply to this chapter, unless the context clearly requires otherwise:

(1) "Association health plan" means a health benefit plan or policy issued through an association either pursuant to a master contract or through group contracts that predicate eligibility for enrollment in whole or in part on membership in an association.

(2) "Benefit package" has the same meaning as "health plan" or "health benefit plan."

(3) "Carrier" means, solely for the purpose of this chapter, health care service contractors, health maintenance organizations, and disability insurers that offer health benefit plans to K-12 public school district employees.

(4) "Commissioner" means the Washington state insurance commissioner.

(5) "Data call" means the commissioner's instructions to carriers for submission of information pursuant to RCW 28A.400.275 and 48.02.210.

(6) "Actual earned premium" means premium as defined in RCW 48.43.005, plus any rate credits or recoupment less any refunds, for the applicable period, whether received before, during or after the applicable period.

(7) "Enrollee" means a person entitled to coverage for benefits under a health benefit plan, including an enrollee, subscriber, dependent, policyholder, or a beneficiary of a group plan.

(8) "General administrative expenses" means actual paid expenses for administration, as reported to the commissioner and the National Association of Insurance Commissioners.

(9) "Health plan" or "health benefit plan" means any policy, contract or agreement offered to provide, arrange, reimburse or pay for medical services, as described in RCW 48.43.005(26).

(10) "Health plan premium" means the amount agreed upon as the health plan unit rate charged by the carrier for each plan participant for coverage under a comprehensive medical plan for a defined period of time, regardless of the entity responsible for paying the premium or its equivalent.

(11) "Health plan rate" means the unit rate used to calculate the premium charged, received or deposited as consideration for a health benefit plan or the continuance of a health benefit plan.

(12) "Submission" means the transfer to and actual receipt by the commissioner of data, documents and information, provided by the carrier consistent with the format, method and timing specified by the commissioner.

(13) "Total claim expenses" means the dollar amount of claims recorded as paid during the reporting period.

NEW SECTION

WAC 284-198-010 Acknowledgment. Carriers must acknowledge receipt of the data call by sending an electronic mail acknowledgment to the commissioner's mailbox: 5940 survey@oic.wa.gov. The carrier must include the name, e-mail address and telephone number of the contact person within the organization regarding the data call if it has not already done so pursuant to WAC 284-198-050.

NEW SECTION

WAC 284-198-020 Survey instrument. (1) The data call will be issued in the form of a survey instrument, template for narrative responses and record format instruction, containing questions requiring narrative as well as numeric responses. Carriers must respond to the survey instrument pursuant to the instructions posted on the commissioner's web site.

(2) The survey instrument will collect health plan earned premium and paid claims expenses accounted for on a monthly basis, for the calendar year, and may also collect those data on a plan year basis. The survey instrument will collect data regarding health plan administrative expenses on an annual basis.

(3) The survey instructions may permit the aggregation of data reported for benefit packages that have a small number of enrollees.

NEW SECTION

WAC 284-198-025 Submission. Carriers must comply with the commissioner's data submission standards and are responsible for the accuracy and completeness of the data for all record groups requested through the data call, and for correcting errors identified during the data validation process in a timely manner, and delivering corrected data on or before the due dates set by the commissioner during the data validation process.

(1) Data, supporting documents and any other information necessary to respond to the commissioner's data call

must be submitted to the commissioner by the carrier at the address specified in the instructions not later than the deadline established in the data call. The submission deadline shall be no earlier than April 1st of the year following the reporting period and at least sixty days after data submission instructions are posted.

(2) Carriers must use the survey template form posted on the commissioner's web site when responding to the data call, and follow the instructions, requirements and guidelines for the record layout format also posted on the web site. Carriers may submit additional documents or other explanatory information with the completed survey template. These additional documents must be submitted to the commissioner in compliance with any other record layout format requirements included in the instructions.

(3) If a carrier retains the services of a third party to respond to the data call that entity must respond to the data call within the time frames required of the carrier, and follow the commissioner's instructions for submission. If the commissioner requires resubmission of the data, in whole or in part, the third party must respond within the time frame that the commissioner requires.

(4) The commissioner may contract with an entity to collect the data that must be reported pursuant to this chapter. In such a case carriers must submit the required data to that entity for use by the commissioner in carrying out the requirements of RCW 28A.400.275 and 48.02.210.

NEW SECTION

WAC 284-198-030 Resubmission. If the commissioner requires a carrier to resubmit data because the data file was submitted in an incorrect format or does not otherwise comply with the specifications in this chapter and the data call, the carrier must respond within thirty calendar days of receiving a notice to resubmit.

NEW SECTION

WAC 284-198-035 Validation. The carrier must validate the completed survey by executing and submitting to the commissioner the statement of data validity posted on the commissioner's web site with the data call instructions pursuant to RCW 28A.400.275 and 48.02.210.

NEW SECTION

WAC 284-198-040 Data retention. Carriers must retain all data, including computer runs produced to support the data call submission, for three years following submission of the data.

NEW SECTION

WAC 284-198-045 Data fields. The survey template will require reporting of the following data fields and information for each health benefit plan in place during the reporting period that includes K-12 public school district enrollees:

Field	Description	Type (numeric or text)
(1)	Carrier name	text
(2)	Does carrier offer high deductible health plan options to school districts?	text
(3)	Health benefit plan (HBP) name or plan identifier and policy number	text
(4)	HBP - Summary of benefit package - Covered benefits, deductibles, coinsurance, copayments	text
(5)	HBP premium rate schedule for all tiers	text
(6)	HBP begin and end dates for plan year	text
(7)	HBP monthly enrollment, including employee and dependent enrollment counts	numeric
(8)	HBP aggregate monthly total paid claims	numeric
	For data fields (#9-#14) report total paid claims and utilization/1000	
(9)	HBP monthly paid inpatient facility claims	numeric
(10)	HBP monthly paid outpatient facility claims	numeric
(11)	HBP monthly paid professional services claims	numeric
(12)	HBP monthly paid pharmacy claims	numeric
(13)	HBP monthly paid capitation payments for medical care	numeric
(14)	Other HBP monthly paid medical claims	numeric
(15)	A list of deidentified enrollees that had greater than \$100,000 paid claims in 2012; including for each: The total amount of paid claims, the enrollment status; and the survey instrument diagnosis code categories	text
(16)	HBP actual earned monthly premium	numeric
(17)	HBP total premium or rate stabilization reserves for end of plan year	numeric
(18)	HBP total incurred but not reported (IBNR) reserves for end of plan year	numeric
(19)	HBP total annual general administrative expenses	numeric
(20)	HBP total annual administrative expenses for premium taxes, WSHIP assessments, and other government taxes or assessments	numeric
(21)	HBP total annual administrative expenses for commissions and consulting, including all direct or indirect producer compensation	numeric
(22)	HBP total annual administrative expenses for PPO network access	numeric
(23)	HBP total annual administrative expenses for health benefit related direct or indirect payments to associations, trusts, and other third parties, including benefit administration and marketing related compensation	numeric
(24)	HBP total annual administrative expenses for all expenses not listed in data fields (20) - (23)	numeric
(25)	Total annual payments received for separate disease management, wellness, and similar programs with HBP offered	numeric
(26)	HBP description of disease management, wellness, and similar programs	text
(27)	Carrier progress toward health care cost savings and reduced administrative costs	text

Field	Description	Type (numeric or text)
(28)	Description of HBP use of innovative features to reduce premium growth and use of unnecessary health services	text
(29)	Data necessary for school districts to more effectively and competitively manage and procure health insurance plans for employees	text

NEW SECTION

WAC 284-198-050 Contact person. Carriers must notify the commissioner of the name of the person within their organization to whom the survey instrument and data call should be sent. The commissioner will contact the carrier through the person identified to communicate the data call, and to obtain answers to questions about the carrier's data submission. The notification must be submitted to 5940survey@oic.wa.gov, and must include the person's name, title, electronic mail address, physical address and telephone number. Carriers must provide the commissioner with notification within one week after the effective date of this chapter.

NEW SECTION

WAC 284-198-055 Health plan data needed by school districts—Association health plans. (1) Carriers must provide to a school district any health plan data in the possession of the carrier that is needed by the school district in order to respond to the district's data reporting requirements under RCW 28A.400.275 and 48.02.210.

(2) Carriers that provide coverage to school district employees through association health plans must require the association to provide to a school district any health plan data in the possession of the association that is needed by the school district in order to respond to the district's data reporting requirements under RCW 28A.400.275 and 48.02.210.

WSR 13-05-017

PERMANENT RULES

HEALTH CARE AUTHORITY

(Medicaid Program)

[Filed February 7, 2013, 2:13 p.m., effective March 10, 2013]

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

Purpose: The agency is amending chapter 182-537 WAC to update the school-based services program to be compliant with the current state plan amendment (SPA), expand the requirements for documentation of health care-related services, clarify the school districts' monitoring/auditing requirements, clarify the authority to implement the program and scope of covered and noncovered services, and make housekeeping changes throughout. Implementation of these rules is necessary to maintain funding for the program and to comply with federal rules.

Citation of Existing Rules Affected by this Order: Amending WAC 182-537-0100, 182-537-0200, 182-537-0350, 182-537-0400, 182-537-0500, 182-537-0600, 182-537-0700, and 182-537-0800.

Statutory Authority for Adoption: RCW 41.05.021.

Adopted under notice filed as WSR 13-02-073 on December 31, 2012.

Changes Other than Editing from Proposed to Adopted Version: WAC 182-537-0200: Changed the definition of "direct health care-related services" to read: "Services provided directly to a child either one-on-one or in a group setting. This does not include special education."

Changed the definition of "special education" to read: "Specially designed instruction, at no cost to the parents, to meet the unique needs of a student eligible for special education, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education. Refer to WAC 392-172A-01175."

WAC 182-537-0400(1): Changed to read: "Evaluations when the child is determined to have a disability, and is in need of special education and health care related services."

WAC 182-537-0600(5): Added: "After school districts receive their invoice from the agency, they have one hundred twenty days to provide the agency with their local match."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 8, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 0.

Date Adopted: February 7, 2013.

Kevin M. Sullivan
Rules Coordinator

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

WAC 182-537-0100 School-based health care services for children in special education—Purpose. ~~((1) The department of social and health services (DSHS))~~ The Medicaid agency pays school districts for school-based health care services provided to children in special education ~~((in accordance))~~ consistent with ~~((the Individuals with Disabilities Education Act (IDEA))~~ Section 1905(c) of the Social Security Act. ~~((The))~~ Covered services must:

~~((a) Address))~~ (1) Identify, treat, and manage the education-related disabilities (i.e., mental, emotional, and physical) ((and/or mental disabilities)) of a child in special education;

~~((b))~~ (2) Be prescribed or recommended by ((a physician)) licensed physicians or other ((qualified)) licensed health care providers within ((his or her)) their scope of practice under state law; ((and

~~((c))~~ (3) Be medically necessary;

(4) Be diagnostic, evaluative, habilitative, or rehabilitative in nature; and

(5) Be included in the child's current individualized education program (IEP).

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

WAC 182-537-0200 School-based health care services for children in special education—Definitions. The following definitions and those found in ~~((WAC 388-500-0005))~~ chapter 182-500 WAC apply to this chapter:

"Agency" - See WAC 182-500-0010.

"Amount, duration, and scope" - A written statement within the individualized education program (IEP) that addresses sufficiency of services to achieve a particular goal (a treatment plan for *how much* of a health care related service will be provided, *how long* a service will be provided, and *what* the service is).

"Assessment" ~~((—))~~ - For purposes of this chapter an assessment is made-up of medically necessary tests given to an individual child by ((qualified professionals)) a licensed professional to evaluate whether a child is determined to be a child with a disability, and in need of special education and related services. Assessments are a part of the evaluation and re-evaluation processes and must accompany the IEP.

"Child with a disability" ~~((—))~~ - For purposes of this chapter, a child with a disability ((means)) is a child evaluated and determined to need special education and related services because of a disability in one or more of the following eligibility categories:

• Autism;

• Deaf/blindness;

• Developmental delay for children ages three through nine, with an adverse educational impact, the results of which require special education and related direct services;

• Hearing loss (including deafness);

• Mental retardation;

~~((—Hearing impairment (including deafness);~~

~~—Speech or language impairment;~~

~~—Serious emotional disturbance (emotional behavioral disability);~~

~~—Orthopedic impairment;~~

~~—Autism;~~

~~—Visual impairment (including blindness);~~

~~—Traumatic brain injury;~~

~~—Other health impairment;~~

~~—Specific learning disability;~~

~~—Deaf/blindness;))~~

• Multiple disabilities; ((or))

~~((A developmental delay for children ages three through nine, with an adverse educational impact, the results of which require special education and related direct services.))~~ Orthopedic impairment;

• Other health impairment;

• Serious emotional disturbance (emotional behavioral disturbance):

- Specific learning disability;
- Speech or language impairment;
- Traumatic brain injury; and
- Visual impairment (including blindness).

"Core provider agreement" - The basic contract the agency holds with providers serving medical assistance clients.

"Direct health care related services"((—)) - Services provided directly to a child either one-on-one or in a group setting. This does not include special education.

~~("Educational staff associate (ESA) certification"~~ - The ESA certificate is an official document that attests to minimum prerequisites of age, moral character/fitness, education, experience, competence, and preparation program, depending on the certificate types. The ESA certification is required to serve in a Washington public school.)

"Evaluation"((—)) - Procedures used ((according to WAC 392-172A-03005 through 392-172A-03080)) to determine whether a ((student)) child has a disability, and the nature and extent of the special education and related services are needed. (See WAC 392-172A-03005 through 392-172A-03080.)

"Face-to-face supervision" or "direct supervision" - Supervision that is conducted on-site, in-view, by an experienced licensed health care professional to assist the supervisee to develop the knowledge and skills to practice effectively, including administering the treatment plan.

"Fee-for-service"((— For the purpose of this section, the general payment method the department uses to reimburse providers for covered medical services provided to medical assistance clients when those services are not covered under the department's managed care plans or state children's health insurance program (SCHIP).

~~"Individuals with Disabilities Education Act (IDEA)"~~ - The IDEA is a United States federal law that governs how states and public agencies provide early intervention, special education, and related services to children with disabilities. It addresses the educational needs of children with disabilities from birth to age of twenty-one.) - See WAC 182-500-0035.

"Health care related services" - Developmental, corrective, and other supportive services required to assist an eligible child to benefit from special education. For the purposes of the school-based health care services program, related services include:

- Audiology;
- Counseling;
- Nursing;
- Occupational therapy;
- Physical therapy;
- Psychological assessments; and
- Speech-language therapy.

"Individualized education program (IEP)"((—)) - A written statement of an educational program for a ((student)) child eligible for special education. (See WAC 392-172A-03090 through 392-172A-03135.)

"Medically necessary" - See WAC 182-500-0070.

"National provider identifier (NPI)" - See WAC 182-500-0075.

"Plan of care" or "treatment plan" - A written document that outlines the health care related needs of a child in special education. The plan is based on input from the health care professional and written approval from the parent or guardian.

"Provider" - See WAC 182-500-0085.

"Qualified health care provider"((—)) - See WAC ((388-537-0350)) 182-537-0350.

"Reevaluation"((—)) - Procedures used to determine whether a ((student)) child continues to be in need of special education and related services. (See WAC 392-172A-03015.)

~~("Related services"~~ - Developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from specially designed instruction. For purposes of this program, related services include: physical therapy, occupational therapy, speech-language therapy, audiology services, psychological assessments, counseling, and nursing services.) **"Regular consultation"** - Face-to-face contact between the supervisor and supervisee that occurs no less than once per month.

"Revised Code of Washington (RCW)" - Washington state law.

"School-based health care services program" or "SBS" - School-based health care services for children in special education that are diagnostic, evaluative, habilitative, rehabilitative in nature, and must be based on medical necessity. The agency pays school districts for school-based health care services delivered to medicaid-enrolled children in special education in accordance with Section 1905(c) of the Social Security Act.

"Special education" - Specially designed instruction, at no cost to the parents, to meet the unique needs of a student eligible for special education, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education. Refer to WAC 392-172A-01175.

"Washington Administrative Code (WAC)" - Codified rules of the state of Washington.

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

WAC 182-537-0350 School-based health care services for children in special education—Provider qualifications. The ((department)) medicaid agency pays school districts to provide certain health care related services (see WAC ((388-537-0400)) 182-537-0400). These services must be ((provided)) delivered by qualified health care providers who ((meet Washington state and federal requirements and operate within the scope of their practitioner's)) hold a current professional license:

- (1) Audiology services must be delivered by((=
 - (a) A licensed audiologist; or
 - (b) A school-based audiologist who:
 - (i) Meets the education and work experience necessary for a state professional license;

(ii) Holds a valid school audiologist educational staff associate certificate; and

(iii) Limits their audiology services to the school setting) a licensed audiologist.

(2) Counseling services must be delivered by:

(a) A licensed independent social worker (LiCSW);

(b) A licensed advanced social worker (LiACSW);

(c) A licensed mental health counselor (LMHC); or

(d) ~~((A school-based social worker or mental health counselor who:~~

~~(i) Meets the education and work experience necessary for a state professional license;~~

~~(ii) Holds a valid school social worker or school counselor educational staff associate certificate; and~~

~~(iii) Limits their counseling services to the school setting.)~~ A licensed mental health counselor associate (LMHCA) under the supervision of a department of health-approved licensed supervisor.

(3) Nursing services must be delivered by:

(a) A licensed registered nurse (RN);

(b) A licensed practical nurse (LPN) who is supervised by an RN; or

(c) A noncredentialed school employee who is delegated certain limited health care tasks by ~~((a registered nurse))~~ an RN and ~~((,-trained and))~~ is supervised according to professional practice standards (see RCW 18.79.260).

(4) Occupational therapy services must be delivered by:

(a) A licensed occupational therapist (OT); or

(b) A ~~((certified))~~ licensed occupational ((therapy)) therapist assistant (OTA) who is supervised by a licensed occupational therapist ~~((in accordance with professional practice standards)).~~

(5) Physical therapy services must be delivered by:

(a) A licensed physical therapist (PT); or

(b) A licensed physical therapist assistant (PTA) who is supervised by a licensed physical therapist ~~((in accordance with professional practice standards)).~~

(6) Psychological services must be delivered by~~((:~~

~~((a))~~ a licensed psychologist~~((; or~~

~~((b))~~ A school-based psychologist who:

~~((i))~~ Holds a masters degree in school psychology;

~~((ii))~~ Holds a valid school psychologist educational staff associate certificate; and

~~((iii))~~ Limits their psychological services to the school setting.

~~((e))~~ A school-based psychologist who:

~~((i))~~ Holds a doctoral degree in psychology;

~~((ii))~~ Holds a valid school psychologist educational staff associate certificate; and

~~((iii))~~ Limits their psychological services to the school setting).

(7) Speech therapy services must be delivered by:

(a) A licensed speech-language pathologist (SLP); or

(b) A speech-language pathology assistant~~((;))~~ (SLPA) who:

~~((i))~~ Has graduated from a speech-language pathology assistant program, board-approved institution; and ~~((is))~~

~~((ii))~~ Is directly supervised ~~((by))~~ a speech-language pathologist with a current certificate of clinical competence

~~((CCC))~~ ~~((in accordance with professional practice standards; or~~

~~((e))~~ A school-based speech-language pathologist who:

~~((i))~~ Meets the education and work experience necessary for a state professional license;

~~((ii))~~ Holds a valid school speech-language pathologist educational staff associate certificate; and

~~((iii))~~ Limits their speech therapy services to the school setting).

(8) For services provided under the supervision of a physical therapist, occupational therapist or speech-language pathologist, nurse, or counselor/social worker, the following requirements apply:

(a) The nature, frequency, and length of the supervision must be provided in accordance with professional practice standards, and ~~((adequate to assure the))~~ be sufficient to ensure a child receives quality therapy services~~((;))~~;

(b) The supervising therapist must see the child face-to-face at the beginning of services and periodically during the school year;

~~((c))~~ At a minimum, supervision must be ~~((one-on-one))~~ face-to-face communication between the supervisor and the ~~((supervised professional-~~

~~((e)))~~ supervisee once per month. Supervisors are responsible for approving and cosigning all treatment notes written by the supervisee before submitting claims for payment; and

~~((d))~~ Documentation of supervisory activities must be ~~((on record))~~ recorded and available to the ~~((department))~~ agency or its designee upon request.

(9) It is the responsibility of the school district to assure providers meet the professional licensing and certification requirements ~~((necessary for reimbursement)).~~

(10) Licensing exemptions found in the following regulations do not apply to federal medicaid reimbursement for the services indicated below:

(a) Counseling as found in RCW 18.225.030;

(b) Psychology as found in RCW 18.83.200;

(c) Social work as found in RCW 18.320.010; and

(d) Speech therapy as found in RCW 18.35.195.

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

WAC 182-537-0400 School-based health care services for children in special education—Covered services. Covered services include:

(1) Evaluations~~((;))~~ when the child is determined to ~~((be a child with))~~ have a disability, and is in need of special education and health care related services;

(2) Direct health care services including:

(a) Audiology;

(b) Counseling;

(c) Nursing;

(d) Occupational therapy;

(e) Physical therapy;

(f) Psychological assessments; and

(g) Speech-language therapy.

(3) Reevaluations, to determine whether ~~((the))~~ a child continues to need special education and health care related services.

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

WAC 182-537-0500 School-based health care services for children in special education—Noncovered services. Noncovered services include, but are not limited to the following:

- (1) Applied behavior analysis (ABA);
- (2) Attending meetings;
- ~~((2))~~ (3) Charting;
- ~~((3))~~ (4) Equipment preparation;
- ~~((4))~~ (5) Instructional assistant contact;
- ~~((5))~~ (6) Parent consultation;
- ~~((6))~~ (7) Parent contact;
- ~~((7))~~ (8) Planning;
- ~~((8))~~ (9) Preparing and sending correspondence to parents or other professionals;
- ~~((9))~~ (10) Professional consultation;
- ~~((10))~~ (11) Report writing;
- ~~((11))~~ (12) Review of records;
- ~~((12))~~ (13) School district staff accompanying a child in special education to and from school on the bus;
- (14) Set-up;
- ~~((13))~~ (15) Teacher contact;
- ~~((14))~~ (16) Telehealth;
- (17) Test interpretation;
- ~~((15))~~ (18) Travel and transporting; and
- ~~((16))~~ Observation; and
- (17) For the purposes of this chapter, the department does not reimburse school districts for a RN or LPN to monitor a child continuously throughout the school day.) (19) Continuous observation of a child when direct school-based health care services are not actively provided. The agency pays for the act of watching carefully and attentively only if it involves actual interventions.

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

WAC 182-537-0600 School-based health care services for children in special education—School district requirements for billing and payment. To receive payment from the ~~((department))~~ medicaid agency for providing school-based health care services to eligible children, a school district must:

- (1) Have a current, signed core provider agreement (CPA) with the ~~((department))~~ agency. A copy of the CPA must be on-site within the school district;
- (2) Have a current, signed, and executed interagency agreement with the agency. A copy of the agreement must be on-site within the school district;
- (3) Meet the applicable requirements in chapter ~~((388-502))~~ 182-502 WAC; and
- ~~((3))~~ (4) Comply with the agency's current, published ProviderOne billing and resource guide;
- (5) Bill according to the ~~((department's))~~ agency's current, published school-based health care services ~~((billing instructions))~~ for children in special education medicaid provider guide, the school-based health care services fee schedule, and the intergovernmental transfer (IGT) process. After school districts receive their invoice from the agency, they

have one hundred twenty days to provide the agency with their local match;

(6) Meet the applicable requirements in chapter 182-537 WAC;

(7) Provide only health care related services identified through a current individualized education program (IEP);

(8) Use only licensed health care professionals, as described in WAC 182-537-0350 and the school-based care services for children in special education medicaid provider guide;

(9) Meet documentation requirements in WAC 182-537-0700; and

(10) Give parents or guardians prior, informal, written notification on an annual basis, that the school district may be submitting claims for third-party insurance or medicaid reimbursement.

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

WAC 182-537-0700 School-based health care services for children in special education—School district documentation requirements. (1) ~~((The school districts must maintain sufficient documentation to support and justify the paid claims, to))~~ For the purposes of this chapter, providers must document all health care related services as specified in the medicaid agency's current, published school-based health care services for children in special education medicaid provider guide. Assistants, as defined in WAC 182-537-0350, who provide health care related services must have their supervisor cosign any documentation in accordance with the supervisory requirements for the provider type.

(2) Health care related documentation must include, at a minimum:

- (a) Professional assessment reports;
- (b) Evaluation and reevaluation reports;
- (c) Individualized education program (IEP); and
- (d) Treatment notes for each date of service the provider billed ~~((to))~~ the ~~((department))~~ agency.

~~((2))~~ All provider licenses and other credentials must be current and on file with the school district and available for review upon request.) Treatment notes must include the following information:

- (i) Activity and intervention involved;
- (ii) Child's name;
- (iii) Child's ProviderOne client ID;
- (iv) Date of birth;
- (v) Date of service, actual time-in and time-out, and the number of billed units for the service;
- (vi) Indication if the treatment note was for individual or group therapy; and
- (vii) Original signature of the licensed provider, title, and National provider identifier (NPI) number.

(3) As described in WAC 182-502-0020, all records must be legible and easily and readily available to the ~~((department))~~ agency upon request.

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

WAC 182-537-0800 School-based health care services for children in special education—Program monitoring/audits. (1) School districts must participate in ~~((the))~~ all monitoring ~~((process))~~ and auditing activities.

(2) ~~((The department monitors school-based health care services as established by the school-based health care services program manager and in compliance with the department's monitoring policy and plan.))~~ School districts are responsible for the accuracy, compliance, truthfulness, and completeness of all claims submitted for medicaid reimbursement.

(3) ~~((The department))~~ medicaid agency ~~((audits of school-based health care services in accordance with))~~ conducts monitoring activities annually according to chapter ~~((388-502A))~~ 182-502A WAC. The agency conducts a minimum of ten school-based medicaid program reviews annually. During this time frame, the agency:

(a) Completes a minimum of five record reviews as a desk review;

(b) Conducts a minimum of five record reviews on-site; and

(c) Bases the monitoring and auditing activities on usage and payment data from the previous school year.

(4) ~~((The department authority to))~~ agency ~~((conducts audits and recovers any overpayments if a school district is found ~~((it))~~ not in compliance with agency requirements according to RCW 74.09.200, 74.09.220 and 74.09.290, which concern audits and investigations of providers.~~

(5) On or before October 31st of each year, school districts must submit to the school-based health care services program manager the following information:

(a) A provider update Form 12-325, to include all new health care professionals; and

(b) Copies of all new health care professionals' licenses issued by the Washington state department of health (DOH), and verification of the National provider identifier (NPI) number.

WSR 13-05-023

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket A-121496, General Order R-569—Filed February 11, 2013, 1:17 p.m., effective March 14, 2013]

In the matter of amending, adopting, and repealing several rules in Title 480 WAC, relating to adoption-by-reference date revisions and other minor administrative changes.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 12-23-059 for an expedited rule making, filed with the code reviser on November 19, 2012. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 The commission adopts these rules to incorporate by reference federal rules and national standards pertaining to motor carriers, household goods carriers, passenger transportation companies, private and nonprofit transportation providers, railroad companies, solid waste collection companies, hazardous liquid pipelines, gas companies, electric companies, and telephone companies. There are no differences between the text of the proposed rules as published in the register and the text of the rules as adopted. The commission did not receive any comments on the proposed rules.

6 REFERENCE TO AFFECTED RULES: This order amends or repeals the following sections of the Washington Administrative Code:

Rule Changes			
Action	WAC No.	Title [Rule] Title	Changes
Chapter 480-14 WAC, Motor carriers excluding household goods carriers and common carrier brokers.			
Amend	480-14-999	Adoption by reference.	<ul style="list-style-type: none"> • Title 49, Code of Federal Regulations Amends the effective date of adoption to October 5, 2012, for the following: <ul style="list-style-type: none"> - Part 171 - General Information, Regulations and Definitions. - Part 172 - Hazardous Materials Table, etc. - Part 173 - Shippers General Requirements for Shipping and Packages.

Rule Changes			
Action	WAC No.	Tule [Rule] Title	Changes
Chapter 480-15 WAC, Household goods carriers.			
Amend	480-15-999	Adoption by reference.	<ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria Amends the effective date to April 1, 2012. • Title 49 Code of Federal Regulations Amends the effective date of adoption to October 5, 2012, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs. - Part 375 - Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations. - Part 379 - Preservation of Records. - Part 380 - Special Training Requirements. - Part 382 - Controlled Substance and Alcohol Use and Testing. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties. - Part 385 - Safety Fitness Procedures. - Part 390 - Safety Regulations, General. - Part 391 - Qualification of Drivers. - Part 392 - Driving of Commercial Motor Vehicles. - Part 393 - Parts and Accessories Necessary for Safe Operation. - Part 395 - Hours of Service of Drivers. - Part 396 - Inspection, Repair and Maintenance. - Part 397 - Transportation of Hazardous Materials.
Chapter 480-30 WAC, Passenger transportation companies.			
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.	<ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria Amends the effective date to April 1, 2012 - no significant changes - new edition of previously-adopted reference. • Title 49 Code of Federal Regulations: Amends the effective date of adoption to October 5, 2012, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs. - Part 379 - Preservation of Records - no changes since last adoption. - Part 380 - Special Training Requirements - no changes since last adoption. - Part 382 - Controlled Substance and Alcohol Use and Testing. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties. - Part 385 - Safety Fitness Procedures. - Part 390 - Safety Regulations, General.

Rule Changes			
Action	WAC No.	Tule [Rule] Title	Changes
			<ul style="list-style-type: none"> - Part 391 - Qualification of Drivers. - Part 392 - Driving of Commercial Motor Vehicles. - Part 393 - Parts and Accessories Necessary for Safe Operation. - Part 395 - Hours of Service of Drivers. - Part 396 - Inspection, Repair and Maintenance. - Part 397 - Transportation of Hazardous Materials.
Chapter 480-31 WAC, Private, nonprofit transportation providers.			
Amend	480-31-999	Adoption by reference.	<ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria Amends the effective date to April 1, 2012 - no significant changes - new edition of previously-adopted reference. • Title 49 Code of Federal Regulations Amends the effective date of adoption to October 5, 2012, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs. - Part 379 - Preservation of Records - no changes since last adoption. - Part 380 - Special Training Requirements - no changes since last adoption. - Part 382 - Controlled Substance and Alcohol Use and Testing. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties. - Part 385 - Safety Fitness Procedures. - Part 390 - Safety Regulations, General. - Part 391 - Qualification of Drivers. - Part 392 - Driving of Commercial Motor Vehicles. - Part 393 - Parts and Accessories Necessary for Safe Operation. - Part 395 - Hours of Service of Drivers. - Part 396 - Inspection, Repair and Maintenance. - Part 397 - Transportation of Hazardous Materials.
Chapter 480-62 WAC, Railroad companies—Operations.			
Amend	480-62-999	Adoption by reference.	<ul style="list-style-type: none"> • Title 49 Code of Federal Regulations Amends the effective date of adoption to October 5, 2012, for the following parts: <ul style="list-style-type: none"> - Part 171 - General Information, Regulations, and Definitions. - Part 172 - Emergency Response Information, Training Requirements, and Security Plans. - Part 173 - Shippers General Requirements for Shipments and Packages. - Part 174 - Carriage by Rail. - Part 178 - Specifications for Packagings. - Part 179 - Specifications for Tank. - Part 209 - Railroad Safety Enforcement Procedures. - Part 211 - Rules of Practice - no changes made since last adoption date. - Part 212 - State Safety Participation Regulations - no changes made since last adoption date. - Part 213 - Track Safety Standards.

Rule Changes			
Action	WAC No.	Tule [Rule] Title	Changes
			<ul style="list-style-type: none"> - Part 214 - Railroad Workplace Safety. - Part 217 - Railroad Operating Rules. - Part 218 - Railroad Operating Practices. - Part 219 - Control of Alcohol and Drug Use. - Part 220 - Railroad Communications. - Part 221 - Rear-end Marking Device. - Part 225 - Railroads Accidents/Incidents. - Part 228 - Hours of Service of Railroad Employees. - Part 234 - Grade Crossing Signal System Safety. - Part 239 - Passenger Train Emergency Preparedness. - Part 240 - Qualification and Certification of Locomotive Engineers. - Part 570.6 and 570.7 - Vehicle in Use Inspection Standards - no changes since last adoption date. • Manual on Uniform Traffic Control Devices (MUTCD) Amends the effective date to October 5, 2012. • Amends the effective date of adoption to October 5, 2012, for the following safety standards: <ul style="list-style-type: none"> - ANSI Z308.1-2009, American National Standard for Minimum Requirements for Workplace First Aid Kits -see Note 32. - ANSI/ISEA 207-2011 - American National Standard for High-Visibility Public Safety Vests.
Chapter 480-70 WAC, Solid waste and/or refuse collection companies.			
Amend	480-70-999	Adoption by reference.	<ul style="list-style-type: none"> • North American Standard Out-Of-Service Criteria Amends the effective date to April 1, 2012 - no significant changes - new edition of previously-adopted reference. • Title 40 Code of Federal Regulations Amends the effective date of adoption to October 5, 2012, for the following: <ul style="list-style-type: none"> - Part 262 - Standards Applicable to Generators of Hazardous Waste - no changes since last adoption date. • Title 49 Code of Federal Regulations Amends the effective date of adoption to October 5, 2012, for the following: <ul style="list-style-type: none"> - Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4. - Part 171 - General Information, Regulations, and Definitions. - Part 172 - Hazardous Materials Table, etc. - Part 173 - Shippers General Requirements for Shipping and Packages. - Part 174 - Carriage by Rail. - Part 175 - Carriage by Aircraft. - Part 176 - Carriage by Vessel. - Part 177 - Carriage by Public. - Part 178 - Specifications for Packagings. - Part 179 - Specifications for Tank Cars. - Part 180 - Continuing Qualification and Maintenance of Packagings.

Rule Changes			
Action	WAC No.	Tule [Rule] Title	Changes
			<ul style="list-style-type: none"> - Part 379 - Preservation of Records - no changes since last adoption. - Part 380 - Special Training Requirements - no changes since last adoption. - Part 382 - Controlled Substance and Alcohol Use and Testing. - Part 383 - Commercial Driver's License Standards; Requirements and Penalties. - Part 385 - Safety Fitness Procedures. - Part 390 - Safety Regulations, General. - Part 391 - Qualification of Drivers. - Part 392 - Driving of Commercial Motor Vehicles. - Part 393 - Parts and Accessories Necessary for Safe Operation. - Part 395 - Hours of Service of Drivers. - Part 396 - Inspection, Repair and Maintenance. - Part 397 - Transportation of Hazardous Materials.
Chapter 480-75 WAC, Hazardous liquid pipelines—Safety.			
Amend	480-75-999	Adoption by reference.	<p>Amends the effective date of adoption for the following parts of Title 49 Code of Federal Regulations:</p> <ul style="list-style-type: none"> • October 1, 2012 - Part 195 • October 1, 2012 - Part 199 <p>The commission adopts API RP standard 1117 Third Edition, July 2008, including errata December 2008 and errata 2 (August 2009).</p> <ul style="list-style-type: none"> • 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.
Chapter 480-90 WAC, Gas companies—Operations.			
Amend	480-90-999	Adoption by reference.	<p>Amends the effective date to:</p> <ul style="list-style-type: none"> • Title 18 Code of Federal Regulations April 1, 2012
Chapter 480-93 WAC, Gas companies—Safety.			
Amend	480-93-999	Adoption by reference.	<p>Amends the effective dates as follows:</p> <ul style="list-style-type: none"> • Title 49 Code of Federal Regulations <ul style="list-style-type: none"> - October 1, 2012 - Part 191 - October 1, 2012 - Part 192 - October 1, 2012 - Part 193 - October 1, 2012 - Part 199
Chapter 480-100 WAC, Electric companies.			
Amend	480-100-999	Adoption by reference.	Amends the effective date of adoption for National Electrical Code to January 24, 2012.
Chapter 480-108 WAC, Electric companies—Interconnection with electric generators.			
Amend	480-108-999	Adoption by reference.	<p>Amends the effective dates as follows:</p> <ul style="list-style-type: none"> • National Electrical Code January 24, 2012 • Washington industrial safety and health administration (WISHA) standard, chapter 296-155 WAC April 17, 2012.

Rule Changes			
Action	WAC No.	Tule [Rule] Title	Changes
Chapter 480-120 WAC, Telephone companies.			
Amend	480-120-999	Adoption by reference.	Amends the effective dates as follows: <ul style="list-style-type: none"> American National Standards for Telecommunications - "Network Performance Parameters for Dedicated Digital Services - Specifications" - (ANSI 01510) - as of December 29, 1999, and reaffirmed 2008. The Institute of Electrical and Electronic Engineers (IEEE) Standard Telephone Loop Performance Characteristics - as of 2005. 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. Title 47 Code of Federal Regulations, Part 32 October 1, 1998. Title 47 Code of Federal Regulations, Part 42 October 1, 1998. Title 47 Code of Federal Regulations, Sections 64.2003 through 64.2009 October 1, 2011.
Chapter 480-123 WAC, Universal service.			
Amend	480-123-999	Adoption by reference.	Amends the effective date of adoption to January 1, 2012 - the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: A preproposal statement of inquiry is not required under RCW 34.05.353 for expedited rule making.

8 NOTICE OF EXPEDITED RULE MAKING: The commission filed a notice of expedited rule making (CR-105) on November 19, 2012, at WSR 12-23-059. The notice informed interested persons that the commission was proposing rules under an expedited rule-making process as required by RCW 34.05.353. The commission provided notice of its expedited rule making to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.353, and to all persons affected by the adoption-by-reference rule proposal. The notice provided interested persons the opportunity to submit written comments to the commission no later than February 4, 2013. The commission posted the relevant rule-making information on its internet web site at www.utc.wa.gov/121496.

9 COMMENTERS (WRITTEN COMMENTS): The commission did not receive any comments on the proposed rules.

10 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and repeal the rules as proposed in the CR-105 at WSR 12-23-059.

11 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-14-999, 480-15-999, 480-30-900, 480-30-910, 480-30-999, 480-31-999, 480-62-999, 480-70-999, 480-75-999, 480-90-999, 480-93-999, 480-100-999, 480-108-999, 480-120-999 and 480-123-999, should be amended, and WAC 480-30-920 should be repealed to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 15, Repealed 1.

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

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

ORDER

12 THE COMMISSION ORDERS:

13 (1) WAC 480-14-999, 480-15-999, 480-30-900, 480-30-910, 480-30-999, 480-31-999, 480-62-999, 480-70-999, 480-75-999, 480-90-999, 480-93-999, 480-100-999, 480-108-999, 480-120-999 and 480-123-999, are amended, and WAC 480-30-920 is repealed to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

14 (2) This order and the rules set out in Appendix A, after being recorded in the register of the Washington utilities and transportation commission shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, February 11, 2013.

Washington Utilities and Transportation Commission

Jeffrey D. Goltz, Chairman

Philip B. Jones, Commissioner

Appendix A

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, ~~((2011))~~ 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, 2011))~~ 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 Unified 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, ~~((2011))~~ 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, ~~((2011))~~ 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.

(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 13-05-024 PERMANENT RULES

OFFICE OF INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-09—Filed February 11, 2013, 1:52 p.m., effective March 14, 2013]

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

Purpose: Establish the state transitional reinsurance program for health benefit plan issuers by rule, per RCW 48.43.-720.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.720.

Adopted under notice filed as WSR 13-01-095 on December 19, 2013.

A final cost-benefit analysis is available by contacting Meg Jones, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-7170, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

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

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

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

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

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

Date Adopted: February 11, 2013.

Mike Kreidler
Insurance Commissioner

Chapter 284-170 WAC

HEALTH BENEFIT PLAN MANAGEMENT

NEW SECTION

WAC 284-170-001 Transitional reinsurance program. (1) Issuers of health benefit plans in Washington state, and third party administrators of health benefit coverage offered in Washington, must participate as contributing entities in the transitional reinsurance program established pursuant to RCW 48.43.720.

(2) The U.S. Department of Health and Human Services (HHS) will operate the transitional health plan reinsurance program for the state of Washington. The program ceases operation on June 30, 2017, for payment of claims incurred through December 31, 2016.

(3) Contributing entities are not required to remit reinsurance contributions for the following types of coverage:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Limited scope dental or vision benefits;

(i) Benefits for long-term care, nursing home care, home health care, community-based care or any combination thereof;

(j) Benefits provided under a health flexible spending arrangement as defined in Internal Revenue Code, Section 106 (c)(2) ("Health FSA") if other group health plan coverage, not limited to excepted benefits, is made available for the year to the class of participants by reason of their employment, and the Health FSA is structured so that the maximum benefit payable to any participant in the class for a year cannot exceed two times the participant's salary reduction election under the arrangement for the year (or, if greater, cannot exceed five hundred dollars plus the amount of the participant's salary reduction election). For this purpose, any amount that an employee can elect to receive as taxable income but elects to apply to the Health FSA is considered a salary reduction election (regardless of whether the amount is characterized as salary or as a credit under the Health FSA);

(k) Coverage for a specified disease or illness, if offered as independent, noncoordinated benefits;

(l) Hospital indemnity or other fixed indemnity insurance if offered as independent, noncoordinated benefits;

(m) Medicare supplemental health insurance, and similar supplemental coverage provided to coverage under a group health plan, provided such coverage is offered as a separate insurance policy;

(n) Other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits, or that qualify as HIPAA-excepted benefits;

(o) Medicare advantage, medicaid, or any federal coverage program except multistate Office of Personnel Management plans;

(p) Washington state health insurance pool and the Pre-existing Condition Insurance Plan - Washington.

(4) As part of its rate filing, a carrier must identify the reinsurance payments received for each nongrandfathered individual health benefit plan for the prior plan or policy year.

(5) This rule expires September 1, 2017.

WSR 13-05-025
PERMANENT RULES
OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-12—Filed February 11, 2013,
1:55 p.m., effective March 14, 2013]

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

Purpose: Establishes the risk adjustment program for health benefit plan issuers, as required by RCW 48.43.720.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.720.

Adopted under notice filed as WSR 13-02-096 on January 2, 2013.

Changes Other than Editing from Proposed to Adopted Version: None other than editing for clarity and consistency of references.

A final cost-benefit analysis is available by contacting Meg Jones, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-7170, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

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

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

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

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

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

Date Adopted: February 11, 2013.

Mike Kreidler
Insurance Commissioner

NEW SECTION

WAC 284-170-002 Risk adjustment program. (1) An issuer of a nongrandfathered individual or small group health plan in Washington state must participate in the permanent risk adjustment program, established pursuant to RCW 48.43.720.

(2) U.S. Department of Health and Human Services (HHS) will administer the risk adjustment program for 2014-2015. Issuers must comply with HHS requirements for the risk adjustment program.

(3) Beginning September 1, 2015, or on the date established by the HHS, the commissioner will annually publish a notice of benefit and payment parameters, and include a statement of intent regarding whether the state or HHS will administer the risk adjustment program for the ensuing benefit year.

The commissioner will determine the form of the notice, which will be consistent with the form required by HHS.

(4) The commissioner will establish an advisory group to provide advice regarding whether the state should operate the risk adjustment program for a future period of benefit year or years.

(a) The advisory group consists of representatives from issuers who participate in the risk adjustment program, the health benefit exchange, and if under contract or otherwise established by the legislature, the designated administrative entity for the state risk adjustment program. If an issuer wishes to participate in the advisory group, it must notify the commissioner in writing of its designated participant not later than May 1st of each year.

(b) The advisory group will meet at the commissioner's discretion.

(5) If HHS does not provide the commissioner with the data submitted by issuers, for a benefit year during which HHS administers the program, within thirty days of its submission to HHS, an issuer must submit to an actuarial firm designated by the commissioner the same data that it submits to HHS for the risk adjustment program. Corrected data must also be submitted. All issuers participating in the risk adjustment program in Washington state, not just those participating in the advisory group, must conform to this requirement.

(a) The data may only be used to perform modeling to assist the advisory group and commissioner in the annual decision-making process described in this section. Modeling done using the data must deidentify both issuers and any enrollees. Each advisory group participant is entitled to review all modeling reports, and upon request, learn which deidentified issuer represents their data set. The actuarial firm may not otherwise disclose the identity of data set sources.

(b) The actuarial firm and each issuer must execute all necessary privacy and security agreements to ensure the confidentiality and privacy of personal health information, establish remedies for unauthorized release or distribution of the data that are consistent with state and federal law, provide for the retention of the data for not less than ten years, and for the destruction of the data after a ten year period of time.

The commissioner will prepare a template agreement for use by the actuarial firm and submitting issuers. The agreement must be identical for each issuer, unless the commissioner specifically agrees to an exception or change requested by an issuer or the actuarial firm for good cause. The commissioner will resolve disputes between the actuarial firm and an issuer.

(c) Where necessary to ensure that data is credible and useful to the modeling, the actuarial firm may issue specific

data definition related to requested data submission, and may require submission of additional data to the data submitted to HHS.

(6) Each issuer must accurately report risk adjustment payments received or made under the risk adjustment program as part of a nongrandfathered individual or small group's rate filing.

(7) An issuer that does not submit data to either HHS or the actuarial firm pursuant to this rule, or otherwise fails to comply with the risk adjustment program requirements, is subject to enforcement under Title 48 RCW.

WSR 13-05-028
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Policy and External Relations)

[Filed February 12, 2013, 9:46 a.m., effective March 15, 2013]

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

Purpose: 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.

Citation of Existing Rules Affected by this Order: Amending WAC 388-02-0005.

Statutory Authority for Adoption: RCW 34.05.020.

Adopted under notice filed as WSR 12-24-073 on December 4, 2012.

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

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

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

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

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

Date Adopted: February 7, 2013.

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 13-05-033

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 12, 2013, 1:04 p.m., effective March 15, 2013]

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

Purpose: The department's agency records center has been eliminated. The rule changes modify the address for mailing petitions for review and petitions for judicial review.

Citation of Existing Rules Affected by this Order: Amending WAC 192-04-170 and 192-04-210.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 12-23-088 on November 20, 2012.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

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

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

Date Adopted: February 12, 2013.

Dale Peinecke
Commissioner

AMENDATORY SECTION (Amending WSR 10-20-082, filed 9/29/10, effective 10/30/10)

WAC 192-04-170 Decision of commissioner—Petition for review—Filing—Reply. (1) The written petition for review shall be filed by mailing it to the (~~Agency Records Center~~) Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555, within thirty days of the date of mailing or delivery of the decision of the office of administrative hearings, whichever is the earlier.

(2) Any written argument in support of the petition for review must be attached to the petition for review and be filed at the same time. The commissioner's review office will acknowledge receipt of the petition for review by assigning a review number to the case, entering the review number on the face of the petition for review, and setting forth the acknowledgment date on the petition for review. The commissioner's review office will also mail copies of the acknowledged petition for review and attached argument in support thereof to the petitioning party, nonpetitioning party and their representatives of record, if any.

(3) Any reply to the petition for review and any argument in support thereof by the nonpetitioning party shall be mailed to the Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA (~~98504~~) 98507-9555. The reply must be received by the commissioner's review office within fifteen days of the date of mailing of the acknowledged petition for review. An informational copy shall be mailed by the nonpetitioning party to all other parties of record and their representatives, if any.

(4) The petition for review and argument in support thereof and the reply to the petition for review and argument in support thereof shall:

(a) Be captioned as such, set forth the docket number of the decision of the office of administrative hearings, and be signed by the party submitting it or by his or her representative.

(b) Be legible, reproducible and five pages or less.

(5) Arrangements for representation and requests for copies of the hearing record and exhibits will not extend the period for the filing of a petition for review, argument in support thereof, or a reply to the petition for review.

(6) Any argument in support of the petition for review or in reply thereto not submitted in accordance with the provisions of this regulation shall not be considered in the disposition of the case absent a showing that failure to comply with these provisions was beyond the reasonable control of the individual seeking relief.

AMENDATORY SECTION (Amending WSR 89-24-030, filed 11/30/89, effective 1/1/90)

WAC 192-04-210 Petitions for judicial review—Service on agency. Delivery pursuant to RCW 34.05.542(4) shall be deemed to have been made when a copy of the peti-

tion for judicial review has been received by the (~~Agency Records Center~~) Commissioner's Office at 212 Maple Park (~~Drive~~) Avenue S.E., Olympia, WA (~~98504~~) or received by mail at the Commissioner's Review Office, Post Office Box 9555, Olympia, WA 98507-9555.

WSR 13-05-049
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 13, 2013, 1:05 p.m., effective March 16, 2013]

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

Purpose: The rule revisions add middle school career and technical education programs to the indirect cost limit. The rule revisions also limit middle school and secondary carry over to the ensuing year to no more than the vocational enhancement allocation less recovery.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-570 and 392-121-578.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 13-02-002 on December 19, 2012.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: February 6, 2013.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 04-01-058, filed 12/11/03, effective 1/11/04)

WAC 392-121-570 Vocational indirect cost limit—Applicable code provisions—Purpose—Effective date. (1) WAC 392-121-570 through 392-121-578 define the fifteen percent limit on indirect cost charges to school district state-funded vocational-secondary programs as required by the Biennial Operating Appropriations Act. These rules do not apply to federal vocational funding which is governed by federal policies.

(2) The purpose of these sections is to assure that state allocations for vocational education are expended by school districts to support state vocational programs. The minimum

levels defined here are not to be construed as recommended expenditure levels.

(3) These sections are effective for the 2002-03 school year and thereafter.

(4) WAC 392-121-570 through 392-121-578 also apply to program 34, with program 34 substituted wherever program 31 appears. Running start does not apply to program 34.

AMENDATORY SECTION (Amending WSR 04-01-058, filed 12/11/03, effective 1/11/04)

WAC 392-121-578 Vocational indirect cost limit—Recovery of state allocations. (1) At the time of the January apportionment calculations after the close of the school year, the superintendent of public instruction shall recalculate each school district's minimum direct expenditures.

(2) If the district's program 31 expenditures are below the minimum program 31 expenditure amount, the district shall be allowed to carry over into the ensuing school year an amount equal to up to ten percent of the minimum expenditure amount excluding any carryover from the prior school year. The actual amount carried over to the ensuing year shall be no more than the vocational enhancement less the recovery.

(3) The superintendent of public instruction shall recover from the district's general apportionment allocation as a prior year adjustment an amount equal to the lesser of the district's enhancement allocation for vocational students or the following amount:

(a) The district's minimum program 31 expenditures; minus

(b) The district's program 31 expenditures plus any allowable carryover.

~~((2))~~ (4) Recoveries made pursuant to this section shall be adjusted after the January apportionment calculation if revised enrollment, staff mix, or expenditure data submitted by the district and accepted by the superintendent of public instruction materially affects the district's recovery amount.

WSR 13-05-050

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 13, 2013, 1:07 p.m., effective March 16, 2013]

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

Purpose: The rule revisions add the new hold harmless allocation to the levy base and subtract the ALE program revenue reduction from the levy base. The rule revisions revise the revenue account 6124 allocation that is in the levy base to use, for the federal safety net portion, the amount that has been awarded rather than the amount that is included on the August report 1197.

Citation of Existing Rules Affected by this Order: Amending WAC 392-139-115 and 392-139-310.

Statutory Authority for Adoption: RCW 28A.150.290 and 84.52.0531.

Adopted under notice filed as WSR 13-02-003 on December 19, 2012.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: February 6, 2013.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending Order 92-07, filed 9/21/92, effective 10/22/92)

WAC 392-139-115 Definition—Basic education allocation. As used in this chapter, "basic education allocation" means the amount of state moneys calculated by the superintendent of public instruction which is the basis for the superintendent's distribution of moneys to school districts for the operation of a basic program of education pursuant to RCW 28A.150.200, et seq., RCW 28A.150.250, and 28A.150.260, chapter 392-121 WAC, and the Biennial Operating Appropriations Act. The amount of a school district's total guaranteed entitlement, plus skills center summer program funding, plus the hold harmless allocation, less the ALE program revenue reduction, as reported on the August Report 1191 before any proration due to less than one hundred percent funding is considered a school district's basic education allocation in determining the school district's excess levy base pursuant to WAC 392-139-310.

AMENDATORY SECTION (Amending WSR 10-19-030, filed 9/9/10, effective 10/10/10)

WAC 392-139-310 Determination of excess levy base. The superintendent of public instruction shall calculate each school district's excess levy base as provided in this section.

(1) Sum the following state and federal allocations from the prior school year(s) as determined in subsections (4) and (5) of this section:

(a) The basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The state and federal categorical allocations for the following:

(i) Pupil transportation. Allocations for pupil transportation include allocations for the following accounts:

4199 Transportation - Operations;

4399 Transportation - Operations;

4499 Transportation - Depreciation;
 6199 Transportation - Operations;
 6299 Transportation - Operations; and
 6399 Transportation - Operations.

(ii) Special education. Allocations for special education include allocations for the following accounts:

4121 Special education;
 4321 Special education;
 6114 Federal Stimulus - IDEA;
 6124 Special education supplemental;
 6214 Federal Stimulus - IDEA;
 6224 Special education supplemental;
 6314 Federal Stimulus - IDEA; and
 6324 Special education supplemental.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations identified by account 4174 Highly capable.

(iv) Compensatory education. Allocations for compensatory education include allocations identified by the following accounts:

3100 Barrier reduction;
 4155 Learning assistance;
 4165 Transitional bilingual;
 4163 Promoting academic success;
 4166 Student achievement;
 4365 Transitional bilingual;
 6111 Federal Stimulus - Title 1;
 6151 Disadvantaged;
 6153 Migrant;
 6164 Limited English proficiency;
 6211 Federal Stimulus - Title 1;
 6251 Disadvantaged;
 6253 Migrant;
 6264 Limited English proficiency;
 6267 Indian education - JOB;
 6268 Indian education - ED;
 6311 Federal Stimulus - Title 1;
 6351 Disadvantaged;
 6353 Migrant;
 6364 Limited English proficiency;
 6367 Indian education - JOM; and
 6368 Indian education - ED.

(v) Food services. Allocations for food services include allocations identified by the following accounts:

4198 School food services (state);
 4398 School food services;
 6198 School food services (federal);
 6298 School food services;
 6398 School food services; and
 6998 USDA commodities.

(vi) Statewide block grant programs. Allocations for statewide block grant programs include allocations identified by the following accounts:

310004 Full-day kindergarten;
 4134 Middle school vocational;
 4175 Professional development;
 6113 Federal Stimulus - State Fiscal Stabilization Fund;
 6176 Targeted assistance;
 6213 Federal Stimulus - State Fiscal Stabilization Fund;
 6276 Targeted assistance;

6313 Federal Stimulus - State Fiscal Stabilization Fund;
 and

6376 Targeted assistance.

(c) General federal programs. Allocations for general federal programs identified by the following accounts:

5200 General purpose direct federal grants - Unassigned;
 6100 Special purpose - OSPI - Unassigned;
 6112 Federal Stimulus - School Improvement;
 6118 Federal Stimulus - Competitive Grants;
 6119 Federal Stimulus - Other;
 6121 Special education - Medicaid reimbursement;
 6138 Secondary vocational education;
 6146 Skills center;
 6152 School improvement;
 6154 Reading first;
 6162 Math and science - Professional development;
 6200 Direct special purpose grants;
 6212 Federal Stimulus - School Improvement;
 6218 Federal Stimulus - Competitive Grants;
 6219 Federal Stimulus - Other;
 6221 Special education - Medicaid reimbursement;
 6238 Secondary vocational education;
 6246 Skills center;
 6252 School improvement;
 6254 Reading first;
 6262 Math and science - Professional development;
 6300 Federal grants through other agencies - Unas-

signed;

6310 Medicaid administrative match;
 6312 Federal Stimulus - School Improvement;
 6318 Federal Stimulus - Competitive Grants;
 6319 Federal Stimulus - Other;
 6321 Special education - Medicaid reimbursement;
 6338 Secondary vocational education;
 6346 Skills center;
 6352 School improvement;
 6354 Reading first; and
 6362 Math and science - Professional development.

(2) Increase the result obtained in subsection (1) of this section by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year as stated in the state Operating Appropriations Act divided by 0.55.

(3) Revenue accounts referenced in this section are defined in the accounting manual for public school districts in the state of Washington.

(4) The dollar amount of revenues for state and federal categorical allocations identified in this section shall come from the following sources:

(a) The following state and federal categorical allocations are taken from the Report 1197 Column A (Annual Allotment Due):

3100 Barrier reduction;
 310004 Full-day kindergarten;
 4121 Special education;
 4134 Middle school vocational;
 4155 Learning assistance;
 4163 Promoting academic success;
 4165 Transitional bilingual;
 4166 Student achievement;

4174 Highly capable;
 4175 Professional development;
 4198 School food services (state);
 4199 Transportation - Operations;
 4499 Transportation - Depreciation;
 6111 Federal Stimulus - Title 1;
 6112 Federal Stimulus - School Improvement;
 6113 Federal Stimulus - State Fiscal Stabilization Fund;
 6114 Federal Stimulus - IDEA, one-half the August 2010 amount will be used in the 2011 calculation, and one-half in the 2012;

6118 Federal Stimulus - Competitive Grants;
 6119 Federal Stimulus - Other;
 6121 Special education - Medicaid reimbursements;
 6124 Special education - Supplemental; however, for the federal safety net portion, the amount awarded rather than the amount included on report 1197 will be used;

6138 Secondary vocational education;
 6146 Skills center;
 6151 Disadvantaged;
 6152 School improvement;
 6153 Migrant;
 6154 Reading first;
 6162 Math and science - Professional development;
 6164 Limited English proficiency;
 6176 Targeted assistance;
 6198 School food services (federal); and
 6199 Transportation - Operations.

(b) For the 2004 calendar year, the following state and federal allocations are taken from the F-195 budget including budget extensions.

For the 2005 calendar year and thereafter, the following federal allocations shall be taken from the school district's second prior year F-196 annual financial report:

4321 Special education;
 4365 Transitional bilingual;
 4398 School food services;
 4399 Transportation - Operations;
 5200 General purpose direct federal grants - Unassigned;
 6100 Special purpose - OSPI - Unassigned;
 6200 Direct special purpose grants;
 6211 Federal Stimulus - Title 1;
 6212 Federal Stimulus - School Improvement;
 6213 Federal Stimulus - State Fiscal Stabilization Fund;
 6214 Federal Stimulus - IDEA;
 6218 Federal Stimulus - Competitive Grants;
 6219 Federal Stimulus - Other;
 6221 Special education - Medicaid reimbursement;
 6224 Special education supplemental;
 6238 Secondary vocational education;
 6246 Skills center;
 6251 Disadvantaged;
 6252 School improvement;
 6253 Migrant;
 6254 Reading first;
 6262 Math and science - Professional development;
 6264 Limited English proficiency;
 6267 Indian education - JOM;
 6268 Indian education - ED;
 6276 Targeted assistance;

6298 School food services;
 6299 Transportation - Operations;
 6300 Federal grants through other agencies - Unassigned;
 6310 Medicaid administrative match;
 6311 Federal Stimulus - Title 1;
 6312 Federal Stimulus - School Improvement;
 6313 Federal Stimulus - State Fiscal Stabilization Fund;
 6314 Federal Stimulus - IDEA;
 6318 Federal Stimulus - Competitive Grants;
 6319 Federal Stimulus - Other;
 6321 Special education - Medicaid reimbursement;
 6324 Special education supplemental;
 6338 Secondary vocational education;
 6346 Skills center;
 6351 Disadvantaged;
 6352 School improvement;
 6353 Migrant;
 6354 Reading first;
 6362 Math and science - Professional development;
 6364 Limited English proficiency;
 6367 Indian education - JOM;
 6368 Indian education - ED;
 6376 Targeted assistance;
 6398 School food services;
 6399 Transportation - Operations; and
 6998 USDA commodities.

(5) Effective for levy authority and local effort assistance calculations for the 2005 calendar year and thereafter:

(a) District revenues determined in subsection (4) of this section shall be reduced for revenues received as a fiscal agent. School districts shall report fiscal agent revenues pursuant to instructions provided by the superintendent of public instruction.

(b) The amount determined in subsection (4)(b) of this section, after adjustment for fiscal agent moneys, shall be inflated for one year using the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the Bureau of Economic Analysis of the Federal Department of Commerce.

(6) State and federal moneys generated by a school district's students and redirected by the superintendent of public instruction to an educational service district at the request of the school district shall be included in the district's levy base.

(7) State basic education moneys generated by a school district's students and allocated directly to a technical college shall be included in the district's levy base.

(8) Funding which the district would have received calculated pursuant to RCW 84.52.0531 shall be included in the district's levy base.

WSR 13-05-051
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 13, 2013, 1:08 p.m., effective March 16, 2013]

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

Purpose: Chapter 392-124 WAC requires updating the following:

- Allow for state agencies to operate the National Guard youth challenge program, and report enrollment and receive apportionment directly from the office of superintendent of public instruction,
- Adjust the AAFTE and headcount averaging calculation due to the new June enrollment reporting requirement, and
- Make a few other technical adjustments.

Previously, the National Guard youth challenge program reported their enrollment and received funding through the Bremerton School District. Beginning with the 2012-13 school year, the Washington state military department began to directly report and receive the funding for this program.

This WAC change was adopted through the emergency rule process and a CR-103E was filed on October 24, 2012.

Citation of Existing Rules Affected by this Order: Amending chapter 392-124 WAC.

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

Adopted under notice filed as WSR 13-02-005 on December 19, 2012.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

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

Date Adopted: February 6, 2013.

Randy Dorn
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending WSR 09-21-020, filed 10/9/09, effective 11/9/09)

WAC 392-124-010 Purpose. The purpose of this chapter is to establish policies and procedures for the distribution of state moneys to school districts or state agencies for the National Guard youth challenge program authorized by RCW 28A.150.310.

AMENDATORY SECTION (Amending WSR 09-21-020, filed 10/9/09, effective 11/9/09)

WAC 392-124-040 Definition—Form P-223YC. "Form P-223YC" means the report of (~~school district~~) enrollment for students enrolled in a National Guard youth challenge program submitted monthly by the hosting school district(s) or state agency to the superintendent of public instruction for the school year for the purpose of calculating the program allocations.

((+)) The count dates for the National Guard youth challenge program shall be:

((+)) (1) The fourth day of school in the months of January and July, or the start of the term of the educational program; and

((+)) (2) The first day of school in the months of February through June and the months of August through December.

((2) This report shall indicate the enrollment by resident ~~school district and serving school district.~~)

AMENDATORY SECTION (Amending WSR 09-21-020, filed 10/9/09, effective 11/9/09)

WAC 392-124-060 Definition—Annual average full-time equivalency. For the purposes of this chapter, annual average full-time equivalency shall be calculated by taking the annual total of full-time equivalent students enrolled on the twelve count dates of the school year and reported to the superintendent of public instruction Form P-223YC for the months of September through August divided by (~~nine~~) ten. This calculation applies to the reporting of basic education and vocational students.

AMENDATORY SECTION (Amending WSR 09-21-020, filed 10/9/09, effective 11/9/09)

WAC 392-124-080 Definition—Annual average headcount. For the purposes of this chapter, annual average headcount shall be calculated by taking the (~~sum~~) annual total of the monthly headcounts as reported on Form P-223YC for the months of September through August divided by (~~twelve~~) ten. This calculation applies to the reporting of basic education, special education, and bilingual education students.

AMENDATORY SECTION (Amending WSR 09-21-020, filed 10/9/09, effective 11/9/09)

WAC 392-124-100 Definition—Apportionment. Apportionment shall be paid to the school district or state agency operating the National Guard youth challenge program (~~is operating within~~) pursuant to chapter 28A.510 RCW.

AMENDATORY SECTION (Amending WSR 09-21-020, filed 10/9/09, effective 11/9/09)

WAC 392-124-110 Definition—Apportionment allocation. The apportionment allocation shall be based and

made consistent with state funding formulas with the following items set as:

(1) The basic education funding rate shall be the basic state average rate as defined in WAC 392-124-030.

(2) The vocational education funding rate shall be the vocational state average rate as defined in WAC 392-124-030.

(3) The special education rate shall be 93.09% of the basic state average rate as defined in WAC 392-124-030 with the number of funded special education headcount limited to 12.7% of the reported basic education headcount.

(4) Funding under the following categorical programs shall use the legislative provided formulas and rates. Categorical programs are subject to legislative allotment and program standards and include:

(a) Highly capable;

(b) Bilingual;

(c) Learning assistance - Shall use the statewide average for the free and reduced price lunch rate(;

~~(d) Student achievement).~~

(5) Funding for categorical programs and vocational education is subject to program approval by the superintendent of public instruction.

WSR 13-05-054

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 13, 2013, 4:34 p.m., effective March 16, 2013]

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

Purpose: Amendment of the state regulations is necessary to implement state regulations consistent with the state special education safety net program modifications made in section 507, chapter 564, Laws of 2009.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-140-653; and amending WAC 392-140-600, 392-140-601, 392-140-60105, 392-140-602, 392-140-605, 392-140-608, 392-140-609, 392-140-616, 392-140-617, 392-140-626, 392-140-630, 392-140-640, 392-140-643, 392-140-646, 392-140-650, 392-140-656, 392-140-660, 392-140-675, and 392-140-685.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 12-23-010 on November 8, 2012.

Changes Other than Editing from Proposed to Adopted Version: WAC 392-140-653 allowing resubmission of an application was repealed as legislative language limits award determination to August of each school year.

Language pertaining to special education safety net award adjustments due to percentage of medicaid billings for eligible students was modified.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 1.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 15, Repealed 0.

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

Date Adopted: January 8, 2013.

Randy Dorn
Superintendent of
Public Instruction

~~((1995-97 LOCAL ENHANCEMENT FUNDING INCLUDING THE STUDENT LEARNING IMPROVE- MENT BLOCK GRANT)) STATE SPECIAL EDUCA- TION SAFETY NET FUNDING~~

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-600 Special education safety net—Applicable provisions. The provisions of WAC 392-140-600 through 392-140-685 apply to the determination of safety net (~~allocations~~) awards of state special education (~~moneys~~) funds and Individuals with Disabilities Education Act (IDEA) federal funds for the (~~2007-08~~) 2012-13 school year and thereafter. Beginning with the 2010-11 school year award cycle, the office of the superintendent of public instruction shall make award determinations for safety net funding in August of each year.

AMENDATORY SECTION (Amending WSR 00-03-015, filed 1/7/00, effective 2/7/00)

WAC 392-140-601 Special education safety net—Authority. The authority for WAC 392-140-600 through 392-140-685 is:

(1) The appropriation language for special education programs in the Washington state Biennial Operating Appropriations Act; and

(2) RCW 28A.150.290(1); and

(3) RCW 28A.150.392.

AMENDATORY SECTION (Amending WSR 06-01-017, filed 12/9/05, effective 1/9/06)

WAC 392-140-60105 Definition—High need student. ~~((A student with a disability whose program cost is greater than three times the statewide average per pupil expenditures as defined in section 9101 of the Elementary and Secondary Education Act of 1965 or a multiple of the statewide average per pupil expenditures as established by the superintendent of public instruction and published in the Safety Net Bulletin shall be considered a high need student for purposes of this chapter.)) For purposes of special education safety net awards, high need student means a student eligible for special~~

education services whose properly formulated Individualized Education Program (IEP) costs as calculated on worksheet C exceed a multiple of the statewide average per pupil expenditures (APPE) as defined in section 9101 of the Elementary and Secondary Education Act of 1965.

(1) For federal special education safety net funding, the multiple of the statewide average per pupil expenditures shall be at least three times the statewide average; and

(2) For state special education funding, the multiple of the statewide average per pupil expenditure shall be the multiple of the statewide average per pupil amount established by the office of the superintendent of public instruction in consultation with the office of financial management and the fiscal committees of the legislature, and published in the annual *Safety Net Bulletin*.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-602 Special education safety net—Eligible applicants. (1) An individual school district of the state of Washington is eligible to apply for special education safety net (~~(moneys)~~) awards on behalf of its resident students. Resident students include those students as defined (~~(as resident pursuant to WAC 392-137-115, those enrolled through choice (RCW 28A.225.225), those from nonhigh districts (RCW 28A.225.210), and those enrolled as institutional education students pursuant to WAC 392-122-205 (4) and (5))~~) by state law. Resident students exclude those residing in another district and enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(2) An interdistrict cooperative or educational service agency consistent with WAC 392-172A-01055 and 392-172A-01115 of at least fifteen districts in which all excess cost services for special education students of the member districts are provided by the cooperative or educational agency is eligible to apply for special education safety net (~~(moneys)~~) awards. (~~The cooperative and the participating school~~) Member districts shall be treated as a single school district for the purposes of this chapter (~~(Participating school districts)~~) and are not eligible to apply for safety net (~~(mon- eys)~~) awards individually.

(3) The Washington (~~(school for the deaf)~~) state center for childhood deafness and hearing loss and the Washington state school for the blind are eligible to apply for high need students under WAC 392-140-616.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-605 Special education safety net—Application types, certification, worksheets. Application for safety net (~~(funding)~~) awards shall be made on Form SPI 1381 - Certification published by the office of the superintendent of public instruction. Applications will be considered and awards made according to the schedule published in the annual *Safety Net Bulletin*.

(1) School districts may make application for safety net (~~(funding)~~) awards in two (~~(application)~~) categories - High need student(s) and/or community impact factors (~~(for costs associated with communities that draw a larger number of~~

~~families with children in need of special education services)~~). The (~~(school district making application)~~) applicant for either or both categories of safety net (~~(funding)~~) awards shall certify that:

(a) (~~(The district recognizes that)~~) Differences in costs attributable to district philosophy, service delivery choice, or accounting practice are not a legitimate basis for safety net awards(-);

(b) The application complies with the respective safety net application standards of WAC 392-140-616 and 392-140-617;

(c) The application provides true, accurate, and complete information (~~(to the best of the school district's knowledge)~~);

(d) The (~~(district understands)~~) applicant acknowledges that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, must be expended in program 21 or program 24 as specified in the award letter, and certifies that federal medic-aid has been billed for all services to eligible students consis- tent with RCW 28A.150.392 (1)(e);

(e) The (~~(district)~~) applicant is making reasonable effort to provide appropriate services for students in need of special education using state funding generated by the basic educa- tion apportionment and special education funding formulas and federal funding;

(f) The (~~(district's)~~) applicant's special education (~~(ser- vices are)~~) program is operated in a reasonably efficient man- ner;

(g) Indirect costs included for purposes of determining safety net (~~(allocations)~~) awards do not exceed the allowable (~~(percent for federal special education program)~~) federally restricted indirect rate plus one percent;

(h) Any available state and federal funding is insufficient to address the (~~(additional needs)~~) request for additional funds;

(i) The costs of any supplemental contracts are not included for purposes of determining safety net awards. Sup- plemental contracts are those contracts made pursuant to RCW 28A.400.200(4) excluding extended school year con- tracts (ESY) required by an IEP; and

(j) The costs of any summer school instruction are not included for purposes of making safety net determinations excluding extended school year contracts (ESY) required by (~~(an)~~) a properly formulated IEP.

(2) Worksheet A shall be included with the application and must demonstrate the (~~(need)~~) applicant's capacity for safety net (~~(funding)~~) awards. Worksheet A is used to deter- mine a maximum amount of safety net award eligibility (~~(for a school district)~~). Award amounts may be less than the max- imum potential amount of safety net award eligibility deter- mined on worksheet A. (~~(School districts are encouraged and may be required to submit additional information designed to assist the state oversight committee in analyzing the applica- tion.)~~)

(3) All high need student applications shall include worksheets "A" and "C" and (~~(individuals)~~) Summary of Applications for High Need Individual Students published in the safety net application, and certification of standards and criteria pursuant to WAC 392-140-616.

(4) All community impact applications shall include worksheet A, the community impact application, all supporting documentation, and certification of standards and criteria pursuant to WAC 392-140-617.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-608 Special education safety net—Safety net application—Timing. Safety net applications shall be submitted and reviewed pursuant to the schedule of dates published by the office of the superintendent of public instruction in the annual safety net bulletin. ~~(Late)~~ Applications not received by the published dates and times in the bulletin will not be accepted and no applications for the school year will be accepted after the final application due date.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-609 Special education safety net—Standards and criteria—~~(Appropriate and)~~ Properly ~~(and efficiently prepared and)~~ formulated IEPs. Individualized education programs (IEPs) which are ~~(appropriate,)~~ properly ~~(and efficiently prepared and)~~ formulated are those IEPs that at a minimum meet all of the following criteria:

(1) The IEPs comply with federal and state procedural requirements.

(2) The delivery of specially designed instruction identified on the IEP also complies with state and federal requirements ~~((i.e., regularly scheduled teaching or training activities provided or designed by special education qualified staff))~~ consistent with WAC 392-172A-01155 or as amended.

(3) The provision of special education services ~~(conforms)~~ is consistent with areas of need identified in the student's evaluation and/or reevaluation made pursuant to chapter 392-172A WAC or as amended.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-616 Special education safety net—Standards—High need student applications. For ~~((districts))~~ applicants requesting safety net ~~((funding))~~ awards to meet the ~~((extraordinary))~~ needs of an eligible high need special education student, the ~~((district))~~ applicant shall convincingly demonstrate to a majority of the state oversight committee members at a minimum that:

(1) The IEP for the eligible special education student is ~~((appropriate, and))~~ properly ~~((and efficiently prepared and))~~ formulated~~((-))~~ consistent with WAC 392-14-609; and

(2) ~~((All of the following criteria apply to the high need student:~~

~~((a))~~ Costs eligible for safety net consideration ~~((must be))~~ are associated with providing direct special education and related services identified in a properly formulated IEP~~((-~~
~~((b))~~ and quantifiable by the committee on worksheet C;
and

(3) In order to deliver appropriate special education and related services to the student, the ~~((district must be))~~ applicant is providing services which incur costs exceeding:

~~((+))~~ (a) The annual threshold as established in WAC 392-140-60105 by the office of superintendent of public instruction for state ~~((funding; then~~

~~((ii) Three times the average per pupil expenditure (as defined in section 9101 of the Elementary and Secondary Education Act of 1965) for the state of Washington for federal funding))~~ safety net awards.

(b) Threshold amounts shall be adjusted pro rata for eligible students not ~~((counted or expected to be counted for special education services))~~ served by the applicant on all ~~((eight))~~ nine enrollment count dates (October through ~~((May))~~ June). For example, for a student served ~~((and reported for only))~~ six of the ~~((eight))~~ nine count dates, the threshold amount shall be reduced to ~~((three-quarters))~~ two-thirds of the full amount.

~~((e) The total cost of educational services must exceed any carryover of federal flow-through special education funding as of August 31 of the prior school year.~~

~~((3))~~ (4) The state safety net oversight committee shall adapt the high need student application ~~((as appropriate for applications prepared by))~~ for the Washington state school for the blind and the Washington ~~((school for the deaf))~~ state center for childhood deafness and hearing loss.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-617 Special education safety net—Standards—Community impact applications. For ~~((districts))~~ applicants requesting state safety net ~~((funding))~~ awards to meet the extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, the ~~((district))~~ applicant must meet the standards of WAC 392-140-605 (1)(a) through (j) and convincingly demonstrate that:

(1) Demographic, environmental, sociological or other factor(s) cause the district's special education enrollment to be disproportional by category of disability or the overall number of students identified as eligible for special education; and

(2) The unique factor(s) identified by the ~~((district))~~ applicant is not the result of district philosophy, service delivery choice, or accounting practice; and

(3) The identified factor(s) creates an adverse documentable fiscal impact upon the ~~((district's))~~ applicant's special education program; and

(4) The ~~((district))~~ applicant summarizes the steps the applicant has taken ~~((in the current year))~~ or ~~((steps the district))~~ plans to take ~~((in the future))~~ in response to the factors identified in the application.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-626 Special education safety net—Worksheet A—Demonstration of need. Applications for safety net funds shall demonstrate ~~((district financial need))~~ capacity for safety net awards as follows:

(1) Application worksheet "A" shall demonstrate a fiscal ~~((need))~~ capacity in excess of ~~(=~~

~~(a) Any previous safety net awards for the current school year; and~~

~~(b)) all available revenue to the applicant for special education, including state and federal revenue, program income generated by such state and/or federally funded special education programs, and all carryover of state and federal special education revenue.~~

(2) Awards shall not exceed the potential capacity for safety net funding on the worksheet "A."

(3) Beginning with the 2007-08 school year, worksheets submitted with safety net applications ~~((are to))~~ must reflect the full cost method of accounting, pursuant to section 501 (1)(k), chapter 372, Laws of 2006.

(4) The safety net oversight committee may revise the ~~((district's))~~ applicant's worksheet "A" as submitted for errors or omissions or more current information.

(5) The ~~((school district))~~ applicant shall provide clarifying information ~~((as requested by))~~ at the request of the state oversight committee.

(6) After the close of the school year, ~~((the safety net oversight committee may review))~~ the applicant's worksheet "A" used to determine ~~((need))~~ capacity for ~~((a district's))~~ an award may be reviewed against the actual final school year enrollments, all available revenues, and legitimate expenditures reported by the ~~((district))~~ applicant. Based upon the results of this review ~~(=~~

~~(a))~~ the safety net allocation for the school year may be adjusted or recovered ~~(= or~~

~~(b))~~ if the ~~((committee finds that))~~ award or a portion of the safety net ~~((allocation was not needed to balance revenues and expenditures, the committee may consider that portion of the allocation available to meet the needs of the ensuing school year.~~

~~(7) The state safety net oversight committee shall adapt the worksheet "A" — Demonstration of Need as appropriate for applications prepared by districts participating in the pilot program according to the provisions of RCW 28A.630.015~~
(4)) award exceeded the demonstrated capacity for funding based upon consideration of all available revenues and legitimate expenditures.

~~((8))~~ (7) In accordance with the state of Washington *Accounting Manual for Public School Districts* and statutory federal language, potential capacity for safety net ~~((funding))~~ awards shall not include legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child to ensure a free ~~((appropriated))~~ appropriate public education.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-630 Special education safety net—Special education program audit ((team))—Purpose, procedures. Special education program audits by staff of the state auditor's office may be requested to assist the ~~((special education))~~ state safety net oversight committee. When reviewing ~~((a school district's))~~ an applicant's special education program, the auditors may review and verify any certifi-

cations and supporting information provided by the ~~((district))~~ applicant in a safety net application. The auditors ~~((may))~~ will provide the results of the review to the state oversight committee. The results of the auditor's review may be considered by the oversight committee in determining, adjusting, or recovering safety net awards.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-640 Special education safety net—State oversight committee—Membership, structure. Membership of the state oversight committee shall consist of: Staff of the office of the state auditor who shall be nonvoting, and one or more representatives from ~~((a))~~ school ~~((district(s), and one))~~ districts or ~~((more representatives from an))~~ educational service districts.

~~(1) ((The state oversight committee members will be appointed by the office of superintendent of public instruction.~~

~~(2))~~ The state director of special education shall serve as an ex officio, nonvoting committee member and act as the state oversight committee manager.

~~(2) The state oversight committee members will be appointed by the state oversight committee manager.~~

(3) Members of the state oversight committee ~~((from school districts and/or educational service districts))~~ will be appointed based on their knowledge of special education program service delivery and funding, geographical representation, size of district(s) served, and other demographic considerations which will ~~((guarantee))~~ ensure a representative state committee.

~~(4) ((Alternate members shall be appointed. In the event a member is unable to vote at a committee meeting, an alternate member shall vote.~~

~~(5) Membership appointments shall be made for a period of one year unless OSPI agrees on an annual basis that the member will continue to serve on the committee.)~~ The oversight committee manager may replace a portion of the committee each year in order to ~~((enhance representation))~~ ensure a representative state committee.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-643 Special education safety net—Definition—State oversight committee—Procedures. (1) The state safety net oversight committee will review applications as deemed necessary by the office of superintendent of public instruction pursuant to WAC 392-140-608.

(2) All applications received by the state safety net oversight committee will be reviewed for completeness by the state safety net oversight committee manager or designee. Applications must include all necessary forms, worksheets, and attachments described in the ~~((instruction))~~ annual bulletin published by the office of superintendent of public instruction. Incomplete applications will not be considered by the committee.

(3) The state safety net oversight committee manager or designee will forward to the committee members copies of the applications for review in a timely manner.

(4) The state safety net oversight committee manager or designee will be responsible for presenting each application for consideration to the committee.

(5) State safety net oversight committee members shall review and discuss the ~~((application content))~~ applicant's request for safety net awards for completeness~~(;)~~ and accuracy~~(; and understanding of the reason(s) for the applicant's need for safety net funding)~~.

(6) The state safety net oversight committee may ~~((request))~~ require that ~~((a submitting school district))~~ an applicant provide clarifying information.

(7) State safety net oversight committee members will individually indicate their agreement, disagreement, or abstention with the action of the committee pursuant to WAC 392-140-646.

(8) A majority vote by the state safety net oversight committee members ~~((with))~~ shall be sufficient to determine the committee action.

(9) The state safety net oversight committee manager will ensure that notes are taken which summarize the ~~((questions and))~~ discussion related to each application. A decision summary for each application shall include the amount of the initial request, funding adjustments ~~((recommended))~~ applied by the committee, the amount of any award to be made, and the reasons for ~~((and against))~~ the action taken by the state safety net oversight committee.

(10) ~~((Committee))~~ Voting members of the state safety net oversight committee shall each sign the decision summary.

(11) The state safety net oversight committee manager, on behalf of the state safety net oversight committee, will notify the applicant ~~((school district))~~ in writing of the determination of the committee. The ~~((school district))~~ applicant will be provided a copy of the decision summary.

(12) All applications received by the state safety net oversight committee will be retained by the office of the superintendent of public instruction for use in the evaluation of the safety net ~~((funding))~~ award process and to provide the office of the superintendent of public instruction with information with which to make future decisions regarding the safety net process.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-646 Special education safety net—State oversight committee actions. The state oversight committee shall ~~((take the following actions:))~~ review all safety net applications.

(1) ~~((After the state oversight committee determines:~~

~~(a) There are no unresolved audit examination issues related to special education that are material in nature;~~

~~(b) There are no unresolved child count verification issues which are material in nature; and~~

~~(c) All corrections to state enrollment reporting, required for resolution of (a) and (b) of this subsection, are completed.~~

~~(2))~~ An application reviewed during an application cycle may be:

(a) Approved; ~~((or))~~

(b) Adjusted and approved; or

~~(c) Disapproved.~~

~~((3))~~ (2) The amount approved shall ~~((be equal to or less than))~~ not exceed the amount for which application was made.

~~((4) The approval may be contingent on additional requirements imposed by the committee such as development of an action plan to resolve a specified problem prior to submission of any future safety net application to assure school district compliance with the criteria and standards set forth in these safety net regulations.~~

~~(5) The approvals are subject to adjustment and recovery pursuant to WAC 392-140-675 through 392-140-685.)~~ (3) The state oversight committee may not approve an application if there are unresolved audit issues related to special education that are material to the application. For purposes of this section, "audit" means an examination of a subrecipient to determine compliance with the state or federal laws and regulations governing the operation of a specific program and includes program audits, single audits, or any special purpose audit consistent with chapter 392-115 WAC and WAC 392-140-630. "Unresolved" means that the subrecipient has exhausted the audit resolution process described in chapter 392-115 WAC as amended.

(4) Awards approved by the state oversight committee are subject to recovery pursuant to WAC 392-140-675 through 392-140-685.

AMENDATORY SECTION (Amending WSR 02-05-036, filed 2/12/02, effective 2/13/02)

WAC 392-140-650 Special education safety net—Withdrawal of application. If at any time ~~((a school district))~~ an applicant wishes to withdraw ~~((a submitted))~~ an application submitted prior to the committee vote, the ~~((school district))~~ superintendent or designee of the applicant district must submit a letter requesting withdrawal to the state oversight committee ~~((prior to the published meeting date))~~ manager.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-656 Special education safety net—Request for review and reconsideration of an action. An applicant ~~((district))~~ may request review and reconsideration of an action of the state oversight committee made pursuant to WAC 392-140-646.

(1) The ~~((district))~~ applicant shall make the request in writing to the ~~((office of the superintendent of public instruction))~~ oversight committee manager within ~~((thirty))~~ twenty days of the date that the state oversight committee's written determination ~~((notice))~~ is sent to the ~~((district))~~ applicant pursuant to WAC 392-140-643(11).

(2) The applicant ~~((district))~~ shall request reconsideration of the state oversight committee's action on one or more of the following grounds:

(a) The action was outside the statutory authority of the committee;

(b) The action failed to follow prescribed procedures;

(c) The action erroneously interpreted or applied the law;

(d) The action was not supported by substantial evidence; or

(e) The action was inconsistent with the agency rules regarding safety net funding.

(3) If the office of the superintendent of public instruction finds grounds for reconsideration pursuant to subsection (2) of this section, OSPI shall request reconsideration of the action by the state oversight committee. OSPI shall state the grounds for reconsideration supported by the facts considered.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-660 Special education safety net—Approved application—Special education safety net ((allocations)) awards. (1) The special education safety net ((allocation)) award for an individual district shall be the ((smaller)) lesser of:

(a) The amount requested ((by the school district)); or

(b) The amount authorized by the state oversight committee.

(2) Special education safety net ((allocations)) awards for high need students under WAC 392-140-605(1) shall use ((appropriated)) federal and state ((moneys)) funds appropriated by the legislature consistent with RCW 28A.150.392(1).

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-675 Special education safety net—Adjustments to special education safety net ((allocations)) awards. Final safety net ((allocations may)) awards shall be adjusted ((as follows):

(1) ~~For those districts not maximizing medicaid billing for special education students under RCW 74.09.5255, special education safety net allocations shall be reduced by the estimated potential additional incentive payments for the school year if the district maximized medicaid incentive payments. Potential additional incentive payments shall be estimated by the superintendent of public instruction based on the district's percent of medicaid eligible students billed and a statewide average incentive payment per student determined by the superintendent in October of the school year. The average incentive payment per student shall be determined using the prior school year's statewide medicaid billing data assuming fifty percent incentive payments for all school districts. The superintendent of public instruction shall update medicaid billing adjustments to safety net allocations periodically during the school year and again in January following the close of the school year.)~~ based on:

(1) The percent of potential medicaid eligible students billed. Potential medicaid revenue will be estimated by the office of the superintendent of public instruction based on the applicant's percent of medicaid eligible students billed and the statewide average payment per student as determined in July of the school year for which the applicant is requesting safety net awards. The office of the superintendent of public instruction shall provide Form SPI 1679 for district reporting of medicaid eligible students and shall update the district's special education medicaid eligibility count and finalize the

count for the year based upon the applicant's most recent submission of Form SPI 1679; and

(2) ~~((Special education safety net allocations for a school district may be adjusted to reflect))~~ Changes in factors for which additional or revised information becomes available after the awarding of the initial safety net ((allocation)) award. ((This means:))

(a) ~~High need awards and/or community impact awards ((may)) will be reduced or nullified when the ((school district's actual)) applicant's available revenues and legitimate expenditures for the school year differ significantly from the estimates on which the initial safety net award was based.~~

(b) ~~((A school district's))~~ An applicant's safety net award may be recovered or adjusted ((by the safety net oversight committee)) based on the results of the review conducted by the ((special education program audit team)) state auditor's office pursuant to WAC 392-140-630.

AMENDATORY SECTION (Amending WSR 08-03-096, filed 1/17/08, effective 2/17/08)

WAC 392-140-685 Special education safety net—Recovery of state and/or federal ((allocations to school districts)) awards. High need student state and/or federal special education safety net ((allocations)) awards and state community impact safety net awards ((:

(4)) shall be recovered or awards reduced for the following reasons:

((a)) (1) The application omits pertinent information and/or contains a falsification or ((deliberate)) misrepresentation((, including omission) of ((a material fact)) information in the application.

((b)) (2) The ((allocation)) award is unexpended for the purpose allocated including but not limited to situations where the student leaves the district or has a change in services. For students who transfer to another Washington public school district, expenditures for specialized equipment purchased with these funds shall not be recovered provided the district transfers the equipment to the other school district.

~~((c) The IEP is determined at a later date, through state audit or child count verification, to be inappropriate or improperly prepared and appropriate and proper preparation would materially affect the justification or amount of need for safety net funding.~~

(2) ~~May be recovered or awards reduced for the following reasons:~~

((a)) (3) The ((school district)) applicant has carryover of state and/or federal flow-through special education funding from the school year for which the award was made.

((b)) (4) The ((district's actual)) applicant's available revenues are significantly higher than estimated revenues on which the award was based or the ((district's actual)) applicant's legitimate expenditures are significantly lower than the estimated expenditures on which the award was based.

((c)) (5) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.

~~((Recovery adjustments not made in the current school year shall be added to the amount calculated pursuant to~~

~~WAC 392-140-616 (2)(c) for the following school year. Such amounts reduce state and/or federal safety net awards in the following year.)~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-140-653 Special education safety net—Reapplication.

WSR 13-05-059

PERMANENT RULES

TREE FRUIT RESEARCH COMMISSION

[Filed February 15, 2013, 9:18 a.m., effective March 18, 2013]

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

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The special assessment was approved in a referendum of affected producers pursuant to RCW 15.26.140.

Purpose: Establishment of an additional assessment for special projects on all commercial tree fruit produced in this state, pursuant to RCW 15.26.150. The assessment for special projects will provide funding for the establishment of contractual endowments with Washington State University to permanently expand and enhance the institution's capability to conduct research of specific interest to tree fruit producers in Washington state, in this case cherry and stone fruit producers.

Citation of Existing Rules Affected by this Order: Amending WAC 16-560-06001.

Statutory Authority for Adoption: Chapter 15.26 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 12-19-063 on September 14, 2012.

Changes Other than Editing from Proposed to Adopted Version: The term "soft fruit" was changed to "stone fruit." This is a technical correction only to better reflect the terminology familiar to the tree fruit industry.

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

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

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

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

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

Date Adopted: February 15, 2013.

James R. McFerson
Manager

AMENDATORY SECTION (Amending WSR 11-21-011, filed 10/7/11, effective 11/7/11)

WAC 16-560-06001 Assessment rates. (1) There is hereby levied on all commercial tree fruit produced in this state or held out as being produced in this state for fresh or processing use, an assessment of one dollar per ton on all such tree fruit: Provided, That such assessment for cherries shall be four dollars per ton.

(2) There is hereby established pursuant to RCW 15.26.-155 an additional assessment for an industry services fund for programs related to sanitation, planting, production, harvesting, handling, processing and shipping. The assessment shall be set annually by the commission, upon approval of two-thirds of the voting members of the commission, to create and maintain this fund at or near one hundred thousand dollars. If this fund should inadvertently exceed one hundred thousand dollars due to larger crops than estimated or the addition of interest earned, the excess shall be credited to the following year's fund.

In consideration of maintaining this industry services fund, the commission shall annually consult with the affected industry and grower organizations.

(3) There is hereby established on all commercial tree fruit produced in this state or held out as being produced in the state for fresh or processing use, an additional assessment pursuant to RCW 15.26.150 of four dollars per ton on cherries and one dollar per ton on all other such tree fruit as approved by referendum vote of affected producers, the results of which shall be retained on file in the board's administrative office. This additional assessment shall be expended on a specific crop in proportion to the assessment collected for the specific crop. The additional assessment shall be imposed beginning in the 2012 crop year and be in effect until the total collection for all crops reaches thirty-two million dollars but in no case will be in effect for more than eight crop years. If thirty-two million dollars in additional assessment is collected in less than eight crop years, this additional assessment will expire at the end of the crop year and no further additional assessment will be collected in the subsequent crop years.

(4) The referendum for additional assessment under subsection (3) of this section having failed with regard to cherries and stone fruit, there is hereby established on all commercial stone fruit and cherries produced in this state or held out as being produced in the state for fresh or processing use, an additional assessment pursuant to RCW 15.26.150 to add to the fund established under subsection (3) of this section. This additional assessment shall be expended on a specific crop in proportion to the assessment collected for the specific crop. The additional assessment for stone fruit and cherries shall be one dollar per ton on stone fruit and four dollars per ton on cherries as approved by referendum vote of affected producers. If approved, the cherry and stone fruit assessment shall begin in the 2013 crop year. The cherry assessment shall continue in effect until the 2021 crop year or until the

total collection for cherries reaches five million dollars or until the total collection for all crops reaches its maximum amount as defined under subsection (3) of this section, whichever comes first. The stone fruit assessment shall continue in effect until the 2021 crop year or until the total collection for stone fruit reaches two hundred seventy-five thousand dollars or until the total collection for all crops reaches its maximum amount under subsection (3) of this section, whichever comes first. The board shall retain the results of the referendum on file in the board's administrative office.

WSR 13-05-070
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed February 19, 2013, 9:14 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: The Federal Occupational Safety and Health Administration (OSHA) advised the department of a couple of areas in the firefighters standard where we are not-as-effective-as the federal rules. Stakeholders asked us to look at our firefighter standards and bring them up-to-date with current consensus standards and practices.

NEW SECTIONS:

WAC 296-305-02002 Structural firefighting clothing (SFF).

- Existing personal protective equipment (PPE) sections were combined and updated to be in line with the National Fire Protection Association (NFPA) format and references.

WAC 296-305-02004 Protection ensemble for structural firefighting.

- Existing PPE sections were combined and updated to be in line with the NFPA format and references.

WAC 296-305-02012 Body armor.

- This section was rewritten to be more specific about determining when body armor should be used and how, and updated to current National Institute of Justice (NIJ) standards for vests.

WAC 296-305-03002 Hazardous materials.

- Requirements rewritten to remove pieces that duplicated the emergency response standard, and reordered to read more easily. Additionally, terminology was updated to match the NFPA.

WAC 296-305-04510 Aerial apparatus.

- WAC 296-305-04509 Aerial ladders and 296-305-04511 Elevated platforms, were combined, updated and formatted to be consistent with the NFPA.

WAC 296-305-05000 Incident management.

- Our rule currently applies only to a structural fire-ground, not hazmat, vehicle emergencies, wildfires, drills, etc. Requirements were added to apply to

these situations. Additionally, we added requirements to bring our rule into compliance with the presidential declaration creating the national incident management system. We also added language about different zones and addressed firefighters being struck by vehicles at the scene of incidents.

WAC 296-305-05002 Fire suppression.

- This section contains the pieces of our original emergency fireground operations section that were left after updating the incident management section. We removed "structural" from the rule, and made it apply to general suppression. This is also the section that addresses the 2-in/2-out issue. We will no longer allow both standby firefighters to have other duties in addition to standing by. We further clarified that the standby firefighter can not be doing something critical to the safety of the firefighters on the scene. Additionally, we cleared up language about what types of communication can be used, and now require the use of self-contained breathing apparatus (SCBA) throughout the overhaul phase of firefighting.

WAC 296-305-05004 Occupational exposure to heat and cold stress.

- Requirements were added to combine L&I's requirements for outdoor heat exposure with the NFPA on rehabilitation.

WAC 296-305-05101 Technical rescue general requirements.

WAC 296-305-05103 Technical rescue training.

WAC 296-305-05105 Technical rescue standard operating procedure.

WAC 296-305-05107 Technical rescue incident response planning.

WAC 296-305-05109 Technical rescue equipment.

WAC 296-305-05111 Technical rescue safety.

WAC 296-305-05113 Technical rescue operational specialties.

- These sections have been rewritten to bring our technical rescue pieces into one section and more in line with the NFPA, which is the industry standard. We added subjects that had not been previously addressed, such as swift water, tunnel, and mine rescue, and updated the rope rescue section. We also made it clear that the specialty requirements apply only to those departments who chose to do this work.

WAC 296-305-05502 Training and member development.

- Combined training requirements from WAC 296-305-05501 Fire training and 296-305-05503 Summary of training requirements. We added a section covering the use of structures for training other than live fires, such as destruction or dealing with asbestos. We also made the training language clear and put the information contained in WAC 296-305-05503 into a table.

WAC 296-305-06006 Ground ladders.

- Rewrote requirements from current section to come into compliance with NFPA standards.

WAC 296-305-06008 Electrical.

- Rewrote electrical section to apply to all electrical equipment and to come into compliance with other L&I electrical requirements.

WAC 296-305-07002 Wildland fire personnel accountability.**WAC 296-305-07004 Heat-related illness prevention for wildland firefighters.****WAC 296-305-07006 Equipment for wildland firefighting.****WAC 296-305-07008 Aircraft operations for fighting wildland fires.****WAC 296-305-07010 Training for wildland firefighting.****WAC 296-305-07012 Personal protective clothing and equipment for wildland firefighting.****WAC 296-305-07014 Apparatus standards for wildland firefighting.****WAC 296-305-07016 Falling and equipment in forest lands.****WAC 296-305-07018 Occupant restraints and enclosures for wildland firefighting.**

- The above sections were clarified, updated and reordered from the previous wildland firefighting section, with new requirements for working in forested areas added.

AMENDED SECTIONS: In addition to housekeeping corrections throughout the rule, the following amendments were made:

WAC 296-305-01003 Scope and application.

- Deleted a reference.
- Deleted the following language: "The provisions of this standard do not apply to industrial fire brigades, as defined in this chapter."

WAC 296-305-01005 Definitions.

- Definitions have been updated to fit the terminology used in the firefighting standard.

WAC 296-305-01007 Variance and procedure.

- Deleted a reference.

WAC 296-305-01501 Injury and illness reports for firefighters.

- Housekeeping changes were made to give the correct phone number and forms for reporting injuries/illness.

WAC 296-305-01503 Accident investigation.

- Housekeeping changes were made to give the correct phone number and forms for reporting injuries/illness.

WAC 296-305-01505 Accident prevention program.**WAC 296-305-01507 Fire department safety officer.**

- The term "safety officer" was changed to "health and safety officer."

WAC 296-305-01509 Management's responsibility.

- Requirements for management policies were added and clarified.

WAC 296-305-01513 Safe place standards.

- Changed wording from "All firefighting work methods," to "All work methods."

WAC 296-305-01517 First-aid kits.

- Removed the additional references to chapter 296-800 WAC sentence.

WAC 296-305-02001 Personal protective equipment and protective clothing.

- Terminology and NFPA editions were updated.
- Wording from the Washington Industrial Safety and Health Act (WISHA) directive was added to clarify requirements.

WAC 296-305-02017 Personal alert safety system (PASS) protection.

- Changed wording from "working in a hazardous area" to "engage in structural firefighting."
- Changed reference date to NFPA.
- Changed reference from "296-305-07019" to "296-305-07018."

WAC 296-305-02019 Life safety ropes, harnesses, and hardware protection.

- Changed wording from "All life safety ropes, harnesses, and hardware used by fire departments shall meet the applicable requirements of" to "Organizations performing rope rescue operations must make sure previously purchased life safety ropes and equipment comply with the 2001 edition of."
- Added language "Ropes and equipment purchased after the effective date of this rule must meet the 2006 edition of NFPA 1983,..."
- Added information on Class III harnesses.

WAC 296-305-02501 Emergency medical protection.

- Changed reference date to NFPA.
- Removed references to chapter 296-823 and 296-62 WAC.
- Amended language surrounding tuberculosis (TB) testing; added requirement to follow Centers for Disease Control and Prevention (CDC) guidelines.

WAC 296-305-04001 Respiratory equipment protection.

- Requirements for respirator use and testing vendor-supplied breathing air were updated and clarified.

WAC 296-305-04501 Automotive fire apparatus design and construction.

- Changed reference to NFPA and United States Department of Transportation standards.
- Added language about securing equipment.

WAC 296-305-04503 Automotive fire apparatus equipment.

- Changed reference to United States Department of Transportation.

WAC 296-305-04505 Automotive apparatus operational rules.

- Changed language in additional reference section.

WAC 296-305-04507 Fire apparatus maintenance and repair.

- Added requirement that suppression components of emergency vehicles are only to be repaired by specifically qualified individuals.

WAC 296-305-05013 Aircraft rescue and firefighting.

- Updated standard to require compliance with NFPA.

WAC 296-305-06001 Fire service equipment.

- Updated references.

WAC 296-305-06003 Testing fire service equipment.

- Added requirement to test fire suppression and supply hose annually as well as when there is a reason to believe the hose has been damaged to be in compliance with NFPA.

WAC 296-305-06501 Requirements for fire station facilities.

- Changed the title to Requirements for fire "department" facilities.

WAC 296-305-06503 General requirements.

- Added language outlining requirements for departments that choose to install sliding poles.
- Added language addressing asbestos in properties used by fire departments.

WAC 296-305-06505 Sanitation, disinfection, cleaning, and storage areas.

- Changed language from "needs to be decontaminated and/or disinfected" to "is contaminated or potentially contaminated."

WAC 296-305-06507 Sleeping areas.

- Added language "and carbon monoxide."

WAC 296-305-06511 Indoor air quality.

- Updated references.

WAC 296-305-06513 Refueling areas.

- Changed wording from "Uniform Fire Code" to "International Fire Code."

WAC 296-305-06515 Hose drying towers.

- Removed the additional reference language.

WAC 296-305-06517 Drill tower training facilities.

- Changed rappelling anchors support from 4500 to 5000 pounds per person.

WAC 296-305-06519 Fire station equipment and tools.

- Added the word "WAC" in a reference.

WAC 296-305-07001 Wildland fire operations.

- Updated, clarified and reordered the requirements relating to fighting wildfires. Added requirements about working in forested areas.

WAC 296-305-08000 Appendices.

- Deleted Appendix A at the request of stakeholders and added a 2-in/2-out deployment sheet developed by the stakeholder group.

REPEALED SECTIONS:**WAC 296-305-01002 Effective date.**

- This section no longer applies to the rule.

WAC 296-305-01009 Appeals.

- The requirements in this section were moved to chapter 296-900 WAC, Administrative rules, in a previous rule making so they are now being repealed from the firefighting standard.

WAC 296-305-02003 Eye and face protection.**WAC 296-305-02005 Hearing protection.****WAC 296-305-02007 Hand protection.****WAC 296-305-02009 Body protection.****WAC 296-305-02013 Foot protection for structural firefighting.****WAC 296-305-02015 Head protection.**

- Requirements were moved to WAC 296-305-02004.

WAC 296-305-02011 Body armor.

- Requirements were moved to WAC 296-305-02012.

WAC 296-305-03001 Hazardous materials protection.

- Requirements were moved to WAC 296-305-03002.

WAC 296-305-04509 Aerial ladders.

- Requirements combined with WAC 296-305-04511 Elevated platforms, and rewritten as WAC 296-305-04510 Aerial apparatus.

WAC 296-305-04511 Elevated platforms.

- Requirements combined with WAC 296-305-04509 Aerial ladders, and rewritten as WAC 296-305-04510 Aerial apparatus.

WAC 296-305-05001 Emergency fireground operations—Structural.

- Requirements revised and moved to WAC 296-305-05000 and 296-305-05002.

WAC 296-305-05003 Confined space rescue operations.**WAC 296-305-05005 Rope rescue operations.****WAC 296-305-05007 Trench rescue operations.****WAC 296-305-05009 Watercraft rescue operations.****WAC 296-305-05011 Hazardous materials operations.**

- Requirements updated and moved to the new technical rescue section, WAC 296-305-05101 through 296-305-05113.

WAC 296-305-05501 Fire training.**WAC 296-305-05503 Summary of training requirements.**

- Combined requirements, updated and reordered into new section WAC 296-305-05502 Training and member development.

WAC 296-305-06005 Ground ladders.

- Requirements moved to WAC 296-305-06006 Ground ladders.

WAC 296-305-06007 Electrical.

- Requirements moved to WAC 296-305-06008 Electrical.

WAC 296-305-07003 Personal protective clothing and equipment for wildland firefighting.**WAC 296-305-07005 Respiratory protection for wildland firefighters.****WAC 296-305-07007 Wildland personnel accountability.****WAC 296-305-07009 Apparatus standards for wildland firefighting.****WAC 296-305-07011 Occupant restraints and enclosures for wildland firefighting.****WAC 296-305-07013 Equipment for wildland firefighting.****WAC 296-305-07015 Aircraft operations for fighting wildland fires.****WAC 296-305-07017 First aid for wildland firefighters.****WAC 296-305-07019 Training for wildland firefighting.**

- The above sections were clarified, reordered and updated into the new and amended sections WAC 296-305-07001 through 296-305-07018.

Citation of Existing Rules Affected by this Order: Amending WAC 296-305-01003 Scope and application, 296-305-01005 Definitions, 296-305-01007 Variance and procedure, 296-305-01501 Injury and illness reports for firefighters, 296-305-01503 Accident investigation, 296-305-01505 Accident prevention program, 296-305-01507 Fire department safety officer, 296-305-01509 Management's responsibility, 296-305-01513 Safe place standards, 296-305-01517 First-aid kits, 296-305-02001 Personal protective equipment and protective clothing, 296-305-02017 Personal alert safety system (PASS) protection, 296-305-02019 Life safety ropes, harnesses, and hardware protection, 296-305-02501 Emergency medical protection, 296-305-04001 Respiratory equipment protection, 296-305-04501 Automotive fire apparatus design and construction, 296-305-04503 Automotive fire apparatus equipment, 296-305-04505 Automotive apparatus operational rules, 296-305-04507 Fire apparatus maintenance and repair, 296-305-05013 Aircraft rescue and firefighting, 296-305-06001 Fire service equipment, 296-305-06003 Testing fire service equipment, 296-305-06501 Requirements for fire station facilities, 296-305-06503 General requirements, 296-305-06505 Sanitation, disinfection, cleaning, and storage areas, 296-305-06507 Sleeping areas, 296-305-06511 Indoor air quality, 296-305-06513 Refueling areas, 296-305-06515 Hose drying towers, 296-305-06517 Drill tower training facilities, 296-305-06519 Fire station equipment and tools, 296-305-07001 Wildland fire operations and 296-305-08000 Appendices; and repealing WAC

296-305-01002 Effective date, 296-305-01009 Appeals, 296-305-02003 Eye and face protection, 296-305-02005 Hearing protection, 296-305-02007 Hand protection, 296-305-02009 Body protection, 296-305-02011 Body armor, 296-305-02013 Foot protection for structural firefighting, 296-305-02015 Head protection, 296-305-03001 Hazardous materials protection, 296-305-04509 Aerial ladders, 296-305-04511 Elevated platforms, 296-305-05001 Emergency fireground operations—Structural, 296-305-05003 Confined space rescue operations, 296-305-05005 Rope rescue operations, 296-305-05007 Trench rescue operations, 296-305-05009 Watercraft rescue operations, 296-305-05011 Hazardous materials operations, 296-305-05501 Fire training, 296-305-05503 Summary of training requirements, 296-305-06005 Ground ladders, 296-305-06007 Electrical, 296-305-07003 Personal protective clothing and equipment for wildland firefighting, 296-305-07005 Respiratory protection for wildland firefighters, 296-305-07007 Wildland personnel accountability, 296-305-07009 Apparatus standards for wildland firefighting, 296-305-07011 Occupant restraints and enclosures for wildland firefighting, 296-305-07013 Equipment for wildland firefighting, 296-305-07015 Aircraft operations for fighting wildland fires, 296-305-07017 First aid for wildland firefighters, and 296-305-07019 Training for wildland firefighting.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Other Authority: 29 C.F.R. 1910.156, Fire brigades.

Adopted under notice filed as WSR 12-17-119 on August 21, 2012.

Changes Other than Editing from Proposed to Adopted Version: As a result of written and oral comments received, we have made a few changes to the proposed language for the firefighter standard. The following sections are being amended as indicated below:

WAC 296-305-01005 Definitions.

- Added a definition for life safety harness.

WAC 296-305-04503 Automotive fire apparatus equipment.

- Added language to make it clear that having an electronic version of the United States Department of Transportation Emergency Response Guidebook (ERG) would meet the requirement to carry a current copy of the ERG.

A final cost-benefit analysis is available by contacting Devin Proctor, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5541, fax (360) 902-5619, e-mail devin.proctor@lni.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 2, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 27, Amended 33, Repealed 31.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 27, Amended 33, Repealed 31.

Date Adopted: February 19, 2013.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 06-01-073, filed 12/20/05, effective 3/1/06)

WAC 296-305-01003 Scope and application. (1) The rules of this chapter shall apply with respect to any and all activities, operations and equipment of employers and employees involved in providing fire protection services which are subject to the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW).

(2) The provisions of this chapter apply to all firefighters and their work places, including the fire combat scene. Although enforcement of applicable standards will result from provable violations of these standards at the fire combat scene, agents of the department will not act in any manner that will reduce or interfere with the effectiveness of the emergency response of a firefighting unit. Activities directly related to the combating of a fire will not be subjected to the immediate restraint provisions of RCW 49.17.130.

(3) In the development of this document many consensus standards of the industry were considered and evaluated as to adaptability to the Washington state fire service industry. Where adaptable and meaningful, the firefighter safety elements of these standards were incorporated into this WAC. Chapter 296-305 WAC, shall be considered as the firefighter safety standards for the state of Washington.

(4) The provisions of this chapter cover existing requirements that apply to all fire departments. All fire departments shall have in place their own policy statement and operating instructions that meet or exceed these requirements. This chapter contains state and/or federal performance criteria that fire departments shall meet.

(5) Unless specifically stated otherwise by rule, if a duplication of regulations, or a conflict exists between the rules regulating wildland firefighting and other rules in the chapter, only the rules regulating wildland firefighting shall apply to wildland firefighting activities and equipment.

(6) The provisions of this chapter shall be supplemented by the provisions of the general safety and health standards of the department of labor and industries (~~(, chapters 296-24, 296-62, 296-800, and 296-811 WAC)~~). In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter shall apply.

(7) (~~The provisions of this standard do not apply to industrial fire brigades, as defined in this chapter.~~) Industrial fire brigades are covered under the provisions of chapter 296-811 WAC, Fire brigades.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-01005 Definitions. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

Accident: An unexpected event that interrupts or interferes with the orderly progress of the fire department operations and may or may not include personal injury or property damage.

Accountability (tracking) system: A system of firefighter accountability that provides for the tracking and inventory of all members.

ACGIH: American Conference of Governmental Industrial Hygienists.

~~((Aerial ladder: A ladder mounted on top of an apparatus, hydraulic or pneumatic controlled.~~

~~Aerial tower: Telescopic elevating platform or water tower assembly usually with a ladder on top of the section.~~

~~Aerial platform: A device consisting of two or more booms or sections with a passenger carrying platform assembly.)~~

ACM: Asbestos-containing material: any material containing more than 1 percent asbestos.

Aerial devices: Fire apparatus-mounted aerial ladders, elevated platforms, and water towers.

ANSI: American National Standards Institute.

Apparatus: A mobile piece of fire equipment such as a pumper, aerial, tender, automobile, etc.

Approved:

(1) A method, equipment, procedure, practice, tool, etc., which is sanctioned, consented to, confirmed or accepted as good or satisfactory for a particular purpose or use by a person, or organization authorized to make such a judgment.

(2) Means approved by the director of the department of labor and industries or his/her authorized representative: Provided, however, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provisions of chapter 296-800 WAC shall apply.

~~((Audiogram: A chart, graph, or table resulting from an audiometric test showing an individual's hearing threshold levels as a function of frequency.~~

~~Authorized person: A person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.~~

~~Beacon: A flashing or rotating light.)~~

Asbestos: Includes chrysotile, amosite, crocidolite, tremolite, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered.

Belt: See ladder belt and escape belt.

Bloodborne pathogens: Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

Blowup (wildfire): Sudden increase in fire intensity or rate of spread sufficient to preclude direct control or to upset existing control plans. Often accompanied by violent convection and may have other characteristics of a fire storm.

~~((**Chemical protective clothing:** Items made from chemical resistive materials, such as clothing, hood, boots, and gloves, that are designed and configured to protect the wearer's torso, head, arms, legs, hands, and feet from hazardous materials. Chemical protective clothing (garments) can be constructed as a single, or multipiece, garment. The garment may completely enclose the wearer either by itself or in combination with the wearer's respiratory protection, attached or detachable hood, gloves, and boots.))~~

CBRN: Chemical, biological, radiological, and nuclear.

Chief: The employer representative highest in rank who is responsible for the fire department's operation.

Cold zone: The control zone of an incident that contains the command post and such other support functions as are deemed necessary to control the incident.

Combat scene: The site where the suppression of a fire or emergency exists.

~~((**Confinement:** Those procedures taken to keep a material in a defined or local area.))~~

Confined space: ~~((Means))~~ A space that is all of the following:

(1) Is large enough and arranged so ~~((configured that))~~ an employee can bodily enter and perform assigned work; and

(2) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry.); and

(3) Is not designed for continuous employee occupancy.

Containment: The actions taken to keep a material in its container (e.g. stop the release of the material or reduce the amount being released.)

Contaminated: The presence or the reasonably anticipated presence of nuisance materials foreign to the normal atmospheres, blood, hazardous waste, or other potentially infectious materials on an item or surface.

Contaminated laundry: Laundry which has been soiled with blood or other potentially infectious materials or may contain contaminated sharps.

Contamination: The process of transferring a hazardous material from its source to people, animals, the environment, or equipment, which may act as a carrier.

dB(A): A measure of noise level expressed as decibels measured on the "A" scale.

~~((**Deck pipe:** A permanently mounted device which delivers a large stream of water.))~~

Decontamination:

(1) The physical or chemical process of reducing and preventing the spread of contamination from persons or equipment used at a hazardous materials incident.

(2) The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

~~((**Department:** Department of labor and industries.~~

~~**Director of fire department:** The chief or principle administrator of the fire department.))~~

Direct attack: Any treatment applied directly to burning fuel such as wetting, smothering, or chemically quench-

ing the fire or by physically separating the burning from unburned fuel.

Director: The director of the department of labor and industries, or his/her designated representative.

Disinfection: A procedure which inactivates virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (example: bacterial endospores) on inanimate objects.

Disturb/disturbance: Refers to activities that disrupt the matrix of, crumble or pulverize, or generate visible debris from ACM or PACM.

Dive rescue (public safety diving): The act of searching for or rescuing a viable or presumably viable person(s) while working in water using underwater apparatus which supplies compressed breathing gas at the ambient pressure.

Double-layer woven clothing: Clothing worn in two layers allowing air to reach the skin. For example, coveralls worn on top of regular work clothes.

Drill tower: A structure which may or may not be attached to the station and which is principally used for training firefighters in fire service techniques.

Drinking water: Potable water that is suitable to drink. Drinking water packaged as a consumer product and electrolyte-replenishing beverages (i.e., sports drinks) that do not contain caffeine are acceptable.

Driver/operator: A person having satisfactorily completed the fire department's "requirements of driver/operator" of a specific piece of fire apparatus.

Emergency: A sudden and unexpected event calling for immediate action.

Emergency incident: A specific emergency operation.

Emergency medical care: The provision of treatment to, and/or transportation of, patients which may include first aid, cardiopulmonary resuscitation, basic life support, advanced life support, and other medical procedures that occur prior to arrival at a hospital or other health care facility.

Emergency operations: Activities of the fire department relating to rescue, fire suppression, emergency medical care, and special operations, including response to the scene of an incident and all functions performed at the scene.

Employee: An employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is their personal labor for an employer under this chapter whether by way of manual labor or otherwise. Also see "Member."

Employer: Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations.

Employer representative: A fire department officer authorized by the chief or director of the fire department to act in his/her behalf.

Engine (pumper): A piece of apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.

~~((**Engineering control:** Any procedure other than an administrative control that reduces exposures by modifying the source or reducing the exposure to an individual. Examples of engineering controls include the use of isolation, containment, encapsulation, sound absorbing materials for noise control, and ventilation.~~

~~**Explosion proof equipment:** Equipment enclosed in a case that is capable of withstanding an explosion or a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that it will not ignite a surrounding flammable atmosphere.~~

~~**Fastest means available:** The (nearest/closest) telephone, portable radio, mobile radio, telephone/radio dispatcher or any other mode of mechanical communication.)~~

Escape belt: A device that fastens around the waist only and is intended to be used by the wearer only as an emergency self-rescue device.

Escape rope: A single-purpose emergency self-escape (self-rescue) rope, not classified as a life safety rope.

Exclusion zone: The control zone designated to exclude all unauthorized personnel, responders, and equipment.

Note: Examples of exclusion zones could be holes in floors, explosive devices, or collapse hazards.

Extended attack: Suppression activity for a wildfire that has not been contained or controlled by initial attack or contingency forces and for which more firefighting resources are arriving, en route, or being ordered by the initial attack incident commander.

Extended attack incident: A wildland fire that has not been contained or controlled by initial attack forces and for which more firefighting resources are arriving, en route, or being ordered by the initial attack incident commander. Extended attack implies that the complexity level of the incident will increase beyond the capabilities of initial attack incident command.

Fire apparatus: A fire department emergency vehicle used for rescue, fire suppression, or other specialized functions.

Fire boat: A fire department watercraft having a permanent, affixed firefighting capability.

~~((**Fire combat training:** Training received by firefighters on the drill ground, drill tower, or industrial site to maintain the firefighter's proficiency.))~~

Fire department: An organization or consortium of organizations providing any or all of the following: Rescue, fire suppression, and other related activities. For the purposes of this standard the term "Fire Department" shall include any public, private, or military organization engaging in this type of activity.

Fire department facility: Any building or area owned, operated, occupied, or used by a fire department on a routine basis. This does not include locations where a fire department may be summoned to perform emergency operations or other duties, unless such premises are normally under the control of the fire department.

~~((**Fire department safety officer:** The member of the fire department assigned and authorized as the principal safety officer to perform the duties and responsibilities specified in this standard.))~~

Firefighter: A member of a fire department whose duties require the performance of essential firefighting functions or substantially similar functions.

Fire retardant: Any material used to reduce, stop or prevent the flame spread.

Fire suppression training: Training received by firefighters on the drill ground, drill tower, or industrial site to maintain the firefighter's proficiency.

Fly: Extendible sections of ground or aerial ladders.

~~((**Foot stand, ladder:** Devices attached to inside of beams of ladders that when folded down, provide foot space.))~~

Full body harness: See life safety harness.

Gross decontamination: The initial phase of the decontamination process during which the amount of surface contaminant is significantly reduced.

Ground jack: Heavy jacks attached to frame of chassis of aerial-equipped apparatus to provide stability when the aerial portion of the apparatus is used.

~~((**Ground mobile attack:** The activities of wildland firefighting with hose lines being used by personnel working around a moving engine. See mobile attack.))~~

Guideline: An organizational directive that establishes a standard course of action.

Halyard: Rope used on extension ladders for the purpose of raising or lowering fly section(s). A wire cable may be referred to as a halyard when used on the uppermost fly section(s) of three or four section extension ladders.

Harness: See life safety harness.

Hazard communication program: A procedure to address comprehensively the issue of evaluating the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees. See WAC 296-800-170, Chemical Hazard Communication Program.

Hazard control zones:

Cold zone: The control zone of an incident that contains the command post and such other support functions as are deemed necessary to control the incident.

Note: The cold zone established the public exclusion or clean zone. There are minimal risks of human injury or exposure in this zone.

Exclusion zone: The control zone designated to exclude all unauthorized personnel, responders, and equipment.

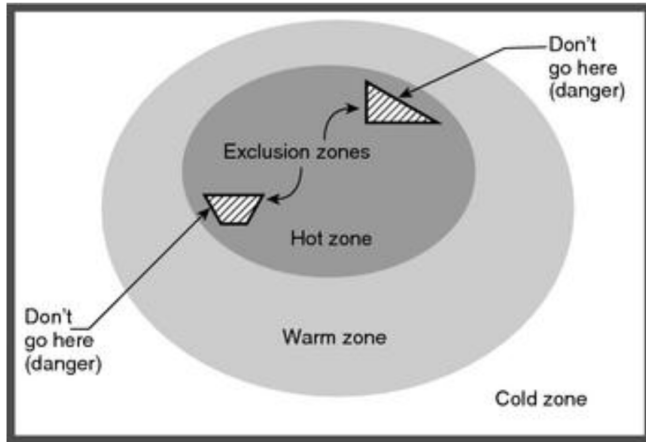
Note: Examples of exclusion zones could be holes in floors, explosive hazards, or collapse hazards.

Hot zone: The control zone immediately surrounding the hazard area, which extends far enough to prevent adverse effects to personnel outside the zone. The hot zone is presenting the greatest risk to members and will often be classified as an IDLH atmosphere.

Warm zone: The control zone outside the hot zone where personnel and equipment decontamination and the hot zone support takes place.

Note: The warm zone is a limited access area for members directly aiding or in support of operations in the hot zone. Significant risk of human injury (respiratory, exposures, etc.) can still exist in the warm zone.

Hazard Zones:



Hazards: The characteristics of facilities, equipment, systems, property, hardware or other objects and those areas of structures or buildings posing a hazard greater than normal to the general occupancy or structures.

Hazardous area: The immediate area where members might be exposed to a hazard.

Hazardous atmosphere: ((Any atmosphere, either immediately or not immediately dangerous to life or health, which is oxygen deficient or which contains a toxic or disease-producing contaminant-)) An atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (escape unaided from a permit-required confined space), injury or acute illness caused by one or more of the following:

- Flammable gas, vapor, or mist in excess of 10% of its lower flammable limit (LFL);
- Airborne combustible dust at a concentration that meets or exceeds its LFL;
- Atmospheric oxygen concentration below 19.5% or above 23.5%;
- Atmospheric concentration of any substance which may exceed a permissible exposure limit. For additional information about atmospheric concentration, see chapter 296-62 WAC, Parts F, G, and I, General occupational health standards and chapter 296-841 WAC, Airborne contaminants.

Hazardous condition: The physical condition or act which is causally related to accident occurrence. The hazardous condition is related directly to both the accident type and the agency of the accident.

Hazardous material: A substance (solid, liquid, or gas) that when released is capable of creating harm to people, the environment, and property.

Hazardous substances: Substances that present an unusual risk to persons due to properties of toxicity, chemical activity, corrosivity, etiological hazards of similar properties.

((HEPA filtration: High efficiency particulate air filtration found in vacuum system capable of filtering 0.3 micron particles with 99.97% efficiency-))

Health and safety officer: The member of the fire department assigned and authorized as the administrator of the fire department health and safety program.

Heat-related illness: A medical condition resulting from the body's inability to cope with a particular heat load, and includes, but is not limited to, heat cramps, heat rash, heat exhaustion, fainting, and heat stroke.

Hose bed: Portion of fire apparatus where hose is stored.

Hose tower: A vertical enclosure where hose is hung to dry.

Hot zone: ((Area)) The control zone immediately surrounding ((a hazardous materials incident)) the hazard area, which extends far enough to prevent adverse effects ((from hazardous materials releases)) to personnel outside the zone. ((This)) The hot zone is ((also referred to as the exclusion zone or the restricted zone in other documents)) the area presenting the greatest risk to members and will often be classified as an IDLH atmosphere.

Ice rescue: The rescue of a person(s) who is afloat within an opening in the frozen surface or on the frozen surface of a body of water.

Identify: To select or indicate verbally or in writing using recognized standard terms. To establish the identity of; the fact of being the same as the one described.

IDLH: Immediately dangerous to life and health.

Imminent hazard (danger): An act or condition that is judged to present a danger to persons or property and is so immediate and severe that it requires immediate corrective or preventative action.

Incident commander: The person in overall command of an emergency incident. This person is responsible for the direction and coordination of the response effort.

Incident command system (ICS): A system that includes: Roles, responsibilities, operating requirements, guidelines and procedures for organizing and operating an on-scene management structure.

Incident safety officer: The person assigned the command staff function of safety officer in the incident command system.

Incipient (phase) fire: The beginning of a fire; where the oxygen content in the air has not been significantly reduced and the fire is producing minute amounts of water vapor, carbon dioxide, carbon monoxide and other gases; the room has a normal temperature and can be controlled or extinguished with a portable fire extinguisher or small hose, e.g., a kitchen stove fire.

Indirect attack: A method of suppression in which the control line is located some considerable distance away from the fire's active edge. Generally done in the case of a fast-spreading or high-intensity fire and to utilize natural or constructed firebreaks or fuelbreaks and favorable breaks in the topography. The intervening fuel is usually backfired; but occasionally the main fire is allowed to burn to the line, depending on conditions.

Industrial fire brigade: An organized group of employees whose primary employment is other than fire-

fighting who are knowledgeable, trained and skilled in specialized operations based on site-specific hazards present at a single commercial facility or facilities under the same management.

~~((Initial stage (initial action): Shall encompass the control efforts taken by resources which are first to arrive at an incident.))~~

Initial action: The actions taken by the first resources to arrive at a wildfire or wildland fire use incident. Initial actions may be size up, patrolling, monitoring, holding action or aggressive initial attack.

Initial attack: A planned response to a wildfire given the wildfire's potential fire behavior. The objective of initial attack is to stop the fire and put it out in a manner consistent with firefighter and public safety and values to be protected.

Initial fire suppression training: The training of firefighters in recognizing sources and locations of potential fires and the method of fire suppression to be used.

Initial stages: Tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

Injury: Physical damage suffered by a person that requires treatment by a practitioner of medicine (a physician, nurse, paramedic or EMT) within one year of the incident regardless of whether treatment was actually received.

Interior structural firefighting: The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. See structural firefighting.

Known rescue: A situation of compelling evidence where a member sees, hears, or is directly told of a trapped and viable victim by an occupant who has escaped or is a credible witness.

Ladder belt: A device that fastens around the waist only and is used as a positioning device for a person on a ladder.

Life safety or rescue rope: Rope dedicated solely for the purpose of constructing lines for supporting people during rescue, firefighting, or other emergency operations, or during training evolutions.

~~((Line: Rope when in use.))~~ **Life safety harness:** A configuration of connected straps to distribute a fall arresting force over at least the thighs, shoulders and pelvis, with provisions for attaching a lanyard, lifeline, or deceleration devices.

Live fire: Any unconfined open flame or device that can propagate fire to the building, structure, or other combustible materials.

Live fire training: Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of firefighters under actual fire conditions.

Locking in: The act of securing oneself to a ladder by hooking a leg over a rung and placing top of foot against the other leg or against the ladder.

~~((Manned station: See staffed station.))~~

May: A permissive use or an alternative method to a specified requirement.

Mayday: The nationally adopted "call for help" term used to indicate that an emergency responder is in a situation of imminent peril where they are in need of immediate help.

Member: A person involved in performing the duties and responsibilities of a fire department under the auspices of the organization. A fire department member may be a full-time or part-time employee or a paid or unpaid volunteer, may occupy any position or rank within the fire department, and engages in emergency operations. Also see Employee.

Mobile attack: The act of fighting wildland fires from a moving engine.

~~((Monitor: A portable appliance that delivers a large stream of water.))~~

~~**Mop up:** The act of making a wildfire/wildland fire safe after it is controlled, such as extinguishing or removing burning materials along or near the control line, felling snags, trenching logs to prevent rolling.))~~

NFPA: National Fire Protection Association.

~~((NHMS:))~~ **NIMS:** The National ~~((Interagency))~~ Incident Management System.

NIOSH: National Institute of Occupational Safety and Health.

~~((Nondestructive testing: A test to determine the characteristics or properties of a material or substance that does not involve its destruction or deterioration.))~~

Nonkid: The surface treatment that lessens the tendency of a foreign substance to reduce the coefficient of friction between opposing surfaces.

Occupational exposure: Means reasonably anticipated skin, eye, mucous membrane or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

Officer: (1) Person in charge of a particular task or assignment.

(2) A supervisor.

OSHA: Occupational Safety and Health Administration.

Other potentially infectious materials (OPIM): (1) The following body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

(2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

(3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

Outrigger: Manually or hydraulically operated metal enclosures and jacks which are extended and placed in contact with the ground to give the apparatus a wide, solid base to support different loads.

~~((Overhauling: That portion of fire extinguishment involving discovery of hidden fires or smoldering material.))~~

Overhaul: A firefighting term involving the process of final extinguishment after the main body of a fire has been knocked down. All traces of fire must be extinguished at this time.

PACM: Presumed asbestos-containing material. Thermal system insulation and surfacing material found in build-

ings, vessels and vessel sections constructed no later than 1980.

PASS: Personal alert safety system.

PEL: Permissible exposure limit.

Personal protective equipment (PPE): (1) The equipment provided to shield or isolate a person from the chemical, physical, and thermal hazards that may be encountered at a hazardous materials incident. Personal protective equipment includes both personal protective clothing and respiratory protection. Adequate personal protective equipment should protect the respiratory system, skin, eyes, face, hands, feet, head, body, and hearing.

(2) Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

~~((Place of employment: Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control. For the purposes of this code, fireground and emergency scenes are also considered places of employment.))~~

Platform: The portion of a telescoping or articulating boom used as a working surface.

Positive communication: Visual, audible, physical, safety guide rope, or electronic means which allows for two way message generation and reception.

PPE: Personal protective equipment.

~~((Prefire training: The training of firefighters in recognizing sources and locations of potential fires and the method of fire combat to be used.))~~

Probable fatality: (1) An occupational injury or illness, which, by the doctor's prognosis, could lead to death.

(2) An occupational injury or illness, which by its very nature, is considered life threatening.

Protective clothing: Equipment designed to protect the wearer from heat and/or hazardous materials contacting the skin or eyes. Protective clothing is divided into five types:

- (1) Structural firefighting protective clothing;
- (2) Liquid splash-protective clothing;
- (3) Vapor-protective clothing;
- (4) High temperature-protective proximity clothing; and
- (5) Wildland firefighting clothing.

Note: See Protective ensemble.

Protective ensemble: Multiple elements of clothing and equipment designed to provide a degree of protection for firefighters from adverse exposures to the inherent risks of structural firefighting operations and certain other emergency operations. The elements of the protective ensemble are helmets, coats, trousers, gloves, footwear, interface components (hoods), and if applicable, personal alert system (PASS) devices, and self-contained breathing apparatus.

Proximity protective clothing: Radiant reflective protective garments configured as a coat and trousers, or as a coverall, and interface components that are designed to provide protection for the firefighter's body from conductive, convective, and radiant heat.

Pumper: See engine.

Qualified: One who by possession of a recognized degree, certificate or professional standing, or who by knowledge, training or experience has successfully demonstrated his/her ability to solve or resolve problems related to the subject matter, the work or the project.

~~**Rapid intervention ((team (RIT))) crew (RIC):** On-scene team of at least two members designated, dedicated and equipped to effect an immediate rescue ((operation)) of firefighters if the need arises (also known as RIT).~~

RCW: Revised Code of Washington.

Rehabilitation: The process of providing mental and medical evaluation, rest, hydration, and nourishment to members who are engaged in emergency operations.

Rescue: Those activities directed at locating endangered persons at an emergency incident and removing those persons from danger.

Rescue craft: Any fire department watercraft used for rescue operations.

Respirator: A device designed to protect the wearer from breathing harmful atmospheres. See respiratory protection.

Respiratory equipment: Self-contained breathing apparatus designed to provide the wearer with a supply of respirable atmosphere carried in or generated by the breathing apparatus. When in use, this breathing apparatus requires no intake of air or oxygen from the outside atmosphere.

(1) Respirators (closed circuit): Those types of respirators which retain exhaled air in the system and recondition such air for breathing again.

(2) Respirators (open circuit): Those types of respirators which exhaust exhaled air to the outside of the mask into the ambient air.

(3) Respirators (demand): Those types of respirators whose input air to the mask is started when a negative pressure is generated by inhalation.

(4) Respirators (pressure demand): Those types of respirators which constantly and automatically maintain a positive pressure in the mask by the introduction of air when the positive pressure is lowered (usually from .018 psi to .064 psi) through the process of inhalation or leakage from the mask.

Respiratory protection: Equipment designed to protect the wearer from the inhalation of contaminants. Respiratory protection is divided into three types:

(1) Positive pressure self-contained breathing apparatus (SCBA);

(2) Positive pressure airline respirators;

(3) Negative pressure air purifying respirators.

Responding: The usual reference to the act of responding or traveling to an alarm or request for assistance.

Risk assessment: To set or determine the possibility of suffering harm or loss, and to what extent.

Rope rescue equipment: Components used to build rope rescue systems including life safety rope, life safety harnesses and auxiliary equipment.

Rope rescue system: A system composed of rope rescue equipment and an appropriate anchor system intended to support people during rescue, firefighting, or other emergency operations, or during training evolutions.

Safe and healthful working environment: The work surroundings of an employee with minimum exposure to unsafe acts and/or unsafe conditions.

~~((**Safety officer:** Either the fire department safety officer or an assistant safety officer (see fire department safety officer).))~~

Safety net: A rope or nylon strap net not to exceed 6-inch mesh, stretched and suspended above ground level at the base of drill tower, and at such a height that a falling body would be arrested prior to striking the ground.

Scabbard: A guard which will prevent accidental injury and covers the blade and pick of an axe or other sharp instrument when worn by the firefighter.

SCBA: Self contained breathing apparatus.

Service testing: The regular, periodic inspection and testing of apparatus and equipment according to an established schedule and procedure, to insure that it is in safe and functional operating condition.

Shall: Mandatory.

Should: Recommended.

~~((**Signalman:** A person so positioned that he/she can direct the driver when the driver's vision is obstructed or obscured.~~

~~**SOP:** Standard operating procedure or guidelines.~~

~~**Staffed station:** A fire station continuously occupied by firefighters on scheduled work shifts. The staffed station may also serve as headquarters for volunteers.))~~

Standard operating procedure or guidelines: An organizational directive that establishes a standard course of action. ((See SOP.))

Standby firefighters: On-scene members designated to effect an immediate rescue of the initial team operating in the hot zone.

Station (fire station): Structure in which fire service apparatus and/or personnel are housed.

Structural firefighting: The activities of rescuing, fire suppression, and property conservation involving buildings, enclosed structures, aircraft, vehicles, vessels, or similar properties that are involved in a fire or emergency situation. See interior structural firefighting.

Structural firefighting protective clothing: This category of clothing, often called turnout or bunker gear, means the protective clothing normally worn by firefighters during structural firefighting operations. It includes a helmet, coat, pants, boots, gloves, and a hood. Structural firefighters' protective clothing provides limited protection from heat but may not provide adequate protection from the harmful gases, vapors, liquids, or dusts that are encountered during hazardous materials incidents.

~~((**Support function:** A hazardous chemical operation involving controlled chemical uses or exposures in nonflammable atmospheres with minimum threats in loss of life, personnel injury, or damage to property or to the environment. Functions include decontamination, remedial cleanup of identified chemicals, and training.~~

~~**Support function protective garment:** A chemical protective suit that meets the requirements of NFPA Standard on Support Function Garments, 1993.))~~

Surf rescue: The rescue of a person(s) who is afloat on the surface or the subsurface retrieval of a person(s) sub-

merged in ocean water or bodies of water that are connected to oceans that either experience a twice daily rise and fall of their surface caused by gravitational pull of the moon or experience a corresponding ebb and flow of water in response to tides with a surf height of 1 foot or greater.

Surface water rescue: The rescue of a person(s) who is afloat on the surface of a body of water. A trained rescuer (surface based swimmer) may dive for submerged victims, limited to the rescuer's ability, with no sustained underwater capability other than a mask, fins, and snorkel in relatively shallow depths and retrieve or mark a victim.

Swift water rescue: The removal of person(s) from threat or harm from water that is moving faster than walking pace (1 Knot, 1.85 km/hr, 1.15 mph).

Tail/running board: Standing space on the side or rear of an engine or pumper apparatus.

Team: Two or more individuals who are working together in positive communication with each other through visual, audible, physical, safety guide rope, electronic, or other means to coordinate their activities and who are in close proximity to each other to provide assistance in case of emergency.

Tillerman: Rear driver of tractor-trailer aerial ladder.

Trench: A narrow excavation made below the surface of the ground. The depth is generally greater than the width, but the width of a trench is not greater than 15 feet.

Turnout clothing: See structural firefighting protective clothing.

Turntable: The rotating surface located at the base of an aerial ladder, or boom, on aerial apparatus.

~~((**Universal precaution:** An approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.))~~

Uncontrolled fire: Any fire which threatens to destroy life, property, or natural resources; and (a) is not burning within the confines of firebreaks; or (b) is burning with such intensity that it could not be readily extinguished with ordinary tools commonly available.

Urban wildfire: An uncontained fire requiring suppression action, usually spreading through ground cover, vegetative fuels, brush, grass, and landscaping; often threatening residential and commercial structures within an urban environment with access to established roadways and water systems.

Vapor barrier: Material used to prevent or substantially inhibit the transfer of water, corrosive liquids and steam or other hot vapors from the outside of a garment to the wearer's body.

Vapor barrier clothing: Clothing that significantly inhibits or completely prevents sweat produced by the body from evaporating into the outside air. Such clothing includes encapsulating suits, various forms of chemical resistant suits used for PPE, and other forms of nonbreathing clothing.

Variance: An allowed or authorized deviation from specific standard(s) when an employer substitutes measures which afford an equal degree of safety. Variances are issued as temporary or permanent with interim measures issued, when requested, until a determination or decision is made.

Vessel: Means every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, including special-purpose floating structures not primarily designed for or used as a means of transportation on water.

WAC: Washington Administrative Code.

Warm zone: The control zone outside the hot zone where personnel and equipment decontamination and hot zone support take place.

Note: The warm zone is a limited access area for members directly aiding or in support of operations in the hot zone. Significant risk of human injury (respiratory, exposures, etc.) can still exist in the warm zone.

Water rescue: Any incident that involves the removal of victim(s) from any body of water other than a swimming pool. This includes rivers, creeks, lakes, washes, storm drains, or any body of water, whether still or moving.

Wheel blocks (chocks): A block or wedge placed under a wheel to prevent motion.

~~((Wildfire: An unplanned and unwanted fire requiring suppression action; an uncontrolled fire, usually spreading through vegetative fuels and often threatening structures.~~

~~**Wildland fire:** A fire burning in natural vegetation that requires an individual or crew(s) to expend more than one hour of labor to confine, control and extinguish. Agencies may substitute crews to avoid the one hour bench mark or increase crew size to complete the job in less than one hour. One hour was chosen as the maximum time that individuals should work in high temperatures in structural protective clothing-))~~

Wildland: An area in which development is essentially nonexistent, except for roads, railroads, powerlines, and similar transportation facilities. Structures, if any, are widely scattered.

Wildland fire: Any nonstructure fire that occurs in the wildland.

Wildland firefighting: The activities of fire suppression and property conservation in woodlands, forests, grasslands, brush, and other such vegetation or any combination of vegetation, that is involved in a fire situation but is not within buildings or structures.

Wildland firefighting enclosure: A fire apparatus enclosure with a minimum of three sides and a bottom.

Wildland urban interface: The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

WISHA: Washington Industrial Safety Health Act.

Work environment: The surrounding conditions, influences or forces to which an employee is exposed while working.

~~((Workplace: See place of employment.~~

~~**WRD:** WISHA regional directive-))~~ Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control. For the purposes of this code, fireground and emergency scenes are also considered places of employment.

Work/rest ratio: An expression of the amount of rest that is required for each hour an individual is in work status.

Current NWCG guidelines require one hour of rest for every two hours in work status.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01007 Variance and procedure. (1) Conditions may exist in operations that a state standard will not have practical use. The director may issue a variance from the requirements of the standard when another means of providing equal protection is provided.

(2) Applications for variances will be reviewed and investigated by the department. Variances granted shall be limited to the specific WAC code covered in the application and may be revoked for cause. The variance shall remain prominently posted on the premises while in effect.

Note: Variance forms may be obtained from the department upon request. Requests for variance from safety and health standards shall be made in writing to the assistant director, Consultation and Compliance Services Division, Department of Labor and Industries, P.O. Box 44600, Olympia, Washington 98504-4600. ((Reference RCW 49.17.080 and 49.17.090-))

AMENDATORY SECTION (Amending WSR 08-05-012, filed 2/8/08, effective 4/1/08)

WAC 296-305-01501 Injury and illness reports for firefighters. (1) Notice of injury or illness.

(a) ~~((Whenever an occupational accident causes injury or illness to a firefighter or other employee, or whenever a firefighter or other employee becomes aware of an illness apparently caused by occupational exposure, it shall be the duty of such a firefighter or other employee, or someone on his/her behalf, to report the injury or illness to the employer before the end of his/her duty period but not later than twenty-four hours after the incident.))~~ Employees must report work-related injuries or illnesses to their employer before the end of their duty period, but not later than twenty-four hours after the incident.

(b) Exception: In the event that symptoms of an occupational injury or illness are not apparent at the time of the incident, the employee shall report the symptoms to his/her employer within forty-eight hours after becoming aware of the injury or illness.

(c) Within eight hours after the fatality or probable fatality of any firefighter or employee from a work-related incident or the inpatient hospitalization of any employee as a result of a work-related incident, the employer of any employees so affected, shall orally report the fatality/hospitalization by telephone (1-800-423-7233) or in person, to the nearest office of the department ((or by using the OSHA toll-free central telephone number, 1-800-321-6742)).

(i) This requirement applies to each such fatality or hospitalization which occurs within thirty days of the incident.

(ii) Exception: If any employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this subsection, the employer shall make a report within eight hours of the time the incident is reported to any agent or employee of the employer.

(iii) Each report required by this subsection shall relate the following information: Establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

(2) Recordkeeping - Written reports; all fire service employers shall maintain records of occupational injuries and illnesses. Reportable cases include every occupational death, every occupational illness, or each injury that involves one of the following: Unconsciousness, inability to perform all phases of regular duty-related assignment, inability to work full time on duty, temporary assignment, or medical treatment beyond first aid.

(3) All fire departments shall record occupational injury and illnesses on ~~((forms OSHA 101 Supplementary Record Occupational Injuries and Illnesses and OSHA 200 Log summary. Forms other than OSHA 101 may be substituted for the Supplementary Record of Occupational Injuries and Illnesses if they contain the same items))~~ OSHA Form 300, Log of Work-Related Injuries and Illnesses.

(4) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from ~~((the Form OSHA No. 200))~~ OSHA Form 300A, Summary of Work-Related Injuries and Illnesses and the following information from that form: Calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. ~~((A Form OSHA No. 200))~~ An OSHA Form 300A shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted. The summary shall be completed by February 1 each calendar year. The summary covering the previous calendar year shall be posted no later than February 1st, and shall remain in place until ~~((March 1))~~ April 30th.

AMENDATORY SECTION (Amending WSR 09-01-158, filed 12/23/08, effective 3/1/09)

WAC 296-305-01503 Accident/incident investigation. (1) After the emergency actions following accidents that cause serious injuries ~~((that have))~~ with immediate symptoms or incidents resulting in exposure to occupational disease-causing chemicals or physical agents, a preliminary investigation of the cause ~~((of the accident))~~ shall be conducted. The investigation shall be conducted by a person designated as qualified by the employer. The fire department shall establish a written procedure and a program for investigating, and evaluating the facts, relating to the cause of accidents. The findings of the investigation shall be documented by the employer for reference at any following formal investigations.

(2) ~~((Within eight hours after the fatality or probable fatality of any firefighter or employee from a work-related incident or the inpatient hospitalization of any employee as a result of a work-related incident, the employer of any employees so affected, shall orally report the fatality/hospitalization by telephone or in person, to the nearest office of the department or by using the OSHA toll-free central telephone number, 1-800-321-6742.~~

~~((3))~~ Equipment involved in an accident resulting in an immediate or probable fatality~~((;))~~ shall not be moved~~((;))~~ until a representative of the ~~((consultation and compliance services))~~ division of occupational safety and health investigates the accident and releases such equipment, except where removal is essential to prevent further accident. When necessary to remove the victim, such equipment may be moved only to the extent of making possible such removal.

~~((4))~~ (3) Upon arrival of the department's investigator, the employer shall assign to assist the investigator such personnel as are deemed necessary by the department to conduct the investigation.

~~((5))~~ (4) The fire department shall preserve all records, photographic materials, audio, video, recordings, or other documentation concerning an accident.

~~((Reference: WAC 296-24-020 (2), (3).))~~

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01505 Accident prevention program.

(1) All fire departments shall develop and implement a written safety program.

(2) Fire department safety programs shall have an assigned health and safety officer.

(3) Each employer shall develop a formal accident-prevention program, tailored to the needs of the fire department and to the type of hazards involved. The department of labor and industries' consultation and compliance services division may be contacted for assistance in developing appropriate programs.

~~((a))~~ A safety orientation program describing the employer's safety program shall include:

~~((i))~~ (a) How and when to report injuries, including instruction as to the location of first-aid facilities.

~~((ii))~~ (b) How to report unsafe conditions and practices.

~~((iii))~~ (c) The use and care of required personal protective equipment.

~~((iv))~~ (d) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

~~((v))~~ (e) Identification of the hazardous gases, chemicals or materials involved, along with the instructions on the safe use and emergency action following accidental exposure.

~~((vi))~~ (f) A description of the employer's total safety program.

~~((vii))~~ (g) An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(4) Fire departments shall have a safety committee to serve in an advisory capacity to the fire chief. The number of employer-selected members shall not exceed the number of employee-elected members.

(5) The frequency of safety meetings shall be determined by the safety committee, but shall not be less than one hour per calendar quarter, however, special meetings may be held at the request of either party.

(6) Minutes shall be taken of all safety meetings. After review by the chief or his/her designee the minutes shall be conspicuously posted at all stations.

(7) Employee submitted written suggestions or complaints shall be considered. Action recommendations by the committee shall be transmitted in writing to the fire chief. The chief or his/her designated agent will reply to the submitter.

(8) Inspections of fire stations shall be made at least monthly and records maintained to ensure that stations are reasonably free of recognized hazards. These inspections shall include, but not be limited to, tools, apparatus, extinguishers, protective equipment, and life safety equipment.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01507 Fire department health and safety officer. (1) The duties and responsibilities of the fire department health and safety officer shall include, but are not limited to:

- (a) Plan and coordinate safety activities.
- (b) Work closely with the safety committee.
- (c) Ensure accidents are investigated.
- (d) Devise corrective measures to prevent accidents.

(2) Realizing safety training and recordkeeping are management's responsibility, the fire department health and safety officer shall ensure the following requirements are being met:

- (a) Ensure safety training for all employees.
- (b) Ensure safety directives are complied with.
- (c) Ensure that records are kept, but not limited to the following:

- (i) Accidents;
- (ii) Injuries;
- (iii) Inspections;
- (iv) Exposures;
- (v) Medical monitoring;
- (vi) Safety meetings;
- (vii) Apparatus;
- (viii) Equipment;
- (ix) Protective clothing;
- (x) Other fire department safety activities.

(3) The fire department health and safety officer, through the fire chief, shall have the authority and responsibility to identify and recommend correction of safety and health hazards.

(4) The fire department health and safety officer shall maintain a liaison with staff officers regarding recommended changes in equipment, procedures, and recommended methods to eliminate unsafe practices and reduce existing hazardous conditions.

Additional Reference: NFPA 1521 Standard for Fire Department Safety Officer, may be used as a guide for duties and responsibilities relating to the safety officer.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-01509 Management's responsibility.

(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:

(a) A safe and healthful working environment, as it applies to (~~noncombat conditions or to combat conditions at a fire scene after the fire has been extinguished, as determined by the officer in charge~~) both nonemergency and emergency conditions.

(b) An accident prevention program as required by this chapter.

(c) Programs for training employees in the fundamentals of accident prevention.

(d) Procedures to be used by the fire department health and safety officer and incident commander to ensure that emergency medical care is provided for members on duty.

(e) An accident investigation program as required by this chapter.

(f) Policies that clarify "rules of engagement" or parameters when personnel should commit to work activities within a hot zone.

(g) Policies that clarify the right of every employee to notify the employer of potential life-threatening situations during emergency operations and processes that clarify how this notification is to occur.

(2) The fire department shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers, or other suitable sources.

(3) Members who are under the influence of alcohol or drugs shall not participate in any fire department operations or other functions. This rule does not apply to persons taking prescription drugs as directed by a physician or dentist providing such use does not endanger the worker or others.

(4) Alcoholic beverages shall not be allowed in station houses, except at those times when station houses are used as community centers, with the approval of management.

(5) A bulletin board or posting area exclusively for safety and health and large enough to display the required safety and health posters. The WISHA poster (WISHA form F416-081-000) and other safety education material shall be provided. A bulletin board of "white background" and "green trim" is recommended.

(6) The fire department shall develop and maintain a hazard communication program as required by WAC 296-800-170, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may routinely be exposed to, in the course of their employment.

(7) Personnel.

(a) The employer shall assure that employees (~~who are expected to do interior structural firefighting~~) are physically capable of performing duties that may be assigned to them (~~during emergencies~~).

(b) The employer shall not permit employees with known physical limitations reasonably identifiable to the employer, for example, heart disease or seizure disorder, to participate in (~~structural firefighting emergency~~) physically demanding activities unless the employee has been released to participate in such activities by a physician (to participate in such activities) or other licensed health care professional (LHCP) who is qualified by training or experience as determined by the fire department to evaluate firefighters.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01513 Safe place standards. (1) Every employer shall furnish and require the use of appropriate safety devices and safeguards. All ~~((firefighting))~~ work methods, and operations shall be so designed as to promote the safety and health of employees. The employer shall do everything reasonably necessary to protect the safety and health of employees.

(2) No firefighter or other employee, employer or employer representative shall:

(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning furnished for use in any employment or place of employment.

(b) Interfere in any way with the use of any safety device, method or process adopted for the protection of any employee.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-01517 First-aid kits. (1) To assure the emergency medical care of the firefighters there shall be present at each emergency incident at least the following items:

1 (one) utility scissors, EMT-type

1 CPR barrier

3 (three) rolls 1 inch adhesive tape

6 (six) 4" x 4" sterile, individually wrapped gauze pads

4 (four) combination pads, sterile, individually wrapped

4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type

2 (two) burn sheets, sterile, individually wrapped

2 (two) triangular bandages

1 (one) multitrauma dressing, sterile

2 (two) supply disposable gloves

2 (two) wire splints or equivalent

(2) All fire stations shall maintain a first-aid kit. The kit shall contain at least the following items:

6 (six) 4" x 4" sterile, individually wrapped gauze pads

4 (four) combination pads, sterile, individually wrapped

2 (two) rolls 1 inch adhesive tape

4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type

2 (two) triangular bandages

1 (one) utility scissors, EMT-type

1 (one) pair tweezers

1 (one) package assorted adhesive bandages

(3) All fire apparatus shall contain a first-aid kit as described in WAC 296-800-150.

(4) All fire departments providing emergency medical services to the public shall conform to the requirements of chapter 18.73 RCW Emergency Care and Transportation Services (and if applicable, chapter 248-17 WAC, Ambulance Rules and Regulations) which require additional first-aid equipment.

~~((Additional references: Chapter 296-800 WAC.))~~

AMENDATORY SECTION (Amending WSR 99-05-080, filed 2/17/99, effective 6/1/99)

WAC 296-305-02001 Personal protective equipment and protective clothing.

Note: For wildland firefighting personal protective equipment and clothing requirements see WAC ~~((296-305-07003))~~ 296-305-07012, Personal protective clothing and equipment for wildland firefighting.

(1) Employers shall provide and maintain at no cost to the employee the appropriate protective ensemble/protective clothing to protect from the hazards to which the member is or is likely to be exposed. Information on hazard assessments can be found in WAC 296-800-16005. Employers shall ensure the use of all protective equipment and clothing required by this standard. ~~((Employers shall assure that the protective clothing and equipment ordered or purchased after the effective date of this standard meets the requirements of this standard.))~~ Full protective equipment designated for the task, shall be worn for all department activities.

(2) Firefighters shall be trained in the function, donning and doffing, care, use, inspection, maintenance and limitations of the protective equipment assigned to them or available for their use.

(3) Protective clothing and protective equipment shall be used and maintained in accordance with manufacturer's instructions. A written maintenance, repair, retirement, servicing, and inspection program shall be established for protective clothing and equipment. Specific responsibilities shall be assigned for inspection and maintenance. This requirement applies to firefighter's personally owned equipment as well as equipment issued by the employer.

(4) The fire department shall provide for the cleaning of protective clothing and contaminated station/work uniforms at no cost to the employee. Such cleaning shall be performed by either a cleaning service, or at a fire department facility, that is equipped to handle contaminated clothing. If the fire department does its own cleaning, they shall follow the manufacturer's recommended cleaning procedure or the 2008 edition of NFPA 1851, Standard on Selection, Care and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting.

~~((Note: See Appendix A.))~~

(5) Personal protective equipment and clothing shall be of a type specified by NIOSH, MSHA, NFPA, ANSI, or as specifically referenced in the appropriate section of this chapter.

(6) Station/work uniforms. Station/work uniforms are not themselves intended as primary protective garments.

(a) Station/work uniforms if provided, shall meet the requirements as specified in the 1990 or 1994 edition of NFPA 1975, Standard on Station/Work Uniforms for Fire and Emergency Services. However, departments are not required to provide station/work uniforms for their employees.

~~((All station/work uniforms purchased after the effective date of this regulation shall meet the requirements set forth in this standard.~~

~~((e))~~ Station/work uniforms include trousers, and/or coveralls, but exclude shirts, underwear, and socks.

~~((d))~~ (c) Members shall not wear any clothing that is determined to be unsafe due to poor thermal stability or poor flame resistance when engaged in or exposed to the hazards of structural firefighting. ~~((Because it is impossible to ensure that every member will respond to an incident in a station/work uniform or will change out of fabrics that have poor thermal stability or ignite easily, before donning protective garments,))~~ The fire department shall inform members of the hazards of fabrics that melt, drip, burn, stick to the skin and cause burns to the wearer due to poor thermal stability or poor flame resistance, and shall prohibit their use by employees. Garments that are not provided by the employer, and that are made from all or mostly cotton, will meet the requirements of this section.

~~((e))~~ (d) Garments meeting the requirements of WAC ~~((296-305-07003))~~ 296-305-07012(1), meet the intent of this section.

~~((f))~~ Station/work uniforms purchased prior to the effective date of this chapter shall be acceptable for a period of two years or until the employers current inventory has been exhausted, whichever comes first.)

(7) ~~((Turnout clothing/pants and coat:))~~

Proximity firefighting clothing:

(a) All turnout clothing used as proximity clothing shall meet the requirements of the 2000 edition of NFPA, 1976 Standard on Protective ((Clothing)) Ensemble for Proximity Firefighting((-1992 edition)).

(b) There shall be at least a two-inch overlap of all layers of the protective coat and the protective trousers so there is no gapping of the total thermal protection when the protective garments are worn. The minimum overlap shall be determined by measuring the garments on the wearer, without SCBA, with the wearer in the most stretched position, hands together reaching overhead as high as possible.

(c) Single piece protective coveralls shall not be required to have an overlap of all layers as long as there is continuous full thermal protection.

(d) Fire departments that provide protective coats with protective resilient wristlets secured through a thumb opening may provide gloves of the gauntlet type for use with these protective coats. Fire departments that do not provide such wristlets attached to all protective coats shall provide gloves of the wristlet type for use with these protective coats.

~~((8))~~ Structural firefighting clothing.

~~((a))~~ All turnout clothing purchased after the effective date of these regulations shall meet the requirements of the 1991 edition of NFPA, Standard on Protective Clothing for Structural Firefighting 1971 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Firefighting 1971. In no case, shall firefighters wear personal protective clothing manufactured prior to the 1986 edition, NFPA, Standard on Protective Clothing for Structural Firefighting 1971.

~~((b))~~ Turnout clothing shall be maintained as specified by the manufacturer.

~~((c))~~ Repairs to turnout clothing shall be done to the manufacturer's specification by qualified individuals approved by the manufacturer. Repairs must be made using materials and methods in accordance with the applicable standards under which the article was produced. Repairs include any and all

~~alterations, modifications, additions, deletions or any other change made to the manufacturer's PPE article.~~

~~((d))~~ Turnout clothing which is damaged or does not comply with this section shall not be used.

~~((e))~~ All turnout clothing shall be inspected semi-annually by an individual qualified by the employer. Inspection intervals shall not exceed six months.)

NEW SECTION

WAC 296-305-02002 Structural firefighting clothing (SFF). (1) All SFF clothing purchased after January 1, 2014, shall meet the requirements of the 1991 edition of NFPA 1971, Standard on Protective Clothing for Structural Fire Fighting, or the 1997 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting. Firefighters shall not wear personal protective clothing manufactured prior to 1991, except for training purposes in nonhazardous areas.

(2) SFF clothing shall be maintained as specified by the manufacturer.

(3) Repairs to SFF clothing shall be done to the manufacturer's specification by qualified individuals approved by the manufacturer. Repairs must be made using materials and methods in accordance with the applicable standards under which the article was produced. Repairs include any and all alterations, modifications, additions, deletions or any other change made to the manufacturer's PPE article.

(4) SFF clothing which is damaged or doesn't comply with this section shall not be used.

(5) All SFF clothing shall be inspected semiannually by an individual qualified by the employer. Inspection intervals shall not exceed six months.

NEW SECTION

WAC 296-305-02004 Protection ensemble for structural firefighting. (1) Face and eye protection.

(a) Face and eye protection shall be provided for and used by firefighters engaged in fire suppression and other operations involving hazards to the eye and face at all times when the face isn't protected by the full facepiece of the SCBA. Primary face and eye protection appropriate for a given specific hazard shall be provided for, and used by, members exposed to that specific hazard. Such primary face and eye protection shall meet the requirements of the 2003 edition of ANSI Z87.1.

(b) Persons whose vision requires the use of corrective lenses in spectacles, and who are required by this standard to wear eye protection, shall wear goggles or spectacles of one of the following types:

- Spectacles with protective lenses that provide optical correction.
- Goggles that can be worn over corrective spectacles without disturbing the adjustment of the spectacles.
- Goggles that incorporate corrective lenses mounted behind the protective lens.

(c) When limitations or precautions are indicated by the manufacturer, they shall be transmitted to the user and care taken to see such limitations and precautions are strictly observed.

(d) Care, use and maintenance for any type of eye or face protection shall follow the manufacturer's suggested recommendations.

(e) Goggles shall be inspected, cleaned and disinfected prior to being reissued to other employees.

(f) Helmet face shields shall meet the requirements of the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

Note: The helmet face shield alone doesn't always provide adequate eye protection against flying particles, splash, gases and vapors. For known eye hazards, such as cutting with power saws, chopping, drilling and using extrication equipment, the face shield should be worn with additional eye protection.

(g) For firefighters that don't have a helmet face shield, flexible or cushioned fitting goggles shall be provided.

(h) Goggles shall consist of a wholly flexible frame, forming a lens holder or a rigid frame with integral lens or lenses, having a separate, cushioned fitting surface on the full periphery of the facial contact area.

(i) Materials used shall be chemical-resistant, nontoxic, nonirritating and slow burning.

(ii) There shall be a positive means of support on the face, such as an adjustable headband of suitable material or other appropriate means of support to retain the frame comfortably and snugly in front of the eyes.

(2) Hearing protection. Fire departments must address noise issues as required by chapter 296-817 WAC, Hearing loss prevention (noise).

Note: Although noise levels may exceed the 115 dBA ceiling limit for noise exposures during structural firefighting activities, hearing protection that will survive these conditions and not interfere with other essential PPE may not always be available. Fire departments must consider daily noise exposures and exposures to noise outside direct firefighting activities when selecting hearing protection and may use less protection during direct fire suppression when adequate hearing protection isn't technically feasible.

(3) Hand protection.

(a) Firefighters' gloves shall, when worn with turnout clothing, provide protection to the wrist area. In turnout clothing where wristlet protection isn't provided firefighters' gloves shall be tight-fitting at the top.

(b) Fire departments shall establish written policy and procedure for the care, use, cleaning, replacement or retirement criteria for gloves issued.

(c) Firefighters' gloves used during structural firefighting operations including rescue of victims from fires or emergency medical operations where sharp or rough surfaces are likely to be encountered shall meet the requirements of the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

Notes:

- Firefighters' gloves aren't designed to provide protection against all environments. For gloves needed to fulfill a specific requirement see that specific section of this chapter. It is the intent of this section to provide protection from intrusion through the glove by certain chemicals and from bloodborne pathogens. Consult the glove manufacturers' recommendations.
- Firefighters' hands should be sized for compliance using the sizing chart specified in the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(4) Body protection. Body protection shall be coordinated with torso, hand, head, foot, respiratory, and face protection as outlined in WAC 296-305-02001 through 296-305-02019 and 296-305-04001.

(5) Foot protection.

(a) Protective footwear purchased after January 1, 2014, shall comply with the 2007 or later edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(b) Fire departments shall establish written policies and procedures on the use, maintenance, and retirement criteria for footwear in conjunction with the manufacturer's recommendations.

Note: Fire departments should establish cleaning and drying instructions for protective footwear, including applicable warnings regarding detergents, soaps, cleaning additives and bleaches.

(c) Firefighter footwear may be resoled, but upon resoling the footwear shall meet the requirements specified in this section.

(6) Head protection. Firefighters who engage in or are exposed to the hazards of structural firefighting shall be provided with and use helmets that meet, as a minimum, the requirements of the 1987 edition of NFPA 1972, Standard on Helmets for Structural Fire Fighting.

(a) Helmets purchased after January 1, 2014, shall comply with the 2007 or later edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(b) Fire departments shall establish a written policy and procedure for the care, use, maintenance and retirement criteria for helmets, following the manufacturer's recommendations.

(c) Helmet accessories shall not interfere with the function of the helmet or its parts, and shall not degrade the helmet's performance.

(d) Firefighters shall follow the manufacturer's recommendations regarding inspection, cleaning, painting, marking, and storage of helmets.

NEW SECTION

WAC 296-305-02012 Body armor. Fire departments that use protective body armor shall comply with the following:

(1) If the employer's PPE assessment required by WAC 296-800-16005 documents a need for body armor, the employer must provide the necessary equipment and ensure that:

- (a) The body armor fits properly;
- (b) Employees are trained in the use and limitations of the body armor; and
- (c) The body armor is worn when necessary.

Note: Employees may exceed the minimum requirements for body armor if they choose.

(2) The fire department shall develop and have in place written guidelines for the care, use and maintenance of the protective body armor in conjunction with the manufacturer's recommendations.

(3) All protective body armor purchased prior to the effective date of this standard shall meet or exceed the April 1987 edition of National Institute of Justice NIJ 0101.03,

threat level II requirements, or be demonstrated by the employer to be equally effective. All protective body armor purchased after the effective date of this standard must meet either the September 2000 edition of NIJ 0101.04, threat level II requirements or the June 2001 revision, NIJ 0101.04A. All body armor made of decertified materials as outlined in the 2005 edition of NIJ 0101.05 should be removed from service as soon as replacement body armor is available.

(4) Body armor shall be correctly fitted following the manufacturer's recommendations and shall not be used beyond the manufacturer's warranty.

Note: DOSH Directive 5.09, Body Armor as Personal Protective Equipment, can provide additional guidance regarding selection of body armor.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-02017 Personal alert safety system (PASS) protection. (1) Each firefighter (~~working in a hazardous area~~) engaged in structural firefighting requiring the use of SCBA shall wear and use a PASS device. PASS devices shall meet the requirements of the 1993 edition of NFPA 1982, Standard on Personal Alert Safety Systems (PASS) for Firefighters ((1982, 1993 edition)). (See WAC 296-305-07001 through ~~((296-305-07019))~~ 296-305-07018 for wildland firefighting application.)

Note: Fire departments should provide one spare PASS device for each ten units in service. If a department has less than ten devices they should have one spare.

(2) Each PASS device shall be tested routinely to ensure it is ready for use and immediately prior to each use, and shall be maintained in accordance with the manufacturers' instructions.

(3) Fire departments shall provide written procedures for the use of PASS devices.

~~(4) ((Compliance with this section shall occur no later than two years after the effective date of this chapter.~~

Note: ~~Fire departments should provide one spare PASS device for each ten units in service. If a department has less than ten devices they should have one spare.~~

~~(5))~~ Fire departments shall establish a written procedure for the care, use, maintenance, and repair of PASS devices in conjunction with manufacturer's recommendations.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-02019 Life safety ropes, harnesses, and hardware protection. (1) All previously purchased life safety ropes, harnesses, and hardware used by fire departments shall meet the applicable requirements of the 2001 edition of NFPA 1983, Standard on ((Fire Service)) Life Safety Rope((-, Harness, and Hardware, 1990 edition)) and System Components. Ropes and equipment purchased after the effective date of this rule must meet the 2006 edition of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services.

(2) Ropes used to support the weight of members or other persons during rescue, firefighting, other emergency operations, or during training evolutions shall be life safety rope.

(3) Life safety rope used for rescue at fires, or other emergency incidents, or for training, shall be permitted to be reused if inspected before, and after, each such use in accordance with the manufacturer's instructions and provided:

(a) The rope has not been visually damaged by the exposure to heat, direct flame impingement, chemical exposure, or abrasion.

(b) The rope has not been subjected to any impact load.

(c) The rope has not been exposed to chemical liquids, solids, gases, mists, or vapors of any materials, known to deteriorate rope.

(d) If the rope used for rescue at fires or other emergency incidents, or for training, has been subjected to (a), (b), or (c) of this section, or fails the visual inspection, it shall be destroyed after such use.

(e) If there is any question regarding the serviceability of the rope after consideration of the above, the safe course of action shall be taken and the rope shall be placed out of service. See Appendix B.

(f) Rope inspection shall be conducted by qualified inspectors in accordance with rope inspection procedures established and recommended as adequate by the rope manufacturer to assure rope is suitable for reuse.

(4) Fire departments shall establish written procedures for the use of life safety ropes and rescue operations utilizing harnesses and ropes.

(5) Records shall provide a history of each life safety and training rope. The minimum information to be reflected in the record of history of life safety and training ropes shall include: Date of manufacturer, organization serial number, date of use ((list to include)), type of use, date of inspection, inspectors name and space for comments.

~~(6) ((Rope used for training evolutions shall be designated as training rope and shall be permitted to be reused if inspected before and after each use in accordance with the manufacturer's instructions.~~

~~(7))~~ The destruction of a rope means that it shall be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This includes disposal or removal of labels and cutting into short lengths to be used for utility purposes.

~~((8))~~ (7) All repairs to life safety harnesses shall be done by an authorized manufacturer's representative, or the manufacturer.

((Note: See WAC 296-305-06003 (3), (4), (5), and (6) for the testing of life belts, ropes, and harnesses.

~~(9) Class I safety harnesses))~~ (8) At a minimum, ladder belts shall be used for firefighter attachment to ladders and aerial devices.

~~((10))~~ (9) Class II and Class III life safety harnesses shall be utilized for fall arrest and rappelling operations. Class III harnesses shall be used when the potential to become inverted exists.

~~((11) Reseue))~~ (10) Life safety ropes shall be padded when deployed over edges or rough surfaces.

Note: See WAC ((296-305-05005)) 296-305-05113 for rope rescue applications.

AMENDATORY SECTION (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

WAC 296-305-02501 Emergency medical protection.

(1) Firefighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids shall be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of ((NAPA)) the 1999 edition of NFPA 1999, Standard on Protective Clothing for Emergency Medical Operations ((1999, 1992 edition)).

Note: Prior to purchase, fire departments should request the technical data package required in the 2003 edition of NAPA 1999, ((1992 edition,)) in order to compare glove and garment performance data. Departments reviewing these packages should ensure a relative ranking of the performance data before they purchase in order to provide the best performance of the EMS personal protective clothing.

(2) Firefighters shall don emergency medical gloves and eye protection prior to initiating any emergency patient care.

(3) Firefighters shall don emergency medical garments ~~((and emergency medical face protection devices))~~ prior to any patient care during which splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Firefighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(4) Contaminated emergency medical garments, emergency medical face and eye protection, gloves, devices, and emergency medical gloves shall be cleaned and disinfected, or disposed of, in accordance with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

(5) Fire departments shall establish a designated infection (exposure) control officer who shall ensure that an adequate infection control plan is developed and all personnel are trained and supervised on the plan.

(6) The infection control officer shall be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(7) The infection control officer or his/her designee will function as a liaison between area hospitals and fire department members to provide notification that a communicable disease exposure is suspected or has been determined by hospital medical personnel. The department infection control officer will institute the established exposure protocols immediately after report of an exposure. The infection control officer shall follow the confidentiality requirements of chapter 246-100 WAC and the medical protocol requirements of chapter 296-802 WAC.

(8) Fire departments shall have a written infection ~~((exposure))~~ control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the infection control officer and all members affected; education and training; ~~((HB vaccination requirements;))~~ documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(9) Policy statements and standard operating procedure guidelines shall provide general guidance and specific regulation of daily activities. Procedures shall include delegation of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(10) Fire departments shall establish a records system for members health and training.

(11) Firefighters shall be trained in the proper use of P.E., exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(12) Infectious disease programs shall have a process for monitoring firefighters compliance with established guidelines and a means for correcting noncompliance.

(13) Fire department members shall be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(14) Fire departments shall comply with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens, in its entirety.

(15) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Firefighters shall wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NIOSH-approved, 95% efficient particulate air respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests shall be done in accordance with chapter 296-842 WAC.

(c) Employee tuberculosis screening shall be provided in accordance with current U.S. Centers for Disease Control and Prevention guidelines.

~~((**Note 1:** Emergency response personnel should be routinely screened for tuberculosis at regular intervals. The tuberculin skin test is the only method currently available that demonstrates infection with Mycobacterium tuberculosis (M. tuberculosis) in the absence of active tuberculosis.))~~

Note ((2)): If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

~~((Additional References:~~

~~Chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.~~

~~WAC 296-62-08001(3), Exposure Control.))~~

NEW SECTION

WAC 296-305-03002 Hazardous materials. (1) Fire department personnel involved in hazardous materials incidents shall be protected against potential chemical hazards. Chemical protective clothing shall be selected according to the technical data package provided by the clothing manufacturer and used to protect the skin, eyes, face, hands, feet, head and body.

(2) Fire departments must select, provide, and require the use of additional personal protective equipment as required in chapter 296-842 WAC, Respiratory protection.

(3) Hazardous chemical protective equipment shall be classified by performance and is defined as:

(a) Vapor-protective suits (level A) meeting the criteria outlined in the 2000 edition of NFPA 1991, Standard on Vapor-Protective Ensembles for Hazardous Materials Emergencies.

(b) Liquid splash-protective suits (level B) meeting the criteria outlined in the 2000 edition of NFPA 1992, Standard on Liquid Splash-Protective Ensembles and Clothing for Hazardous Materials Emergencies.

(c) CBRN terrorism incident protective ensembles and ensemble elements meeting the criteria outlined in the 2001 edition of NFPA 1994, Standard on Protective Ensembles for First Responders to CBRN Terrorism Incidents.

(4) Vapor protective ensembles, liquid splash-protective ensembles, and CBRN protective ensembles shall completely cover both the wearer and the wearer's respiratory protection unless the respiratory protection has been specifically designed by the manufacturer for that type of chemical exposure.

(5) Vapor protective suits and liquid splash-protective suits shall not be used alone for any firefighting applications or for protection from radiological, biological, or cryogenic agents or in flammable or explosive atmospheres.

(6) Liquid splash-protective suits shall not be used when operations are likely to result in significant exposure to chemicals or specific chemical mixtures with known or suspected carcinogenicity as indicated by any one of the following documents if it can be reasonably expected that the firefighters in vapor-protective suits would be significantly better protected:

(a) Dangerous Properties of Industrial Chemicals, 10th edition-2000, N. Irving Sax.

(b) NIOSH Pocket Guide to Chemical Hazards, 2006 edition.

(c) U.S. Coast Guard Chemical Hazard Response Information System (CHRIS), Volume 13, Hazardous Chemical Data.

(7) Liquid splash-protective suits shall not be used when operations are likely to result in significant exposure to chemicals or specific chemical mixtures with skin toxicity notations as indicated by the American Conference of Government Industrial Hygienists (ACGIH) Threshold Limit Values for Chemical Substances and Agents and Biological Exposure Indices for 2004 or 2007 if it can be reasonably expected that firefighters in vapor-protective suits would be significantly better protected.

(8) Firefighters assigned to functional support operations outside the hot zone during hazardous chemical emergencies shall be provided with and shall use personal protective garments appropriate for the type of potential chemical hazard exposure.

(9) Fire departments responding to uncontrolled release of hazardous materials must comply with chapter 296-824 WAC, Emergency response.

AMENDATORY SECTION (Amending WSR 05-20-055, filed 10/3/05, effective 12/1/05)

WAC 296-305-04001 Respiratory equipment protection. (1) Firefighter's self-contained breathing apparatus (SCBA) shall(~~(:~~

~~(a) Be pressure demand type (positive pressure);~~

~~(b) Operate in the positive pressure mode only;~~

~~(c) Have a minimum of thirty minutes service duration;~~

~~(d) Be NIOSH certified; and~~

~~(e) Meet the requirements of the 1992 or 1997 edition of NFPA, Standard on Open Circuit Self Contained Breathing Apparatus for Firefighters 1981), at a minimum, meet the requirements of the 1997 edition of NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire Fighters. Equipment purchased after the effective date of this rule must meet the 2007 edition of NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Emergency Services.~~

(2) Closed circuit SCBA shall:

(a) Be positive pressure;

(b) Be NIOSH certified; and

(c) Have a minimum thirty-minute service duration.

(3) Members using SCBA's shall operate in teams of two or more.

(4) Except as otherwise provided in this chapter, fire departments shall adopt, maintain and implement a written respiratory protection program that addresses the requirements of chapter 296-842 WAC, (~~(Respirators and Part I-1, Asbestos, Tremolite, Anthophyllite, and Actinolite))~~ Respiratory protection. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional information on respirators and respirator usage can be found in ANSI Z88.2 - American National Standard for Respiratory Protection(~~(ANSI Z88.5 - Practices for Respiratory Protection for Fire Service;))~~ and various NFPA publications (1981, 1404, 1500, etc.)(~~(and the Washington State Fire Service Training Program for respiratory training and usage)).~~

~~(5) ((When fire departments purchase compressed breathing air from a vendor, the fire department shall require the vendor to provide certification and documentation of breathing air quality as specified in subsection (21) of this section and in chapter 296-842 WAC.))~~ Reserved.

(6) When the fire department makes its own breathing air or uses vendor (~~(purchased))~~ supplied breathing air, (~~(the air quality from compressors, cascade systems cylinders,))~~ they shall (~~(be tested at least quarterly as specified in subsection (21) of this section))~~ maintain documentation certifying breathing air quality. The breathing air shall:

(a) Be tested at least quarterly by using an air sample taken from the same outlet and in the same manner as the respirator breathing air cylinders are filled or air line respirators are connected.

(b) Meet the requirements of either the 2003 edition of NFPA 1989, Standard on Breathing Air Quality for Fire and Emergency Services Respiratory Protection or the 1997 edition of ANSI/CGA G6-1 - Commodity Specification for Air, with a minimum air quality of grade D.

(c) Meet a water vapor level of 24 ppm or less.

(7) Fit testing shall be conducted in accordance with this section and chapter 296-842 WAC, (~~Respirators~~) Respiratory protection.

(a) Each new member shall be tested by a qualitative or quantitative method before being permitted to use SCBA's in a hazardous atmosphere.

(b) Only firefighters with a properly fitting facepiece shall be permitted by the fire department to function in a hazardous atmosphere with SCBA. (~~Reference WAC 296-842-18005~~)

(c) Fit testing shall be repeated:

(i) At least once every twelve months.

(ii) Whenever there are changes in the type of SCBA or facepiece used.

(iii) Whenever there are significant physical changes in the user. Example: Weight change of ten percent or more, scarring of face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal.

(d) The fit testing is done only in a negative-pressure mode. If the facepiece is modified for fit testing, the modification shall not affect the normal fit of the device. Such modified devices shall only be used for fit testing.

(e) The fit test procedures and test exercises described in (~~WAC 296-62-07162, Asbestos, Appendix C~~) WAC 296-842-15005 and 296-842-22010 shall be followed unless stated otherwise in this chapter.

(f) Respirator fit test records shall include:

(i) Written guidelines for the respirator fit testing program including pass/fail criteria;

(ii) Type of respirator tested including manufacturer, model, and size;

(iii) Type of fit test and instrumentation or equipment used;

(iv) Name or identification of test operator;

(v) Name of person tested;

(vi) Date of test; and

(vii) Results of test.

Note: Firefighters should be issued individual facepieces.

(8) Facial hair, contact lenses, and eye and face protective devices.

(a) A negative pressure respirator, any self-contained breathing apparatus, or any respirator which is used in an atmosphere immediately dangerous to life or health (IDLH) equipped with a facepiece shall not be worn if facial hair comes between the sealing periphery of the facepiece and the face or if facial hair interferes with the valve function.

(b) The wearer of a respirator shall not be allowed to wear contact lenses if the risk of eye damage is increased by their use.

(c) If (~~a spectacle, goggle, or face shield~~) corrective lenses must be worn with a facepiece, (~~they~~) they shall be worn so as to not adversely affect the seal of the facepiece to the face. See WAC (~~296-62-07170(2)~~) 296-842-18005(3).

(d) Straps or temple bars shall not pass between the seal or surface of the respirator and the user's face.

(9) At the end of suppression activities (to include fire overhaul) and before returning to quarters:

(a) (~~Firefighters shall be decontaminated prior to removal of respirators~~) Gross/field decontamination shall be performed on firefighters prior to removal of their respirator whenever firefighting activities resulted in exposure to a hazardous substance.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions shall be taken to maintain uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(10) Self-contained respiratory equipment shall be available and used by all firefighters who enter into hazardous atmospheres during structural firefighting activities.

(11) (~~Positive pressure air line respirators may be used only for atmospheres other than IDLH and must be equipped with a five minute minimum capacity positive pressure escape bottle.~~

(a) ~~If the service life of the auxiliary air supply is fifteen minutes or less it shall not be used for entry into an IDLH atmosphere but it may be used for escape purposes. The auxiliary air supply may be used for entry into an IDLH atmosphere only when the service life of the unit exceeds fifteen minutes and when not more than twenty percent of the noted air supply will be used during entry.~~

(b) ~~The maximum length of hose for supplied air respirators is 300 feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.~~ Reserved.

(12) Respirators shall be provided for, and shall be used by, all personnel working in areas where:

(a) The atmosphere is hazardous;

(b) The atmosphere is suspected of being hazardous; or

(c) The atmosphere may rapidly become hazardous(☺).

Reference: See WAC 296-305-05002(13) for additional requirements.

(13) (~~Anytime firefighters are working inside a confined space, such persons shall be provided with SCBA or air line respirator with escape bottle, and shall use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.~~) Reserved.

(14) Firefighters using a properly functioning SCBA shall not compromise the protective integrity of the SCBA by removing the facepiece for any reason in hazardous atmospheres or in atmospheres where the quality of air is unknown.

(15) Firefighters shall receive training for each type and manufacturer of respiratory equipment available for their use, the step-by-step procedure for donning the respirator and checking it for proper function. Required training shall include:

(a) Recognizing hazards that may be encountered;

(b) Understanding the components of the respirator;

(c) Understanding the safety features and limitations of the respirator; and

(d) Donning and doffing the respirator.

(16) After completing such training, each firefighter shall practice at least quarterly, for each type and manufacturer of respirator available for use, the step-by-step procedure for donning the respirator and checking it for proper function.

(17) Members shall be tested at least annually on the knowledge of respiratory protection equipment operation, safety, organizational policies and procedures, and facepiece

seals, to the fire department's standard. Such records shall remain part of the member training file.

(18) Members shall be allowed to use only the make, model, and size respirator for which they have passed a fit test within the last twelve months.

(19) In cases where there is a reported failure of a respirator, it shall be removed from service, tagged and recorded as such, and tested before being returned to service.

(20) Firefighters shall be thoroughly trained in accordance with the manufacturer's instructions on emergency procedures such as use of regulator bypass valve, corrective action for facepiece and breathing tube damage, and breathing directly from the regulator (where applicable).

(21) ~~((Compressed gaseous breathing air in the SCBA cylinder shall meet the requirements of ANSI/CGA G7.1—Commodity Specification for Air, with a minimum air quality of grade D, as well as meeting a water vapor level of 24 ppm or less.))~~ Reserved.

(22) SCBA cylinders shall be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

~~((Additional reference: Chapter 296-842 WAC.))~~

AMENDATORY SECTION (Amending WSR 05-17-059, filed 8/10/05, effective 10/1/05)

WAC 296-305-04501 Automotive fire apparatus design and construction. (1) All new fire apparatus with the exception of specialized equipment, shall conform to the following minimum safety standards contained in ~~((NFPA Booklets No. 1901, 1902, 1903, 1904, and other 1900's))~~ the 2009 edition of NFPA 1901, Standard for Automotive Fire Apparatus, or the 2006 Edition of NFPA 1906, Standard for Wildland Fire Apparatus.

(2) Used fire apparatus, purchased after ~~((December 17, 1977))~~ the effective date of this rule, weighing 10,000 pounds or more shall conform with the following U.S. Department of Transportation standards, when applicable:

(a) 49 C.F.R. Ch. V ~~((40-93))~~ 10-03 edition) 571.121 "Air brake systems";

(b) 49 C.F.R. Ch. V ~~((40-93))~~ 10-03 edition) 571.106 ~~((Hydraulic))~~ Brake hoses";

(c) 49 C.F.R. Ch. V ~~((40-93))~~ 10-03 edition) ~~((571-24))~~ 571-103 "Hydraulic brake ~~((hoses))~~ systems."

(3) Employers acquiring used apparatus or used equipment shall not be required to bring it under a more stringent code than the one in force at the time the apparatus was manufactured. However, such vehicle must meet applicable U.S. Department of Transportation standards and chapter 296-865 WAC, Motor vehicles.

(4) Fire apparatus tailboards and steps shall have a non-skid rough surface.

(5) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to minimize the exposure of the firefighter to the exhaust gases and fumes.

(6) Spinner knobs shall not be attached to the steering handwheel of fire apparatus.

(7) The transmission shifting pattern of the apparatus shall be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.

(8) The height of any apparatus, over seven feet in height from the ground to the top of the beacon or highest point of the apparatus, shall be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(9) All apparatus in excess of 10,000 pounds loaded weight, shall have the weight of the vehicle in pounds and tons clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(10) All hoses and equipment shall be secured to prevent unintentional or inadvertent deployment.

(11) Fire departments that purchase nonmotorized equipment to be used in emergency response situations on all roadways must comply with Title 46 RCW, Motor vehicles.

AMENDATORY SECTION (Amending WSR 99-05-080, filed 2/17/99, effective 6/1/99)

WAC 296-305-04503 Automotive fire apparatus equipment. (1) Vehicles used to transport firefighters and employer representatives shall have compartments for carrying sharp tools, saws, chisels, axes, etc., or if carried on the outside of the apparatus, equipment with sharp points and edges shall be covered to prevent injury to firefighters and employer representatives.

(2) Personnel restraints for traveling.

(a) All persons riding on fire apparatus shall be seated and secured to the vehicle by ~~((seatbelts))~~ seat belts or safety harnesses at any time the vehicle is in motion.

(b) ~~((Seatbelts))~~ Seat belts shall comply with U.S. Department of Transportation Part 49 C.F.R. Section 571, Standards 209 and 210.

(c) Riding on tailsteps or in any other exposed position such as sidesteps or running boards shall be specifically prohibited.

(d) Standing while riding shall be specifically prohibited.

(e) Members actively performing necessary emergency medical care while the vehicle is in motion shall be restrained to the extent consistent with the effective provision of such emergency medical care. All other persons in the vehicle shall be seated and belted in approved seating positions while the vehicle is in motion.

(f) Fire departments permitting hose loading operations while the vehicle is in motion shall develop a written policy and guidelines addressing all safety aspects.

Note: Policy and operating guidelines should address:

- The assigning of a member as a safety observer who should have an unobstructed view of the hose loading operation and be in visual and voice contact with the driver.
- Allowed maximum fire apparatus speed when hose loading;
- Control of nonfire department vehicular traffic; and
- Allowing members in the hose bed, but limit standing to only when the vehicle is not moving.

Note: See WAC ~~((296-305-07014))~~ 296-305-07018(3) for exceptions for wildland vehicles.

(3) Each fire apparatus shall carry a current U.S. Department of Transportation ~~((chemical identification book or the equivalent))~~ Emergency Response Guidebook in hardcopy or in electronic form for viewing on a digital reading device.

(4) Ladders stowed on the sides of apparatus, which protrude past the tailboard, shall have guards over the protruding ends.

(5) No employer shall permit automotive fire apparatus equipment which has an obstructed view to the rear, to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-04505 Automotive apparatus operational rules. (1) Each employer of staffed fire apparatus shall establish a written policy and procedure whereby the apparatus has a scheduled daily operational check. Each employer of unstaffed fire apparatus shall establish a schedule appropriate to that department's activities.

(2) Any item found to be in need of repair shall be reported immediately to the officer in charge or other appropriate person.

(3) Firefighting apparatus shall be brought to a full stop before employees are allowed to step from the apparatus.

(4) Firefighters shall not be in the apparatus hose bed while hose is being run out from the bed.

(5) Headlights shall be on at all times when any fire or emergency vehicle is responding to a call.

(6) All apparatus over 20,000 pounds (gross vehicle weight) shall utilize wheel ~~((blocks))~~ chocks, rated for the specific apparatus they are being used with, when parked at an emergency scene.

(7) Apparatus responding to alarms shall meet specifications in RCW 46.61.035, relating to operations of authorized emergency vehicles.

(8) All operators of emergency vehicles shall be trained in the operations of apparatus before they are designated as drivers of such apparatus. The training program shall be established by each fire department. Once trained, all operators shall familiarize themselves with any apparatus prior to operating such apparatus even for brief periods of time.

Additional Reference: Washington ~~((State Fire Protection Bureau))~~ Fire Chiefs - Emergency Vehicle ((Accident)) Incident Prevention ((EVAP)) EVIP program or other Washington state accredited program.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-04507 Fire apparatus maintenance and repair. (1) If at any time a fire apparatus is found to be in an unsafe condition, it shall be reported immediately to the officer on duty.

(2) If in the driver or duty officer's determination, the apparatus cannot be used in a safe manner, it shall be taken out of service until it has been restored to a safe operating condition.

(3) All repairs ~~((and preventive maintenance to fire apparatus shall only be made by personnel deemed qualified by the registered owners of the fire apparatus))~~ to the suppression components of emergency vehicles of the fire department shall be done by an emergency vehicle technician, ASE

certified technician or factory qualified individual. Repairs, maintenance or routine work to nonsuppression systems of suppression apparatus or other fire department vehicles and their equipment shall be done by personnel qualified in the specific area of repair. Fire service pumps with a capacity of 499 gallons per minute or less and not used for interior structural firefighting operations are exempt from this requirement.

(a) A preventive maintenance program shall be instituted and records maintained for each individual apparatus in order to record and track potential or on-going problems.

~~(b) ((A minimum annual service test of apparatus shall be made according to NFPA guidelines relating to pumper apparatus.~~

~~(c) Failure of any portion of the annual service test shall constitute the apparatus to be placed out of service as a pumper until adequate repairs are made and the apparatus successfully completes said tests.))~~ Apparatus shall be maintained and tested in accordance with the manufacturer's recommendations.

Note: Additional information can be found in the 2007 edition of NFPA 1911, Standard for the Inspection, Maintenance, Testing and Retirement of In-service Automotive Fire Apparatus. Qualifications for persons working on emergency response vehicles can be found in the 2000 edition of NFPA 1071, Standard for Emergency Vehicle Technician Professional Qualification, A.1.1 and A.2.1.

NEW SECTION

WAC 296-305-04510 Aerial apparatus. (1) All new aerial devices shall be constructed and initially tested in accordance with the 2009 edition of NFPA 1901, Standard for Automotive Apparatus.

(2) All aerial devices shall be operated in accordance with the manufacturer's recommendations.

(3) All aerial devices shall be maintained, tested and repaired in accordance with the manufacturer's instructions and nonconflicting portions of the 2002 edition of NFPA 1911, Standard for the Inspection, Maintenance, Testing and Retirement of In-Service Automotive Fire Apparatus.

(a) All devices, as well as the section of the apparatus which supports the turntable, shall be inspected at least once every year.

(b) All devices, as well as the section of the apparatus which supports the turntable, shall be nondestructively tested by a certified testing agency every five years.

(c) After any accident that causes structural damage, testing shall be performed and all defects corrected before the apparatus is returned to service.

(4) Aerial devices shall be used according to the following requirements:

(a) The number of firefighters permitted on aerial devices shall be in accordance with the manufacturer's instructions.

(b) Aerial devices shall not be positioned under dangerous cornices or other loose overhanging objects that may endanger firefighters and personnel working from or climbing the ladders, except where rescue operations are essential.

(c) When working near energized electrical lines, the following minimum working clearances for all equipment and personnel shall be observed:

(i) For lines rated 50 kv or below, the minimum clearance between the lines and any part of the equipment shall be ten feet.

(ii) For lines rated over 50 kv, the minimum clearance shall be ten feet plus 0.4 inch (1 cm) for each 1 kv.

(iii) For low voltage lines (operating at 600 volts or less), the work shall be performed in a manner to prevent the firefighters or equipment from contacting the energized conductor.

(d) Fire apparatus aerial devices shall be positioned for the greatest stability feasible at the fire scene.

(e) The tip of the aerial device shall not be forcefully extended against a solid structure.

Note: If allowed by manufacturer's recommendations, aerial devices may be utilized for ventilation in accordance with those recommendations.

(f) Aerial ladders shall not be extended or retracted while firefighters are climbing the ladder.

(g) Locking in shall not be permitted. If it is necessary for firefighters to be positioned on the aerial device, they shall be secured by at least a ladder belt.

(h) Ladder pipes, when in use, shall be secured to the aerial in such a manner so that the ladder pipe cannot accidentally be dislodged while in operation.

(i) The operator of an aerial device shall remain on the turntable whenever firefighters are working from the aerial. If the aerial device is used only as a ground ladder, no operator is needed on the turntable.

(5) The following shall regulate the design and use of the operating turntable and aerial device:

(a) Ladders shall have nonskid protection on the rungs.

(b) Turntable controls and valves for rotating, extending or elevating the aerial device shall be clearly and distinctly marked as to function.

(c) Aerial controls shall be spring loaded and have a safety catch so that the controls shall return to the neutral position if the operator is incapacitated.

(d) The operator of the aerial device shall be provided with a nonskid surface on the turntable.

(e) A railing of approximately forty-four inches in height, and if possible, not less than thirty-six inches in length, shall be installed on the turntable in back of the operator's position.

(f) A spotlight of not less than 75,000 candlepower (950,000 lumens) or a floodlight with not less than 850 cp (10,500 lumens) shall be provided at the base to illuminate the aerial device at night in any position of operation.

(6) The following shall regulate the communication systems on the aerial devices and on the automotive fire apparatus:

(a) A two-way voice communication system shall be installed between the top fly of the ladder or platform and the lower control station.

(b) There shall be some type of electrical signal or voice communication located in the tractor of tillered aerial for communication signals between the tillerman and driver.

The apparatus shall not be moved unless the proper signal, as shown in Appendix E, is received from the tillerman.

(7) The automotive fire apparatus used in conjunction with aerial devices shall be used according to the following:

(a) Ground jacks or outriggers shall be deployed before an aerial device is put into operation.

(b) Ground plates shall be deployed under the outriggers or jacks at all times.

(c) Hand, airbrakes, and spring brakes shall be set whenever an aerial device is in operation.

(d) In addition to ground jack supports and outriggers, wheel chocks shall be used whenever the aerial device is in operation.

(e) Wheel chocks shall be rated by the manufacturer of the chock for the apparatus it is to be used on.

(f) Sand or similar products shall be put under jacks, outriggers, and ground plates when operating on ice or snow.

(8) Railings on elevated platforms shall be constructed so that there is no opening greater than twenty-four inches below them.

(9) A plate shall be located at the aerial device control units, clearly visible to the operator at the lower control position, listing the following information:

(a) Model and serial number of the manufacturer.

(b) Rated capacity of the platform.

(c) Operating pressure of the hydraulic and pneumatic systems.

(d) Cautions or restrictions of operation.

(e) Control instructions.

NEW SECTION

WAC 296-305-05000 Incident management. (1) The fire department shall establish an incident management system (IMS) consistent with the U.S. Department of Homeland Security National Incident Management System (NIMS) with written guidelines applying to all members involved in emergency operations.

(a) All members involved in emergency operations shall be trained in the IMS system.

(b) Personnel shall be trained and qualified by their department in the incident command system (ICS) that meets the requirements of NIMS prior to taking a role at an emergency scene.

(c) The incident management system shall be applied to drills, exercises, and other situations that involve hazards similar to those encountered at actual emergency incidents and to simulated incidents that are conducted for training and familiarization purposes.

(2) At all emergency incidents, the incident commander shall be responsible for the overall safety of all members and all activities occurring at the scene.

(3) All emergency incidents shall be managed by an ICS; the incident commander shall establish an organization with sufficient supervisory personnel to control the position and function of all members operating at the scene and to ensure that safety requirements are satisfied.

(4) At all emergency incidents, the incident commander shall have the responsibility to:

(a) Assume and confirm command and take an effective fixed physical command position.

(b) Perform situation evaluation that includes risk assessment.

(c) Initiate, maintain, and control incident communication.

(d) Develop an overall strategy and incident action plan.

(e) Develop an effective ICS organization by managing resources, maintaining an effective span of control, and maintaining direct supervision over the entire incident by creating geographical and/or functional area supervisors as appropriate for the scope and size of the incident.

(f) Review, evaluate, and revise the incident action plan as required.

(g) Continue, transfer, and terminate command.

(5) The fire department shall develop a risk management policy including rules of engagement that can be used by the incident commander in the development of incident strategies. The risk management policy should include direction and guidance to the incident commander in formulating incident planning relating to the level of risk that may be undertaken in any given incident to save lives and property in as safe a manner as dictated by the situation.

(6) The fire department shall establish an accountability system: Written procedures and guidelines for tracking all members operating at emergency incidents.

(7) The incident commander shall provide for control of access to hazardous areas of the incident scene. Procedures shall identify methods for identification of hazardous areas and communication of necessary protective equipment and other protective measures necessary to operate in the hazardous area.

(a) Control zones shall be established at emergency incidents.

(b) The perimeters of the control zones shall be designated by the incident commander and communicated to all members.

(c) If the perimeters of the control zones change during the course of the incident, these changes shall be communicated to all members on the scene.

(d) Hazard control zones shall be designated as hot, warm, cold and exclusion zones.

(e) All members shall wear the PPE (SCBA, flash hood, etc.) appropriate for the risks that might be encountered while in the hot zone.

(f) All members operating within the hot zone shall have an assigned task.

(g) No unauthorized personnel shall enter an exclusion zone that was designated due to the presence of imminent hazard(s) or the need to protect evidence.

(8) Firefighters operating in a hot zone shall operate in teams of two or more regardless of rank or assignment. Members of these teams shall be in constant communication with each other through touch, visual, or voice means in order to provide assistance in case of emergency.

(9) The fire department shall provide personnel for the rescue of members operating at emergency incidents as the need arises.

(10) The fire department shall develop and maintain written guidelines for the safety of members at incidents that

involve violence, unrest, or civil disturbance. Such situations may include, but not be limited to, riots, fights, violent crimes, drug related situations, family disturbances, deranged individuals, and people interfering with fire department operations.

(11) When members are operating at an emergency incident and their assignment places them in potential conflict with motor vehicle traffic, all reasonable efforts shall be made to protect the members.

Note: Chapters 6H and 6I of the Manual on Uniform Traffic Control Devices, 2003 edition revision 1, provides information on how to set up traffic control zones during emergency operations on different types of roadways. This information can be accessed for free at the following link: <http://muted.fhwa.dot.gov/pdfs/2003r1/pdf-index.htm>.

(12) Responders shall not manipulate equipment that they have not been trained or equipped to use.

(13) In the event a firefighter becomes lost, trapped, seriously injured, has a medical emergency, has exhausted their breathing air, or finds themselves in any other form of life threatening situation they shall immediately call for help, using the nationally adopted term "Mayday" to declare that an emergency situation now exists. The fire department shall specifically establish and routinely practice standard procedures for managing a Mayday situation.

(14) Emergency scene communications.

(a) Incident radio communication shall use clear text terminology.

(b) Incident communication shall use the phrase "emergency traffic" as the standard alert for all units operating on the scene to clear the air.

(c) The fire department shall specifically establish and routinely practice standard procedures for managing an "emergency traffic" situation.

Note: The fire department communication center should start an incident clock when the first arriving unit is on scene of a working structure fire or when conditions appear to be time sensitive or dangerous. The dispatch center should notify the incident commander, at an interval established by their policy or procedure, until incident stabilization is achieved.

NEW SECTION

WAC 296-305-05002 Fire suppression. (1) Before beginning interior structural firefighting operations, the incident commander must evaluate the situation and risks to operating teams.

(2) The "initial stages" of an incident shall encompass the tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

(3) In the initial stages of an incident where only one crew is operating in the hot zone at a working structural fire, a minimum of four individuals shall be required, consisting of two individuals working as a crew in the hot zone and two individuals present outside the hot zone available for assistance or rescue of firefighters during emergency operations where entry into the hot zone is required.

(4) Initial attack operations shall be organized to ensure that if, on arrival at the emergency scene, responders find a known rescue situation where immediate action could prevent the loss of life or serious injury, such action shall only be

permitted when no less than three personnel (2-in/1-out) are present and equipped to provide emergency assistance or rescue of the team entering the hot zone.

No exception shall be allowed when there is no possibility to save lives or no "known" viable victims.

(5) Firefighters must not engage in interior structural firefighting in the absence of at least two standby firefighters (2-in/2-out) except as provided in WAC 296-305-05002(4).

(6) Standby team members shall comply with the following:

(a) Members shall remain aware of the status of firefighters in the hot zone.

(b) Members shall remain in positive communication (radio, visual, voice or signal line) with the entry team, in full protective clothing with respiratory protection donned while in standby mode.

(c) Only one standby team member may be permitted to perform other duties outside the hot zone, provided constant communication is maintained with the team in the hot zone, and provided that those duties will not interfere with his or her ability to initiate a rescue as appropriate.

(d) No standby team members shall be permitted to serve as a standby member of the firefighting crew when the other activities in which the firefighter is engaged inhibit the firefighter's ability to assist in or perform firefighter rescue or are of such importance that they cannot be abandoned without placing other firefighters in danger.

Note: Nothing in this section shall prevent actions which may reasonably be taken by members first on the scene to determine the nature and extent of fire involvement.

(7) Once a second crew arrives at the hot zone, the incident shall no longer be considered to be in the "initial stage," and at least one rapid intervention crew should be assigned. For further guidance, see nonmandatory Appendix D.

(8) Teams in the hot zone shall have positive communication capabilities with the incident command structure in place. Incident radio communication capabilities within the incident management structure shall include monitoring the incident-assigned frequencies (including mutual aid radio frequencies).

(9) Officers at emergency scenes shall maintain an awareness of the physical and mental condition of members operating within their span of control and ensure that adequate steps are taken to provide for their safety and health. The command structure shall be utilized to request relief and reassignment of fatigued crews.

(10) Personal protective clothing/equipment designed for wildfire suppression shall not be used for interior structural firefighting.

(11) Firefighters shall not cut the electrical drip loop providing power to the structure nor pull the electrical meter.

(12) Prior to overhaul, buildings shall be surveyed for possible safety and health hazards. Firefighters shall be informed of hazards observed during the survey and measures shall be taken to protect firefighters from these hazards.

(13) Self-contained breathing apparatus (SCBA) shall be worn throughout overhaul. SCBA shall also be worn during activities taking place in the area previously considered the hot zone after overhaul unless the officer in charge conducts an exposure evaluation to determine or reasonably estimate

whether an employee is or could be exposed to either an airborne contaminant above a permissible exposure limit (PEL) listed in WAC 296-841-20025 Table 3 or other airborne hazards, such as biological/radiological/nuclear hazards. When the officer in charge cannot determine or reasonably estimate employee exposure they shall conclude that an atmosphere is hazardous to the employees in accordance with WAC 296-842-13005.

(14) During the overhaul phase officers shall identify materials likely to contain asbestos, limiting the breaching of structural materials to that which is necessary to prevent rekindle.

(15) Prior to removing firefighting ensembles worn in the hot zone, a gross decontamination shall be performed to remove potentially harmful contaminants.

(16) Members of the department conducting post-fire investigations must comply with subsections (12) through (15) of this section.

(17) Employees working on, over, or along water where the chance of drowning exists shall be provided with and shall use approved personal flotation devices, unless it can be shown that conditions are such that flotation would not be achieved.

NEW SECTION

WAC 296-305-05004 Occupational exposure to heat and cold stress. (1) Fire departments shall develop written guidelines that outline a systematic approach for the rehabilitation of members operating at incidents and training exercises. The following components must be included in this guideline:

(a) Supervisor's role in identifying climate conditions (hot or cold).

(b) The signs and symptoms of heat or cold stress and how to identify them in subordinates and fellow members.

(c) How to identify the climatic condition likely to produce heat or cold stress on members operating at emergency scenes or during training exercises.

(d) What steps the incident commander (IC) must take when the climatic condition poses a heat or cold stress hazard to members.

(e) What rest-to-work (recovery) schedule the IC must consider during climatic conditions that present a heat or cold stress hazard to members.

Example: NFPA 1584 states that after members use 2 30-minute SCBA bottles or 1 45-to-60-minute SCBA bottle or 40 minutes strenuous work without an SCBA the member should go to rehabilitation for a 10 to 20 minute rest and rehydrate.

(f) Which active or passive cooling and warming techniques will be used based on the incident type and climatic condition.

(g) What rehydration schedule will be followed, including the amount and type of fluids.

(h) What the department will do to ensure caloric replacement and electrolyte replacement during longer term emergencies and exercises.

(i) What medical monitoring will be provided to members in rehabilitation and what criteria will be used to release members from rehabilitation.

(j) What the IC will do when a member is showing signs of heat or cold stress after completing the department's rest-to-work cycle.

(k) What medical personnel will be present in rehabilitation to evaluate members sent to rehabilitation during the rest-to-work cycle.

To determine what temperature triggers action at each worksite, select the general type of clothing or personal protective equipment each employee is required to wear and find the corresponding temperature in Table 1.

Table 1
Outdoor Temperature Action Levels

Nonbreathing clothing including vapor-barrier clothing or chemical resistant suits	52°
Double-layer woven clothing including coveralls, jackets and sweatshirts	77°
All other clothing	89°

Note: There is no requirement to maintain temperature records. The temperatures in Table 1 were developed based on Washington state data and are not applicable in other states.

(2) Employee training. Training on the following topics must be provided to all employees who may be exposed to outdoor heat at or above the temperatures listed in Table 1:

(a) The environmental factors that contribute to the risk of heat-related illness.

(b) General awareness of personal factors that may increase susceptibility to heat-related illness including, but not limited to, an individual's age, degree of acclimatization, medical conditions, drinking water consumption, alcohol use, caffeine use, nicotine use, and use of medications that affect the body's responses to heat. This information is for the employee's personal use.

(c) The importance of removing heat-retaining personal protective equipment such as nonbreathable chemical resistant clothing during all breaks.

(d) The importance of frequent consumption of small quantities of drinking water or other acceptable beverages.

(e) The importance of acclimatization.

(f) The different types of heat-related illness and their common signs and symptoms.

(g) The importance of immediately reporting signs or symptoms of heat-related illness in either themselves or in coworkers to the person in charge and the procedures the employee must follow including appropriate emergency response procedures.

(3) Supervisor training. Prior to supervising employees working in outdoor environments with heat exposure at or above the temperature levels listed in Table 1, supervisors must have training on the following topics:

(a) The information required to be provided to employees listed in subsection (1) of this section.

(b) The procedures the supervisor must follow to implement the applicable provisions of this section.

(c) The procedures the supervisor must follow if an employee exhibits signs or symptoms consistent with possible heat-related illness, including appropriate emergency response procedures.

(d) Procedures for moving or transporting an employee to a place where the employee can be reached by an emergency medical service provider if necessary.

(4) The fire department shall rotate crews as necessary to allow for rehabilitation.

(5) All members shall be provided training and information on how the body regulates core temperatures and how to recognize the signs, symptoms and controls for heat and cold stress.

(6) All members shall be provided training on the department's guideline addressing heat and cold stress.

(7) Employees are responsible for monitoring their own personal factors for heat-related illness including consumption of water or other acceptable beverages to ensure hydration.

(8) A rehabilitation area shall be designated with features that provide shade or air conditioning with a place to sit for extremely hot environments.

(9) A rehabilitation area shall be designated with features that provide dry protected areas out of the wind or rain and a heated area with a place to sit for extremely cold or wet environments.

(10) Multiple rehabilitation areas must be set up if the geographical area or size of the scene creates barriers limiting members' access to rehabilitation.

(11) The rehabilitation area shall be of sufficient size to accommodate the number of crews using the area at the same time.

(12) Members entering the rehabilitation area that feel warm or hot shall remove their personal protective clothing. Personnel trained in basic life support shall evaluate the member and institute active or passive cooling as indicated.

(13) At a minimum, a person trained in basic life support with the knowledge and training needed shall be located in the rehabilitation area to conduct medical monitoring and evaluation of crews entering the rehabilitation area.

(14) Members shall not be released from rehabilitation until a person trained in basic life support okays their return to work.

(15) Supervisors shall assess their crew at least every forty-five minutes and more frequently when climatic conditions warrant to determine their need for rehabilitation.

(16) Members on emergency scenes and during exercises shall be provided a minimum of one quart of water per hour when the climatic conditions present heat or cold stress hazards. After one hour, caloric and electrolyte replacement must be considered.

(a) Employers must ensure that a sufficient quantity of drinking water is readily accessible to employees at all times.

(b) Employers must ensure that all employees have the opportunity to drink at least one quart of drinking water per hour.

(c) Employers must encourage employees to frequently consume water or other acceptable beverages to ensure hydration.

(17) Employees showing signs or complaining of symptoms of heat-related illness must be relieved from duty, provided with a sufficient means to reduce body temperature, and monitored to determine whether medical attention is necessary.

Note: For further guidance, sample policies and information please consult the 2008 edition of NFPA 1584, Standard on the Rehabilitation Process for Members During Emergency Operations and Training Exercises or the United States Fire Administration's Emergency Incident Rehabilitation Manual FA-314 issued February 2008.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-05013 Aircraft rescue and firefighting. ((Fire departments that engage in aircraft rescue and firefighting operations shall review NFPA, Manual for Aircraft Rescue and Firefighting Operations 402M, 1991 edition.))
(1) Fire departments that expect to respond to aircraft fires shall meet the applicable portions of the 2008 edition of NFPA 402, Guide for Aircraft Rescue and Firefighting Operations.

(2) Airport based fire departments shall meet the applicable portions of the 2008 edition of the NFPA 402, Guide to Aircraft Rescue and Firefighting Operations.

NEW SECTION

WAC 296-305-05101 Technical rescue general requirements. (1) The following sections apply to fire departments that choose to operate for any type of technical rescue operations addressed in WAC 296-305-05113 at the following levels:

- Operations level. This level represents the capability of organizations to respond to technical rescue incidents and to identify hazards, use equipment, and apply limited techniques specified in this rule to support and participate in technical rescue incidents.
- Technician level. This level represents the capability of organizations to respond to technical rescue incidents, to identify hazards, use equipment, and apply advanced techniques specified in this rule necessary to coordinate, perform, and supervise technical rescue incidents.

Note: Awareness level represents the minimum capability of organizations that provide response to technical rescue incidents or discover technical rescue situations during emergency scene operations and takes no offensive action. This level requires no written procedures.

(2) Members shall not operate at a level that exceeds the identified level of capability established in subsection (1) of this section.

(3) Basic life support shall be provided by the fire department at technical rescue incidents.

(4) Fire departments must meet all requirements in this section, along with all relevant requirements in the specific technical rescue sections, before operating at the operations or technician level at a technical rescue incident.

(5) Fire departments choosing to not respond to technical rescue emergencies will ensure their employees can recog-

nize when a technical rescue situation is present and what to do in those cases.

NEW SECTION

WAC 296-305-05103 Technical rescue training. (1) Training shall be provided to correspond to the operational level of the fire department. All fire departments which will be expected to perform at the operations level or higher operational level shall be trained to that level.

Note: The 2008 edition of NFPA 1006, Standard for Technical Rescuer Professional Qualifications outlines the minimum individual Job Performance Requirements for Level I (Operations) and Level II (Technician) rescuers.

(2) Continuing education necessary to maintain all requirements of the level of capability shall be provided by the fire department.

(3) The training program shall be evaluated annually to ensure the fire department is prepared to function at the established operational level.

(4) All required training shall be documented. Documentation shall be maintained and available for inspection by employees, their representatives, and the department of labor and industries.

NEW SECTION

WAC 296-305-05105 Technical rescue standard operating procedure. Fire departments that choose to operate above the awareness level for technical rescue incidents shall establish written procedures outlining the operational level of their department that are specific to their chosen level of response and the type of technical rescue operations they plan to perform.

NEW SECTION

WAC 296-305-05107 Technical rescue incident response planning. (1) Fire departments or a consortium of departments that choose to operate at the operations level or above shall create a written special operations incident response plan for the specific type(s) of technical rescue at which they plan to operate at or above the operations level.

(2) When nonemergency resources may be required, procedures for acquisition of these resources for technical rescue incidents shall be developed.

(3) Fire departments that choose to respond to chemical, biological, radiological, and nuclear (CBRN) incidents shall provide training and equipment to all members expected to respond.

NEW SECTION

WAC 296-305-05109 Technical rescue equipment. (1) Equipment.

(a) Equipment necessary for operations at technical rescue incidents, along with training exercises, shall be provided by the fire department.

(b) Training shall be provided to ensure that all equipment is used and maintained according to the manufacturer's instructions.

(2) Personal protective equipment (PPE) specific to technical rescue.

(a) Departments will provide, at no cost to employees, protective clothing and equipment to provide protection from the specific hazards to which they could be exposed.

(b) Employees must be trained in the care, use, inspection, maintenance and limitations of the protective clothing and equipment.

(c) Employees are required to wear the protective clothing and equipment provided by the department's procedures and guidelines.

NEW SECTION

WAC 296-305-05111 Technical rescue safety. (1) General.

(a) All employees must be trained on:

(i) The hazards and risks associated with department's chosen level of technical rescue operations.

(ii) How to conduct technical rescue operations at the department's chosen level while minimizing threats to rescuers.

(iii) How to use PPE.

(b) Employees assigned specific duties and functions must be trained and qualified by their department prior to being assigned those duties or functions.

(c) When employees are operating in positions or performing functions that pose a high potential risk for injury, employees qualified in basic life support must be standing by.

(2) Emergency evacuation. Departments shall establish a procedure for members to abandon the technical rescue area and to account for their safety when an imminent hazard condition is discovered. This shall include a method for notifying all members in the affected area immediately.

(3) Technical rescue safety officer. The incident commander shall assign an incident safety officer with the requisite knowledge and responsibility for the identification, evaluation, and with the authority to correct hazardous conditions and unsafe practices, at all emergency scene operations and training exercises.

(4) Incident management. Departments shall use an ICS at all technical rescue incidents and training exercises.

NEW SECTION

WAC 296-305-05113 Technical rescue operational specialties.

Note: When chapters of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, are required by the following sections, internal references requiring compliance with further NFPA's or additional resources are not included in these requirements.

(1) Structural collapse. Fire departments choosing to operate at the operations or technician level for structural collapse incidents must meet the requirements found in chapter 5 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(2) Rope rescue.

(a) Fire departments choosing to operate at the operations or technician level for rope rescue incidents must meet the requirements of this section and the nonconflicting por-

tions of chapter 6 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Fire departments performing rope rescue operations must make sure previously purchased life safety ropes and equipment complies with the 2001 edition of NFPA 1983, Standard on Fire Service Life Safety Rope and System Components. Ropes and equipment purchased after the effective date of this rule must meet the requirements of the 2006 edition of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services.

(c) Life safety rope and rope rescue equipment shall be inspected after purchase and prior to placing in service, after each use, and at least semiannually.

(d) Harnesses shall be inspected for worn or broken stitching, rivets worn out of holes, and damage from abrasion, cuts, or chemicals.

(e) Descending/ascending hardware shall be inspected for wear, cracks, distortion, sharp edges, and ease of operation.

(f) The manufacturer's recommended shelf life of life safety ropes shall be followed. If no shelf life is specified, ropes greater than six years old shall be taken out of service as a life safety rope.

Note: See WAC 296-305-02019, Life safety ropes, harnesses, and hardware protection, for further requirements.

(3) Confined space rescue.

(a) Fire departments choosing to operate at the operations or technician level for confined space rescue incidents must meet the requirements of this section, chapter 296-809 WAC Table 1, and the nonconflicting sections of chapter 7 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Fire departments shall comply with chapter 296-809 WAC for their own confined spaces.

(c) Fire departments which will respond to calls to perform rescue from a permit-required confined space are required to have each member of a rescue team practice making permit space rescues at least every twelve months by means of simulated rescue operations in which they remove dummies, mannequins or actual persons from permit space. A permit is required for the practice permit space entry.

(d) During an actual rescue response, written or verbally recorded hazard sizeup will be allowed in lieu of the written permit requirements in WAC 296-809-50004 and shall be completed prior to any entry. This sizeup shall include at a minimum:

(i) Recognition and declaration of the situation as a confined space incident.

(ii) Denial of entry to unprotected persons.

(iii) Assessment of all readily available confined space documentation, e.g., MSDSs, any existing permit, plans or blueprints of the space.

(iv) Assessment of number of victim(s), locations and injury conditions.

(v) Discussion with witnesses, supervisors, and other sources of information.

(vi) Assessment of any current or potential space hazards, in particular, any hazard(s) which lead to the necessary rescue.

(vii) Determination and declaration if the situation is a body recovery or a victim rescue.

(e) At confined space incidents, at least two people outside shall be equipped with appropriate breathing apparatus to act as the back-up team, which shall remain free of the contaminated area in order to rescue disabled firefighters.

(f) Written documentation of the rescue team's training on the fire department's confined space operating procedures, authorized entrant training, and the contracted host's confined space program shall be kept. A record of each of the hazard sizeups shall be maintained for at least one year.

(g) Anytime firefighters are working inside a confined space, such persons shall be provided with SCBA or air line respirator with escape bottle, and shall use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.

(i) If the service life of the auxiliary air supply is fifteen minutes or less it shall not be used for entry into an IDLH atmosphere but it may be used for escape purposes. The auxiliary air supply may be used for entry into an IDLH atmosphere only when the service life of the unit exceeds fifteen minutes and when not more than twenty percent of the noted air supply will be used during entry.

(ii) The maximum length of hose for supplied air respirators is three hundred feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.

(4) Machinery rescue. Fire departments choosing to operate at the operations or technician level for machinery rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 12 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(5) Water rescue.

(a) Fire departments choosing to operate at the operations or technician level for water rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 9 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Organizations choosing to operate at the operations or technician level for dive rescue incidents must meet the requirements found in chapter 9 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(c) Fire departments choosing to operate at the operations or technician level for dive recovery incidents must meet the requirements found in chapter 296-37 WAC, Standards for commercial diving operations, and the nonconflicting parts of chapter 9 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(d) If a manufacturer's specifications are such that an engineer is required for the operation of a vessel, one shall be provided.

(e) When fire boats perform rescue activities they shall have two dedicated personnel. Any member not specifically required to operate the vessel, e.g., an operator (pilot) or engineer (if required by the manufacturer's specification) may be used as a deck hand. This may include the boat officer if his/her duties do not include operating the fire boat.

(f) Watercraft load capabilities shall not exceed the manufacturer's specifications.

(g) Each fire department shall determine the function of their watercraft; firefighting, rescue, or both.

(h) Watercraft operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) shall comply with all of the rules of the United States Coast Guard.

(i) Fire boats operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) shall have a fully dedicated pilot.

(j) The operator (pilot) of the watercraft is responsible for its safe operation.

(k) Training for all personnel shall cover the physical characteristics of the vessel involved and shall be included in the employer's accident prevention program.

(i) All assigned personnel shall be trained in safe operation of watercraft and the operations the craft is intended to perform.

(ii) All employees involved in water rescue shall be trained in water rescue techniques and use Coast Guard approved personal flotation devices, Type III, minimum.

Exception: Employees working below deck or in enclosed cabins or when working above, on or alongside still water where flotation would not be achieved, are exempt from this requirement.

(l) All employers operating watercraft in nonnavigable waters shall be responsible for training all employees to local hazards.

(6) Trench and excavation rescue.

(a) Fire departments choosing to operate at the operations or technician level for trench and excavation rescue incidents must meet the requirements of this section and nonconflicting portions of chapter 11 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Employees that directly engage in trench rescue operations shall be under the direct supervision of person(s) with adequate training in trench and excavation hazard recognition, equipment use and operational techniques.

(c) Each employee in an excavation shall be protected from cave-ins by an adequate protective system except when:

(i) Excavations are made entirely in stable rock; or

(ii) Excavations are less than four feet (1.22 meters) in depth and examination of the ground by a competent person provides no indication of a potential cave-in.

(7) Mine and tunnel rescue.

(a) Fire departments choosing to operate at the operations or technician level for mine and tunnel rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 14 (Mine and Tunnel Search and Rescue) of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) The requirements of this section shall apply to agencies that provide varying degrees of response to tunnels under construction or other underground excavations formerly classified as mines or tunnels.

(c) The requirements of this section shall not apply to operating mines, tourist mines, basements, or subterranean

structures that are complete and in use or that meet the definition of a confined space.

(d) Emergency services that are the designated primary provider of rescue services for operational mines and tunnels under construction are required to comply with the nonconflicting portions of chapter 296-155 WAC Part Q, Underground construction.

(e) Members who regularly enter a tunnel under construction as part of their regular duties shall receive training meeting the requirements of the safety instruction required by WAC 296-155-730(3).

(f) Regardless of whether an atmospheric hazard is detected, any entrant into a tunnel under construction, mine or any related shaft or excavation shall have a means of emergency egress respiratory protection with no less than a thirty minute rated service life immediately available. There shall be at least one unit immediately available for each member in the tunnel.

MSHA or NIOSH approved "Self Rescuer" or "Self Contained Self Rescuer" devices fulfill this requirement provided the user has been trained in its use and the device is suitable for the type of potential hazards that may be encountered.

(g) A rescue service entry team shall have the ability at a minimum to continuously monitor the air for oxygen, carbon monoxide, hydrogen sulfide, and combustible gasses as well as any other atmospheric contaminants that are known or suspected.

(h) The rescue service entry team shall have at least two methods of communication with the surface, one of which shall be voice communication.

This requirement may be satisfied by using both the "direct" and "trunked" features of the same radio systems provided adequate equipment is available to the entry team to provide constant simultaneous communication using both methods.

(i) Rescue service entry teams that enter a mine or tunnel with a known atmospheric hazard shall have a clearly defined "turnaround" benchmark to ensure adequate egress to an area of refuge or safety.

(j) Each rescue service entry team that enters a mine or tunnel with a known or suspected atmospheric hazard shall have at least one source of breathable air independent of each wearer's SCBA to be used in the event of an SCBA failure or "out of air" emergency. This source of air is to be independent of any device brought in for the use of victims.

(k) A backup team with similar size and capabilities as the rescue service entry team shall be immediately available to enter the space.

(l) Each member of the organization who is designated as part of the technician level rescue service shall practice making mine or tunnel rescues as part of a rescue team no less than once every twelve months. This may be accomplished by means of simulated rescue operations in which the team removes dummies, mannequins, or persons from actual mines and tunnels or from representative mines and tunnels.

Representative mine and tunnels should, with respect to opening size, configuration, and accessibility, simulate the types of mines and tunnels from which rescue is to be performed.

NEW SECTION

WAC 296-305-05502 Training and member development. (1) The employer must provide training, education and ongoing development for all members commensurate with those duties and functions that members are expected to perform.

(a) Training and education must be provided to members before they perform emergency activities.

(b) Fire service leaders and training instructors must be provided with training and education which is more comprehensive than that provided to the general membership of the fire department.

(c) The fire department shall develop an ongoing proficiency cycle with the goal of preventing skill degradation.

(2) Training on specific positions/duties deemed by the fire department critical to the safety of responders and the effectiveness of emergency operations (such as driver operators or support personnel) shall be provided at least annually.

(3) Firefighters shall be trained in the function, care, use/operation, inspection, maintenance and limitations of the equipment assigned to them or available for their use.

(4) Members who are expected to perform interior structural firefighting shall be provided with an education session or training at least quarterly.

(5) When firefighters are engaged in training above the ten foot level, where use of lifelines or similar activities are to be undertaken, a safety net or other approved secondary means of fall protection recommended in chapter 296-155 WAC, Part C-1, fall protection requirements for construction, shall be used.

(6) Continuing education live fire training.

(a) All members who engage in interior structural firefighting in IDLH conditions shall be provided live fire training appropriate to their assigned duties and the functions they are expected to perform at least every three years. Firefighters who do not receive this training in a three-year period will not be eligible to return to an interior structural firefighting assignment until they do. Responding to a fire scene with a full alarm assignment, an ICS established and a postincident analysis will meet this requirement, but for no more than two training evolutions.

(b) All live fire training shall be conducted by fire department qualified fire service instructors. When conducting their own training, fire departments must meet the requirements set out in the 2007 edition of the NFPA 1403, Standard on Live Fire Training Evolutions.

(c) An incident safety officer shall be appointed for all live fire training evolutions. The incident safety officer function shall be filled by a person who is trained and qualified in the IMS/Incident safety officer duties and who is not responsible for any other function at the training evolution other than the role of incident safety officer.

(7) When using structures for live fire suppression training, activities shall be conducted according to the 2007 edition of NFPA 1403, Standard on Live Fire Training Evolutions. When using structures for nonlive fire training, the following requirements shall be met:

(a) All structures used for training must be surveyed for potential hazardous substances, such as asbestos, prior to the initiation of any training activities. The survey must comply

with chapter 296-62 WAC Part I-1 and shall be conducted by an AHERA accredited inspector and performed in accordance with 40 C.F.R. 763, Subpart E. If the hazardous substances or asbestos containing materials of > 1% asbestos are to be disturbed during any training activity they must be removed prior to beginning that activity. Removal of asbestos < or = 1% is not required prior to live fire training.

In live fire training structures where < or = 1% asbestos has been disturbed, the fire department will provide written notice to the owner/agent that asbestos has been disrupted and remains on-site.

For structures built before 1978, you must assume that painted surfaces are likely to contain lead and inform workers of this presumption. Surveys for lead containing paints are not required. Lead containing paints are not required to be removed prior to training activities.

If the training activity will not disturb the hazardous substance, the material must be clearly marked and all participants must be shown the location of the substance and directed not to disturb the materials.

(b) Acquired or built structures used for fire service training that does not involve live fire must be surveyed for the following hazards and those hazards abated prior to the commencement of training activities:

(i) In preparation for training, an inspection of the training building shall be made to determine that the floors, walls, stairs and other structure components are capable of withstanding the weight of contents, participants and accumulated water.

(ii) Hazardous materials and conditions within the structure shall be removed or neutralized, except as exempted in (a) of this subsection.

- Closed containers and highly combustible materials shall be removed.

- Oil tanks and similar closed vessels that cannot easily be removed shall be vented sufficiently to eliminate an explosion or rupture.

- Any hazardous or combustible atmosphere within the tank or other vessel shall be rendered inert.

- Floor openings, missing stair treads or railings, or other potential hazards shall be repaired or made inaccessible.

(iii) If applicable, floors, railings and stairs shall be made safe. Special attention shall be given to potential chimney hazards.

(iv) Debris hindering the access or egress of firefighters shall be removed before continuing further operations.

(v) Debris creating or contributing to unsafe conditions shall be removed before continuing further operations.

(c) Asbestos training. Firefighters must be provided asbestos awareness training, including communication of the existence of asbestos-containing material (ACM) and presumed-asbestos-containing material (PACM). Training shall be provided prior to initial assignment and annually thereafter, and must include:

(i) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(ii) Examples of different types of asbestos and asbestos-containing materials to include flooring, wall systems, adhesives, joint compounds, exterior siding, fire-proofing, insula-

tion, roofing, etc. Real asbestos shall be used only for observation by trainees and shall be enclosed in sealed unbreakable containers.

(iii) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(iv) Instruction on how to recognize damaged, deteriorated, and delamination of asbestos-containing building materials.

(v) Decontamination and clean-up procedures.

(vi) Types of labels that are used within different industries to identify ACM or PACM that is present within structures. The labeling system the employer will use during training to identify asbestos and ACM/PACM during destructive drilling and training.

(vii) The location and types of ACM or PACM within any fire department owned or leased structures and the results of any "Good Faith Survey" done on fire department owned or leased structures.

(8) Asbestos exposure during destructive training activities. Fire department employees are exempt from the requirements of chapter 296-65 WAC and WAC 296-62-077, provided they comply with the following requirements:

(a) Fire departments must obtain a good faith asbestos inspection/survey from the property owner/agent prior to disturbing building materials. The good faith survey must comply with chapter 296-62 WAC Part I-1 and shall be conducted by an AHERA accredited inspector and performed in accordance with 40 C.F.R. 763, Subpart E.

(b) Good faith surveys must be shared with all employers and employees prior to using any structure.

(c) Materials containing >1% asbestos must be marked by a system recognized by all members. ACM/PACM may not be disturbed prior to, or during training, or must be removed by a certified asbestos abatement contractor prior to training activities. The incident safety officer for the training must walk all participants through the structure and inform them of the location of all ACM/PACM and that this material is not to be disturbed. If the structure is used for a black-out drill, the incident safety officer must instruct members that ACM/PACM is present and take precautions to ensure these materials are not disturbed during the training. A walk through is not required for black-out drills.

(d) Destructive drilling must not occur in a structure until the fire department has received a good faith asbestos survey from the owner/agent and ensured that any ACM or PACM has been abated from substrates upon which destructive drill tasks are planned to be performed. All suspect asbestos materials designated for destructive drill tasks will be identified, evaluated and tested by an accredited AHERA lab.

(e) Materials containing < or = 1% asbestos must be labeled by a system recognized by all members. Prior to initiating any destructive drilling on materials containing < or = 1% asbestos, the incident safety officer for the training must walk all participants through the structure and inform them of the location of asbestos.

(f) Firefighters must wear SCBA and turnouts whenever exposed to asbestos.

(g) Firefighters must be provided gross decontamination at the drill site by rinsing/brushing the firefighters turnouts and SCBA with water.

(h) Hand tools and other asbestos contaminated equipment will be rinsed off prior to being returned to the apparatus or service. Tools and equipment that cannot be decontaminated on site must be placed in sealed containers until they can be decontaminated. Care must be taken to not spread the asbestos.

(i) PPE that may have been contaminated with asbestos must be cleaned in a manner recommended by the manufacturer and that prevents the exposure of the employee cleaning the PPE. PPE that cannot be cleaned on-site must be placed in sealed containers until they can be decontaminated.

(j) In structures scheduled for demolition, or that will be turned over to another employer, where < or = 1% asbestos has been disturbed, the fire department will provide written notice to the owner/agent that asbestos has been disrupted and remains on-site. The fire department will inform the owner/agent, in writing, that access to the property must be limited to the demolition or asbestos contractor.

(k) The fire department will secure the structure after all drills and at the conclusion of the use of the structure. Securing the structure may include but not be limited to: Locking or boarding up windows, doors, and wall and roof openings. The site of the structure may also require fencing. When asbestos material of < or = 1% has been disturbed by the fire department's drill activities, the site will be posted with warning signs. These signs will notify entrants onto the site that asbestos debris of < or = 1% has been left on the site. For fire department members who plan to enter the structure or the building footprint, the signs will state the necessity of full turn-outs and SCBA with decontamination procedures. The signs will also state that entry into the building or the building footprint is prohibited by any persons other than the fire department and the demolition/abatement contractor.

(9) Additional training. Training must be provided on topics according to the job duties and potential hazards as outlined in Table 2, Subject Specific Training.

Table 2 Subject Specific Training	
Topic	Training requirements found in:
HEALTH AND SAFETY	
Noise and hearing loss prevention	<ul style="list-style-type: none"> • Chapter 296-817 WAC, Hearing loss prevention (noise) • WAC 296-305-02004
Respiratory equipment	<ul style="list-style-type: none"> • Chapter 296-842 WAC, Respirators • WAC 296-305-04001
Employee right-to-know procedures	<ul style="list-style-type: none"> • WAC 296-800-170, Employer chemical hazard communication—Introduction

Table 2 Subject Specific Training	
Topic	Training requirements found in:
Identification and handling of asbestos-containing materials likely to be encountered during a fire response	<ul style="list-style-type: none"> • WAC 296-62-07722(5) as appropriate to asbestos encountered during a fire response, or EPA awareness level asbestos two hour training course
FIRE SUPPRESSION	
Overhaul procedures and operations	<ul style="list-style-type: none"> • WAC 296-305-05000 and 296-305-05002
Live fire training in structures	<ul style="list-style-type: none"> • NFPA 1403, Standard on Live Fire Training Evolutions, 2007 Edition
Wildland fires	<ul style="list-style-type: none"> • WAC 296-305-07010 through 296-305-07019 • The National Wildfire Coordination Group (NWCWG) firefighter II • All training for assigned wildland incident command positions must be completed prior to assignment by the IC
INCIDENT MANAGEMENT	
Incident management training	<ul style="list-style-type: none"> • National Incident Management System • NFPA 1561, Standard on Emergency Services Incident Management System, 2008 edition (available on-line)
EMERGENCY MEDICAL	
Emergency medical training	<ul style="list-style-type: none"> • WAC 296-305-02501
HAZARDOUS MATERIALS	
Hazardous materials training	<ul style="list-style-type: none"> • Chapter 296-824 WAC, Emergency response • Nonconflicting portions of NFPA 472, Standard for Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents, 2008 edition
TECHNICAL RESCUE	
Confined space entry and/or rescue	<ul style="list-style-type: none"> • Chapter 296-809 WAC, Confined spaces • WAC 296-305-05004 • Nonconflicting portions of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, 2004 edition

Table 2 Subject Specific Training	
Topic	Training requirements found in:
	<ul style="list-style-type: none"> • Nonconflicting portions of NFPA 1006, Professional Qualifications for Technical Rescue, 2008 edition
Other technical rescue situations, such as rope, structural collapse, transportation/machinery, trench, water, and wilderness rescue	<ul style="list-style-type: none"> • NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, 2004 edition • Nonconflicting portions of NFPA 1006, Professional Qualifications for Technical Rescue, 2008 edition
POSITION SPECIFIC DEVELOPMENT	
Aircraft	<ul style="list-style-type: none"> • NFPA 402, Guide for Aircraft Rescue and Firefighting Operations, 2008 edition
Driver training	<ul style="list-style-type: none"> • WAC 296-305-04505(8)

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06001 Fire service equipment. (1) All portable equipment shall be inspected routinely to ensure that it is ready for use.

(2) Any defective equipment shall be removed from service.

(3) Nylon utility straps or straps of equivalent strength should be used instead of hose belts. The utility strap shall be of one-inch nylon, or equivalent belting, with a four-inch overlap and sewn with polyester thread and shall measure at least 102 inches on the outside circumference.

(4) The load capacity shall be stenciled on each portable jack and the load capacity shall not be exceeded.

(5) The instruction plate on portable jacks shall be maintained in a legible condition.

(6) Portable powered cut-off saws (rescue saws) shall be used in accordance with the manufacturer's recommendations.

Exception: The lower blade guard described in WAC ((296-24-65501-1)(a)) 296-807-12005 is not required on hand-held portable powered cut-off saws used by fire/rescue personnel for rescue procedures and/or roof ventilation for smoke removal, provided the operator is wearing appropriate eye, face, head, and body protection as specified in WAC 296-305-02001 through ((296-305-02013)) 296-305-02012. This exception also applies to qualified persons (e.g., instructors) wearing personal protective equipment as described herein to instruct personnel in safe roof ventilation/rescue techniques.

(7) When not in use, the cutting teeth on a chain saw shall be covered either by an old section of hose, a wooden scabbard, or an equivalent method.

(8) All axes worn by employees shall be provided with a scabbard to guard against injury from the blade and pick of the axe.

(9) The guards on smoke ejectors, as supplied by the manufacturer, shall not be removed and the operator of the ejector shall wear gloves.

(10) Acetylene cylinders. Handling, storage and utilization of acetylene in cylinders shall be in accordance with the Compressed Gas Association Pamphlet G-1 - ((1966)) 2003 edition.

(11) Powder activated life-line guns and accessories shall be stored in a box or container equipped with a lid or cover.

(a) The box shall be kept closed when not in use.

(b) A loaded life-line gun shall not be placed in the storage box.

(c) Instruction books, cleaning kits and hand tools needed for maintenance or breakdown purposes shall be kept in the life-line gun storage box.

(d) The words "powder activated tool" shall be conspicuously printed on the top of the storage box.

(12) Abrasive blades in storage, not on a saw, shall be protected from contact with water, liquids, petroleum products and their fumes.

(13) Fiber rope that has been subjected to injurious chemicals or excessive heat shall not be used for load carrying purposes.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06003 Testing fire service equipment.

(1) ~~((When testing fire hose, a restricted orifice disc having not more than a 25% opening, shall be installed on the pumper discharge port. Or in the alternative, the pumper discharge valve may be opened not more than 25% to insure a minimum volume of water in case of a bursting hose.))~~ All fire suppression and supply hose must be tested annually as well as when there is reason to believe the hose has been damaged. Testing shall be in accordance with the 2003 edition of NFPA 1962, Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose.

(2) Safety nets shall be tested annually by dropping a weight of not less than 400 pounds from the highest point to be used above the net. The test weight object may consist of two tightly tied rolls of two and one-half inch hose, each 100 feet long, or any other object having similar weight and dimension.

(a) The net suspension system shall be designed and constructed with a safety factor of four and as a minimum, shall withstand the test loading without permitting contact between the net and any surface or object below the net.

(b) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(c) Training requiring safety net protection shall not be undertaken until the net is in place and has been tested by the weight of three firefighters on the net.

(d) Safety nets shall extend eight feet beyond the edge of the work surface.

(e) The mesh size of nets shall not exceed six inches by six inches.

(f) All nets shall meet accepted performance standards of 17,500 foot pounds minimum impact resistance as determined and certified by the manufacturer, and shall bear a label of proof test.

(g) Edge ropes shall provide a minimum breaking strength of 5,000 pounds.

~~(3) (Life belts shall meet or exceed the strength requirements of ANSI A10.14 - Requirements for Safety Belts, Harnesses, Lanyards, Lifelines and Drop Lines for Industrial Use. Life belts shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.~~

~~(4) Rescue ropes shall be used for rescue purposes only.~~

~~(5) Rescue ropes shall meet the following requirements:~~

~~(a) Rescue ropes shall be constructed of rot proof fiber with a melting point of not less than 400 degrees F;~~

~~(b) They shall be of abrasion resistant construction;~~

~~(c) They shall have a minimum breaking strength of not less than 9,000 pounds.~~

~~(6) Rescue ropes shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.~~

~~(7))~~ The method of testing a life line gun shall be in accordance with the manufacturer's recommended procedure.

NEW SECTION

WAC 296-305-06006 Ground ladders. This section establishes the minimum requirements for the construction, care and use of fire department ground ladders.

(1) New ground ladders purchased after the effective date of this chapter shall be constructed and certified in accordance with the 2004 edition of NFPA 1931, Standard on Design and Design Verification Tests for Fire Department Ground Ladders.

(2) Firefighters shall climb and descend ground ladders with the fly in, for safety purposes, when not in conflict with the manufacturer's recommendations. Even when ladders are routinely used in the fly-out configuration, in adverse conditions firefighters shall be permitted to climb and descend ground ladders with the fly in to assure secure footing.

(3) All ground ladders shall be maintained in accordance with the manufacturer's recommendations and visually inspected at least once a month and after every use. The following ladder components shall be visually inspected:

(a) Heat sensor labels, if provided, for a change indicating heat exposure.

(b) All rungs for snugness and tightness.

(c) All bolts and rivets for tightness.

(d) Welds for any cracks or apparent defects.

(e) Butt spurs for excessive wear or other defects.

(f) Halyards for fraying or breaking.

(g) Roof hooks for sharpness and proper operation.

(h) Beam and rungs for punctures, wavy conditions, worn serrations or deformation.

(i) Surface corrosion.

(4) The following wood ladder components shall be checked:

(a) Beams for dark streaks. When a wood ground ladder develops dark streaks in the beams, the ladder shall be removed from service and service tested as specified in subsection (9) of this section.

(b) Loss of gloss on the protective finish of fiberglass or wood ladders, signifying damage or wear.

(5) Any sign of damage or defect during a visual inspection shall be cause to remove the ladder from service until it has been repaired. Scratches and dents shall not be cause for a ladder to fail a test if it passes the appropriate service test.

(6) If the heat sensor label has an expiration date, and that date has passed, the heat sensor label shall be replaced.

(7) Whenever any ground ladder has been exposed, or is suspected of having been exposed to direct flame contact, or wherever the heat sensor label has changed to indicate heat exposure, the ladder shall be service tested according to subsection (9) of this section.

(8) Temporary repairs shall not be made to ground ladders.

(9) When ground ladders are tested, they shall be tested in accordance with the strength service testing procedures of the 2004 edition of NFPA 1932, Standard on Use, Maintenance and Service Testing of In-Service Ground Ladders, section 7.2.

NEW SECTION

WAC 296-305-06008 Electrical. (1) Temporary power and lighting with the use of 110 - 120 VAC and 220 - 240 VAC equipment.

(a) All lighting equipment shall be provided with heavy duty flexible cords with SO or SJ jackets or equivalent. All lighting equipment shall be used with heavy duty flexible extension cords rated for the intended load with SO or SJ jackets or equivalent.

(b) Flexible cords and cables shall be approved and suitable for conditions of use and location.

(c) Flexible cords shall be used only in continuous lengths without splice or tap. Hard service flexible cords No. 12 or larger may be repaired if spliced so that the splice retains the insulation, outer sheath properties, and usage characteristics of the cord being spliced.

(d) Flexible cords shall be connected to devices and fittings so that strain relief is provided which will prevent pull from being directly transmitted to joints or terminal screws.

(e) Flexible cords and cables shall be protected from accidental damage. Sharp corners and projections shall be avoided. Where passing through doorways or other pinch points, flexible cords and cables shall be provided with protection to avoid damage.

(f) The path to ground from power cords, equipment, and temporary lights shall be continuous.

(g) Electrical equipment, tools, and temporary lights that are used in wet or damp locations or other hazardous atmospheres shall be approved for the purpose.

(h) Electrical equipment, tools, and temporary lights shall be constructed so that water cannot enter or accumulate in wireways, lampholders or other electrical parts.

(i) Electrical equipment, tools, and temporary lights that are used in wet or damp locations or hazardous atmospheres shall have 120 VAC single-phase 15 or 20 amp in-line resettable ground fault circuit interrupters.

(j) Temporary lights shall be equipped with a handle and be insulated from heat and possible electrical shock.

(k) Temporary lights shall not be suspended by their electrical cords unless cords and lights are designed and labeled for this means of suspension.

(l) Temporary lights shall be protected by guards of a nonconductive or insulated material to prevent accidental contact with the bulb.

(2) 120 VAC cord reels shall be approved for use in wet or damp locations or hazardous atmospheres.

(a) Bodies and caps shall be weather tight, 15 amp rated at 120 VAC.

(b) Cords on cord reels that do not exceed one hundred fifty feet in length shall be SO or SJ type jackets or equivalent.

(c) Cords that exceed one hundred fifty feet in length on reels, shall have 10-gauge conductors.

(d) Cord reels that are not permanently mounted on a vehicle shall be insulated from the ground when in use.

(3) 12 volt portable type hand lanterns shall be constructed of molded composition or other type approved for the purpose.

(a) Portable hand lanterns used in wet or damp conditions or other hazardous atmospheres shall be operated at a maximum of 12 volts.

(b) Hand lamps shall be equipped with a handle and a substantial guard over the bulb and attached to the lamp-holder.

(4) Portable and vehicle-mounted generators.

(a) Portable generators. Under the following conditions, the frame of a portable generator shall not be required to be grounded and shall be permitted to serve as the grounding electrode for a system supplied by the generator:

(i) The generator supplies only equipment mounted on the generator or cord-connected and plug-connected equipment through receptacles mounted on the generator, or both; and

(ii) The noncurrent-carrying metal part of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(b) Vehicle-mounted generators. Under the following conditions, the frame of a vehicle may serve as the grounding electrode for a system supplied by a generator located on the vehicle:

(i) The frame of the generator is bonded to the vehicle frame;

(ii) The generator supplies only equipment located on the vehicle and/or cord-connected and plug-connected equipment through receptacles mounted on the vehicle or on the generator; and

(iii) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(5) Electrical equipment used in classified locations must conform to the requirements set out in WAC 296-24-95613, Hazardous (classified) locations. Definitions pertaining to classified locations can be found in WAC 296-24-95601.

Additional references: Article 250 National Electrical Code. Chapter 296-24 WAC, Part L and WAC 296-800-280.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06501 Requirements for fire ((station)) department facilities. WAC 296-305-06501 through 296-305-06519 pertain to all fire department facilities as defined in WAC 296-305-01005.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-06503 General requirements. (1) Stations and administrative offices shall comply with the requirements of the general occupational health standards, WAC 296-800-210, Lighting in the workplace.

(2) Every new fire station (~~built after the effective date of this chapter~~), whether manned or unmanned, shall be equipped with an approved emergency lighting system that will light dormitories, hallways, and apparatus bay areas in case of electrical power failure.

(3) ~~((No))~~ New fire stations or new additions to an existing fire station (~~(-shalt)~~) that incorporate sliding poles or slides in their design or construction must meet the following requirements:

(a) The sliding pole floor opening will be enclosed by walls with access provided to the floor opening only through a door.

(b) The door will have a latch or knobs no lower than five feet from the floor.

(c) The door will be equipped with a system that will automatically keep the door locked unless an alarm requiring a response sounds in the fire station. This automatic lock system will allow for a manual override, which will be used only to enable inspection, maintenance, repair or replacement of the sliding pole, the enclosure, the door, or other features of the sliding pole system. The automatic lock system will feature a warning light above or adjacent to the door that will indicate when the door is unlocked.

(d) Permanent illumination which cannot be manually turned off will be provided in the pole hole.

(e) The automatic lock system will be subject to monthly inspections.

(f) The sliding pole floor opening will be illuminated constantly in a manner that cannot be overridden manually, except as needed for inspection, repair, maintenance, or replacement.

(g) The bottom of the sliding pole will be cushioned by a minimum three-foot diameter rubber mat or its equivalent.

(h) Nothing will be stored or placed at the bottom of the sliding pole for a radius of three feet from the pole.

(i) Doors will not protrude within three feet of the pole.

(j) Proper sliding pole use will be included as part of the formal firefighter training program.

(4) The requirements of chapter ~~((296-24))~~ 296-878 WAC, ~~((Part B-2,))~~ window ~~((washing))~~ cleaning, shall be followed when employees are engaged in window washing operations.

(5) All new fire stations and other new fire department facilities which contain sleeping quarters shall be fully protected with automatic sprinkler systems.

(6) All existing fire stations and existing fire department facilities with sleeping quarters, that undergo a major renovation that consists of more than sixty percent of the assessed evaluation of the existing structure shall be fully protected with automatic sprinkler systems.

(7) Eye protection shall be worn when charging, changing or adding fluid to storage batteries. Personnel that will be charging storage batteries shall be qualified to perform this function by the employer. See WAC ~~((296-24-23015))~~ 296-800-16050.

(8) Stairway tread shall be of a nonskid design. Examples of nonskid: Grip strut grating, serrated edge grating, metal grating, aluminum safety tread, abrasive metal stair tread, or pressure sensitive nonskid type.

(9) In existing facilities where sliding poles or slides are used, the pole or slide hole shall be guarded in such a manner as to prevent anyone from walking directly into the pole or slide hole opening.

(10) To absorb the shock to sliding employees, the bottom of all slide poles or slides shall have a three-foot diameter cushioned rubber mat, or its equivalent.

(11) Nothing shall be stored or placed at the bottom of a pole or slide hole for a radius of three feet from the pole. Doors shall not protrude within three feet of the pole or slide.

(12) Stair and landing protection: Stairways, guardrails, landings, and handrails shall be constructed to the requirements of chapter 19.27 RCW the State Building Code Act, and ~~((chapter 296-24 WAC, Part J-1))~~ WAC 296-800-250.

(13) A standard guard railing for a landing platform shall include a toeboard, which is a vertical barrier, at floor level erected along exposed edges of a floor opening, wall opening, platform, runway or ramp to prevent falls of material.

(14) Any new facility, or addition, alteration, or repair to an existing facility shall be in compliance with chapter 19.27 RCW, the State Building Code Act.

(15) New stations containing a kitchen, and station kitchens remodeled after the date of this chapter, shall have an alarm activated service disconnect of fixed cooking appliances.

(16) Asbestos in facilities, buildings, and properties used by fire departments.

(a) Fire department employees shall be informed of the presence and location of asbestos-containing material (ACM) and presumed-asbestos-containing material (PACM) in areas of buildings where employees work.

(b) Damaged and deteriorating asbestos in fire stations and facilities must be repaired, removed, enclosed or encapsulated.

(c) ACM and PACM in fire stations and facilities shall be labeled according to WAC 296-62-07721(6).

(d) WAC 296-62-07723, Housekeeping, shall apply to fire stations and facilities.

(e) Fire departments that do not comply with this section must comply with the requirements relating to asbestos set out in chapters 296-62 and 296-65 WAC.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06505 Sanitation, disinfection, cleaning, and storage areas. (1) Fire departments shall provide facilities for disinfecting, cleaning, and storage.

(2) A designated cleaning area shall be provided for under the fire department's exposure control plan for the cleaning and disinfecting of protective equipment, portable equipment, and other clothing.

(a) Fire departments that engage in emergency medical operations shall provide or have access to disinfecting facilities for the cleaning and disinfecting of emergency medical equipment.

(b) Disinfecting shall not be conducted in fire station kitchen, living, sleeping, or personal hygiene areas.

(c) Disinfecting facilities in fire stations shall be vented to the outside environment, and designed to prevent contamination of other fire station areas.

(d) The disinfecting facility shall contain a sink with hot and cold water faucets. All surfaces shall be nonporous surfaces.

(e) Handwashing facilities shall be readily accessible to members. Handwashing facility means a facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines. When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleaner in conjunction with clean cloth/paper towelettes or antiseptic towelettes.

(3) Protective clothing or equipment that ~~((needs to be decontaminated and/or disinfected))~~ is contaminated or potentially contaminated shall not be allowed in any kitchen, living, sleeping, ~~((or))~~ personal hygiene or other nonwork area.

(4) The designated cleaning area shall be physically separate from areas used for food preparation, cleaning of food and cooking utensils, personal hygiene, sleeping, and living areas.

(5) Drying areas for protective clothing shall be well ventilated.

(6) Storage areas: Emergency medical supplies and equipment stored in fire stations, other than that stored on vehicles, shall be stored in a dedicated enclosure and maintained per manufacturer's instructions.

(7) Reusable emergency medical supplies and equipment, protective clothing, and protective equipment shall not be stored in kitchen, living, sleeping, or personal hygiene areas, nor shall it be stored in personal clothing lockers.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06507 Sleeping areas. (1) All sleeping areas in fire stations shall be separated from vehicle storage areas by at least one-hour fire resistive assemblies. ~~((Compli-~~

ance with this section shall be required within three years of the effective date of this chapter.)

(2) Sleeping areas shall be protected by smoke and carbon monoxide detectors.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-06511 Indoor air quality. Air quality shall be consistent with ((WAC 296-62-075 through 296-62-07515, Air)) chapter 296-841 WAC, Airborne contaminants, and WAC 296-800-240, Environmental tobacco smoke.

((Note: For extended work shifts all eight hour PEL's shall be time-weighted to adjust for additional worker exposure during extended work shifts.))

(1) If indoor air monitoring indicates over-exposure to contaminant PEL's, engineering controls shall be utilized to reduce firefighter exposure to the lowest feasible level.

(2) All fixed internal combustion equipment such as, but not limited to emergency generators, shall be effectively exhausted to the exterior of the fire stations.

(3) All facilities dedicated to the maintenance and repair of internal combustion equipment shall have means for effective ventilation to the exterior of the building.

(4) All new fire stations ((built after January 1, 1997,)) shall be designed and constructed to conform to ACGIH ventilation recommended criteria for exhaust of internal combustion engines.

Additional reference: Industrial Ventilation Manual of Recommended Practices ISBN No.: 0-936712-65-1.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06513 Refueling areas. (1) Refueling pumps, if installed, shall be in accordance with the provisions of the ((Uniform)) International Fire Code and WAC 296-24-33015.

(2) Dispensing of Class 1 liquids shall be as required in the ((Uniform)) International Fire Code.

(3) Spillage of oil or fuel shall be properly disposed of or completely evaporated and the fuel tank cap replaced before restarting engine.

(4) Fueling areas shall be posted - "NO SMOKING - STOP YOUR MOTOR."

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-06515 Hose drying towers. (1) The floor openings on hose tower platforms shall be equipped with a forty-two inch guardrail with mid-rail and shall be capable of withstanding a force of 250 pounds applied in any direction at any point on the top rail. The work platform shall be equipped with toeboards.

(2) The requirements for offset ladder platforms and ladder cage guards, when ladders extend beyond twenty feet, shall apply to hose drying towers.

(3) Ropes and attachments used to hoist hose in the hose towers shall have a breaking strength of 1500 pounds for a safe load strength of 300 pounds (five-to-one safety factor).

(4) Approved head protection shall be worn by all persons in the hose tower whenever hose handling/hanging operations are taking place.

(5) Ropes utilizing a pulley block shall be appropriately sized for the sheave to prevent possible jamming or damage to the rope.

((Additional reference: Chapter 296-24 WAC, Part J-1 and chapter 296-800 WAC.))

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06517 Drill tower training facilities.

(1) Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder cage guards.

(2) Drill tower construction and operations shall comply with the following:

(a) Burn buildings used for live fire training shall be engineered for such use.

(b) Drill towers shall not be used for live fire training except when burn rooms are provided.

(c) Burn rooms, if included in the building, shall be engineered into drill towers.

(d) All walking surfaces in the drill tower shall be slip resistant.

(e) Railings shall be designed with a four-to-one safety ratio for 250 pound firefighters who may be operating a charged hose line on the fire escape.

(f) Rappelling anchors shall be engineered to support ((4500)) 5000 pounds per person supported by the anchor.

(g) Rappelling anchors shall be readily identifiable.

(h) Rappelling anchors shall be certified by a structural engineer.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-305-06519 Fire station equipment and tools. (1) Equipment and tools in maintenance shops shall be guarded as required by the guarding provisions of chapter 296-806 WAC, Machine safety, and chapter 296-807 WAC, Portable power tools.

(2) Exposure of fan blades. When the periphery of the blades of a fan is less than ten feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch. This provision shall not apply to residential ceiling fans.

(3) Abrasive wheels and grinders.

(a) All abrasive wheels and grinders, shall be guarded as required by chapter 296-806 WAC, Machine safety.

(b) Goggles or face shields shall be used when grinding.

(c) Abrasive and composite blades shall be stored and protected against exposure to fuel and oil.

(d) Work rests on bench mounted abrasive wheel grinders shall be used to support the work. These shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted sufficiently

close to the wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest. Adjustment of the work rest shall not be made while the wheel is turning.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-07001 Wildland fire operations. ~~((+) This section shall apply to all personnel and agencies called on to provide services at any fire defined as a "wildland fire."~~

~~(2) This section shall not apply to suppression action taken on fires prior to the fire meeting the definition of a "wildland fire."~~

~~(3) Employers shall provide at no cost to the employee, the protective equipment and protective clothing required by this chapter. Personnel performing suppression actions on a wildland fire shall wear the provided protective clothing as directed by their fire department's procedures/guidelines.))~~
Definitions:

Urban wildfire: An uncontained fire requiring suppression action usually spreading through ground cover, vegetative fuels, brush, grass, and landscaping; often threatening residential and commercial structures within an urban environment with access to established roadways and water systems.

Wildland firefighting: The activities of fire suppression and property conservation in woodlands, forests, grasslands, brush, and other such vegetation or any combination of vegetation that is involved in a fire situation but is not within buildings or structures.

(1) WAC 296-305-07010 through 296-305-07018 shall only apply to personnel and agencies called on to provide services at any fire defined as a "wildland fire."

(2) Employers shall provide, at no cost to the employee, the protective equipment and protective clothing required by this chapter. Personnel performing suppression actions on a wildland fire shall wear and maintain the provided protective equipment and clothing as directed by their department's procedures and guidelines.

NEW SECTION

WAC 296-305-07002 Wildland fire personnel accountability. (1) Urban wildfire and wildland firefighters shall not be required to wear personal alerting devices except when wearing self-contained respiratory equipment.

(2) An officer shall maintain positive communication with any individual during those times that the member is assigned an ancillary firefighting task (examples would include, but are not limited to, scout, incident safety officer, or lookout).

(3) Urban wildfire and wildland firefighters engaged in direct fire attack shall work in teams of two or more unless they are in visual or voice contact with an officer.

(4) On initial attack fires, the incident commander shall maintain the name and location of all personnel on the incident.

(5) On extended attack fires, the incident commander shall:

(a) Ensure the maintenance of the name and location of all personnel within their unit, division, or branch.

(b) Transfer/confirm personnel and unit information to the appropriate incident command system (ICS) staff as soon as possible.

(c) Announce transfer of command to all on scene.

(d) Ensure that personnel and unit information is recorded in the command post as soon as possible.

(6) When a fire "blows up" or makes a run that crosses planned control lines, officers with affected crews shall conduct an accounting of all personnel assigned to fire suppression and report any missing personnel to the incident commander.

NEW SECTION

WAC 296-305-07004 Heat-related illness prevention for wildland firefighters. (1) At all wildland fires, members shall be provided with a minimum of one quart per hour of electrolyte drinks or potable water.

(2) Officers at wildland fires shall be trained in the symptoms of heat-related disorders and shall observe their crews for such behavior. Appropriate action shall be taken in the event a crew member displays such symptoms.

(3) At all wildland fires, the incident commander shall consider the circumstances of the incident and make adequate provisions early in the incident for the rest, rehabilitation and hydration of all members operating at the scene. These provisions shall include fluid replenishment; other factors to consider are the extremes of the climatic conditions and other environmental factors that increase the firefighter's heat stress.

(4) One hour is the maximum time that individuals can work in high temperatures in structural protective clothing. Agencies may substitute crews to avoid the one-hour bench mark or increase crew size to complete the job in less than one hour.

(5) Members may be reassigned to return to duty throughout the incident cycle once a work-to-rest ratio (company and crew) rehabilitation rotation has been established.

Note: WAC 296-305-05004, Occupational exposure to heat and cold stress, may be of assistance while developing a plan, establishing training topics, and identifying environmental factors to consider for incident rehabilitation. The 2008 edition of NFPA 1584, Standard on the Rehabilitation Process for Members During Emergency Operations and Training Exercises may also assist in establishing a rehabilitation plan.

NEW SECTION

WAC 296-305-07006 Equipment for wildland firefighting.

Note: Equipment is considered in this section as those items not configured as a part or portion of the vehicle body.

(1) All equipment on an apparatus shall be carried in an enclosed compartment or otherwise securely mounted on the apparatus and guarded, so that individuals cannot accidentally come in contact with equipment that may injure them.

(2) All hand tools, when not in use, shall have appropriate covers and guards to prevent injury.

(3) Firefighters whose duties require them to operate a power chain saw shall wear flexible ballistic nylon pads, sewn or otherwise fastened into the trousers, or other equivalent protection that shall cover the full length of the thigh to the top of the boot. Additional trouser, eye, hearing, face and head protection as required by this chapter shall be worn.

(4) Employees shall not use the chainsaw to cut directly overhead, or at a distance that would require the operator to relinquish a safe grip on the saw.

(5) Only personnel trained in firing equipment shall handle and use such equipment, and observe the manufacturers' recommendations.

NEW SECTION

WAC 296-305-07008 Aircraft operations for fighting wildland fires. (1) Whenever fixed wing and rotary aircraft are being utilized on an incident, personnel trained in air operations management shall be assigned as necessary by the incident commander/operations section chief.

(2) Prior to the initiation of air operations, all personnel operating in close proximity to an air drop shall be notified of such activity.

(3) Personnel shall not intentionally operate in an area where it can reasonably be expected that they may be hit with retardants or suppressants from fixed wing or rotary aircraft.

(4) Radio communications shall be maintained between an aircraft/air attack group supervisor and the appropriate ground officer.

(5) Personnel assigned to ride in fixed wing or rotary aircraft shall be briefed in the correct approach, riding and off-loading procedures for the particular type of aircraft.

Note: The NWCG aircraft passenger briefing/checklist can be found in the "*Incident Response Pocket Guide*" at http://www.nwcg.gov/pms/pubs/IRPG_Jan2004.pdf

NEW SECTION

WAC 296-305-07010 Training for wildland firefighting. (1) This section shall apply to all personnel and agencies called on to provide services at any fire defined as a "wildland fire."

(2) This section shall not apply to structural suppression crews' actions taken on urban wildfires.

(3) Suppression personnel assigned to a wildland fire shall be trained to a NWCG firefighter level II or a comparable class of training.

(a) "Comparable" training shall be determined by the employer.

(b) Nothing in this section shall preclude the use of local residents, affected parties or contracted firefighting resources to suppress wildland fires if they are under the direct supervision of a qualified fire line officer.

(4) Supervisory personnel shall be trained to a level commensurate to the position and responsibility they are to assume.

(5) All personnel will be trained and capable of demonstrating competency in utilizing the Incident Command System (ICS).

(6) All suppression personnel shall annually review the ten fire orders, the eighteen "watch out" situations, and the four common denominators of tragedy fires.

Note: The National Interagency Fire Center's "Wildland Fire Safety Training Annual Refresher (WFSTAR)" is a good resource for training topics related to wildland firefighting. These resources can be found at <http://www.nifc.gov/wfstar/index.htm>

NEW SECTION

WAC 296-305-07012 Personal protective clothing and equipment for wildland firefighting. (1) Protective apparel and equipment for wildland firefighters shall be designed to provide thermal protection for the firefighters against external heat sources with flame resistant clothing and equipment without creating high heat stress loads due to the prolonged work periods they experience. Members performing suppression on a wildland fire shall wear a provided protective clothing ensemble as directed by their employer. The combined protective clothing ensemble includes:

- (a) Hardhat/helmet;
- (b) Upper and lower torso clothing;
- (c) Gloves; and
- (d) Goggles.

The 2005 edition of NFPA 1977, Standard Protective Clothing and Equipment for Wildland Firefighting, shall serve as a guideline for determining performance characteristics of this clothing.

Note: This requirement does not apply to logging company employees whose primary job duty is not fire suppression, but are called upon to fight a wildland fire they discover.

(2) As a minimum, members shall wear provided leather lace-up boots of sturdy construction which shall extend upward a minimum of eight inches above the top of the sole to the lowest point of the top of the boot. The sole of the boot shall be slip resistant.

(3) Additional personal protective equipment to be provided and worn shall include a fire shelter as directed by the incident commander. Persons provided fire shelters shall be trained in their use and shall receive refresher training at least annually.

(4) Wildland protective clothing shall comply with this standard.

(5) Personnel operating Type 1 or Type 2 engines assigned to structural protection shall carry structural firefighting ensembles for each firefighter on their assigned apparatus.

(6) Wildland personnel protective clothing shall not be used for interior structural firefighting.

(7) Personnel wearing full structural firefighting clothing while engaged in fighting wildland fires shall not expend more than one hour before rotating to rest and rehabilitation. Agencies may rotate crews to avoid the one-hour benchmark when containing and controlling wildland fires.

(8) Fire departments shall establish written procedures for the care, use, maintenance, and retirement criteria for wildland firefighting protective equipment in conjunction with the manufacturers' recommendations.

(9) Fire departments shall establish written procedures for the use of protective clothing and protective equipment while performing wildland firefighting activities.

(10) All wildland fire shelters purchased after the effective date of this rule must meet or exceed the United States Forest Services' Missoula Technology and Development Center (MTDC) design criteria and performance requirements for "new generation fire shelters."

NEW SECTION

WAC 296-305-07014 Apparatus standards for wildland firefighting. This section applies to wildland fire apparatus meeting the NIMS ICS typing of a Type 3 through Type 7 engine, and intended for use combating fires occurring in natural vegetation or occurring in natural vegetation and threatening improvements.

(1) In a wildland fire, an engine may provide the primary protection for a crew in the event of unexpected fire behavior or an action that places the engine crew in a position of being exposed to heat and smoke.

(2) Apparatus speed shall be determined to be safe if in the judgment of the officer in charge, the following are taken into consideration:

(a) The particular wildland fire attack methods being utilized including, but not limited to, the nature of the fire, the type of terrain, weather conditions, equipment conditions, and whether personnel are positioned in wildland firefighting enclosures;

(b) The forgoing provision shall not relieve a driver from the duty to drive with due regard for the safety of all persons in all conditions;

(c) Nor shall such provision protect the driver from the consequences of his/her reckless disregard for the safety of others.

(3) Because of the sheltering offered by an engine, the following minimum standards shall be complied with:

(a) The number of individuals working/assigned as an engine crew shall not exceed the manufacturer's cab capacity.

(b) Any time an engine is moved when not directly attacking a fire, personnel shall ride in the vehicle's enclosed cabin area, in a seat-belted location, or be off the vehicle.

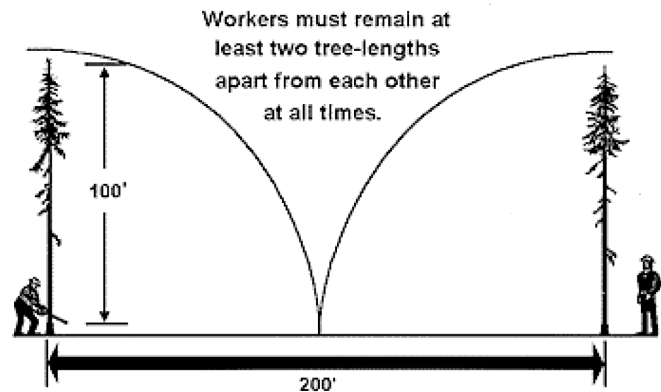
(c) Any time engines are used in a mobile attack configuration, and personnel other than the driver are on the apparatus, personnel shall ride in the manufacturer's enclosed cabin, or use the personnel restraints and enclosures identified in WAC 296-305-07018.

(d) All personnel working on or around engines in a ground mobile attack mode or in riding positions shall have visual or voice contact with the driver.

(e) Vehicles operating in smoke or dust shall have their headlights, and if so equipped, a flashing or rotating roof light illuminated.

NEW SECTION

WAC 296-305-07016 Falling and equipment in forest lands.



- (1) The employer must assign work areas so that:
- Trees cannot fall into an adjacent occupied work area;
 - The distance between work areas is at least two tree lengths of the trees being fell (see Figure 1: Distance Between Work Areas);
 - The distance between work areas reflects the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at the worksite; and
 - A distance of more than two tree lengths is maintained between work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

Exception: This rule does not apply to a team of cutters working on the same tree.

(2) Before falling or bucking, conditions such as, but not limited to, the wind, the lean of tree, dead limbs, and the location of other trees, must be evaluated by the cutter and precautions taken so a hazard is not created for an employee.

(3) Employees must not approach a cutter closer than two tree lengths of trees being felled until the cutter has acknowledged that it is safe to do so.

(4) A competent person, properly experienced in this type of work, must be placed in charge of falling and bucking operations. Inexperienced workers must not be allowed to fall timber, buck logs or windfalls unless working under the direct supervision of an experienced cutter.

(5) Before an employee falls or bucks any tree:

(a) A sufficient work area must be swamped.

(b) The cutter must plan and clear an escape path.

(i) The escape path must extend diagonally away from the expected felling line unless such an escape path poses a greater hazard than an alternate escape path.

(ii) An escape path must be used as soon as the tree or snag is committed to fall, roll, or slide.

(6) If a cutter has determined a tree cannot be safely fell, the work must stop until the cutter has conferred with a supervisor or an experienced cutter and determined the safest possible work method or procedure.

(7) The person in charge of cutting crews must regularly inspect the work of the cutting crews and is responsible to ensure the work is performed in a proper and safe manner.

(8) All cutters must carry or have in near proximity at all times:

- (a) An axe or suitable tool for driving wedges.
- (b) A minimum of two wedges.
- (c) A first-aid kit.

(9) Where felled trees are likely to roll and endanger workers, cutting must proceed from the bottom toward the top of the slope, and uphill from previously fell timber.

(10) A cutter must not be placed on a hillside immediately below another cutter or below other operations where there is probable danger.

(11) Cutters must be informed of the movement and location of other employees placed, passing, or approaching the vicinity of trees being fell.

(12) Trees must be fell into the open whenever conditions permit.

(13) Domino falling of trees, including danger trees, is prohibited. Domino falling does not include the falling of a single danger tree by falling another single tree into it.

(14) Undercuts large enough to safely guide trees and eliminate the possibility of splitting must be used on all trees over six inches diameter at breast height.

(15) A cutter must place an adequate undercut and leave enough holding wood to ensure the tree will fall in the intended direction.

(16) The two cuts that form the undercut must not cross where they meet.

(17) The undercut must not be made while other workers are in an area into which the tree could fall.

(18) A backcut must be made in each tree being fell.

- (a) The backcut must be as level as possible;
- (b) The backcut must leave enough hinge wood to hold the tree to the stump during most of its fall so that the hinge is able to guide the tree's fall in the intended direction; and
- (c) The backcut must be above the level of the horizontal facecut to provide an adequate platform to prevent kickback.

(19) Trees with facecuts and/or backcuts must not be left standing unless all the following conditions are met:

- (a) The cutter clearly marks the tree;
- (b) Discontinues work in the hazardous area;
- (c) Notifies all workers who might be endangered; and
- (d) Takes appropriate measures to ensure that the tree is safely fell before other work is undertaken in the hazardous area.

(20) Undercuts and backcuts must be made at a height above the highest ground level to enable the cutter to safely begin the cut, control the tree, and have freedom of movement for a quick escape from a falling tree.

(21) Lodged trees must be clearly marked and identified by a predetermined method and all persons in the area must be instructed not to pass or work within two tree lengths of the trees except to ground them.

(22) On slopes over fifty percent grade, tree(s) must at least be quartered to a degree that prevents employees from being exposed to the possibility of sliding or rolling trees or logs.

(23) Each danger tree must be carefully checked for signs of loose bark, broken branches and limbs, or other damage before they are fell or removed. Accessible loose bark and other damage that may create a hazard for an employee must be removed or held in place before falling or removing the tree. When a danger tree has elevated loose bark that cannot be removed, the buddy system must be used to watch for and give warning of falling bark or other hazards.

(24) Danger trees that are unsafe to cut must be blown down with explosives or fell by other safe methods.

(25) To avoid use of wedges, which might dislodge loose bark or other material, danger trees must be fell in the direction of lean unless other means (mechanical or dynamite) are used.

(26) All bosses and supervisors must survey their assigned work area for danger trees and mitigate them prior to crews commencing work in that area.

Definition.

Danger trees: Any tree of any height, dead or alive, that presents a hazard to workers because of rot, root, stem or limb damage, lean, or any other observable condition created by natural process or man-made activity.

(27) All fallers and faller bosses must be trained in the type of timber they will be falling prior to being assigned to a falling crew.

(28) All dozers, tractors, and similar machines in use where limbs or brush may injure the operator must be guarded as follows:

(a) Shear or deflector guards must be installed on each side of the vehicle at an angle leading forward and down from the top front edge of the canopy of the vehicle, which will tend to slide the brush or limbs up and over the top of the canopy.

(b) Open mesh material with openings of a size that will reject the entrance of an object larger than one and three-quarter inches in diameter, must be extended forward as far as possible from the rear corners of the cab sides to give the maximum protection against obstacles, branches, etc., entering the cab area.

(c) Deflectors must also be installed ahead of the operator to deflect whipping saplings and branches.

(d) Deflectors must be located so as not to impede entrance to or exit from the compartment area.

(e) The floor and lower portion of the cab must be completely enclosed with solid material, except at entrances, to prevent the operator from being injured by obstacles which otherwise could enter the cab compartment.

(29) All dozers used on terrain that has sufficient slope or of such material as to hinder the movement of the dozer must have an attached winch or drum line that is in good working order. When such a situation is encountered, the dozer assistant must be knowledgeable in the operation of the dozer, winch or drum line operations, the hazards associated with winching or drum line operations, and line anchor selection.

(30) Operators must operate and control their machines in a safe manner and avoid operations in areas where machine stability may not be maintained.

(31) Employee work areas must be spaced and employee duties organized so the actions of one employee do not create a hazard for any other employee.

NEW SECTION

WAC 296-305-07018 Occupant restraints and enclosures for wildland firefighting. (1) While in motion, the driver and passengers in the cab shall wear seat belts.

(2) Seat belts shall comply with the U.S. Department of Transportation, Part 49 C.F.R., Section 571, Standards 209 and 210.

(3) Passengers on wildland vehicles shall use a safety belt or a short lanyard securely connected to the apparatus.

(a) Safety belts or lanyards shall be secured to an anchorage or structural member capable of supporting a minimum dead weight of one thousand five hundred pounds per person or a 4:1 safety factor.

(b) Safety lanyard lengths shall not allow for the firefighter to reach the ground.

(4) Safety belts shall be constructed and maintained in compliance with ANSI A10.14-1975.

(5) Lanyards shall be a minimum of one-half inch nylon or equivalent with a nominal breaking strength of five thousand four hundred pounds.

(6) The structural components for wildland vehicle enclosures shall be constructed of metal tubing not less than one inch in diameter, capable of supporting a minimum of one thousand five hundred pounds per person, a 4:1 safety ratio or the equivalent. This applies to vehicle enclosures manufactured after the effective date of this chapter.

(7) The enclosure shall be constructed to a minimum top rail height of forty-two inches and shall include a midrail and either a toeboard at least four inches high or a bottom rail a maximum of six inches from the platform.

(8) Access door(s) and latching mechanisms to tail board enclosures shall be constructed and mounted to achieve structural integrity comparable to the remainder of the enclosure.

(9) A strap or butt-bar utilized for the fourth side of the enclosure shall be a minimum of a four-inch nylon strap capable of supporting one thousand five hundred pounds dead weight.

(10) While actively fighting a fire in the mobile attack mode, firefighters shall either remain in a three-sided enclosure and use a safety lanyard, or remain in a four-sided enclosure.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-08000 Appendices. These appendices are nonmandatory and are included ~~((\&))~~ for reference and information purposes only.

~~((Appendix A—Recommended cleaning procedures for protective turnout clothing and station uniforms.~~

~~(1) Protective clothing should be washed separately from other garments.~~

~~(2) Do not use chlorine bleach (sodium hypochlorite) as this will adversely affect the tear strength of your protective~~

~~clothing and lessen its life. Oxygenated bleaches such as Liquid Clorox II, and Vivid may be used.~~

~~(3) Protective clothing may be spot treated or pretreated for hard to remove stains with products such as liquid Spray and Wash, liquid Tide, liquid dishwashing detergent or liquid Shout.~~

Note: The use of brand names is intended only to indicate a type of cleaning agent. All products listed by name must be used in accordance with the manufacturer's recommendations. Use of a brand name does not constitute an endorsement nor does omission of a particular product brand imply that a product is inferior. Solvents should not be used as they lessen the life of the garment, reduce visibility on the trim, and degrade leather.

~~(4) When pretreating or spot treating a garment, apply the detergent onto the soiled area. Gently rub the fabric together until a light foam appears on the surface. Use a soft bristle brush (toothbrush type) and scrub the area for about one and one-half minutes. Reapply liquid detergent onto the soiled area and place the garment into the washing machine.~~

~~(5) When cleaning turnout clothing the garment should be turned inside out, the hooks and dees fastened, the liner removed, and the garment placed in a laundry bag. These instructions can be used for cleaning any wash loads in a large capacity (sixteen gallon) top loading or front loading machine. Load the machine with any one of the following combinations—do not overload:~~

~~(a) One protective coat and one pair of trousers.~~

~~(b) Two protective coats.~~

~~(c) Two protective pair of trousers.~~

Note: Heavily soiled garments should be treated as outlined in (4).

~~(6) While the washing machine is filling with hot water (temperature between 120 degrees F and 130 degrees F), add one-half cup (four ounces) of liquid oxygenated bleach and one cup (eight ounces) of liquid detergent.~~

~~(a) Fill washing machine to highest water level,~~

~~(b) Add garments to be washed,~~

~~(c) Set washing machine for normal cycle, cotton white, or similar setting.~~

~~(d) Machines should be programmed for a double rinse. If the machine will not automatically double rinse, a complete second cycle can be run without adding detergent or oxygenated bleach. Double rinse helps remove any residual dirt and ensures detergent removal.~~

~~(e) Remove garments from washing machine when done and dry by hanging in a shaded area that receives good cross ventilation, or hang on a line and use a fan to circulate air. A water extractor may be utilized.~~

~~(f) After the garments have been removed, run the laundry machine empty or with a dummy (rag) load with detergent at least once, but preferably several times to purge the machine of any residue.~~

~~(7) Inspect and examine the trim as to the effectiveness of the trim performance under daytime and nighttime conditions. It is important that a high visibility be maintained at all possible orientations to the light source.~~

~~(8) The above procedures can be used for any article of clothing issued that is not contaminated with bloodborne pathogens or any other infectious disease. For clothing~~

exposed to hazardous materials, consult the manufacturer or the appropriate decontamination document.

~~(9) Procedure for clothing (except wool clothing) that has been exposed to bloodborne pathogens or infectious diseases:~~

~~(a) Disposable gloves should be used when handling contaminated clothing.~~

~~(b) Each station should have an area designated for the cleaning of equipment. The area designated should not be near kitchen, living, sleeping, or personal hygiene areas.~~

~~(c) Contaminated clothing should be handled as little as possible with a minimum of agitation. Contaminated clothing should be cleaned as soon as possible. When the on-coming shift has to clean contaminated clothing for the off-going shift, all contaminated clothing should be stored in red biohazard bags, properly sealed to prevent the spread of potential contamination.~~

~~(d) To clean clothing that has been contaminated, a germicidal detergent should be used. Such germicidal should be EPA approved and effective as staphylocidal, pseudomonacidal, virucidal, and fungicidal detergent.~~

~~(e) The germicidal detergent is intended to be a complete disinfecting and cleaning agent when mixed according to the manufacturer's directions. Do not add any chemical or detergent to the germicidal solution. After the clothing has been disinfected the clothing should be washed as outlined under normal use.~~

~~(f) Wool uniforms should be spot cleaned, placed in the red biohazard bags and sent to an industrial laundry for cleaning.~~

~~(10) Helmets, gloves, hoods, and boots should be cleaned as follows:~~

~~(a) Pre-clean using a germicidal solution and scrub all contaminated areas with a soft bristled brush. Rinse with clean water. Dispose of the pre-cleaning solution by pouring it down the drain in the cleaning area.~~

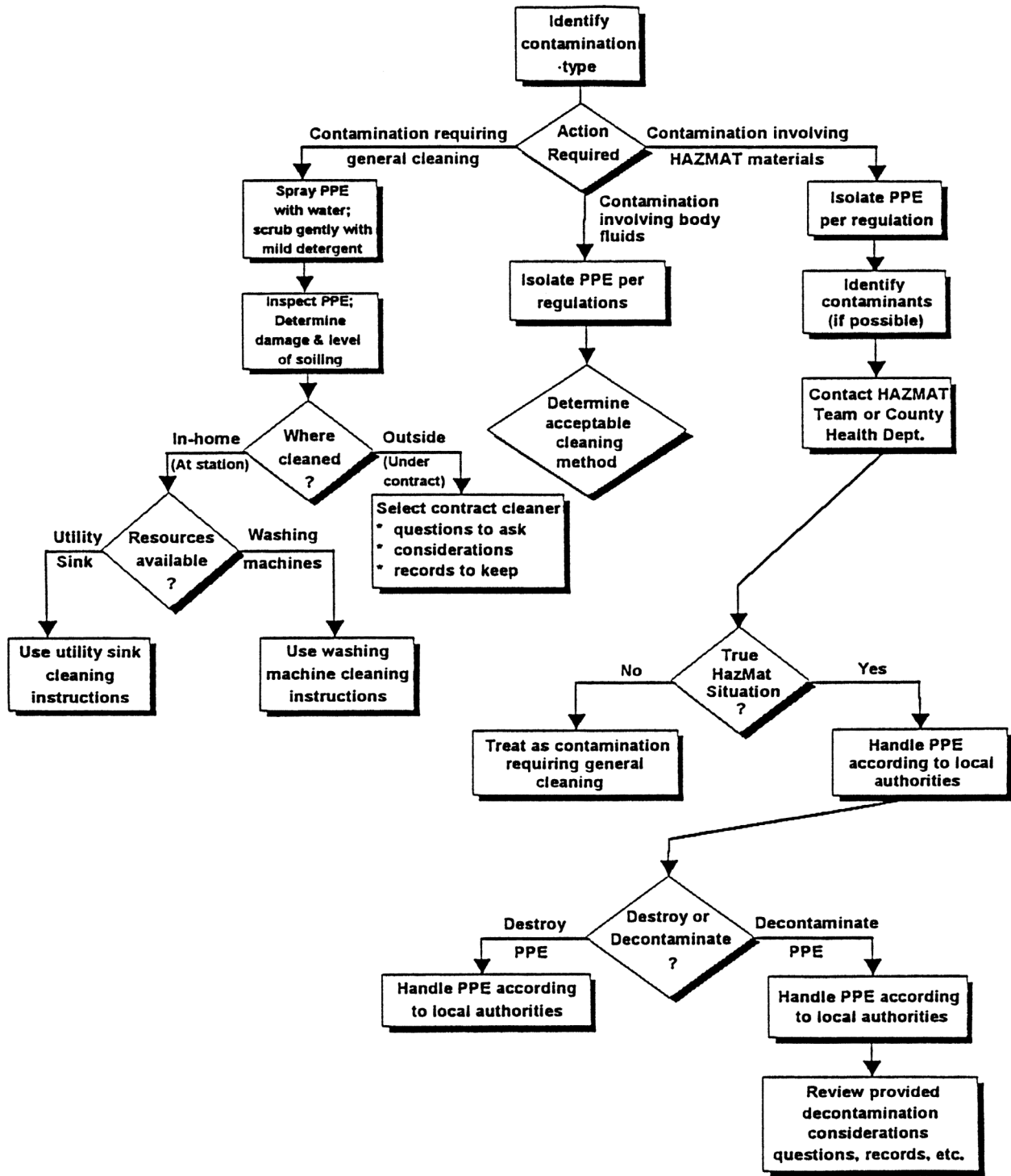
~~(b) Using a fresh germicidal solution, repeat the above procedure allowing the areas to remain wet for a minimum of fifteen minutes. Double rinse with clean water and air dry. Dispose of the solution by pouring it down the drain in the cleaning area.~~

~~(c) For gloves, use a third fresh water rinse, squeezing and rinsing several times. Dispose of the solution by pouring it down the drain in the cleaning area.~~

~~(11) Front loading industrial laundry machines are designed for the type of cleaning required for protective clothing. Machines are available from Milnor, Model 30015C6M AAC, for washing; or a Huebsch Originator, Model 3705H, for a dryer.~~

Note: The use of brand names is intended only to indicate a type of cleaning equipment. All products listed by name must be used in accordance with the manufacturer's recommendations. Use of a brand name does not constitute an endorsement nor does omission of a particular product brand imply that a product is inferior.)

((STRICKEN GRAPHIC



PPE Cleaning and Decontamination Decision-Making Process

STRICKEN GRAPHIC))

Appendix B — Life safety ropes. (1) Life safety rope may be significantly weakened by abrasion, misuse, contamination, wear, and stresses approaching its breaking strength, particularly impact loading. Since there are no approved methods to service test a rope without compromising its strength, rope rescue and training operations should be carefully observed and monitored for conditions that could cause immediate failure or result in undetectable damage to the rope.

(2) If a rope has been used in a situation that could not be supervised or where potential damage may have occurred, it must be removed from service and destroyed.

(3) It is important that ropes be inspected for signs of wear by qualified individuals after each use. If indication of wear or damage are noted, or if the rope has been stressed in excess of the manufacturer's recommendation or impact loaded, it must be destroyed.

(4) The destruction of the rope means that it must be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This alteration could include disposing of the rope, or removal of identifying labels and attachments, and cutting the rope into short lengths that could be used for utility purposes.

(5) The assignment of "disposable" life safety ropes to members or to vehicles has proved to be an effective system to manage ropes that are provided for emergency use and are used infrequently. Special rescue teams, which train frequently and use large quantities of rope, should include members who are qualified to manage and evaluate the condition of their ropes and determine the limitations upon their reuse.

Appendix C — Decontamination. (1) A decontamination area should be established whenever civilians or fire department personnel have had known or suspected exposure to toxic chemicals.

(2) Such decontamination areas should be established before any personnel are allowed to enter the "Hot" zone.

(3) The decontamination area should be set up using the following guidelines:

(a) The decontamination area should be located uphill, upwind and at a right angle to the "Hot" zone.

(b) The decontamination area entry/exit point and boundaries should be clearly marked using flagging tape, ropes, cones, etc.

~~((3))~~ ~~Visqueen~~ (4) 4 to 6 mil poly sheeting should be spread on the ground in the decontamination area to control runoff.

~~((4))~~ (5) The decontamination process is divided into stations. In most cases it will not be necessary to utilize all the stations. The decision to use all or part of the stations should be based on the following factors:

(a) The hazards associated with the product involved.

(b) The estimated levels of contamination.

(c) The type of protective equipment worn by contaminated responders.

(d) Recommendations from outside sources such as, but not limited to CHEMTREC, the agency for toxic substance and disease registry, poison control centers or the manufacturer of the product.

~~((5))~~ (6) The following is a list of all the stations in a nine-step decontamination area set up for a worst case sce-

nario involving a hazardous materials response team member whose chemical suit has been breached:

(a) Station #1 - Segregated equipment drop: Contaminated equipment that will be used again in the "Hot" zone, disposed of, or decontaminated at a later time or place, will be deposited here.

(b) Station #2 - Wash/rinse: Entry personnel will be washed with appropriate decontamination solution and rinsed with water by attendant(s) to remove gross contamination. This station may consist of multiple wash/rinse steps depending on the severity of the hazards involved.

(c) Station #3 - Outer protective clothing removal: Attendant(s) will remove the outer protective clothing from entry personnel being cautious to avoid touching the inside of the suit while removing it. Protective clothing that has been removed at this step shall be placed in an overpack or other appropriate container for later testing and further decontamination, if needed.

(d) Station #4 - Removal of SCBA: The entry personnel are assisted in removing their SCBA by an attendant. The SCBA facepiece should be left in place and the low pressure hose held away from any potentially contaminated inner clothing.

(e) Station #5 - Removal of inner clothing: All clothing worn inside the suit must be removed in cases where the suit has been penetrated and the entry personnel are contaminated.

(f) Station #6 - Personal shower: Entry personnel should wash and rinse entire body with mild soap and water. Contain runoff water if possible, however this is an emergency situation and containment is secondary to removing contaminants from personnel.

(g) Station #7 - Drying off: Entry personnel that have showered should dry off using towels or whatever is available. Items used should be placed in an appropriate container for disposal. Emergency clothing such as disposable coveralls should be provided.

(h) Station #8 - Medical evaluation: Entry personnel should be evaluated by paramedics - checking vital signs including temperature and level of consciousness. Records of the evaluation must be kept and given to the team safety officer to be included in the members exposure records.

(i) Station #9 - Transport to emergency room: Any personnel exhibiting any signs or symptoms of exposure should be transported to the emergency room for evaluation and observation.

~~((6))~~ (7) The hazardous materials response team van should carry premeasured packets of decontamination solution mixes for the purpose of decontaminating chemical protective clothing and other equipment at the scene of a hazardous materials emergency. These solutions are not to be used to decontaminate turnouts or exposed skin under any circumstances.

~~((7))~~ (8) The primary solution used will be a simple detergent and water mixture. Other special decontamination solution mixes will only be used in those situations when it is determined that the detergent and water solution is inappropriate.

~~((8))~~ (9) Contaminated civilians that are exhibiting signs or symptoms of exposure should be treated as patients.

Due to the risk of secondary contamination, all patients should undergo emergency field decontamination at the scene before being evaluated by medical personnel or being transported to the emergency room. Medical personnel should not accept any patient that has not been grossly decontaminated.

~~((9))~~ (10) The emergency field decontamination process should consist of removing the clothing from all affected body parts of the exposed person and flushing with copious quantities of water from a garden hose or low pressure one and three-quarter inch handline to remove gross contamination. Patients will be flushed for up to fifteen minutes, depending on the material recommendations on patient decontamination.

~~((10))~~ (11) Members performing patient decontamination should wear, at a minimum, full turnouts and SCBA and should avoid splashes and overspray to the extent possible. They should also undergo decontamination when they have finished decontaminating the patient.

~~((11))~~ (12) Containment of the runoff water from patient decontamination is not required. Do not delay decontamination of patients to set up containment. However, some form of privacy screen should be erected to protect the modesty of those being decontaminated.

~~((12))~~ (13) Responders that are contaminated in the process of performing rescue or other tasks will, at the minimum, be flushed with water for a minimum of one minute. Further flushing will be performed depending on the extent of contamination and subsequent adverse health effects.

~~((Appendix D — Wildland Firefighting Equipment Typings:~~

	PUMP RATE GPM-MINIMUM	TANK CAPACITY-IN GALLONS
PUMPER/BRUSH ENGINE:		
ICS Type 7	20	125
ICS Type 6	50	200
ICS Type 5	50	500
ICS Type 4	70	750
ICS Type 3	120	300
PUMPER/CLASS A RATED:		
ICS Type 2	500	400
ICS Type 1	1000	400

- Ten standard fire orders
- Fight fire aggressively but provide for safety first.
- Initiate all action based on current and expected fire behavior.
- Recognize current weather conditions and obtain forecasts.
- Ensure instructions are given and understood.
- Obtain current information on fire status.
- Remain in communication with crew members, your supervisor, and adjoining forces.
- Determine safety zones and escape routes.
- Establish lookouts in potentially hazardous situations.
- Retain control at all times.
- Stay alert, keep calm, think clearly, act decisively.

Four common denominators of tragedy fires

1. Small fires or relatively quiet sectors of large fires.
2. Light fuels.
3. Steep slopes.
4. Change in wind speed and/or direction.

"Watch-Out" Situations

1. Fire not scouted and sized up.
2. In country not seen in daylight.
3. Safety zones and escape routes not identified.
4. Unfamiliar with weather and local factors influencing fire behavior.
5. Uninformed on strategy, tactics and hazards.
6. Instructions and assignments not clear.
7. No communication link with crew members or supervisor.
8. Constructing line without safe anchor point.
9. Building fire line downhill with fire below.
10. Attempting frontal assault on fire.
11. Unburned fuel between you and fire.
12. Cannot see main fire, not in contact with someone who can.
13. On a hillside where rolling material can ignite fuel below.
14. Weather becoming hotter and drier.
15. Wind increases and/or changes direction.
16. Getting frequent spot fires across line.
17. Terrain and fuels make escape to safety zones difficult.
18. Taking nap near fire line.

National Wildlife Coordinating Group Firefighter II Performance Tasks

1. Agency policy for wildfires.
2. Extended attack fire orientation and dispatch.
3. Inmate orientation.
4. Fire line organization.
5. Tools and equipment.
6. Firing devices.
7. Wildland water delivery systems and pump use.
8. Introduction to wildland fire behavior.
9. Fire line safety.
10. Size up and initial attack.
11. Fire line construction.
12. Wildland fire investigation.
13. Structure protection.
14. Use of foam.
15. Mop up.
16. Compass use.
17. Map use.
18. Radio communications.
19. Incident command system.
20. Basic first aid.
21. Hazardous materials awareness.))

Appendix D

Guidelines for Managing Two-in/Two-out

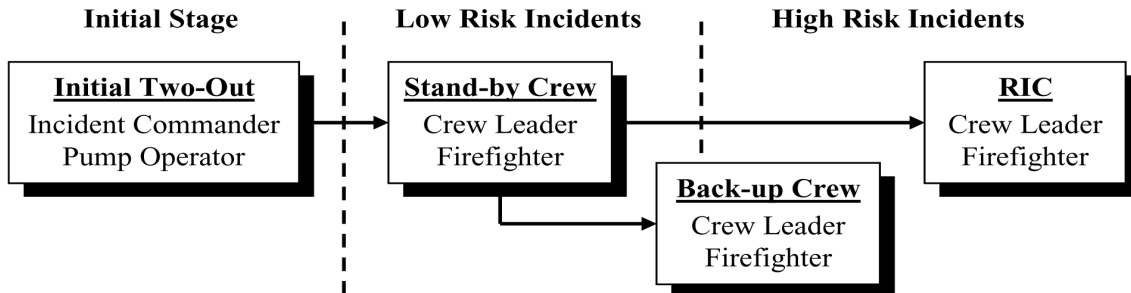
Rapid Intervention (Two-in/Two-out)

Incident Commanders must maintain rapid intervention capability (Two-out) so that, should the need arise, a rescue crew is readily available to provide for the rescue of any responders operating within a hazard area (Two-in). A hazard area is defined as any area that requires the use of PPE or in which a responder is at risk of becoming lost, trapped, or injured by the environment or structure. This includes entering a structure reported to be on fire, operating in close proximity to the structure during exterior operations, confined space operations, rope rescue, haz-mat, etc.

Rapid Intervention is the **systematic management** of response to a “Mayday” situation where the need for an immediate rescue of emergency responders has become necessary.

Responsibility – Incident Commanders are ultimately responsible for the incident outcome and the safety of all responders operating at the scene. Therefore, Incident Commanders must maintain a constant balance between the urgent need to perform critical tasks and the personal safety of the responders performing those tasks. To support this, and before responders can be assigned to operate within a hazard area, Incident Commanders must establish a two-out resource capable of providing rapid intervention. Incident Commander must maintain this capability throughout the incident until the risk to responders has been sufficiently mitigated.

Providing Two-Out Capability – The methods for providing Two-out should match the incident’s degree of potential risk and can evolve as resources become available. The following flowchart provides a decision-making guideline, illustrating a model sequence for determining how, and to what extent. Two-out capability should be provided so that it corresponds with the incident stage, size, complexity, and level of risk to responders.



For high risk incidents, a RIC should be assigned, given time to prepare, while the Stand-by Crew provides two-out. Once ready, the RIC replaces the Stand-by Crew who can move up to Back-up.

Two-Out Staffing Options

Initiating Two-out – During the “Initial Stage” of an incident, the two-out provision may be provided as a secondary responsibility by the Pump Operator and the Incident Commander.

The “Initial Stage” of an incident is defined as the stage that encompasses the tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

Once a second crew is assigned to operate within the hazard area, the incident is no longer in the “Initial Stage”. With multiple crews operating in a hazard area, the Incident Commander and Pump Operator’s ability to realistically function as an effective two-out rescue crew drastically diminishes. At this point, the Incident Commander shall assign a dedicated crew of two-out, which may be in the form of a Stand-by Crew or a RIC.

The IC and Pump Operator can only initiate Two-out during the Initial Stage

Stand-by Crew - A Stand-by Crew is assigned when the Incident Commander opts not to assign a RIC Crew. This would be done as a short term assignment for incidents that can be quickly and safely mitigated because they are contained, limited to contents, and are of minimal risk to responders. Examples include a smoldering mattress, an appliance fire, or a stovetop fire.

Standby Crews are assigned as a short term two-out provision for low risk incidents

A Stand-by Crew can also be assigned as an interim step while waiting for a RIC to arrive and/or assemble. A Stand-by Crew consists of at least two firefighters held outside the hazard area, available for immediate assistance or rescue of an entry crew. Once relieved by a RIC, the Stand-by Crew may be assigned to become a Back-up Crew.

Rapid Intervention Crew (RIC) – Functionally synonymous to a Stand-by Crew, a RIC is assigned for high risk incidents involving sustained operations to replace the Stand-by Crew. A RIC consists of at least two firefighters held outside the hazard area available for immediate assistance or rescue of an entry crew operating within the hazard. It must be recognized that a RIC alone may not be adequate when it comes to actually conducting a rescue of a trapped firefighter. Therefore, it must be understood that the primary role of a RIC is only to initiate the rescue effort.

RIC should be assigned to replace the Stand-by Crew during high risk incidents

- The primary role of a Stand-by Crew or RIC is to:
1. **Locate** and gain access to the firefighter in peril;
 2. Provide them with **emergency air** management; and to
 3. Provide **reconnaissance** information to the Incident Commander for the coordination of additional crews assigned to support the rescue effort. **Rescue if able.**

RIC effectiveness is limited to only reacting to a rescue situation

Back-up Crews

Back-up Crews are strategically pre-positioned in the immediate vicinity of crews operating in areas with a high level of risk. A pre-positioned back-up crew is the most familiar with the other crew’s location, situation, the hazards they are exposed to, and the immediate surroundings. A back-up crew’s placement also positions them to better recognize a potential or developing “Mayday” situation, enabling them to immediately intervene, thus averting a “Mayday” situation.

Back-up Crews provide protection because they are positioned in a manner that allows them to initiate actual intervention

Back-up Crews are intended to provide a crew of at least two members positioned offensively with a charged hose line and/or other applicable equipment. Back-up Crews operate with three given priorities. In coordination with the Incident Commander and in order of priority, they are assigned for the specific purpose of:

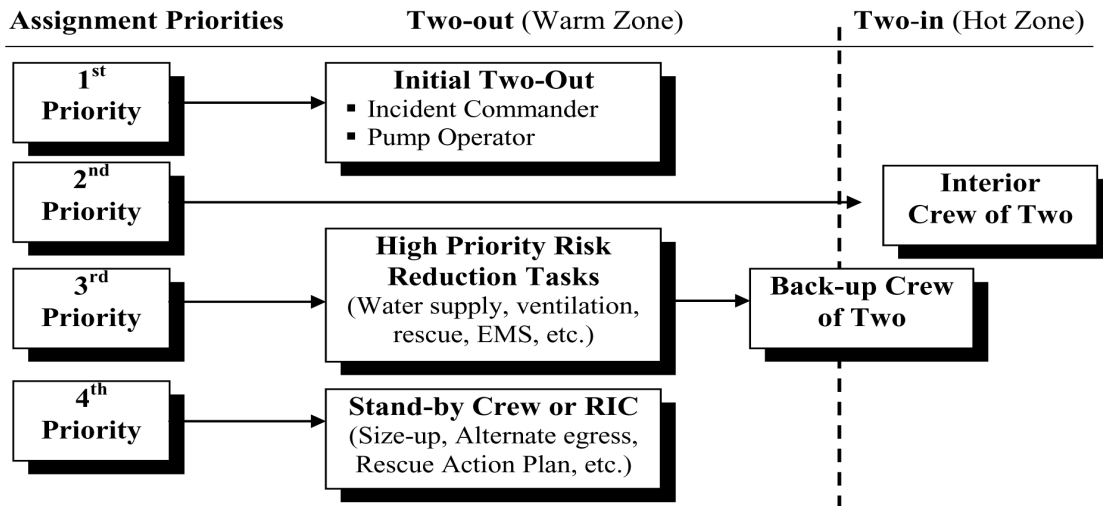
1. As dictated by fire and/or other hazardous conditions, protecting the means of egress for interior crews;
2. Serving as the Incident Commander’s eyes and ears specifically to assess conditions within the Hot Zone, conveying risk assessment reconnaissance information to the Incident Commander, monitoring conditions, and if conditions begin to deteriorate, immediately initiating the appropriate form of intervention;
3. If priorities 1 and 2 are accounted for, conducting a primary search, or supplement initial fire attack efforts.

Although protecting egress is the Back-up Crew’s primary responsibility, they may also support entry crews with hose advancement, victim removal, monitoring fire extension, etc.

As a general guideline, Back-up Crews are assigned with the following progression:

- If an entry crew is assigned to enter the hazard area, a Stand-by Crew or RIC must also be assigned as the two-out provision for providing rapid intervention capability.
- If a RIC has been assigned, the Stand-by Crew can move up to become the Back-up Crew.

Deployment Order of Priority (Structure Fire Example) – Though maintaining Two-in/Two-out is a requirement, how the Incident Commander chooses to do so is flexible. The following flowchart provides a decision-making guideline for planning tactical assignments while maintaining Two-in/Two-out. The following sequence is intended to guide crew deployment in a manner that balances the need to initiate and establish a Two-out crew while also assigning crews to critical incident mitigation tasks within the hazard area.



Adjacent and Additional Crews

Case studies prove that a Stand-by Crew or RIC operating alone may not be sufficient when rescuing a trapped firefighter when extrication and/or rescue are required. Rescue efforts will likely require the support of additional crews to provide extrication equipment and rescue personnel. To create these supporting crews the Incident Commander can reassign adjacent crews or assign additional crews, generally a combination of the two.

Adjacent Crews – When a crew declares a “Mayday”, the rescue efforts initiated by other crews operating in close proximity is nearly as effective as what a back-up crew can provide. Adjacent crews may be in a position to suspend their current assignment and immediately initiate rescue efforts. But if an adjacent crew is performing an activity that will protect rescue efforts, they should not be re-assigned if suspending their current assignment would potentially compromise this protection. Re-assignment of adjacent crews does not preclude the deployment of the Stand-by Crew or RIC. The primary role of the Stand-by Crew or RIC is to locate the firefighters in peril, provide them with emergency air management, and to facilitate their rescue.

Crews must not self-dispatch!

Additional Crews – When a crew declares a “Mayday, Mayday, Mayday”, additional crews can be assigned by the Incident Commander to support rescue efforts or to replace adjacent crews who were re-assigned to the rescue effort. Additional crews will generally be deployed from a staging area.

Resource Reserve – Incident Commanders should maintain a reserve of resources so that if a rapid intervention must be initiated, they have enough resources to support the rescue effort while continuing to sustain the original incident operations. Often this means calling for additional resources, second, or third alarms. Early consideration should be given to assure these reserve resources are on scene and available when needed.

Appendix E—Standard apparatus operation communications.
When firefighters ride in the tiller's seat or other remote location, an electrical signal or voice communication should be installed between the tiller's seat, work station, and driver's compartment.

(1) These signals should be used between the driver and the firefighters:

- (a) One long buzz means stop;
- (b) Two buzzes mean forward;
- (c) Three buzzes mean reverse.

(2) Before any of the above functions are undertaken, with the exception of stopping, the same signal must be both sent and received. The driver should not act without sending and receiving a confirming signal.

(3) When using hand signals, these signals are as follows:

STOP

Hold hand to the side, shoulder high, exposing palm to the driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand (~~shining~~) shining at the driver. This will indicate an immediate STOP.



STOP

Hold hand to the ~~((die))~~ side, shoulder high, exposing palm to the driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand shining at the driver. This will indicate an immediate STOP.

RIGHT OR LEFT

Point in the desired direction with one hand and motion in a circular "come-on" gesture with the other hand at the chest level. At night direct a flashlight beam at the hand pointing in the desired direction.



RIGHT OR LEFT

Point in the desired direction with one hand and motion in a circular "come-on" gesture with other at the chest level. At night, direct a flashlight beam at the hand pointing in the desired direction.

DIMINISHING CLEARANCE

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers the apparatus to point where the signal indicates immediate STOP. Always allow enough for drivers reaction time.

At night, indicate in the same manner with the flashlight in the upper hands and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.



DIMINISHING CLEARANCE

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers the apparatus to point where the signal indicates immediate STOP. Always allow enough for divers reaction time. At night, indicate in the same manner with the flashlight in the upper hands and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.

AHEAD OR ((BACK-UP)) BACK UP

Hold hand directly in front, chest high, fingers on hands directed toward one another, and motion in a circular "come-on" gesture. At night hold a flashlight in one hand and direct the beam toward the other.



AHEAD OR BACK UP

Hold hand directly in front, chest high, fingers on hands directed toward one another, and motion in circular "come-on" gesture. At night hold a flashlight in one hand and direct the beam toward the other.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-305-01002	Effective date.
WAC 296-305-01009	Appeals.
WAC 296-305-02003	Eye and face protection.
WAC 296-305-02005	Hearing protection.
WAC 296-305-02007	Hand protection.
WAC 296-305-02009	Body protection.
WAC 296-305-02011	Body armor.
WAC 296-305-02013	Foot protection for structural firefighting.
WAC 296-305-02015	Head protection.
WAC 296-305-03001	Hazardous materials protection.
WAC 296-305-04509	Aerial ladders.
WAC 296-305-04511	Elevated platforms.
WAC 296-305-05001	Emergency fireground operations—Structural.
WAC 296-305-05003	Confined space rescue operations.
WAC 296-305-05005	Rope rescue operations.
WAC 296-305-05007	Trench rescue operations.
WAC 296-305-05009	Watercraft rescue operations.

WAC 296-305-05011	Hazardous materials operations.
WAC 296-305-05501	Fire training.
WAC 296-305-05503	Summary of training requirements.
WAC 296-305-06005	Ground ladders.
WAC 296-305-06007	Electrical.
WAC 296-305-07003	Personal protective clothing and equipment for wildland firefighting.
WAC 296-305-07005	Respiratory protection for wildland firefighters.
WAC 296-305-07007	Wildland personnel accountability.
WAC 296-305-07009	Apparatus standards for wildland firefighting.
WAC 296-305-07011	Occupant restraints and enclosures for wildland firefighting.
WAC 296-305-07013	Equipment for wildland firefighting.
WAC 296-305-07015	Aircraft operations for fighting wildland fires.
WAC 296-305-07017	First aid for wildland firefighters.
WAC 296-305-07019	Training for wildland firefighting.

WSR 13-05-071
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed February 19, 2013, 9:19 a.m., effective March 22, 2013]

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

Purpose: Amending WAC 181-82A-208, the legislature requested the professional educator standards board determine competencies and programs for a mathematics specialty endorsement. WAC 181-82A-208 is amended to reflect that request.

Citation of Existing Rules Affected by this Order: Amending X.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 12-23-027 on November 13, 2012.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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

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

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

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

Date Adopted: February 19, 2013.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 11-12-079, filed 5/31/11, effective 7/1/11)

WAC 181-82A-208 Specialty endorsements. The following specialty endorsements may be added to an existing endorsed teaching certificate:

(1) Deaf education (per RCW 28A.410.225).

(a) This specialty endorsement is required for teachers who will be working almost exclusively with students who are deaf or hard of hearing.

(b) Program requirements are waived and this specialty endorsement granted if a candidate possesses a baccalaureate or master's degree in deaf education from a teacher training program approved by the council on education of the deaf.

(2) Environmental and sustainability education.

(3) Teacher of the visually impaired.

(4) Orientation and mobility teacher. Program requirements are waived and this specialty endorsement granted if a teacher possesses an orientation and mobility specialist certificate from the academy for certification of vision rehabilitation and education professionals.

(5) Gifted education.

(6) Elementary mathematics specialist.

WSR 13-05-072
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 19, 2013, 10:47 a.m., effective March 22, 2013]

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

Purpose: These rule revisions add a seventh criteria to the list of additional criteria for all credits earned by certificated instructional staff, pursuant to ESHB [ESSB] 5895, section 6 (2012 legislative session).

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-262.

Statutory Authority for Adoption: RCW 28A.150.290 (1) and 28A.415.023.

Adopted under notice filed as WSR 13-02-082 on December 31, 2012.

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

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

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

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

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

Date Adopted: February 6, 2013.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 06-19-045, filed 9/15/06, effective 10/16/06)

WAC 392-121-262 Definition—Additional criteria for all credits. Credits earned after September 1, 1995, must satisfy the following criteria in addition to those found in WAC 392-121-255, 392-121-257, and 392-121-259:

(1) At the time credits are recognized by the school district the content of the course must meet at least one of the following:

(a) It is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.655.110, the annual school performance report, for the school in which the individual is assigned;

(b) It pertains to the individual's current assignment or expected assignment for the following school year;

(c) It is necessary for obtaining endorsement as prescribed by the Washington professional educator standards board;

(d) It is specifically required for obtaining advanced levels of certification;

(e) It is included in a college or university degree program that pertains to the individual's current assignment or potential future assignment as a certificated instructional staff; ~~((or))~~

(f) It addresses research-based assessment and instructional strategies for students with dyslexia, dysgraphia, and language disabilities when addressing learning goal one under RCW 28A.150.210, as applicable and appropriate for individual certificated instructional staff; or

(g) Beginning in the 2011-12 school year, it pertains to the revised teacher evaluation system under RCW 28A.405.-100, including the professional development training provided in RCW 28A.405.106.

(2) Credits which have been determined to meet one or more of the criteria in subsection (1) of this section shall continue to be recognized in subsequent school years and by subsequent school district employers; and

(3) Credits not recognized in a school year may be recognized in a subsequent school year if there is a change in the qualifying criteria such as a change in professional educator standards board rules, a change in the district's strategic plan, a change in the school-based plan for the school in which the individual is assigned, a change in the individual's assignment, or a change in the individual's employer.

WSR 13-05-073

PERMANENT RULES

UNIVERSITY OF WASHINGTON

[Filed February 19, 2013, 11:36 p.m., effective March 22, 2013]

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

Purpose: The University of Washington amends chapter 478-276 WAC, Governing access to public records, to provide a more comprehensive guide to current office practices, to address access to electronic records, and to change its business hours, per RCW 42.56.090.

Citation of Existing Rules Affected by this Order: Repealing WAC 478-276-070; and amending WAC 478-276-010, 478-276-020, 478-276-050, 478-276-060, 478-276-080, 478-276-090, 478-276-100, 478-276-105, 478-276-110, 478-276-120, and 478-276-140.

Statutory Authority for Adoption: RCW 28B.20.130 and chapter 42.56 RCW.

Adopted under notice filed as WSR 13-01-035 on December 11, 2012.

Changes Other than Editing from Proposed to Adopted Version: In WAC 478-276-085(3), 478-276-095(7), and 478-276-105 (2)(a) the requestor is now given "ten" business days to respond to the public records office, rather than the previous "five" business days.

Also, the following sentence was added to WAC 478-276-085(6) at the end of the section: "Because the university maintains electronic records in a very wide variety of formats, the viability of providing this service is evaluated on a case-by-case basis."

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 11, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 11, Repealed 1.

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

Date Adopted: February 14, 2013.

Rebecca Goodwin Deardorff
Director of Rules Coordination

AMENDATORY SECTION (Amending WSR 06-17-131, filed 8/22/06, effective 9/22/06)

WAC 478-276-010 Purpose. This chapter is enacted by the board of regents of the University of Washington in compliance with the ~~((provisions of chapter 42.56 RCW,))~~ Public Records Act. The university adopts these rules and regulations so as to provide fullest assistance to inquirers and full public access to the university's public records while protecting those records from damage or disorganization; preventing excessive interference with other essential university functions, including the university's core education and research missions; and not unreasonably disrupting university operations. ~~((²))~~

AMENDATORY SECTION (Amending WSR 01-11-136, filed 5/23/01, effective 6/23/01)

WAC 478-276-020 Definitions. (1) ~~((“Public record” includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.))~~ “Business days” are weekdays, Monday through Friday, excluding official Washington state holidays and university closures.

(2) ~~((“Writing” means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated))~~ “Public Records Act” means chapter 42.56 RCW.

(3) “Public records office” means the university's office of public records and open public meetings.

(4) “University” means the state university established under chapter 28B.20 RCW and designated the University of Washington.

AMENDATORY SECTION (Amending Order 73-5, filed 5/29/73)

WAC 478-276-050 Public records available. ~~((All public records of the University of Washington, as defined in WAC 478-276-020, are deemed to be))~~ The university's public records are available for public inspection and copying pursuant to these rules, except as otherwise provided by law.

AMENDATORY SECTION (Amending WSR 07-03-069, filed 1/17/07, effective 2/17/07)

WAC 478-276-060 Public records officer. ~~((For purposes of compliance with chapter 42.56 RCW, the person designated as public records officer for the University of Washington is the director of public records and open public meetings. Duties for this individual shall include but not be limited to: The implementation of the university's rules and~~

~~regulations regarding release of public records, coordinating the staff of the public records and open public meetings office in this regard, and generally coordinating compliance by the university with the public records disclosure requirements of chapter 42.56 RCW. The person so designated shall be at the following location:~~

University of Washington
Public Records and Open Public Meetings Office
4311 11th Ave. N.E.
Suite 360
Seattle, WA 98105

~~((for internal campus mail use: Box 354997.))~~ The university's public records officer is the director of the public records office. The contact information for the public records officer is set forth under WAC 478-276-140.

AMENDATORY SECTION (Amending WSR 06-17-131, filed 8/22/06, effective 9/22/06)

WAC 478-276-080 Requests for public records. ~~((In accordance with requirements of chapter 42.56 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records required to be disclosed by chapter 42.56 RCW, may be inspected or copies of such records may be obtained, by members of the public upon compliance with the following procedures.))~~ All requests under the Public Records Act to inspect or copy public records shall be in writing and shall be directed to the ~~((director of))~~ university's public records ~~((and open public meetings))~~ officer at the e-mail address, street address, or facsimile number set forth in WAC 478-276-140. The request shall include the following information:

(1) The requestor's name ~~((and)),~~ e-mail address ~~((of the person requesting the records))~~ or street address, and telephone number; and

(2) ~~((The date on which the request was made; and~~

~~(3) The public record(s) requested.))~~ A request for identifiable public records.

An identifiable public record is one for which the requestor has given a reasonable description enabling the university to locate the requested record.

NEW SECTION

WAC 478-276-085 Responses to public records requests. (1) **Responses generally.** The public records office shall respond within five business days of receiving a public records request by:

(a) Providing the records;

(b) Providing an internet address and link to the records on a university web site;

(c) Acknowledging that the request has been received and providing a reasonable estimate of the time required to respond to the request; or

(d) Denying the request.

(2) **Additional time.** Additional time for the office to respond to a request may be based upon the need to:

- (a) Clarify the request;
- (b) Locate, assemble, and review the records requested;
- (c) Notify third persons or agencies affected by the request; or
- (d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) **Request for clarification.** If a public records request is unclear, the public records office may ask the requestor to clarify the request. If the requestor does not respond to a request for clarification or otherwise fails to clarify the records request within ten business days, the university need not respond to it, and the university may consider the request abandoned and close it in accordance with WAC 478-276-105.

(4) **Priority of requests.** The public records office will handle requests in the order in which they are received; provided, however, that the public records office will modify this approach as, and to the extent it deems necessary, to ensure that requests which seek larger volumes of records, require closer review, or are otherwise more complicated or time consuming, do not unreasonably delay simpler, more routine requests.

(5) **Installments.** When it appears that the number of records responsive to a request may be large, that the process of locating, assembling, or reviewing the records may be lengthy, or that it is otherwise appropriate, the public records office may choose to provide records on a partial or installment basis. For the purposes of WAC 478-276-090 through 478-276-105, and unless otherwise provided under these rules, each installment of records shall be treated as a separate public records request.

(6) **Customized electronic access.** Where the public records office deems it appropriate, the university may choose to provide customized electronic access to public records; provided, however, that any requestor seeking such customized electronic access must pay, in advance, for university staff time and any other direct costs related to providing such customized electronic access. Because the university maintains electronic records in a very wide variety of formats, the viability of providing this service is evaluated on a case-by-case basis.

AMENDATORY SECTION (Amending Order 81-2, filed 10/2/81)

WAC 478-276-090 ((Commercial purposes.)) Notice of availability. ~~((No provision of any regulation contained in this chapter 478-276 WAC shall be construed as giving authority to any faculty or staff member of the University of Washington to give, sell, or provide access to lists of individuals requested for commercial purposes))~~ (1) **Notice of availability generally.** Once records responsive to a request (or any installment thereof) have been located, assembled, reviewed, and prepared for release, and any affected third persons or agencies notified, the public records office shall promptly notify the requestor that those records are available for inspection or copying.

(2) **Statement of copying, mailing, or other costs.** The notice of availability will state any costs for obtaining a copy

of the records, the costs for having a copy mailed to the requestor, and any other allowable costs under WAC 478-276-100 or the Public Records Act.

(3) **Response to notice of availability.** Upon receipt of a notice of availability, the requestor may inspect the records by either:

(a) Scheduling a viewing appointment with the public records office as provided under WAC 478-276-095;

(b) Requesting that a copy of the requested records be held for pickup at the public records office subject to payment of any copying or other charges as set forth under WAC 478-276-100; or

(c) Requesting that a copy of the requested records be sent to the requestor (subject to payment of any copying or other charges as set forth under WAC 478-276-100).

(4) **Failure to respond to notice of availability.** If within ten business days of issuance of a notice of availability, the requestor fails to claim the records (or any installment thereof) by either scheduling a viewing appointment or requesting copies and making any required payment, the public records office may consider the request closed. In such case, the public records office may cease locating, assembling, reviewing, or otherwise processing any remaining records, and it may dispose of any records made available as provided under WAC 478-276-105.

NEW SECTION

WAC 478-276-095 Viewing appointments. (1) **No fee.** No fee shall be charged for inspecting records at the university's public records office.

(2) **By appointment only.** In-office inspections are by appointment only during regular office hours: Monday through Friday 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., excluding university holidays, university closures, and such other closures as may be posted on the public records office's web site.

(3) **Scheduling appointments.** In-office inspections must be scheduled in advance by contacting the public records office (see WAC 478-276-140).

(4) **Protection of public records.** Access to records during viewing appointments shall be restricted to the viewing area designated by the public records office. No document shall be physically removed by a member of the public from the viewing area for any reason whatsoever; nor shall any member of the public who is viewing documents disassemble, deface, or cause the disorganization of any record for any reason whatsoever. A public records office staff member may observe any inspection to ensure that records are not disorganized, defaced, or otherwise harmed.

(5) **Identification of records reviewed.** At the end of each viewing appointment, the requestor will identify to the public records office staff those records reviewed during the appointment. If any records remain to be reviewed, another viewing appointment must be scheduled at that time. Reviewed records, or remaining records for which no further viewing appointment has been scheduled, are subject to disposition as provided under WAC 478-276-105.

(6) **Obtaining copies at viewing appointments.** At the end of each viewing appointment, the requestor shall identify

to the public records office staff any records he or she would like copied. The public records office staff will arrange to provide such copies in as timely a manner as possible in view of all circumstances, including the volume of copies requested, any pending copying requests, time of day, staff resources, and any other relevant considerations. Records identified for copying during viewing appointments are subject to prepayment of any copying or other costs in accordance with WAC 478-276-100. Requestors may not make their own copies of public records during viewing appointments.

(7) **Failure to attend a scheduled viewing appointment.** A requestor who fails to attend a scheduled viewing appointment must call the public records office within ten business days to reschedule the missed appointment. Unless otherwise permitted by the public records office, a viewing appointment may not be rescheduled more than two times. If a requestor fails to reschedule a missed viewing appointment within ten business days or has already rescheduled the appointment two times, the public records office may consider the request closed and may dispose of any records or copies made available in accordance with WAC 478-276-105.

AMENDATORY SECTION (Amending WSR 06-17-131, filed 8/22/06, effective 9/22/06)

WAC 478-276-100 ((~~Inspection of public records~~—))**Copying((~~Costs~~)).** ((~~(1) Public records of the University of Washington required to be disclosed by chapter 42.56 RCW, shall be made available for inspection and copying by the public records and open public meetings office staff under the supervision of the director of public records and open public meetings. Arrangements for photocopying of documents in accordance with RCW 42.56.210 shall be made by the university in such a way as to protect the records from damage or disorganization and to prevent excessive interference with other essential functions of the agency.~~)

(2) No fee shall be charged for the inspection of public records. The university imposes a charge for providing copies of public records whether the copies are on paper or on other media such as, but not limited to, CDs, diskettes, audio or videotape; the university also charges for packaging, postage, and other charges as allowed by statute. Such charges shall not exceed the amount necessary to reimburse the university for actual costs as allowed by law.

(3) No person shall be provided a copy of a public record which has been copied by the university at the request of such person until and unless such person has tendered payment for the charge for providing such copying.) (1) **Copying facilities available.** Facilities shall be made available to requestors for the copying of public records as set forth under WAC 478-276-095, except when and to the extent that this would unreasonably disrupt the operations of the public records office.

(2) **Copying costs.** The university may charge for providing copies of public records. Charges are posted on the office's web site.

(3) **Other costs.** The university may charge for nonpaper media (for example, without limitation, compact disks

(CDs), digital versatile disks (DVDs), audiotape, or videotape) used to provide copies, packaging, postage, or other charges as allowed by law. Such charges shall not exceed the amount necessary to reimburse the university for actual costs.

(4) **Deposits.** The university may require a ten percent deposit on copying or other charges. Any required deposit must be paid before the request is processed.

(5) **Prepayment.** The public records office shall not release any requested copies of public records unless and until the requestor has paid all copying and other charges as set forth above. If payment is not received by the public records office within fifteen business days of issuance of the university's notice of availability, the university may consider the request closed, and any records or copies responsive to such request shall be subject to disposition as provided under WAC 478-276-105.

AMENDATORY SECTION (Amending WSR 97-14-004, filed 6/19/97, effective 7/20/97)

WAC 478-276-105 ((~~Protection of~~) **Closing public records requests.** ((~~Access to any "writing," as defined in WAC 478-276-020(2), shall be restricted to the viewing area designated by the university. No document shall be physically removed by a member of the public from the viewing area for any reason whatsoever. Nor shall any member of the public who is viewing documents disassemble, deface, or cause the disorganization of documents for any reason whatsoever.~~)) (1) **Closing requests generally.** Once the requestor has reviewed or been provided with copies of the records made available in response to his or her request, that request shall be deemed closed; provided, however, that with respect to any installment of records other than the final installment, and except as otherwise provided in these rules (including, without limitation subsection (2)(c) of this section), the foregoing shall apply only to that installment, not the entire request.

(2) **Other closing events.** A request may also be deemed closed:

(a) If a requestor does not respond to a request for clarification or otherwise fails to clarify within ten business days;

(b) If the requestor fails to make a required deposit or payment for requested copies as provided under WAC 478-276-100;

(c) If the requestor fails to respond to a notice of availability as provided under WAC 478-276-090;

(d) If all records identified in any notice of availability (including a notice with respect to an installment of records) have not been inspected, paid for, or picked up within fifteen business days of issuance of such notice of availability; or

(e) As otherwise provided under these rules or by law.

(3) **Disposition of records upon closing.** Upon the closing of a request, originals of any records assembled in response to the request shall be refiled, and any copies of records may be destroyed.

AMENDATORY SECTION (Amending WSR 06-17-131, filed 8/22/06, effective 9/22/06)

WAC 478-276-110 Exemptions((~~—~~) and court protection. (1) **Exemptions generally.** The university ((~~of~~

Washington)) reserves the right to determine that a public record requested in accordance with ~~((the procedures outlined in))~~ WAC 478-276-080, or any portion thereof, is exempt under the ~~((provisions of chapter 42.56 RCW))~~ Public Records Act.

(2) ~~((In addition, pursuant to chapter 42.56 RCW, the University of Washington reserves the right to delete identifying details when it makes available or publishes any public record in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by RCW 42.56.050.))~~ Commercial purposes. The Public Records Act prohibits the university from disclosing lists of individuals requested for commercial purposes.

(3) ~~((Responses by the University of Washington refusing, in whole or in part, inspection of any record))~~ Identification of exemptions. Public records office responses denying inspection of any record, in whole or in part, shall include a statement of the specific exemption(s) authorizing the withholding of the record (or ~~((part))~~ portion thereof) and a brief explanation of how the exemption applies to the record or information withheld.

(4) Enjoining inspection. Pursuant to ~~((RCW 42.56-540))~~ the Public Records Act, the university ~~((of Washington))~~ reserves the right to seek to enjoin the ~~((examination))~~ inspection of any specific record ~~((, the examination of which))~~ if the university determines that inspection would clearly not be in the public interest and would substantially and irreparably damage any person or would substantially and irreparably damage vital governmental functions.

AMENDATORY SECTION (Amending WSR 01-11-136, filed 5/23/01, effective 6/23/01)

WAC 478-276-120 Review of denials of public records requests. (1) Petition for review. A person who has been denied access to public records may submit to the ~~((director of))~~ university's public records ((and open public meetings)) officer a petition for prompt review of such decision. The written request shall specifically refer to the written statement by the ~~((director of))~~ public records ~~((and open public meetings or))~~ office staff member which constituted or accompanied the denial.

(2) ~~((Immediately))~~ Response to petition. After receiving a written request for review of a decision denying a public record, the ~~((director of))~~ public records ~~((and open public meetings or other staff member denying the request shall refer it to the office of the president of the University of Washington))~~ office shall promptly refer it to the hearing officer. The petition shall be reviewed ~~((promptly))~~ and the action of the public records ~~((and open public meetings))~~ office ~~((staff))~~ shall be approved or disapproved. Such approval or disapproval shall constitute final university action for purposes of judicial review.

AMENDATORY SECTION (Amending WSR 06-13-021, filed 6/13/06, effective 7/14/06)

WAC 478-276-140 Public records ((and open public meetings office)) address. ~~((All requests for public~~

records to the University of Washington shall be addressed as follows:

University of Washington
Public Records and Open Public Meetings Office
4311 11th Ave. N.E.
Suite 360
Seattle, WA 98105

~~((for internal campus mail use: Box 354997). The telephone number of the public records and open public meetings office is 206-543-9180.))~~ The university's public records officer may be contacted at the following physical address, telephone numbers, or e-mail address:

Office of Public Records and Open Public Meetings
University of Washington
4311 11th Ave. N.E., Suite 360
Seattle, WA 98105
Telephone: 206-543-9180
Facsimile: 206-616-6294
E-mail: pubrec@uw.edu

The public records office's web site is at <http://depts.washington.edu/publicrecords>.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 478-276-070 Times for inspection and copying.