

**WSR 13-08-002**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**

[Filed March 20, 2013, 3:32 p.m., effective April 20, 2013]

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

Purpose: The passage of Initiative 1183 has created an issue for beer/wine specialty store licensees that hold a spirits retail license. Beer/wine specialty store licensees are allowed to conduct tastings if over fifty percent of their gross sales are beer and wine. By adding spirits sales to their business it is impossible to sell more than fifty percent beer and wine. Tastings are a large part of promoting Washington wineries and their business. The rule needs to be amended to allow tastings to continue.

Stakeholders also requested the board to amend this rule to allow a greater number of tastings per customer visit and to require employees conducting the tastings to be MAST trained.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 314-02-105.

Statutory Authority for Adoption: RCW 66.24.371.

Other Authority: RCW 66.08.030.

Adopted under notice filed as WSR 13-04-099 on February 6, 2013.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: March 20, 2013.

Sharon Foster  
 Chairman

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-105 What is a beer and/or wine specialty store license?** (1) Per RCW 66.24.371, a beer and/or wine specialty store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred dollars.

(3) Qualifications for license - To obtain and maintain a beer and/or wine specialty store license, the premises must be stocked with an inventory of beer and/or wine in excess of three thousand dollars wholesale value. This inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained on the premises at all times the premises is licensed, with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) Qualifications to sample - A beer and/or wine specialty store licensee may allow customers to sample beer and wine for the purpose of sales promotion, if the primary business is the sale of beer and/or wine at retail, and the licensee meets the requirements outlined in either (a) or (b) of this subsection:

(a) A licensee's gross retail sales of ~~((beer and/or wine))~~ alcohol exceeds fifty percent of all annual gross sales for the entire business; or

(b) The licensed premises is a beer and/or wine specialty store that conducts bona fide cooking classes for the purpose of pairing beer and/or wine with food, under the following conditions:

(i) The licensee must establish to the satisfaction of the board that the classes are bona fide cooking courses. The licensee must charge participants a fee for the course(s).

(ii) The sampling must be limited to a clearly defined area of the premises.

(iii) The licensee must receive prior approval from the board's licensing and regulation division before conducting sampling with cooking classes.

(iv) Once approved for sampling, the licensee must provide the board's enforcement and education division a list of all scheduled cooking classes during which beer and/or wine samples will be served. The licensee must notify the board's enforcement and education division at least forty-eight hours in advance if classes are added.

(5) Licensees who qualify for sampling under subsection (4) of this ~~((rule))~~ section may sample under the following conditions:

(a) Employees conducting sampling must hold a class 12 alcohol server permit;

(b) No more than a total of ~~((eight))~~ ten ounces of alcohol may be provided to a customer during any one visit to the premises;

~~((b))~~ (c) Each sample must be two ounces or less~~((c) and (e) No more than one sample of any single brand and type of beer or wine may be provided to a customer during any one visit to the premises))~~.

(6) A beer and/or wine specialty store licensee may sell beer in kegs or other containers holding at least four gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(7) A beer and/or wine specialty store licensee may receive an endorsement to permit the sale of beer to a purchaser in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap by the licensee at the time of sale under the following conditions:

(a) The beer and/or wine specialty store sales must exceed fifty percent of their total sales; or

(b) The board may waive the fifty percent beer and/or wine sale criteria if the beer and/or wine specialty store maintains a wholesale alcohol inventory that exceeds fifteen thousand dollars.

**WSR 13-08-016**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 10-06—Filed March 25, 2013, 1:49 p.m., effective April 25, 2013]

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

Purpose: This rule making amends chapter 173-350 WAC, Solid waste handling standards. The amendments pertain to composting and digestion of organic wastes. Key changes will:

- Improve environmental performance of large scale composters by adding requirements that include but are not limited to:
  - o Requiring facilities to plan for response to odor complaints,
  - o Addressing facility capacity and throughput,
  - o Requiring training for facility personnel,
  - o Requiring representative sampling,
  - o Addressing site management in product storage areas, and
  - o Requiring facilities to address the control of agricultural pests;
- Help protect long-term markets for compost products by improving compost quality;
- Allow for new, innovative methods of handling organic materials, including permit exemptions;
- Encourage development of small facilities through expansion of conditional permit exemptions;
- Adopt permit exemptions for qualified anaerobic digesters as required by chapter 70.95 RCW; and
- Describe permit requirements for nonexempt digesters.

Reasons Supporting Proposal: The department of ecology fully supports processing and treating organic materials to produce valuable end products through means such as composting and anaerobic/aerobic digestion, and recognizes the potential for other new conversion technologies for processing organic materials. These processes preserve valuable nutrient value and organic matter that can be used in lawns and gardens, or returned to our soils to enhance them for crop production, or aid in restoration projects for habitat protection and wildlife enhancement. Gas generated during anaerobic digestion can be used to generate electricity for local use, or returned to the power grid. At the same time, these management approaches reduce the amount of organic materials disposed in landfills or burned.

Growing pressure within the solid waste management system to process more diverse feedstocks in ever larger quantities has strained the capacity of the solid waste management system. In some cases it has distressed neighbors and impaired marketability of final products. Ecology is directed by statute to provide permit exemptions for qualified anaerobic digesters. The agency further believes that additional conditional permit exemptions for small digesters and compost facilities will help grow necessary infrastructure for handling increasing volumes of organic wastes by providing relief from administrative burdens, while continuing to require protection of the environment as a condition of exemption. The agency believes that a new requirement for odor management plans at larger compost facilities,

expanded requirements at those same facilities to improve operational management where finished product is stored, as well as other new requirements such as defining capacity and throughput, ensuring proper training, and requiring representative sampling are necessary to protect public health and the environment. The agency believes tighter standards for physical contaminants are necessary to protect the environment and to ensure viable compost markets in the long term. The amendments to the rule are intended as steps to repair the observed problems while preserving the long-term integrity of critical solid waste management system elements.

Citation of Existing Rules Affected by this Order: Amending WAC 173-350-020, 173-350-030, 173-350-100, and 173-350-220.

Statutory Authority for Adoption: RCW 70.95.020(3), 70.95.060(1), 70.95.260(6), 70.95.305, 70.95.330.

Adopted under notice filed as WSR 12-19-087 on September 18, 2012.

Changes Other than Editing from Proposed to Adopted Version: **WAC 173-350-030 (2)(a)(i)**, the effective date for operating, environmental monitoring, closure and post-closure planning, and financial assurance requirements was changed from within twelve months of the effective date of the rule, to by June 30, 2014.

**WAC 173-350-030 (2)(a)(ii)**, the effective date for performance and design requirements was changed from within eighteen months of the effective date, to by December 31, 2014.

**WAC 173-350-020 (2)(c)**, language was added to clarify that a permit modification is required only, "If, as determined by the jurisdictional health department, significant changes to the operation, design, capacity, performance, or monitoring of a facility are needed to meet updated or new sections of this chapter," and the date to *initiate* that process was changed from within twelve months of the effective date to by December 31, 2013.

**WAC 173-350-030-100**, the definition of anaerobic digester was changed. The reference to an enclosed container was deleted and the definition now refers to a "vessel."

**WAC 173-350-030-100**, the word "clean" was deleted from clean wood waste as a type of bulking agent; the definition now refers [to] wood waste.

**WAC 173-350-030-100**, the definition of capacity was revised to specify the maximum amount of material that can be contained "on-site at any one time," and to include "bulking" agents.

**WAC 173-350-030-100**, the definition of organic feedstocks was changed to include bulking agents, and the word "waste" was deleted so that the reference is now to organic materials instead of waste organic materials.

**WAC 173-350-030-100**, the definition of organic materials was revised and the reference to "animal manure" was deleted.

**WAC 173-350-030-100**, a definition for "Other conversion technologies" was added: "Other conversion technologies" means processes that transform organic feedstocks into useable or marketable materials, but does not include composting, vermicomposting, or anaerobic digestion.

**WAC 173-350-030-100**, rocks were deleted from the definition of physical contaminant.

**WAC 173-350-030-100**, a definition for "specified risk material" was added.

**WAC 350-030-030-100**, the definition of throughput was clarified by referring to "incoming" feedstocks.

**WAC 173-350-030-100**, a restriction stating that yard debris does not include sod was deleted.

**WAC 173-350-220 (1)(a)**, applicability was revised to refer only to facilities; the words "or sites" were deleted.

**WAC 173-350-220 (1)(a)(i)**, in the exclusion from applicability, the reference to "including composting or recycling" was deleted.

**WAC 173-350-220 (1)(a)(v)**, the word "managed" was substituted for "permitted" and all new following language regarding biosolids was deleted from WAC 173-350-220 (1)(a)(v)(A), (B) and (C).

**WAC 173-350-220 (1)(b) Table 220-A**, revisions for overall consistency with similar Table 225-A.

**WAC 173-350-220 (1)(b) Table 220-A (1)**, a new conditional exemption was added for composting facilities with no more than five thousand gallons or twenty-five cubic yards of material on-site at any one time without notification or reporting requirements.

**WAC 173-350-220 (1)(b) Table 220-A (2), (3), (4) and (5)**, lower threshold for exemption was changed to reflect the twenty-five yard limit of new (1). The types of organic feedstocks in column 1 were expanded and clarified, the allowable volumes for exemptions were increased in column 2 and requirements specific to each exemption were clarified in column 3. The requirement for composting to take place in a vessel was removed from column 3. A permit exemption was added for zoo composting programs.

**WAC 173-350-220 (1)(c)(v)**, a requirement to use at least fifty percent of material on site each year, and one hundred percent of the material every three years was deleted.

**WAC 173-350-220 (1)(c)(vi)**, the annual report requirement was moved from the body of the rule into Table 220-A, and the detail regarding content was deleted since it is specified by the department on the form.

**WAC 173-350-220 (3)(b)**, clarification was added that only engineering design and other engineering documents must be prepared by a professional engineer.

**WAC 173-350-220 (3)(b)(ii)**, traffic patterns was added to the details of required drawings.

**WAC 173-350-220 (3)(e)(i)**, storage was added where leachate is collected from feedstock "storage" and preparation areas.

**WAC 173-350-220 (4)(a)(vii)(B)**, the words "such as a synthetic material or a layer of finished compost" were added to clarify what was meant in reference to a cover.

**WAC 173-350-220 (4)(a)(x) Table 220-B**, total nitrogen, electrical conductivity, carbon to nitrogen ratio, moisture at 70C and organic matter were deleted as analytes for finished product. The limit on film plastic was increased from <0.1 percent to ≤0.25 percent. A footnote regarding film plastic was inserted, referencing restrictions on material with more than .1 percent film plastic (see WAC 173-350-220 (4)(f)(iii)(D)(I)).

**WAC 173-350-220 (4)(f)(ii)(A)**, the reference to a "plan" was replaced with a description of how staff will document and respond to nuisance odor complaints should they

arise, and a requirement to summarize actions taken was added.

**WAC 173-350-220 (4)(f)(ii)(B)**, the reference to a progressive odor management plan and possible facility improvements that could be made was replaced with a description of facility and operational features to prevent nuisance odors beyond the facility's property boundary. The eighteen month allowance to complete the progressive odor management plan was deleted.

**WAC 173-350-220 (4)(f)(iii)(D)(I) and (II)**, a requirement to provide a label or information sheet for compost with film plastic above .1 percent and up to .25 percent by weight was added. The statement stipulates excess film plastic and places limitations on use. Refer also to amended Table 220-A. Revised language to allow for removal of film plastic from the site as an option.

**WAC 173-350-220 (4)(f)(iii)(F)**, language requiring mass balance calculations related to material mixing and decomposition was replaced with a requirement for discussion and basic calculations.

**WAC 173-350-220(9)**, a requirement was added for the jurisdictional health department to make a determination on construction records within thirty days.

**WAC 173-350-220(10)**, revised the text to make it clearer that compost that does not meet standards when it is distributed off-site or used on-site is a solid waste.

**WAC 173-350-225 Table 225-A**, revisions for overall consistency with similar Table 220-A.

**WAC 173-350-225 Table 225-A(1)**, a new conditional exemption was added for facilities with no more than five thousand gallons or twenty-five cubic yards of material on-site at any one time without notification, reporting, or testing requirements.

**WAC 173-350-225 Table 225-A (2), (3) and (4)**, the lower threshold for exemption was changed to reflect the twenty-five yard limit of new item (1). The types of organic feedstocks in column 1 were expanded and clarified, the allowable volumes for exemptions were increased in column 2 and requirements specific to each exemption were clarified in column 3. Items (2) and (3) were revised to clarify that exemption applies to vermicomposting only.

**WAC 173-350-225 (2)(b)**, a requirement was added to allow inspections by the department and/or jurisdictional health department at reasonable times.

**WAC 173-350-250(1)**, the word "sites" was deleted so the reference on applicability is only to facilities.

**WAC 173-350-250 (2)(a)**, a citation to a statutory enforcement provision was inserted: "Violations of the terms and conditions of Table 220-A and (b) of this subsection may be subject to the penalty provisions of RCW 70.95.315."

**WAC 173-350-250 Table 250-A**, Table 250-A was revised to be more consistent with other Tables 220-A and 225-A. Moved definition of specified risk material to definitions in WAC 173-250-100. The allowance for application of digestate to sites under a farm management plan in subsections (3)(e) and (f) was deleted (application to sites with a dairy nutrient management plan was retained).

**WAC 173-350-250 (2)(b)(i)**, alternative language requiring compliance with the performance standards of WAC 173-350-040 was inserted.

**WAC 173-350-250 (2)(b)(v)**, regarding capacity and notification was deleted to achieve consistency with revised Table 250-A.

A final cost-benefit analysis is available by contacting Michelle Payne, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6129, fax (360) 407-6102, e-mail michelle.payne@ecy.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 1, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 4, 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 4, Repealed 0.

Date Adopted: March 25, 2013.

Maia D. Bellon  
Director

**AMENDATORY SECTION** (Amending Order 99-24, filed 1/10/03, effective 2/10/03)

**WAC 173-350-020 Applicability.** This chapter applies to facilities and activities that manage solid wastes as that term is defined in WAC 173-350-100. This chapter does not apply to the following:

- (1) Overburden from mining operations intended for return to the mine;
- (2) Wood waste used for ornamental, animal bedding, mulch and plant bedding, or road building purposes;
- (3) Wood waste directly resulting from the harvesting of timber left at the point of generation and subject to chapter 76.09 RCW, Forest practices;
- (4) Land application of manures and crop residues at agronomic rates;
- (5) Agricultural composting when all agricultural wastes are generated, processed, and applied on-farm at agronomic rates in accordance with accepted agricultural practices. This categorical exemption does not apply to producers subject to RCW 70.95.306, composting of bovine and equine carcasses;
- (6) Mushroom substrate production when materials that are not solid waste (such as processed chicken manure) are used in the production;
- (7) Home composting as defined in WAC 173-350-100;
- ~~((6))~~ (8) Single-family residences and single-family farms whose year round occupants engage in solid waste disposal regulated under WAC 173-351-700(4);
- ~~((7))~~ (9) Clean soils and clean dredged material as defined in WAC 173-350-100;
- ~~((8))~~ (10) Dredged material as defined in 40 C.F.R. 232.2 that is subject to:

(a) The requirements of a permit issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(b) The requirements of a permit issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(c) In the case of U.S. Army Corps of Engineers civil works projects, the administrative equivalent of the permits referred to in (a) and (b) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 C.F.R. 336.1, 336.2, and 337.6;

~~((9))~~ (11) Biosolids that are managed under chapter 173-308 WAC, Biosolids management;

~~((10))~~ (12) Domestic septage taken to a sewage treatment plant permitted under chapter 90.48 RCW, Water pollution control;

~~((11))~~ (13) Liquid wastes, the discharge or potential discharge of which, is regulated under federal, state or local water pollution permits;

~~((12))~~ (14) Domestic wastewater facilities and industrial wastewater facilities otherwise regulated by federal, state, or local water pollution permits;

~~((13))~~ (15) Dangerous wastes fully regulated under chapter 70.105 RCW, Hazardous waste management, and chapter 173-303 WAC, Dangerous waste regulations;

~~((14))~~ (16) Special incinerator ash regulated under chapter 173-306 WAC, Special incinerator ash management standards;

~~((15))~~ (17) PCB wastes regulated under 40 C.F.R. Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions, except for:

- (a) PCB household waste; and
- (b) PCB bulk product wastes identified in 40 C.F.R. Part 761.62 (b)(1) that are disposed of in limited purpose landfills;
- ~~((16))~~ (18) Radioactive wastes, defined by chapter 246-220 WAC, Radiation protection—General provisions, and chapter 246-232 WAC, Radioactive protection—Licensing applicability;

~~((17))~~ (19) Landfilling of municipal solid waste regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills;

~~((18))~~ (20) Drop boxes used solely for collecting recyclable materials;

~~((19))~~ (21) Intermodal facilities as defined in WAC 173-350-100; and

~~((20))~~ (22) Solid waste handling facilities that have engaged in closure and closed before the effective date of this chapter.

**AMENDATORY SECTION** (Amending Order 99-24, filed 1/10/03, effective 2/10/03)

**WAC 173-350-030 Effective dates.** (1) *Effective dates.* These standards apply to all facilities, except existing facilities, ~~((upon the effective date of this chapter))~~ when updated or new sections in this chapter become effective.

(2) *Effective dates - Existing facilities.*

(a) The owner or operator of existing facilities ~~((shall))~~ must:

(i) Meet all applicable operating, environmental monitoring, closure and post-closure planning, and financial assurance requirements of this chapter ~~((within twenty-four months of the effective date of this chapter))~~ by June 30, 2014; and

(ii) Meet all applicable performance and design requirements, other than location or setback requirements, ~~((within thirty-six months of the effective date of this chapter))~~ by December 31, 2014.

(b) These standards apply to all new solid waste handling units at existing facilities upon the effective date of this chapter.

(c) If, as determined by the jurisdictional health department, significant changes to the operation, design, capacity, performance, or monitoring of a facility are needed to meet updated or new sections of this chapter, the owner or operator of existing facilities ((shall)) must initiate the permit modification process outlined in WAC 173-350-710(4) ((within eighteen months after the effective date of this chapter)) by December 31, 2013. If a permit modification is necessary, every application for a permit modification ~~((shall))~~ must describe the date and methods for altering an existing facility to meet (a)(i) ~~((through (iii)))~~ and (ii) of this subsection.

(d) The jurisdictional health department ~~((shall))~~ must determine if a new permit application is required based on the extent of the changes needed to bring the facility into compliance.

(e) ~~((An existing facility completing closure within twelve months of the effective date of this chapter may close in compliance with the requirements of chapter 173-304 WAC, Minimum functional standards for solid waste handling. Any facility that does not complete closure within twelve months of the effective date of this chapter shall))~~ All facilities must close in compliance with applicable requirements of this chapter.

AMENDATORY SECTION (Amending Order 04-12, filed 5/10/05, effective 6/10/05)

**WAC 173-350-100 Definitions.** When used in this chapter, the following terms have the meanings given below.

**"Active area"** means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Setbacks ~~((shall))~~ must not be considered part of the active area of a facility.

**"Aerobic decomposition"** means decomposition of organic materials primarily by aerobic microbes under controlled conditions.

**"Agricultural composting"** means composting of agricultural waste as an integral component of a system designed to improve soil health and recycle agricultural wastes. Agricultural composting is conducted on lands used for farming.

**"Agricultural wastes"** means wastes on farms resulting from the raising or growing of plants and animals including, but not limited to, crop residue, manure ~~((and))~~ from herbivores and nonherbivores, animal bedding, and carcasses of

dead animals ~~((weighing each or collectively in excess of fifteen pounds)).~~

**"Agronomic rates"** means the application rate (dry weight basis) that will provide the amount of nitrogen or other critical nutrient required for optimum growth of vegetation, and that will not result in the violation of applicable standards or requirements for the protection of ground or surface water as established under chapter 90.48 RCW, Water pollution control and related rules including chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington, and chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington.

**"Air quality standard"** means a standard set for maximum allowable contamination in ambient air as set forth in chapter 173-400 WAC, General regulations for air pollution sources.

**"Anaerobic digester"** means a vessel that processes organic material into biogas and digestate through microbial decomposition under anaerobic (low oxygen) conditions.

**"Below ground tank"** means a device meeting the definition of "tank" in this chapter where a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface of the tank that is in the ground.

**"Beneficial use"** means the use of solid waste as an ingredient in a manufacturing process, or as an effective substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment. Avoidance of processing or disposal cost alone does not constitute beneficial use.

**"Biofilter"** means a bed or layer of material that supports beneficial microorganisms, typically a mixture of compost and wood chips, designed to filter and treat air emissions. A biofilter adsorbs and then biologically degrades odorous compounds.

**"Biosolids"** means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all applicable requirements under chapter 173-308 WAC, Biosolids management. Biosolids includes a material derived from biosolids and septic tank sludge, also known as septage, that can be beneficially recycled and meets all applicable requirements under chapter 173-308 WAC, Biosolids management.

**"Buffer"** means a permanently vegetated strip adjacent to an application area, the purpose of which is to filter runoff or overspray from the application area and protect an adjacent area.

**"Bulking agent"** means an ingredient used to improve structure and porosity, or to lower moisture content, primarily in composting. Bulking agents improve convective air flow and reduce settling and compaction. Bulking agents may include, but are not limited to, wood waste, straw, and other high-carbon materials.

**"Cab cards"** means a license carried in a vehicle that authorizes that vehicle to legally pick up waste tires and haul to a permitted, licensed facility or an exempt facility for deposit.

**"Capacity"** means the maximum amount of material that can be contained on-site at any one time. Capacity is

identified by the conditions of exemption, the permit, or the plan of operations as approved by the jurisdictional health department or the department. All material includes, but is not limited to, incoming waste, feedstocks, bulking agents, stockpiled wastes, active composting, curing piles, composted materials, and sorted recyclable materials on-site.

**"Captive insurance companies"** means companies that are wholly owned subsidiaries controlled by the parent company and established to insure the parent company or its other subsidiaries.

**"Channel migration zone"** means the lateral extent of likely movement of a stream or river channel along a stream reach.

**"Clean soils and clean dredged material"** means soils and dredged material which are not dangerous wastes, contaminated soils, or contaminated dredged material as defined in this section.

**"Closure"** means those actions taken by the owner or operator of a solid waste handling facility to cease disposal operations or other solid waste handling activities, to ensure that all such facilities are closed in conformance with applicable regulations at the time of such closures and to prepare the site for the post-closure period.

**"Closure plan"** means a written plan developed by an owner or operator of a facility detailing how a facility is to close at the end of its active life.

**"Composted material"** means organic solid waste that has undergone biological degradation and transformation under controlled conditions designed to promote aerobic decomposition at a solid waste facility in compliance with the requirements of this chapter. Composting is a form of organic material recycling. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

**"Composting"** means the biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decomposition. Natural decay of organic solid waste under uncontrolled conditions is not composting.

**"Conditionally exempt small quantity generator (CESQG)"** means a dangerous waste generator whose dangerous wastes are not subject to regulation under chapter 70.105 RCW, Hazardous waste management, solely because the waste is generated or accumulated in quantities below the threshold for regulation and meets the conditions prescribed in WAC 173-303-070 (8)(b).

**"Conditionally exempt small quantity generator (CESQG) waste"** means dangerous waste generated by a conditionally exempt small quantity generator.

**"Container"** means a portable device used for the collection, storage, and/or transportation of solid waste including, but not limited to, reusable containers, disposable containers, and detachable containers.

**"Contaminant"** means any chemical, physical, biological, or radiological substance that does not occur naturally in the environment or that occurs at concentrations greater than natural background levels.

**"Contaminate"** means the release of solid waste, leachate, or gases emitted by solid waste, such that contaminants enter the environment at concentrations that pose a threat to

human health or the environment, or cause a violation of any applicable environmental regulation.

**"Contaminated dredged material"** means dredged material resulting from the dredging of surface waters of the state where contaminants are present in the dredged material at concentrations not suitable for open water disposal and the dredged material is not dangerous waste and is not regulated by section 404 of the Federal Clean Water Act (P.L. 95-217).

**"Contaminated soils"** means soils removed during the cleanup of a hazardous waste site, or a dangerous waste facility closure, corrective actions or other clean-up activities and which contain harmful substances but are not designated dangerous wastes.

**"Controlled conditions"** means the conditions in which facilities must be operated to meet the performance standards of WAC 173-350-040 and the applicable handling standards of this chapter. Controlled conditions at compost facilities may include, but are not limited to, controlling odors, run-on and runoff, moisture levels, pH levels, carbon to nitrogen ratios, temperatures, oxygen levels, particle sizes, and free air space.

**"Corrosion expert"** means a person certified by the National Association of Corrosion Engineers (NACE) or a registered professional engineer who has certification or licensing that includes education and experience in corrosion control.

**"Crop residues"** means vegetative material leftover from the harvesting of crops, including leftover pieces or whole fruits or vegetables, crop leaves and stems. Crop residue does not include food processing waste.

**"Dangerous wastes"** means any solid waste designated as dangerous waste by the department under chapter 173-303 WAC, Dangerous waste regulations.

**"Department"** means the Washington state department of ecology.

**"Detachable containers"** means reusable containers that are mechanically loaded or handled, such as a dumpster or drop box.

**"Digestate"** means both solid and liquid substances that remain following anaerobic digestion of organic material in an anaerobic digester.

**"Disposable containers"** means containers that are used once to handle solid waste, such as plastic bags, cardboard boxes and paper bags.

**"Disposal"** or **"deposition"** means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.

**"Domestic septage"** means Class I, II or III domestic septage as defined in chapter 173-308 WAC, Biosolids management.

**"Domestic wastewater facility"** means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater together with such industrial waste as may be present.

**"Drop box facility"** means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. Drop box facilities normally serve the general public with loose loads and receive waste from ~~((offsite))~~ off-site.

**"Energy recovery"** means the recovery of energy in a useable form from mass burning or refuse-derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste that involves high temperature (above twelve hundred degrees Fahrenheit) processing.

**"Existing facility"** means a facility which is owned or leased, and in operation, or for which facility construction has begun, on or before the effective date of this chapter and the owner or operator has obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances.

**"Facility"** means all contiguous land (including buffers and setbacks) and structures, other appurtenances, and improvements on the land used for solid waste handling.

**"Facility construction"** means the continuous on-site physical act of constructing solid waste handling unit(s) or when the owner or operator of a facility has entered into contractual obligations for physical construction of the facility that cannot be canceled or modified without substantial financial loss.

**"Facility structures"** means constructed infrastructure such as buildings, sheds, utility lines, and piping on the facility.

**"Feedstock"** means a source separated waste material used as a component of composting, manufacturing, or as part of an industrial process.

**"Food processing waste"** means a source-separated organic material that is generated by a food processing facility licensed to process food by the United States Department of Agriculture, the United States Food and Drug Administration, the Washington state department of agriculture, or other applicable regulatory agency. Food processing wastes may include, but are not limited to, sludge from food processing water treatment plants, culls, DAF (dissolved air flotation from a food processing facility), pomace, and paunch manure, not intended for animal or human consumption.

**"Garbage"** means ~~((animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking, and serving of foods))~~ putrescible solid wastes.

**"Groundwater"** means that part of the subsurface water that is in the zone of saturation.

**"Holocene fault"** means a plane along which earthen material on one side has been displaced with respect to that on the other side and has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene to the present.

**"Home composting"** means composting of on-site generated wastes, and incidental materials beneficial to the composting process, by the owner or person in control of a single-family residence, or for a dwelling that houses two to five families, such as a duplex or clustered dwellings.

**"Household hazardous wastes"** means any waste which exhibits any of the properties of dangerous wastes that is exempt from regulation under chapter 70.105 RCW, Hazardous waste management, solely because the waste is generated by households. Household hazardous waste can also include other solid waste identified in the local hazardous waste management plan prepared pursuant to chapter 70.105 RCW, Hazardous waste management.

**"Hydrostratigraphic unit"** means any water-bearing geologic unit or units hydraulically connected or grouped together on the basis of similar hydraulic conductivity which can be reasonably monitored; several geologic formations or part of a geologic formation may be grouped into a single hydrostratigraphic unit; perched sand lenses may be considered a hydrostratigraphic unit or part of a hydrostratigraphic unit, for example.

**"Incineration"** means reducing the volume of solid wastes by use of an enclosed device using controlled flame combustion.

**"Incompatible waste"** means a waste that is unsuitable for mixing with another waste or material because the mixture might produce excessive heat or pressure, fire or explosion, violent reaction, toxic dust, fumes, mists, or gases, or flammable fumes or gases.

**"Industrial solid wastes"** means solid waste generated from manufacturing operations, food processing, or other industrial processes.

**"Industrial wastewater facility"** means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of industrial wastewater.

**"Inert waste"** means solid wastes that meet the criteria for inert waste in WAC 173-350-990.

**"Inert waste landfill"** means a landfill that receives only inert wastes.

**"Intermediate solid waste handling facility"** means any intermediate use or processing site engaged in solid waste handling which is not the final site of disposal. This includes material recovery facilities, transfer stations, drop boxes, baling and compaction sites.

**"Intermodal facility"** means any facility operated for the purpose of transporting closed containers of waste and the containers are not opened for further treatment, processing or consolidation of the waste.

**"Jurisdictional health department"** means city, county, city-county or district public health department.

**"Land application site"** means a contiguous area of land under the same ownership or operational control on which solid wastes are beneficially utilized for their agronomic or soil-amending capability.

**"Land reclamation"** means using solid waste to restore drastically disturbed lands including, but not limited to, construction sites and surface mines. Using solid waste as a component of fill is not land reclamation.

**"Landfill"** means a disposal facility or part of a facility at which solid waste is permanently placed in or on land including facilities that use solid waste as a component of fill.

**"Leachate"** means water or other liquid within a solid waste handling unit that has been contaminated by dissolved or suspended materials due to contact with solid waste or gases.

**"Limited moderate risk waste"** means waste batteries, waste oil, and waste antifreeze generated from households.

**"Limited moderate risk waste facility"** means a facility that collects, stores, and consolidates only limited moderate risk waste.

**"Limited purpose landfill"** means a landfill which is not regulated or permitted by other state or federal environmental regulations that receives solid wastes limited by type

or source. Limited purpose landfills include, but are not limited to, landfills that receive segregated industrial solid waste, construction, demolition and landclearing debris, wood waste, ash (other than special incinerator ash), and dredged material. Limited purpose landfills do not include inert waste landfills, municipal solid waste landfills regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills, landfills disposing of special incinerator ash regulated under chapter 173-306 WAC, Special incinerator ash management standards, landfills regulated under chapter 173-303 WAC, Dangerous waste regulations, or chemical waste landfills used for the disposal of polychlorinated biphenyls (PCBs) regulated under Title 40 C.F.R. Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.

**"Liquid"** means a substance that flows readily and assumes the form of its container but retains its independent volume.

**"Liquid waste"** means any solid waste which is deemed to contain free liquids as determined by the Paint Filter Liquids Test, Method 9095, in *"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,"* EPA Publication SW-846.

**"Lithified earth material"** means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete or asphalt, or unconsolidated earth materials, soil or regolith lying at or near the earth's surface.

**"Local fire control agency"** means a public or private agency or corporation providing fire protection such as a local fire department, the department of natural resources or the United States Forest Service.

**"Lower explosive limits"** means the lowest percentage by volume of a mixture of explosive gases that will propagate a flame in air at twenty-five degrees centigrade and atmospheric pressure.

**"Manufactured organics"** means source separated solid wastes, such as nonplastic coated paper plates, cups, compostable bags, and other items designed to decompose through composting, anaerobic digestion, or through other organic materials recycling processes. Manufactured organics do not include physical contaminants such as plastics and coated paper products that will not readily decompose under typical composting conditions, or wood derived fuel or wood waste as defined in this section.

**"Manure and bedding"** means manure (feces) and bedding from herbivorous animals such as horses, cows, sheep, and goats.

**"Material recovery facility"** means any facility that collects, compacts, repackages, sorts, or processes for transport source separated solid waste for the purpose of recycling.

**"Mobile systems and collection events"** means activities conducted at a temporary location to collect moderate risk waste.

**"Moderate risk waste (MRW)"** means solid waste that is limited to conditionally exempt small quantity generator

(CESQG) waste and household hazardous waste (HHW) as defined in this chapter.

**"MRW facility"** means a solid waste handling unit that is used to collect, treat, recycle, exchange, store, consolidate, and/or transfer moderate risk waste. This does not include mobile systems and collection events or limited MRW facilities that meet the applicable terms and conditions of WAC 173-350-360 (2) or (3).

**"Municipal solid waste (MSW)"** means a subset of solid waste which includes unsegregated garbage, refuse and similar solid waste material discarded from residential, commercial, institutional and industrial sources and community activities, including residue after recyclables have been separated. Solid waste that has been segregated by source and characteristic may qualify for management as a non-MSW solid waste, at a facility designed and operated to address the waste's characteristics and potential environmental impacts. The term MSW does not include:

- Dangerous wastes other than wastes excluded from the requirements of chapter 173-303 WAC, Dangerous waste regulations, in WAC 173-303-071 such as household hazardous wastes;

- Any solid waste, including contaminated soil and debris, resulting from response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601), chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act, chapter 173-340 WAC, the Model Toxics Control Act cleanup regulation or a remedial action taken under those rules; nor

- Mixed or segregated recyclable material that has been source-separated from garbage, refuse and similar solid waste. The residual from source separated recyclables is MSW.

**"Natural background"** means the concentration of chemical, physical, biological, or radiological substances consistently present in the environment that has not been influenced by regional or localized human activities. Metals at concentrations naturally occurring in bedrock, sediments and soils due solely to the geologic processes that formed the materials are natural background. In addition, low concentrations of other persistent substances due solely to the global use or formation of these substances are natural background.

**"New solid waste handling unit"** means a solid waste handling unit that begins operation or facility construction, and significant modifications to existing solid waste handling units, after the effective date of this chapter.

**"Nuisance odor"** means any odor which is found offensive or may unreasonably interfere with any person's health, comfort, or enjoyment beyond the property boundary of a facility.

**"On-farm"** means activities taking place on any agricultural land under the control of the same entity including parcels that are not geographically contiguous but managed by the same entity for agricultural production.

**"One hundred-year flood plain"** means any land area that is subject to one percent or greater chance of flooding in any given year from any source.

**"Open burning"** means the burning of solid waste materials in an open fire or an outdoor container without pro-



viding for the control of combustion or the control of emissions from the combustion.

**"Organic feedstocks"** means source separated organic materials including bulking agents suitable for vermicomposting, composting, anaerobic digestion, and other processes that transform organic materials into usable or marketable materials.

**"Organic materials"** means any solid waste that is a biological substance of plant or animal origin capable of microbial degradation. Organic materials include, but are not limited to, manure, yard debris, food waste, food processing wastes, wood waste, and garden wastes.

**"Other conversion technologies"** means processes that transform organic feedstocks into useable or marketable materials, but does not include composting, vermicomposting, or anaerobic digestion.

**"Overburden"** means the earth, rock, soil, and topsoil that lie above mineral deposits.

**"Permeability"** means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity.

**"Permit"** means an authorization issued by the jurisdictional health department which allows a person to perform solid waste activities at a specific location and which includes specific conditions for such facility operations.

**"Person"** means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatever.

**"Physical contaminants"** as they relate to incoming feedstocks and compost quality means inorganic and organic constituents that are not readily decomposed during the composting process including, but not limited to, plastics, glass, textiles, rubber, leather, metal, ceramics, polystyrene, and wood pieces containing paint, laminates, bonding agents or chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

**"Pile"** means any noncontainerized accumulation of solid waste that is used for treatment or storage.

**"Plan of operation"** means the written plan developed by an owner or operator of a facility detailing how a facility is to be operated during its active life.

**"Point of compliance"** means a point established in the groundwater by the jurisdictional health department as near a possible source of release as technically, hydrogeologically and geographically feasible.

**"Post-closure"** means the requirements placed upon disposal facilities after closure to ensure their environmental safety for at least a twenty-year period or until the site becomes stabilized (i.e., little or no settlement, gas production, or leachate generation).

**"Post-closure plan"** means a written plan developed by an owner or operator of a facility detailing how a facility is to meet the post-closure requirements for the facility.

**"Post-consumer food waste"** means source separated organic materials originally intended for human consumption including, but not limited to, vegetables, fruits, grains, meats and dairy products resulting from serving food. Post-con-

sumer food waste is typically collected from cafeterias, homes, and restaurants.

**"Preconsumer animal-based wastes"** means source separated organic materials from animals such as meat, fat, dairy, or eggs that are a result of food preparation for human consumption or are products that did not reach the intended consumer. Preconsumer animal-based wastes are typically collected from food processing facilities and grocery stores.

**"Preconsumer vegetative waste"** means source separated organic materials from vegetables, such as pits, peels, and pomace from human food preparation, or vegetable products that did not reach the consumer. Preconsumer vegetative wastes are typically collected from food processing facilities and grocery stores.

**"Premises"** means a tract or parcel of land with or without habitable buildings.

**"Private facility"** means a privately owned facility maintained on private property solely for the purpose of managing waste generated by the entity owning the site.

**"Processing"** means an operation to convert a material into a useful product or to prepare it for reuse, recycling, or disposal.

**"Product take-back center"** means a retail outlet or distributor that accepts household hazardous waste of comparable types as the products offered for sale or distributed at that outlet.

**"Public facility"** means a publicly or privately owned facility that accepts solid waste generated by other persons;

**"Putrescible waste"** means solid waste which contains material capable of being readily decomposed by microorganisms and which is likely to produce offensive odors.

**"Pyrolysis"** means the process in which solid wastes are heated in an enclosed device in the absence of oxygen to vaporization, producing a hydrocarbon-rich gas capable of being burned for recovery of energy.

**"Recyclable materials"** means those solid wastes that are separated for recycling or reuse, including, but not limited to, papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

**"Recycling"** means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration. Recycling does not include collection, compacting, repackaging, and sorting for the purpose of transport.

**"Representative sample"** means a sample that can be expected to exhibit the average properties of the sample source.

**"Reserved"** means a section having no requirements and which is set aside for future possible rule making as a note to the regulated community.

**"Reusable containers"** means containers that are used more than once to handle solid waste, such as garbage cans.

**"Runoff"** means any rainwater, leachate or other liquid that drains over land from any part of the facility.

**"Run-on"** means any rainwater or other liquid that drains over land onto any part of a facility.

**"Scavenging"** means the removal of materials at a disposal facility, or intermediate solid waste-handling facility, without the approval of the owner or operator and the jurisdictional health department.

**"Seismic impact zone"** means an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in two hundred fifty years.

**"Setback"** means that part of a facility that lies between the active area and the property boundary.

**"Sewage sludge"** means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated.

**"Soil amendment"** means any substance that is intended to improve the physical characteristics of soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW, Municipal sewage sludge—Biosolids and wastewater, as regulated in chapter 90.48 RCW, Water pollution control.

**"Solid waste"** or **"wastes"** means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.

**"Solid waste handling"** means the management, storage, collection, transportation, treatment, use, processing or final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof.

**"Solid waste handling unit"** means discrete areas of land, sealed surfaces, liner systems, excavations, facility structures, or other appurtenances within a facility used for solid waste handling.

**"Source separation"** means the separation of different kinds of solid waste at the place where the waste originates.

**"Specified risk material"** means the skull, brain, trigeminal ganglia (nerves attached to brain and close to the skull exterior), eyes, spinal cord, distal ileum (a part of the small intestine), and the dorsal root ganglia (nerves attached to the spinal cord and close to the vertebral column) of cattle aged thirty months or older.

**"Storage"** means the holding of solid waste materials for a temporary period.

**"Surface impoundment"** means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquids or sludges. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

**"Surface water"** means all lakes, rivers, ponds, wetlands, streams, inland waters, salt waters and all other surface water and surface water courses within the jurisdiction of the state of Washington.

**"Tank"** means a stationary device designed to contain an accumulation of liquid or semisolid materials meeting the definition of solid waste or leachate, and which is constructed primarily of nonearthen materials to provide structural support.

**"Throughput"** means the amount of incoming feedstocks in tons or cubic yards that a solid waste facility processes in a given amount of time, such as a calendar year. Throughput is identified by the conditions of exemption, the permit, or the plan of operations as approved by the jurisdictional health department or the department.

**"Transfer station"** means a permanent, fixed, supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from ((offsite)) off-site into a larger transfer vehicle for transport to a solid waste handling facility.

**"Treatment"** means the physical, chemical, or biological processing of solid waste to make such solid wastes safer for storage or disposal, amenable for recycling or energy recovery, or reduced in volume.

**"Twenty-five-year storm"** means a storm of twenty-four hours duration and of such intensity that it has a four percent probability of being equaled or exceeded each year.

~~("Type 1 feedstocks" means source separated yard and garden wastes, wood wastes, agricultural crop residues, wax-coated cardboard, preconsumer vegetative food wastes, other similar source separated materials that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances, human pathogens, and physical contaminants.~~

~~"Type 2 feedstocks" means manure and bedding from herbivorous animals that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances and physical contaminants when compared to a type 1 feedstock.~~

~~"Type 3 feedstocks" means meat and postconsumer source separated food wastes or other similar source separated materials that the jurisdictional health department determines to have a comparable low level of risk in hazardous substances and physical contaminants, but are likely to have high levels of human pathogens.~~

~~"Type 4 feedstocks" means mixed municipal solid wastes, postcollection separated or processed solid wastes, industrial solid wastes, industrial biological treatment sludges, or other similar compostable materials that the jurisdictional health department determines to have a comparable high level of risk in hazardous substances, human pathogens and physical contaminants.)~~

**"Universal wastes"** means universal wastes as defined in chapter 173-303 WAC, Dangerous waste regulations. Universal wastes include, but may not be limited to, dangerous waste batteries, mercury-containing thermostats, and universal waste lamps generated by fully regulated dangerous waste generators or CESQGs.

**"Unstable area"** means a location that is susceptible to forces capable of impairing the integrity of the facility's lin-

ers, monitoring system or structural components. Unstable areas can include poor foundation conditions and areas susceptible to mass movements.

**"Vadose zone"** means that portion of a geologic formation in which soil pores contain some water, the pressure of that water is less than atmospheric pressure, and the formation occurs above the zone of saturation.

**"Vector"** means a living animal, including, but not limited to, insects, rodents, and birds, which is capable of transmitting an infectious disease from one organism to another.

**"Vermicomposting"** means the controlled and managed process by which live worms convert organic residues into dark, fertile, granular excrement.

**"Waste tires"** means any tires that are no longer suitable for their original intended purpose because of wear, damage or defect. Used tires, which were originally intended for use on public highways that are considered unsafe in accordance with RCW 46.37.425, are waste tires. Waste tires also include quantities of used tires that may be suitable for their original intended purpose when mixed with tires considered unsafe per RCW 46.37.425.

**"Wetlands"** means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**"Wood derived fuel"** means wood pieces or particles used as a fuel for energy recovery, which contain paint, bonding agents, or creosote. Wood derived fuel does not include wood pieces or particles coated with paint that contains lead or mercury, or wood treated with other chemical preservatives such as pentachlorophenol, copper (~~naphthenate~~) naphthenate, or copper-chrome-arsenate.

**"Wood waste"** means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, construction, demolition, handling and storage of raw materials, trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, hogged fuel, and log sort yard waste, but does not include wood pieces or particles containing paint, laminates, bonding agents or chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

**"Yard debris"** means plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping or similar activities. Yard debris includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris.

**"Zone of saturation"** means that part of a geologic formation in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

**AMENDATORY SECTION** (Amending Order 99-24, filed 1/10/03, effective 2/10/03)

**WAC 173-350-220 Composting facilities.** (1) *Composting facilities - Applicability.*

(a) This section (~~(is applicable)~~) applies to all facilities (~~(or sites)~~) that treat solid waste by composting. This section (~~(is)~~) does not (~~(applicable)~~) apply to:

(i) (~~Composting used as a treatment for dangerous wastes regulated under chapter 173-303 WAC, Dangerous waste regulation;~~) Methods of managing organic materials that are excluded from the solid waste handling standards in WAC 173-350-020;

(ii) Composting used as a treatment for (~~petroleum~~) contaminated soils regulated under WAC 173-350-320;

(iii) (~~Treatment of liquid sewage sludge or biosolids in digesters at wastewater treatment facilities regulated under chapter 90.48 RCW, Water pollution control and chapter 70.95J RCW, Municipal sewage sludge—Biosolids;~~

~~(iv) Treatment of other liquid solid wastes in digesters regulated under WAC 173-350-330; and~~) Anaerobic digesters regulated under WAC 173-350-250, or treatment of other liquid or solid wastes in digesters regulated under WAC 173-350-330;

(iv) Composting of bovine and equine carcasses for producers subject to RCW 70.95.306. Producers that fail to meet the conditions of RCW 70.95.306 will be required to obtain a solid waste handling permit from the jurisdictional health department and must comply with all other conditions of this chapter; and

(v) Composting biosolids when (~~permitted~~) managed under chapter 173-308 WAC, Biosolids management.

(b) (~~In accordance with RCW 70.95.305, the operation of the following activities in this subsection are subject solely to the requirements of (c) of this subsection and are~~) Conditionally exempt facilities composting materials and volumes in Table 220-A must meet the conditions listed in Table 220-A, and (c) of this subsection to be conditionally exempt from solid waste handling permitting. Feedstocks not listed in Table 220-A must be approved by the department and jurisdictional health department. For the purposes of this subsection, "material on-site at any one time" includes feedstocks, active composting, curing piles, and composted materials. An owner or operator that does not comply with the terms and conditions of Table 220-A and (c) of this subsection is required to obtain a permit from the jurisdictional health department and (~~shall~~) must comply with all other applicable requirements of this chapter. (~~In addition,~~) Violations of the terms and conditions of Table 220-A and (c) of this subsection may be subject to the penalty provisions of RCW 70.95.315.

~~((i) Production of substrate used solely on-site to grow mushrooms;~~

~~(ii) Vermicomposting, when used to process Type 1, Type 2, or Type 3 feedstocks generated on-site;~~

~~(iii) Composting of Type 1 or Type 2 feedstocks with a volume limit of forty cubic yards of material on-site at any time. Material on-site includes feedstocks, partially composted feedstocks, and finished compost;~~

~~(iv) Composting of food waste generated on-site and composted in containers designed to prohibit vector attraction and prevent nuisance odor generation. Total volume of the containers shall be limited to ten cubic yards or less;~~

~~(v) Agricultural composting when all the agricultural wastes are generated on-site and all finished compost is used on-site;~~

~~(vi) Agricultural composting when any agricultural wastes are generated offsite, and all finished compost is used on-site, and total volume of material is limited to one thousand cubic yards on-site at any time. Material on-site includes feedstocks, partially composted feedstocks, and finished compost; and~~

~~(vii) Agricultural composting at registered dairies when the composting is a component of a fully certified dairy nutrient management plan as required by chapter 90.64 RCW, Dairy Nutrient Management Act.~~

~~(viii) Composting of Type 1 or Type 2 feedstocks when more than forty cubic yards and less than two hundred fifty cubic yards of material is on-site at any one time.~~

~~(ix) Agricultural composting, when any of the finished compost is distributed offsite and when it meets the following requirements:~~

~~(A) More than forty cubic yards, but less than one thousand cubic yards of agricultural waste is on-site at any time; and~~

~~(B) Agricultural composting is managed according to a farm management plan written in conjunction with a conservation district, a qualified engineer, or other agricultural professional able to certify that the plan meets applicable conservation practice standards in the *Washington Field Office Technical Guide* produced by the Natural Resources Conservation Service.~~

~~(x) Vermicomposting when used to process Type 1 or Type 2 feedstocks generated offsite. Total volume of materials is limited to one thousand cubic yards on-site at any one time.)~~

**Table 220-A Terms and Conditions for Solid Waste Permit Exemptions**

	<b><u>Organic Materials</u></b>	<b><u>Volume</u></b>	<b><u>Specific Requirements for Activity or Operation</u></b>
(1)	<u>All organic feedstocks</u>	<u>No more than 5,000 gallons or 25 cubic yards of material on-site at any one time.</u>	<u>No notification, reporting or testing requirements.</u>
(2)	<u>All organic feedstocks</u>	<u>Greater than 25 but no more than 250 cubic yards of material on-site at any one time, not to exceed 1,000 cubic yards in a calendar year.</u>	<u>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department;</u> <u>(b) Facilities that distribute composted material off-site must meet the following conditions:</u> <u>(i) Manage the operation to reduce pathogens to meet limits set by Table 220-B;</u> <u>(ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and</u> <u>(iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</u>
(3)	<u>Yard debris</u> <u>Crop residues</u> <u>Manure and bedding</u> <u>Bulking agents</u>	<u>Greater than 25 but no more than 500 cubic yards of material on-site at any one time, not to exceed 2,500 cubic yards processed in a calendar year.</u>	<u>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department.</u>

	<u>Organic Materials</u>	<u>Volume</u>	<u>Specific Requirements for Activity or Operation</u>
			<p><u>(b) Facilities that distribute composted materials off-site must meet the following conditions:</u></p> <p><u>(i) Manage the operation to reduce pathogens to meet limits set by Table 220-B;</u></p> <p><u>(ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and</u></p> <p><u>(iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</u></p>
(4)	<p><u>Agricultural wastes</u>  <u>Yard debris</u>  <u>Bulking agents</u></p>	<p><u>Greater than 25 but no more than 1,000 cubic yards of agricultural wastes and bulking agents on-farm at any one time, and up to 50% of organic materials on-farm can be yard debris.</u></p>	<p><u>Agricultural farms managing more than 25 cubic yards of imported yard debris on-site at any one time or composting only agricultural wastes but that distribute off-site must meet the following conditions:</u></p> <p><u>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notification must be submitted on a form provided by the department;</u></p> <p><u>(b) If agricultural farm is only managing agricultural waste and not distributing composted material off farm, then notification in (4)(a) of this table is not required;</u></p> <p><u>(c) Facilities that distribute composted material off-site must meet the following conditions:</u></p> <p><u>(i) Manage operation to reduce pathogens to meet limits set by Table 220-B of this section;</u></p> <p><u>(ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and</u></p>

	<u>Organic Materials</u>	<u>Volume</u>	<u>Specific Requirements for Activity or Operation</u>
			<u>(iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</u>
(5)	<u>Agricultural wastes</u> <u>Manure and bedding from zoos</u> <u>Bulking agents</u>	<u>Greater than 25 cubic yards with no upper limits when only agricultural wastes, manure and bedding from zoos, and bulking agents are processed on-farm, or on-site for zoos.</u>	<p><u>Agricultural farms that distribute composted material off-farm, or off-site for zoos, must meet the following conditions:</u></p> <p><u>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notification must be submitted on a form provided by the department;</u></p> <p><u>(b) For composting at a dairy, composting must occur as part of an updated dairy nutrient management plan as required by chapter 90.64 RCW, Dairy Nutrient Management Act;</u></p> <p><u>(c) For composting at a farm other than a dairy, composting must occur as part of an updated farm management plan written in conjunction with a conservation district, a qualified engineer, or other agricultural professional able to certify that the plan meets applicable conservation practice standards in the USDA <i>Washington Field Office Technical Guide</i>, Code 317, produced by the Natural Resources Conservation Service;</u></p> <p><u>(d) Facilities that distribute composted material off-site must meet the following conditions:</u></p> <p><u>(i) Manage the operation to reduce pathogens to meet limits set by Table 220-B of this section;</u></p> <p><u>(ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and</u></p> <p><u>(iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</u></p>

(c) Composting operations managing the types and volumes of materials identified in ((subsection (b) shall be managed according to)) Table 220-A must meet the following terms and conditions to maintain their exempt status:

(i) Comply with the performance standards of WAC 173-350-040;

(ii) ~~((Protect surface water and groundwater through the use of best management practices and all known available and reasonable methods of prevention, control, and treatment as appropriate. This includes, but is not limited to, setbacks from wells, surface waters, property lines, roads, public access areas, and site-specific setbacks when appropriate;))~~ Manage the operation to prevent the migration of agricultural pests identified by local horticultural pest and disease control boards, as applicable;

(iii) Control nuisance odors to prevent migration beyond property boundaries;

(iv) Manage the operation to prevent attraction of flies, rodents, and other vectors;

(v) ~~((Conduct an annual analysis, prepared in accordance with the requirements of subsection (4)(a)(viii) of this section, for composted material that is distributed offsite from categorically exempt facilities described in subsection (1)(b)(vii) through (ix) of this section.~~

(vi) ~~Prepare and submit an annual report to the department and the jurisdictional health department by April 1st for categorically exempt facilities described in subsection (1)(b)(vii) through (ix) of this section. Annual reports are not required for facilities operating under the permit exemption provided in (b)(vii) of this subsection if the composted material is not distributed offsite. The annual report shall be on forms supplied by the department and shall detail facility activities during the previous calendar year and shall include the following information:~~

(A) Name and address of the facility;

(B) Calendar year covered by the report;

(C) Annual quantity and type of feedstocks received and compost produced, in tons;

(D) Annual quantity of composted material sold or distributed, in tons;

(E) Results of the annual analysis of composted material required by subsection (1)(c)(v) of this section; and

(F) Any additional information required by written notification of the department.

(vii)) Allow the department or the jurisdictional health department to inspect the site at reasonable times(;

(viii) ~~For activities under (b)(viii) through (x) of this subsection, and registered dairies where compost is distributed offsite, the department and jurisdictional health department shall be notified in writing thirty days prior to beginning any composting activity. Notification shall include name of owner or operator, location of composting operation and identification of feedstocks)).~~

(2) *Composting facilities - Location standards (permit requirements).* There are no specific location standards for composting facilities subject to this chapter; however, composting facilities must meet the requirements ~~((provided))~~ of other federal, state, or local laws and regulations that apply under WAC 173-350-040(5).

Note: When considering compost facility location, please review the U.S. Department of Transportation Federal Aviation Advisory Circular No. 150/5200-33B 2007.

(3) *Composting facilities - Design standards (permit requirements).* ~~((The owner or operator of a composting facility shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the design standards of this subsection. Scale drawings of the facility including the location and size of feedstock and finished product storage areas, compost processing areas, fixed equipment, buildings, leachate collection devices, access roads and other appurtenant facilities; and design specifications for compost pads, storm water run-on prevention system, and leachate collection and conveyance systems shall be provided. All composting facilities shall be designed and constructed to meet the following requirements:~~

(a) ~~When necessary to provide public access, all-weather roads shall be provided from the public highway or roads to and within the compost facility and shall be designed and maintained to prevent traffic congestion, traffic hazards, dust and noise pollution;~~

(b) ~~Composting facilities shall separate storm water from leachate by designing storm water run-on prevention systems, which may include covered areas (roofs), diversion swales, ditches or other designs to divert storm water from areas of feedstock preparation, active composting and curing;~~

(c) ~~Composting facilities shall collect any leachate generated from areas of feedstock preparation, active composting and curing. The leachate shall be conveyed to a leachate holding pond, tank or other containment structure. The leachate holding structure shall be of adequate capacity to collect the amount of leachate generated, and the volume calculations shall be based on the facility design, monthly water balance, and precipitation data. Leachate holding ponds and tanks shall be designed according to the following:~~

(i) ~~For leachate ponds at registered dairies, the design and installation shall meet Natural Resources Conservation Service standards for a waste storage facility in the *Washington Field Office Technical Guide*.~~

(ii) ~~For leachate ponds at composting facilities other than registered dairies, the pond shall be designed to meet the following requirements:~~

(A) ~~Have a liner consisting of a minimum 30-mil thickness geomembrane overlying a structurally stable foundation to support the liners and the contents of the impoundment. High density polyethylene geomembranes used as primary liners or leak detection liners shall be at least 60-mil thick to allow for proper welding. The jurisdictional health department may approve the use of alternative designs if the owner or operator can demonstrate during the permitting process that the proposed design will prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection;~~

(B) ~~Have dikes and slopes designed to maintain their structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action, overfilling, or precipitation;~~

(C) ~~Have freeboard equal to or greater than eighteen inches to avoid overtopping from wave action, overfilling, or precipitation. The jurisdictional health department may~~

reduce the freeboard requirement provided that other engineering controls are in place which prevent overtopping. These engineering controls shall be specified during the permitting process;

(D) Leachate ponds that have the potential to impound more than ten acre feet (three million two hundred fifty nine thousand gallons) of liquid measured from the top of the dike and which would be released by a failure of the containment dike shall be reviewed and approved by the dam safety section of the department.

(iii) Tanks used to store leachate shall meet design standards in WAC 173-350-330 (3)(b).

(d) Composting facilities shall be designed with process parameters and management procedures that promote an aerobic composting process. This requirement is not intended to mandate forced aeration or any other specific composting technology. This requirement is meant to ensure that compost facility designers take into account porosity, nutrient balance, pile oxygen, pile moisture, pile temperature, and retention time of composting when designing a facility.

(e) Incoming feedstocks, active composting, and curing materials shall be placed on compost pads that meet the following requirements:

(i) All compost pads shall be curbed or graded in a manner to prevent ponding, run-on and runoff, and direct all leachate to collection devices. Design calculations shall be based upon the volume of water resulting from a twenty-five year storm event as defined in WAC 173-350-100;

(ii) All compost pads shall be constructed over soils that are competent to support the weight of the pad and the proposed composting materials;

(iii) The entire surface area of the compost pad shall maintain its integrity under any machinery used for composting activities at the facility; and

(iv) The compost pad shall be constructed of materials such as concrete (with sealed joints), asphaltic concrete, or soil cement to prevent subsurface soil and groundwater contamination;

(v) The jurisdictional health department may approve other materials for compost pad construction if the permit applicant is able to demonstrate that the compost pad will meet the requirements of this subsection.) Composting facilities must be designed and constructed to meet the requirements of this subsection.

(a) Composting facilities must be designed and constructed such that:

(i) The facility can be operated to meet the performance standard requirements in WAC 173-350-040; and

(ii) The facility can be operated to promote controlled, aerobic decomposition. This requirement is intended to ensure that compost facility designers take into account porosity, nutrient balance, pile oxygen, pile moisture, pile temperature, and retention time of composting when designing a facility. It is not intended to mandate forced aeration or any other specific composting technology.

(b) The owner or operator of a composting facility must prepare and provide to the jurisdictional health department engineering reports, engineering plans, and engineering specifications that address the design standards of this subsection.

The engineering documents must be prepared by an engineer licensed in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of the facility including, but not limited to: Pad, impoundments, storm water management features, leachate management features, and aeration and emission control features as required by the permitting air authority where applicable. The engineering report must demonstrate that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of feedstock and composted material storage areas, compost processing areas, fixed equipment, buildings, storm water management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including, but not limited to, pads, storm water management features, leachate management features, and aeration and emission management features as required by a permitting air authority where applicable; and

(iv) A construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility to ensure the facility is constructed in accordance with the approved design.

(c) When operations require public access, all-weather roads must be provided from the highway or roads to and within the compost facility and must be designed and maintained to prevent traffic congestion, traffic hazards, dust, and noise pollution.

(d) Compost facilities must manage storm water and leachate to meet the standards of this section and of any and all federal, state, and local water and air quality permits.

(e) Composting facilities must minimize the production of leachate and runoff by designing storm water management features such as run-on prevention systems, which may include covered areas (roofs), diversion swales, ditches, or other features designed to divert storm water from areas of feedstock preparation, active composting, and curing.

(i) Composting facilities must manage any leachate generated at the facility by providing leachate management features. The leachate management features include, but are not limited to, leachate collection, conveyance, and storage structures, or treatment systems. Leachate must be collected from areas of feedstock storage and preparation, active composting, and curing, and be conveyed to a leachate storage structure or treatment system. Any discharges to ground that result in contaminants migrating to groundwater require a waste discharge permit under chapter 90.48 RCW, Water pollution control, prior to discharge. Discharges to ground that result in degradation of groundwater quality are prohibited under chapter 90.48 RCW, Water pollution control. Any discharge to sanitary sewer requires additional permitting by the local delegated authority or department;

(ii) Storm water and leachate collection and conveyance structures must be designed based on the volume of water resulting from a twenty-five-year storm event as defined in WAC 173-350-100;



(iii) Leachate storage structures such as ponds or tanks must be of adequate capacity to store the normal maximum volume of leachate generated by the facility. The normal maximum volume will be established based on the following conditions:

(A) Facility design;

(B) Normal climatic precipitation and evaporation data for the location of the facility;

(C) Monthly leachate reuse or removal; and

(D) A factor of safety to accommodate variability of actual conditions from normal conditions.

(iv) Leachate holding ponds and tanks must be designed according to the following:

(A) Leachate ponds at registered dairies must meet Natural Resources Conservation Service standards for a waste storage facility in the 2001 (revised June 2011) *Washington Field Office Technical Guide* (Code 313).

(B) Leachate ponds at composting facilities other than registered dairies must be designed to meet the following requirements:

(I) Have a liner consisting of a minimum 30-mil thickness geomembrane on a subgrade that provides sufficient bearing capacity to support the liner and the contents of the pond. A liner constructed with a high density polyethylene geomembrane must be at least 60-mil thick to allow for proper welding. The jurisdictional health department may approve the use of an alternative liner design if the owner or operator can demonstrate during the permitting process that the proposed design will prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection;

(II) Have dikes and slopes designed to maintain their structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action, overfilling, or precipitation;

(III) Have freeboard (distance between the liquid level and the top of the pond) equal to or greater than eighteen inches to avoid overtopping from wave action, overfilling, or precipitation. The jurisdictional health department may reduce the freeboard requirement provided that other engineering controls are in place that prevent overtopping. These engineering controls must be specified during the permitting process; and

(IV) Leachate ponds that have the potential to impound more than ten-acre feet (three million two hundred fifty-nine thousand gallons) of liquid measured from the top of the dike and which would be released by a failure of the containment dike must be reviewed and approved by the dam safety section of the department.

(C) Tanks used to store leachate must meet design standards in WAC 173-350-330 (3)(b).

(f) Incoming feedstocks, active composting, and curing materials must be placed on pads that prevent contamination of soil or groundwater underlying or adjacent to the pads. Pads must meet the following requirements:

(i) All pads must be curbed or graded in a manner to prevent ponding, to control run-on and runoff, and to separately collect and convey all storm water and leachate to separate storage or holding systems. Storm water that is combined

with leachate must be managed as leachate in accordance with this section;

(ii) All pads must be constructed on subgrades that provide sufficient bearing capacity to support the weight of the pad, the materials placed on them, and the equipment used in handling the materials;

(iii) The entire surface area of the pad must be designed to maintain its structural and hydraulic integrity against loads resulting from any machinery used for feedstock and compost handling activities, and from surface wear or damage caused by feedstock and compost handling, or by active composting at the facility;

(iv) The pad may be constructed of materials such as concrete (with sealed joints), asphaltic concrete, or soil cement that prevents subsurface soil and groundwater contamination;

(v) The jurisdictional health department may allow pads for compost facilities to be designed and constructed with materials other than those listed in (f)(iv) of this subsection provided the applicant demonstrates in the engineering report to the jurisdictional health department's and the department's satisfaction that the alternative pad provides sufficient protection to meet the performance standards of this section and of WAC 173-350-040.

(4) Composting facilities - Operating standards (permit requirements). The owner or operator of a composting facility ((shall)) must:

(a) Operate the facility to:

(i) Control air contaminants such as dust((-)) and nuisance odors((-and)) to prevent other contaminants ((to prevent migration of air contaminants)) from migrating beyond property boundaries in accordance with WAC 173-350-040(4);

(ii) Prevent the attraction of vectors;

(iii) ((Ensure that only feedstocks identified in the approved plan of operation are accepted at the facility;)) Prevent the migration of agricultural pests identified by local pest and disease control boards, as applicable;

(iv) Ensure ((the facility operates under the supervision and control of a properly trained individual during all hours of operation, and)) access to the facility is restricted when the facility is closed;

(v) ((Ensure facility employees are trained in appropriate facility operations, maintenance procedures, and safety and emergency procedures according to individual job duties and according to an approved plan of operation;

(vi) Implement and document pathogen reduction activities when Type 2, 3 or 4 feedstocks are composted. Documentation shall include compost pile temperature and notation of turning as appropriate, based on the composting method used. Pathogen reduction activities shall at a minimum include the following:

(A) In vessel composting — the temperature of the active compost pile shall be maintained at fifty-five degrees Celsius (one hundred thirty one degrees Fahrenheit) or higher for three days; or

(B) Aerated static pile — the temperature of the active compost pile shall be maintained at fifty-five degrees Celsius (one hundred thirty one degrees Fahrenheit) or higher for three days; or

(C) Windrow composting – the temperature of the active compost pile shall be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for fifteen days or longer. During the period when the compost is maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher, there shall be a minimum of five turnings of the windrow; or

(D) An alternative method that can be demonstrated by the owner or operator to achieve an equivalent reduction of human pathogens;

(vii) Monitor the composting process according to the plan of operation submitted during the permitting process. Monitoring shall include inspection of incoming loads of feedstocks and pathogen reduction requirements of (a)(vi) of this subsection; and

(viii) Analyze composted material for:

(A) Metals in Table A at the minimum frequency listed in Table C. Compost facilities composting only Type 1 and Type 2 feedstocks are not required to test for molybdenum and selenium. Testing frequency is based on the feedstock type and the volume of feedstocks processed per year;

(B) Parameters in Table B at the minimum frequency listed in Table C. Testing frequency is based on the feedstock type and the volume of feedstocks processed per year;

(C) Nitrogen content at the minimum frequency listed in Table C; and

(D) Biological stability as outlined in United States Composting Council Test Methods for the Examination of Composting and Compost at the minimum frequency listed in Table C;

(E) The jurisdictional health department may require testing of additional metal or contaminants, and/or modify the frequency of testing based on historical data for a particular facility, to appropriately evaluate the composted material.) Ensure that only feedstocks identified in the approved plan of operation are accepted at the facility:

(vi) Ensure the facility operates under the supervision and control of a properly trained individual(s) during all hours of operation:

(A) Facility supervisors responsible for daily operation must receive training, or be able to document prior training, in the basics of composting within the first year of supervising the facility. Training must consist of classroom and hands-on course work and conclude with a certificate of completion that must be kept on-site at all times. Appropriate compost training can be obtained through organizations such as the Washington organic recycling council, the Solid Waste Association of North America, the U.S. Composting Council, or other training as approved by the jurisdictional health department.

(B) Ensure facility employees are trained in appropriate facility operations, maintenance procedures, and safety and emergency procedures according to individual job duties and according to an approved plan of operation. A trained supervisor may provide appropriate training to employees responsible for daily operations.

(vii) Implement and document pathogen reduction activities. Documentation must include compost pile temperatures representative of the composting materials, and notation of turnings as appropriate, based on the composting method

used. Pathogen reduction activities must at a minimum include the following:

(A) In vessel composting - The temperature of the active compost pile must be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for three consecutive days (seventy-two hours); or

(B) Aerated static pile must have a cover such as a synthetic material or a layer of finished compost to ensure that pathogen reduction temperatures are reached and vectors are controlled - The temperature of the active compost pile must be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for three consecutive days (seventy-two hours); or

(C) Windrow composting - The temperature of the active compost pile must be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for fifteen days or longer. During the period when the compost is maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher, there must be a minimum of five turnings of the windrow; or

(D) An alternative method of composting that can be demonstrated by the owner or operator to achieve an equivalent reduction of human pathogens.

(viii) Monitor the composting process according to the plan of operation submitted during the permitting process. Monitoring must include inspection of incoming loads of feedstocks and pathogen reduction requirements of (a)(vii) of this subsection:

(ix) Collect composted material samples for analysis that are representative of the pile. Use a sampling method such as described in the U.S. Composting Council 2002 Test Methods for the Examination of Composting and Compost, Method 02.01-A through E; and

(x) Analyze composted material for metals and other testing parameters listed in Table 220-B.

(A) The jurisdictional health department may require additional tests for metals and contaminants;

(B) Testing frequency is based on amount of composted material produced. A representative sample of composted material must be tested for every 5,000 cubic yards produced, or every three hundred sixty-five days, whichever is more frequent. The jurisdictional health department may modify the frequency of testing based on historical data for a particular facility;

(C) Composted material meeting the conditions of subsection (4)(a)(x) and (g) of this section can be stored off of a pad.

Table ((A—Metals)) 220-B Testing Parameters

<b>Metals and other testing parameters</b>	<b>Limit (mg/kg dry weight), unless otherwise specified</b>
Arsenic	((=<)) ≤ 20 ppm
Cadmium	((=<)) ≤ 10 ppm
Copper	((=<)) ≤ 750 ppm
Lead	((=<)) ≤ 150 ppm
Mercury	((=<)) ≤ 8 ppm
Molybdenum(+)	((=<)) ≤ 9 ppm

<b>Metals and other testing parameters</b>	<b>Limit (mg/kg dry weight), unless otherwise specified</b>
Nickel	((=<=)) ≤ 210 ppm
Selenium(+)	((=<=)) ≤ 18 ppm
Zinc	((=<=)) ≤ 1400 ppm
Physical contaminants <sup>1</sup>	≤ 1 percent by weight total, not to exceed .25 percent film plastic by weight
Sharps	0
pH	5 - 10 (range)
Biological stability <sup>2</sup>	Moderately unstable to very stable
Fecal coliform <sup>3</sup>	< 1,000 Most Probable Number per gram of total solids (dry weight)
OR	
Salmonella	< 3 Most Probable Number per 4 grams of total solids (dry weight)

<sup>1</sup>(Not required for composted material made from Type 1, Type 2 or a mixture of Type 1 and Type 2 feedstocks.) A label or information sheet must be provided with compost that exceeds .1% by weight of film plastic. See WAC 173-350-220 (4)(f)(iii)(D)(I).

<sup>2</sup>Tests for biological stability must be done as outlined in the United States Composting Council Test Methods for the Examination of Composting and Compost unless otherwise approved by the jurisdictional health department.

<sup>3</sup>Test for either fecal coliform or salmonella.

Note: Biosolids composters regulated under this chapter must communicate with the jurisdictional health department to determine if different testing parameters and testing frequencies are required.

((Table B – Other Testing Parameters

<b>Parameter</b>	<b>Limit</b>
Manufactured Inerts	< 1 percent
Sharps	0
pH	5 – 10 (range)
Fecal Coliform	< 1,000 Most Probable Number per gram of total solids (dry weight).
Salmonella	< 3 Most Probable Number per 4 grams of total solids (dry weight).

Table C – Frequency of Testing Based on Feedstocks Received

<b>Feedstock Type</b>	<b>&lt;5,000 cubic yards</b>	<b>= or &gt; 5,000 cubic yards</b>
Type 1 –or Type 2	Once per year	Every 10,000 cubic yards or every six months whichever is more frequent

<b>Feedstock Type</b>	<b>&lt;5,000 cubic yards</b>	<b>= or &gt; 5,000 cubic yards</b>
Type 3	Once per quarter (four times per year)	Every 5,000 cubic yards or every other month whichever is more frequent
Type 4	Every 1,000 cubic yards	Every 1,000 cubic yards or once per month whichever is more frequent))

(b) Inspect the facility to prevent malfunctions and deterioration, operator errors and discharges(,which)) that may cause or lead to the release of waste to the environment or a threat to human health. Inspections ((shall)) must be conducted at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process.

(c) For compost facilities with leachate holding ponds, conduct regular liner inspections at least once every five years, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. The frequency of inspections ((shall)) must be specified in the operations plan and ((shall)) must be based on the type of liner, expected service life of the material, and the site-specific service conditions(,The jurisdictional health department shall be given sufficient notice and have the opportunity to be present during liner inspections. An inspection log or summary shall be kept at the facility or other convenient location if permanent office facilities are not on site, for at least five years from the date of inspection. Inspection records shall be available to the jurisdictional health department upon request.

(e) Maintain daily operating records of the following):

(i) ((Temperatures and compost pile turnings for Type 2, Type 3 and Type 4 feedstocks;

(ii) Additional process monitoring data as prescribed in the plan of operation; and

(iii) Results of laboratory analyses for composted materials as required in (a)(viii) of this subsection. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available upon request by the jurisdictional health department.

(d) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the facility's activities during the previous calendar year and shall include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of feedstocks received and compost produced, in tons;

(iv) Annual quantity of composted material sold or distributed, in tons;

(v) Annual summary of laboratory analyses of composted material; and

(vi) Any additional information required by the jurisdictional health department as a condition of the permit.

(e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan of operation shall convey to site personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) List of feedstocks to be composted, including a general description of the source of feedstocks;

(ii) A description of how wastes are to be handled on-site during the facility's active life including:

(A) Acceptance criteria that will be applied to the feedstocks;

(B) Procedures for ensuring that only the waste described will be accepted;

(C) Procedures for handling unacceptable wastes;

(D) Mass balance calculations for feedstocks and amendments to determine an acceptable mix of materials for efficient decomposition;

(E) Material flow plan describing general procedures to manage all materials on-site from incoming feedstock to finished product;

(F) A description of equipment, including equipment to add water to compost as necessary;

(G) Process monitoring plan, including temperature, moisture, and porosity;

(H) Pathogen reduction plan for facilities that accept Type 2, Type 3, and Type 4 feedstocks;

(I) Sampling and analysis plan for the final product;

(J) Nuisance odor management plan (air quality control plan);

(K) Leachate management plan, including monthly water balance; and

(L) Storm water management plan;

(iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspections and inspection logs;

(iv) A neighbor relations plan describing how the owner or operator will manage complaints;

(v) Safety, fire and emergency plans;

(vi) Forms for recordkeeping of daily weights or volumes of incoming feedstocks by type and finished compost product, and process monitoring results; and

(xvii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.) Inspect the liner for degradation and ruptures of the liner material and for failure of any seams or joints in the liner material. If the maximum wetted extent of the liner geomembrane cannot be directly inspected visually, then the liner must be tested for leaks by electrical leak detection survey methods. If leaks, degradation, or ruptures of the liner material are detected, the liner must be repaired; and

(ii) The jurisdictional health department must be given sufficient notice and have the opportunity to be present during liner inspections. An inspection record must be kept at

the facility or other convenient location if permanent office facilities are not on-site, for at least five years from the date of inspection. Inspection records must be available to the jurisdictional health department upon request.

(d) Maintain operating records of the following:

(i) Daily temperatures representative of compost piles;

(ii) Additional process monitoring data as prescribed in the plan of operation;

(iii) Results of analyses for composted materials as required in (a)(x) of this subsection and Table 220-B; and

(iv) Facility inspection reports must be maintained in the operating record. Significant deviations from the plan of operation must be noted in the operating record. Records must be kept for a minimum of five years and must be available upon request by the jurisdictional health department.

(e) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st of each calendar year on forms provided by the department. The annual report must detail the facility's activities during the previous calendar year and must include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of feedstocks received and compost produced, in cubic yards or tons;

(iv) Annual quantity of composted material sold or distributed, in cubic yards or tons;

(v) Annual summary of laboratory analysis of composted material; and

(vi) Any additional information required by the jurisdictional health department as a condition of the permit.

(f) Develop, keep, and follow a plan of operation approved as part of the permitting process. The plan of operation must convey to site personnel the concept of operation intended by the designer. The plan of operation must be kept on-site and be available for inspection at the request of the jurisdictional health department. If necessary, the plan must be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) List of feedstocks to be composted, including a general description of the source of feedstocks. Feedstocks must be approved by the department or jurisdictional health department;

(ii) A plan to control air contaminants such as dust and nuisance odors to prevent contaminants from migrating beyond property boundaries in accordance with WAC 173-350-040(4), including:

(A) A description of how staff will document and respond to nuisance odor complaints should they arise. The plan must include date and time of complaints, weather conditions, and operations at the facility at the time of the complaint, and a summary of actions taken;

(B) A description of facility and operational features to prevent nuisance odors beyond the facility's property boundary, as determined by the jurisdictional health department, the department, or the air authority. The description must address the receiving, composting, curing, and storage areas of the facility;

(C) A description of facility maintenance activities that encompass nuisance odor prevention and control, such as acquiring critical odor control backup equipment in the event of a breakdown, a schedule for purging aeration lines and changing biofilter media as appropriate, and a schedule for cleaning leachate ponds or leachate storage tanks as appropriate; and

(D) A description of how feedstocks with high moisture or the potential for high odors will be managed to reduce nuisance odors upon receipt, and through the composting process.

(iii) A description of how wastes and organic materials including incoming feedstocks, composting, curing, and composted materials are to be handled on-site during the facility's active life, including:

(A) Maximum capacity in cubic yards for all materials on-site at any one time. The jurisdictional health department may require cumulative capacity for materials or separate capacities for incoming feedstocks, composting, curing, and composted materials, or any combination;

(B) Throughput in tons or cubic yards of solid waste feedstocks processed in a given amount of time. The jurisdictional health department may require monthly or annual throughput;

(C) Procedures and criteria for ensuring that only the feedstocks described will be accepted. This includes a plan for rejecting feedstocks contaminated with greater than five percent physical contaminants by volume, or a plan to accept and separate contaminated loads from noncontaminated loads, and reduce physical contaminants to an acceptable level prior to composting;

(D) Procedure to reduce physical contaminants in composted material to meet testing parameters in Table 220-B. Grinding to reduce the size of physical contaminants does not meet the requirements of this section;

(I) Compost facilities must provide a label or information sheet to purchasers of compost that exceeds .1% film plastic by weight but does not exceed .25% film plastic by weight. The label or information sheet must include the statement in subsection (4)(f)(iii)(D)(II) of this section, or equivalent language approved by jurisdictional health department or the department.

(II) "This compost does not meet Department of Ecology standards for film plastic content for unrestricted use. This compost may only be used in locations where a means of removing or containing the film plastic on site is put in place promptly after use. Acceptable controls include removal from the site, incorporation, planting, covering with soil or another media, or containment in a compost sock or similar device. This product may not be used adjacent to regulated waters of the state (e.g., wetlands, streams, lakes) or in environmentally sensitive areas."

(E) Procedures for handling unacceptable wastes;

(F) A discussion on types and amounts of feedstocks including basic calculations showing that the facility will be able to achieve an acceptable mix of materials for efficient decomposition;

(G) Material flow plan describing general procedures to manage all materials on-site from incoming feedstock to composted material;

(H) A description of equipment, including equipment to add water to compost as necessary;

(I) Compost process monitoring plan, including compost mix (carbon to nitrogen ratio), temperature, moisture, and porosity;

(J) Pathogen reduction plan;

(K) Representative sampling and analysis plan for the composted material such as described in the 2002 U.S. Composting Council Test Methods for the Examination of Composting and Compost Method 02.01-A through E;

(L) Leachate management plan, including monthly precipitation and evaporation data, and if applicable, monthly leachate reuse or removal; and

(M) Storm water management plan.

(iv) A description of how equipment, structures, and other systems are to be inspected and maintained, including the frequency of inspections and inspection logs;

(v) A description of how facility staff will receive appropriate training in the operation of the facility, including how they will be trained to identify nuisance odors and how to correct them;

(vi) A community relations plan describing how the owner or operator will document and manage complaints;

(vii) Safety, fire, and emergency plans;

(viii) Forms for recordkeeping of daily volumes or weights of incoming feedstocks by type, outgoing composted material, and process monitoring results; and

(ix) Other details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(g) Manage composted material piles that have met the testing parameters in Table 220-B in the following manner:

(i) Comply with the performance standards of WAC 173-350-040; and

(ii) Minimize and control runoff from composted material piles through the use of covers, diversion swales, berms, ditches, or other features designed to prevent runoff and divert storm water from compost material; and

(iii) Minimize odor by maintaining porosity of composted material piles and managing moisture levels in composted material piles, not to exceed sixty percent moisture.

(5) Composting facilities - Groundwater monitoring requirements (permit requirements). There are no specific groundwater monitoring requirements for composting facilities subject to this chapter; however, composting facilities must meet the requirements (~~provided~~) of other federal, state, or local laws and regulations that apply under WAC 173-350-040(5).

(6) Composting facilities - Closure requirements (permit requirements). The owner or operator of a composting facility (~~shall~~) must:

(a) Notify the jurisdictional health department sixty days in advance of closure. At closure, the facility owner or operator is financially responsible for the removal of all solid waste, including but not limited to, raw or partially composted feedstocks, composted material and leachate from the facility (~~shall be removed~~). The materials must be sent to another facility that (~~conforms~~) complies with the applicable regulations for handling the waste.

(b) Develop, keep, and ~~((abide by))~~ follow a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan ~~((shall))~~ must include methods of removing solid waste, leachate, and other organic materials from the facility. For planning purposes, assume that the facility is at full, permitted capacity at the time of closure.

(7) *Composting facilities - Financial assurance requirements (permit requirements).* There are no specific financial assurance requirements for composting facilities subject to this chapter; however, composting facilities must meet the requirements ~~((provided))~~ of other federal, state, or local laws and regulations that apply under WAC 173-350-040(5).

(8) *Composting facilities - Permit application contents (permit requirements).* The owner or operator of a composting facility ~~((shall))~~ must obtain a solid waste permit from the jurisdictional health department. All applications for permits ~~((shall))~~ must be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit ~~((shall))~~ must contain:

(a) Engineering reports~~((+))~~, plans, and specifications that address the design standards of subsection (3) of this section;

(b) A plan of operation meeting the requirements of subsection (4) of this section; and

(c) A closure plan meeting the requirements of subsection (6) of this section.

(9) *Composting facilities - Construction records(-) (permit requirements).* Within thirty days of completing construction, the owner or operator of a composting facility ~~((shall))~~ must provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department

and the department. Facilities ~~((shall))~~ must not ~~((commence operation))~~ begin operating until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report~~((+))~~, plans, and specifications and has approved the construction documentation in writing. The jurisdictional health department has thirty days after receiving complete construction records to provide its determination.

(10) *Composting facilities - Designation of composted materials(-) (permit requirements).* When used on-site or distributed off-site, composted materials meeting the ~~((limits for metals in Table A and the))~~ testing parameters of Table 220-B ~~((of this section, and having a stability rating of very stable, stable, or moderately unstable as determined by the analysis required in subsection (4)(a)(viii)(D) of this section, shall no longer be considered a solid waste and shall))~~ are no longer ~~((be))~~ subject to this chapter. Composted materials that do not meet these ~~((limits are still considered solid waste and))~~ requirements are solid waste and subject to management under chapter 70.95 RCW, Solid waste management—Reduction and recycling.

NEW SECTION

**WAC 173-350-225 Other organic material handling activities.** (1) In accordance with RCW 70.95.305, activities identified in this section are exempt from solid waste handling permitting when in compliance with the terms and conditions of this section. Any person engaged in the activities in this section that does not comply with the terms and conditions of this section is required to obtain a permit from the jurisdictional health department in accordance with the requirements of WAC 173-350-490. In addition, violations of the terms and conditions of this subsection may be subject to the penalty provisions of RCW 70.95.315.

**Table 225-A Terms and Conditions for Solid Waste Permit Exemptions**

	<b>Organic Materials</b>	<b>Volume</b>	<b>Specific Requirements for Activity or Operation</b>
(1)	All organic feedstocks	No more than 5,000 gallons or 25 cubic yards of material on-site at any one time.	No notification, reporting or testing requirements.
(2)	All organic feedstocks	Greater than 25 but no more than 250 cubic yards of material generated on- or off-site, or up to 1,000 cubic yards of material generated on-site at any one time.	Exemption applies to vermicomposting only. Vermicomposting facilities managing more than 25 cubic yards of any organic material must meet the following conditions:  (a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department.

	Organic Materials	Volume	Specific Requirements for Activity or Operation
			(b) Facilities that distribute material off-site must submit annual reports to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.
(3)	Preconsumer vegetative food waste Yard debris Crop residues Manure and bedding Bulking agents	Greater than 25 but no more than 1,000 cubic yards of material on-site at any one time.	Exemption applies to vermicomposting only. Vermicomposting facilities managing more than 25 cubic yards of only the listed feedstocks must meet the following conditions:  (a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department.  (b) Facilities that distribute material off-site must submit annual reports to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.
(4)	All organic feedstocks	Greater than 5,000 but no more than 50,000 gallons of liquid or semi-solid material on-site at any one time; or Greater than 25 but no more than 250 cubic yards of nonliquid material on-site at any one time.	Other conversion technologies managing more than 5,000 gallons liquid or semi-solid or 25 cubic yards of nonliquid material must meet the following conditions:  (a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notification must be submitted on a form provided by the department.  (b) Facilities that distribute material off-site must meet the following conditions: (i) Sample and test material every 1 million gallons or 5,000 cubic yards or once per year, whichever is more frequent, to demonstrate it meets compost quality standards of WAC 173-350-220(4) (Table 220-B) before it is distributed for off-site use; or (ii) Ensure material meets the conditions for a commercial fertilizer as applicable in chapter 15.54 RCW; or

	Organic Materials	Volume	Specific Requirements for Activity or Operation
			(iii) Send material to a compliant permitted or conditionally exempt compost facility for further treatment to meet compost quality standards; or (iv) Land apply material in accordance with WAC 173-350-230, Land application; or (v) Use material in accordance with WAC 173-350-200, Beneficial use permit exemption; or (vi) Process or manage material in an alternate manner approved by the department or the jurisdictional health department. (c) Submit annual reports to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.

(2) Facilities managing under the rules and volumes of material described in Table 225-A above are conditionally exempt facilities when they meet the following conditions:

- (a) Comply with the performance standards, WAC 173-350-040;
- (b) Allow inspections by the department and/or jurisdictional health department at reasonable times to verify compliance with the conditions specified in this subsection;
- (c) Manage the operation to prevent attraction of flies, rodents, and other vectors;
- (d) Control nuisance odors to prevent migration beyond property boundaries; and
- (e) Manage the operation to prevent the migration of agricultural pests identified by local horticultural pest and disease control boards, as applicable.

**NEW SECTION**

**WAC 173-350-250 Anaerobic digesters.** (1) *Anaerobic digesters - Applicability.* This section applies to all facilities that treat solid waste by anaerobic digestion, except (a), (b), and (c) of this subsection:

- (a) Storage or treatment of solid or liquid wastes in surface impoundments or tanks regulated under WAC 173-350-330;

(b) Anaerobic digesters regulated in accordance with chapter 90.48 RCW, Water pollution control; and

(c) Anaerobic digesters regulated in accordance with chapter 173-308 WAC, Biosolids management.

(2) *Anaerobic digester - Permit exemptions.* In accordance with RCW 70.95.305, anaerobic digester facilities processing the types and volumes of materials identified in Table 250-A are subject solely to the requirements of Table 250-A and (b) of this subsection and are exempt from solid waste handling permitting. Feedstocks not listed in Table 250-A must be approved by the department. Violations of the terms and conditions of Table 250-A and (b) of this subsection may be subject to penalty provisions of RCW 70.95.315.

(a) An owner or operator that does not comply with the terms and conditions of Table 250-A and (b) of this subsection must:

- Obtain a solid waste handling permit from the jurisdictional health department; and
- Comply with all applicable requirements of this chapter.

Violations of the terms and conditions of Table 250-A and (b) of this subsection may be subject to the penalty provisions of RCW 70.95.315.

**Table 250-A Terms and Conditions for Exemptions**

	Organic Materials	Volume	Specific Requirements for Activity or Operation
(1)	All organic feedstocks	No more than 5,000 gallons or 25 cubic yards of material on-site at any one time.	No notification, reporting or testing requirements.



	<b>Organic Materials</b>	<b>Volume</b>	<b>Specific Requirements for Activity or Operation</b>
(2)	All organic feedstocks	<p>Greater than 5,000 but no more than 50,000 gallons of liquid or semi-solid material on-site at any one time; or</p> <p>Greater than 25 but no more than 250 cubic yards of nonliquid material on-site at any one time.</p>	<p>For facilities managing more than 5,000 gallons or 25 cubic yards on-site at any one time, and if organic materials are received from or distributed off-site, the owner or operator must:</p> <p>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department.</p> <p>(b) Facilities that distribute digestate (solids, semi-solids or liquids) off-site must meet the following conditions:</p> <p>(i) Sample and test digestate solids every 5,000 cubic yards or once per year, whichever is more frequent, to demonstrate it meets compost quality standards of WAC 173-350-220(4) (Table 220-B) before it is distributed for off-site use; or</p> <p>(ii) Ensure digestate liquids or nonseparated digestate meets the conditions for a commercial fertilizer as applicable in chapter 15.54 RCW; or</p> <p>(iii) Send digestate to a compliant permitted or conditionally exempt compost facility for further treatment to meet compost quality standards; or</p> <p>(iv) Land apply digestate in accordance with WAC 173-350-230, Land application; or</p> <p>(v) Use digestate in accordance with WAC 173-350-200, Beneficial use permit exemptions; or</p> <p>(vi) Process or manage digestate in an alternate manner approved by the department or the jurisdictional health department;</p> <p>(vii) Submit annual reports and results of digestate analysis (if applicable) to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</p>
(3)	<p>Livestock manure; may include livestock manure that is imported, which means originating off of the farm or site where the anaerobic digester is being operated; and</p> <p>Organic feedstocks except materials collected from municipal, commercial or residential solid waste collection programs. All imported organic materials must be pre-consumer.</p>	<p>No limits when livestock manure is at least 50% of total feedstocks volume, and imported, nonmanure organic feedstocks are not greater than 30% of total feedstock volume.</p>	<p>(a) Thirty days prior to operation, facilities managing imported organic feedstocks must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department.</p> <p>(b) All organic materials must be received and stored in a structure(s) that:</p> <p>(i) Complies with the Natural Resources Conservation Service's Practice Standard Code 313 in effect as of July 26, 2009, or other approved storage construction standard approved by the department or the jurisdictional health department;</p>

	Organic Materials	Volume	Specific Requirements for Activity or Operation
	<p>If imported organic feedstocks are likely to contain animal by-products, they must be previously source separated at a facility licensed to process food by the United States Department of Agriculture, the United States Food and Drug Administration, the Washington state department of agriculture, or other applicable regulatory agency.</p> <p>If imported organic feedstocks contain bovine processing waste, they must be derived from animals approved by the United States Department of Agriculture Food Safety and Inspection Service and not contain any specified risk material.</p> <p>Imported organic feedstocks cannot contain sheep carcasses or sheep processing waste.</p>		<p>(ii) Is certified by a representative of the Natural Resources Conservation Service to be effective at protecting surface and groundwater; or</p> <p>(iii) Meets applicable construction industry standards adopted by the American Concrete Institute or the American Institute of Steel Construction in effect as of July 26, 2009; and</p> <p>(iv) Prevents migration of nuisance odors beyond property boundaries and minimizes attraction of flies, rodents, and other vectors.</p> <p>(c) The anaerobic digester must be designed and operated in accordance with standards in the Natural Resources Conservation Service's Conservation Practice Standard, Code 366, in effect as of July 26, 2009.</p> <p>(d) All imported organic feedstocks must be fed into the anaerobic digester within 36 hours.</p> <p>(e) Digestate must be managed in accordance with a dairy nutrient management plan under chapter 90.64 RCW, that includes elements addressing management and use of digestate.</p> <p>Digestate that is managed in accordance with the dairy nutrient management plan under chapter 90.64 RCW is no longer a solid waste when those plans include elements addressing management and use of digestate.</p> <p>(f) Facilities that distribute digestate (solids, semi-solids or liquids) off-site other than under a nutrient management plan must meet the following conditions:</p> <p>(i) Digestate must meet compost quality standards of WAC 173-350-220 for pathogens, stability, nutrient testing, metals and other testing before it is distributed for off-site use; or</p> <p>(ii) Be sent to an off-site permitted compost facility for further treatment to meet compost quality standards; or</p> <p>(iii) Be processed or managed in an alternate manner approved by the department; and facilities must: Submit annual reports and results of digestate analysis (if applicable) to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</p>

(b) The owner or operator of an anaerobic digester in compliance with all of the conditions of Table 250-A must also meet all of the following conditions in order to maintain exempt status:

- (i) Comply with the performance standards of WAC 173-350-040;
- (ii) Allow inspections by the department and/or jurisdictional health department at reasonable times to verify compliance with the conditions specified in this subsection;
- (iii) Manage the operation to prevent the attraction of flies, rodents, and other vectors; and

(iv) Manage the operation to prevent the migration of agricultural pests identified by local horticultural pest and disease control boards, as applicable.

(3) *Anaerobic digester - Location standards (permit requirements)*. There are no specific location standards for anaerobic digesters subject to this chapter; however, anaerobic digesters must meet the requirements of other federal, state, or local laws and regulations that apply under WAC 173-350-040(5).

Note: When considering anaerobic digestion facility location, please review the U.S. Department of Transportation Federal Aviation Advisory Circular No. 150/5200-33B. 2007.

(4) *Anaerobic digester - Design standards (permit requirements)*. Anaerobic digesters must be designed such that the facility can be operated to meet the performance standard requirements in WAC 173-350-040. The owner or operator of an anaerobic digester facility must:

(a) Prepare and provide to the jurisdictional health department engineering reports, plans, specifications, and a construction quality assurance plan that address the standards of this subsection. The reports, plans, and specifications must be prepared by an engineer licensed in the state of Washington and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of the facility including, but not limited to, pads, impoundments, leachate management features (if applicable), digestate management features, storm water management features, and anaerobic digester features. The engineering report must demonstrate that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of feedstock storage areas, fixed equipment, buildings, leachate management features (if applicable), digestate management features, storm water management features, access road and other constructed areas, and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including, but not limited to, pads, storm water management features, leachate management features (if applicable), digestate management features, and an anaerobic digester design that demonstrates all structures, containers, tanks, and/or surface impoundments will meet the requirements of this section, and of any federal, state, or local water and air quality permits; and

(iv) A construction quality assurance plan that describes monitoring, testing and documentation procedures that must be performed during construction of the facility to ensure the facility is constructed in accordance with the approved design.

(b) Provide all weather roads from the public highway to and within the facility when operations require public access. Roads must be designed and maintained to prevent traffic congestion, traffic hazards, dust and noise pollution.

(c) Design waste receiving areas, digesters, digestate management features, storm water, and leachate management features (if applicable), to prevent contamination of air, soil, surface water, and groundwater.

(i) Feedstock, leachate (if applicable), and digestate receiving and storage areas must either be in tanks or surface impoundments meeting the requirements of this section, or be on pads to prevent contamination of air, soil, surface water, and groundwater underlying or adjacent to receiving and storage areas;

(ii) Pads must meet the following requirements:

(A) All pads must be curbed or graded in a manner to prevent ponding, control run-on and runoff, and separately collect and convey all storm water and leachate to separate storage or holding systems. Storm water that is combined with leachate must be treated as leachate in accordance with this section;

(B) All pads must be constructed on subgrades that provide sufficient bearing capacity to support the weight of the pad, the materials placed on them, and the equipment used in handling the materials;

(C) The entire surface area of the pad must be designed to maintain its structural and hydraulic integrity against loads resulting from feedstock and digestate storage, machinery used for feedstock handling, and against surface wear or damage caused by feedstock and digestate handling and storage;

(D) The pad may be constructed of materials such as concrete (with sealed joints) or asphaltic concrete that prevents subsurface soil and groundwater contamination; and

(E) The jurisdictional health department may allow pads to be designed and constructed with materials other than those listed in (c)(ii)(D) of this subsection, provided the applicant demonstrates in the engineering report to the jurisdictional health department's satisfaction that the alternative pad provides sufficient protection to meet the performance standards of this section and of WAC 173-350-040.

(iii) The anaerobic digester design must comply with one of the following three conditions:

(A) Design criteria in the Natural Resources Conservation Service's Washington Conservation Practice Standard, Anaerobic Digester Code 366 in effect October 2010, or other effective date as specified by the department; or

(B) Surface impoundment and tank design standards, WAC 173-350-330(3); or

(C) Other engineered design that the owner or operator can demonstrate complies with the conditions of WAC 173-350-040 to the jurisdictional health department's and the department's satisfaction. Written consent from the jurisdictional health department and the department constitutes approval.

(iv) Storm water management features must divert storm water from feedstock receiving and storage areas, and from digestate collection and storage areas. Features may include, but are not limited to, run-on prevention systems, berms, diversion swales, ditches, and other features;

(v) Leachate management features may include, but are not limited to, runoff prevention systems, leachate collection, conveyance, storage structures, and treatment systems;

(vi) Leachate (if applicable) must be contained or collected. Any discharges to ground that result in contaminants migrating to groundwater require a waste discharge permit under chapter 90.48 RCW, Water pollution control, prior to discharge. Discharges to ground that result in degradation of groundwater quality are prohibited under chapter 90.48 RCW, Water pollution control. Any discharge to sanitary sewer requires additional permitting by the local delegated authority or department;

(vii) Leachate ponds or tanks, or digestate liquid storage in ponds or tanks must meet one of the following conditions:

(A) Ponds must meet Natural Resources Conservation Service Standard for a waste storage facility in the 2001 *Washington Field Office Technical Guide 313* (revised June 2011); or

(B) Ponds must have a liner consisting of a minimum 30-mil thickness geomembrane on a subgrade that provides sufficient bearing capacity to support the liner and the contents

of the pond. A liner constructed with a high density polyethylene geomembrane must be at least 60-mil thick to allow for proper welding; and

(I) Have dikes and slopes designed to maintain their structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action, overfilling, or precipitation; and

(II) Have freeboard (distance between the liquid level and the top of the pond) equal to or greater than eighteen inches to avoid overtopping from wave action, overfilling, or precipitation. The jurisdictional health department may reduce the freeboard requirement provided that other engineering controls are in place that prevent overtopping. These engineering controls must be specified during the permitting process; or

(C) The jurisdictional health department may approve the use of an alternative liner design if the owner or operator can demonstrate during the permitting process that the proposed design will prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection; or

(D) Tanks used to store leachate or digestate liquid must meet design standards in WAC 173-350-330 (3)(b).

(viii) Leachate ponds and digestate liquid storage that have the potential to impound more than 10-acre feet (three million two hundred fifty-nine thousand gallons) of liquid measured from the top of the dike and that would be released by a failure of the containment dike must be reviewed and approved by the department's dam safety section.

(5) *Anaerobic digester - Operating standards (permit requirements)*. The owner or operator of an anaerobic digester must operate in compliance with the performance standards of WAC 173-350-040 or Natural Resource Conservation Service Practice Standard Code 366 as applicable, and:

(a) Operate the facility to:

(i) Control air contaminants, such as dust and nuisance odors, to prevent these and other contaminants from migrating beyond property boundaries;

(ii) Prevent the attraction of vectors;

(iii) Prevent the migration of agricultural pests identified by the local horticultural pest and disease control boards as applicable;

(iv) Confine organic materials prior to and after processing to specifically designated areas, meeting the applicable standards of this section;

(v) Ensure that dangerous waste is not accepted, treated, or stored;

(vi) Ensure the facility operates under the supervision and control of a properly trained individual during hours of operation when facility staffing is required;

(vii) Ensure facility employees are trained in appropriate facility operations, maintenance procedures, and safety and emergency procedures according to individual job duties and according to an approved plan of operation; and

(viii) Restrict access to the facility when the facility is closed.

(b) Inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges that may lead to the release of wastes to the environment or cause a threat to

human health. The owner or operator must conduct these inspections as needed, but at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process.

(c) Maintain operating records of the following:

(i) Process monitoring data as described in the plan of operation;

(ii) The quantity in gallons or cubic yards, and types of feedstocks received;

(iii) Results of analysis for digestate that is sold or distributed, according to subsection (5)(e) of this section; and

(iv) Facility inspection reports. Significant deviations from the plan of operation must be noted in the operating record. Records must be kept for a minimum of five years and must be available upon request by the jurisdictional health department.

(d) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st of each calendar year for activities during the previous calendar year. Annual reports must be submitted on forms provided by the department and must include:

(i) Annual quantity and type of feedstocks received;

(ii) Annual quantity of digestate distributed if applicable;

(iii) Annual summary of digestate analysis as applicable, if digestate is distributed off-site; and

(iv) Any additional information required by the department or the jurisdictional health department.

(e) If distributing digestate (solids, semi-solids, or liquids) off-site, produce and manage the product so that it does not harm human health or the environment; and:

(i) Test representative samples of digestate solids every 5,000 cubic yards to demonstrate it meets compost quality standards in WAC 173-350-220(4) (Table 220-B). An alternate testing frequency may be required or approved by the jurisdictional health department; or

(ii) Ensure digestate meets the conditions for a commercial fertilizer as applicable in chapter 15.54 RCW; or

(iii) Send digestate to a permitted compost facility for further processing; or

(iv) Land apply digestate in accordance with WAC 173-350-230, Land application; or

(v) Use digestate in accordance with WAC 173-350-200, Beneficial use permit exemption; or

(vi) Apply digestate on agricultural lands at agronomic rates in accordance with a dairy nutrient management plan or a nutrient management plan; or

(vii) Manage digestate in an alternate manner as approved by the jurisdictional health department and the department.

(f) Develop, keep, and abide by a plan of operation approved as part of the permitting process. The plan must describe the facility's operation and must convey to site operating personnel the concept of operation intended by the facility designer. The plan of operation must be kept on-site and available for inspection at the request of the jurisdictional health department. When necessary, the plan must be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of feedstocks to be handled at the facility. Feedstocks must be approved by the department or jurisdictional health department;

(ii) Procedures for ensuring that only feedstocks described will be accepted;

(iii) Procedures for handling unacceptable wastes;

(iv) A plan for processing digestate to meet the requirements of (e) of this subsection, if distributing digestate off-site;

(v) A nutrient management plan for agricultural lands and farm lands (as described in RCW 84.34.020) if using digestate on-site;

(vi) A description of how facility staff will be appropriately trained;

(vii) A calculation of monthly capacity based on maximum volume (cubic yards or gallons) of all materials on-site at any one time. All materials on-site include feedstocks, digesting materials and digestate;

(viii) A material flow plan describing general procedures to manage all materials on-site. All materials on-site include incoming feedstock, digesting materials, and digestate;

(ix) An odor management plan including, but not limited to, the following components:

(A) Methods for treating emissions to reduce odors, if any;

(B) A community relations plan to address odor issues should they arise; and

(C) A description of facility and operational improvements that could be made, if nuisance odors are identified beyond the facility's property boundary, as determined by the jurisdictional health department, the department, or the permitting air authority. The description of operational improvements must address feedstock receiving, processing, and digestate storage areas of the facility.

(x) A description of how equipment, structures, and other systems will be inspected and maintained, including frequency of inspection and inspection logs. This description must include, but is not limited to:

(A) The groundwater monitoring system, if required;

(B) The overfilling prevention equipment, including details of filling and emptying techniques;

(C) The liners of surface impoundments and tanks, tank piping, and secondary containment, as applicable.

(xi) Safety, fire, and emergency plans including a spill prevention/response plan;

(xii) The forms used to record volumes (in cubic yards or gallons) of accepted feedstocks; and

(xiii) Other such details to demonstrate that the facility is operated in accordance with this chapter and as required by the jurisdictional health department.

(6) *Anaerobic digester - Groundwater monitoring requirements (permit requirements)*. There are no specific groundwater monitoring requirements for anaerobic digestion facilities subject to this chapter; however, anaerobic digestion facilities must meet the requirements of other federal, state, or local laws and regulations that apply under WAC 173-350-040(5).

(7) *Anaerobic digester - Closure requirements*. The owner or operator of an anaerobic digester facility must:

(a) Develop, keep, and follow a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan must include removing all organic materials, including digestate, from the facility. For planning purposes, assume the facility is at full permitted capacity when it is closed;

(b) Notify the jurisdictional health department sixty days in advance of closure. At closure, the facility is financially responsible for the removal of all organic materials including, but not limited to, raw or partially digested feedstocks, and digestate from the facility. The materials must be sent to another facility that complies with the applicable regulations for handling the waste.

(8) *Anaerobic digester - Financial assurance requirements (permit requirements)*. There are no specific financial assurance requirements for anaerobic digestion facilities subject to this chapter; however, anaerobic digestion facilities must meet the requirements of other federal, state, or local laws and regulations that apply under WAC 173-350-040(5).

(9) *Anaerobic digester - Permit application contents (permit requirements)*. The owner or operator of an anaerobic digestion facility not exempt under subsection (2) of this section must obtain a solid waste permit from the jurisdictional health department. All applications for permits must be in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each permit application must contain:

(a) Engineering reports, plans, and specifications that address the design standards of subsection (4) of this section;

(b) A plan of operation that addresses the requirements of subsection (5) of this section; and

(c) A closure plan meeting the requirements of subsection (7) of this section.

(10) *Anaerobic digester - Construction records (permit requirements)*. Facilities must not start operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report, plans, and specifications and has approved the construction documentation in writing and issued a permit. Within thirty days of completing construction, the owner or operator of an anaerobic digestion facility must provide the following materials to the jurisdictional health department and the department:

(a) Copies of the construction record drawings for engineered facilities at the site; and

(b) A report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan.

#### WSR 13-08-017

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed March 25, 2013, 2:04 p.m., effective April 25, 2013]

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

Purpose: To clarify eligibility for extended foster care, participation and documentation requirements and expectations for youth participating in the program. ESHB 2592 enables Washington state to access a federal match of funds under 2008 federal legislation "Fostering Connections to Success and Increasing Adoptions Act." The act provides an option permitting states to use Title IV-E foster care funds for youth who wish to pursue secondary or post-secondary education programs from age eighteen up to twenty-one years old. ESHB 2592 authorizes continued extended foster care services for youth ages eighteen to twenty-one years to complete a postsecondary academic or postsecondary vocational education program. Because of the range and complexity of delivering foster care and legal services relating to this program, children's administration has collaborated with advocates, judicial officers, legal counsel for children and the department, service providers, youth, foster parents, JRA, DDD, others in developing the proposed WACs to govern the program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-25-0110 and 388-148-0010.

Statutory Authority for Adoption: RCW 74.13.031 and 13.34.267.

Other Authority: 2008 Federal legislation "Fostering Connections to Success and Increasing Adoptions Act."

Adopted under notice filed as WSR 13-03-021 on January 7, 2013.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 24, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 24, Amended 2, Repealed 0.

Date Adopted: March 21, 2013.

Katherine I. Vasquez  
Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 13-09 issue of the Register.

**WSR 13-08-025  
PERMANENT RULES  
BOARD OF**

**PILOTAGE COMMISSIONERS**

[Filed March 27, 2013, 11:16 a.m., effective April 27, 2013]

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

Purpose: This rule permits the Port of Grays Harbor to provide funding to pay trainee stipends to Grays Harbor

pilotage district pilot trainees rather than by means of a Grays Harbor pilotage district tariff surcharge.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-078.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Adopted under notice filed as WSR 13-04-060 on February 1, 2013.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: March 26, 2013.

Peggy Larson  
Executive Director

AMENDATORY SECTION (Amending WSR 12-05-064, filed 2/15/12, effective 3/17/12)

**WAC 363-116-078 Training program.** After passing the written examination and simulator evaluation, pilot applicants pursuing a pilot license will be put on a list for the applicable pilotage district(s) and must enter and successfully complete a training program specified by the board.

(1) Notification. Pilot applicants on a list as described in subsection (2) of this section, waiting to enter a training program shall provide the board with a current address to be used for notification for entry into a training program. Such address shall be a place at which mail is delivered. In addition, a pilot applicant may provide the board with other means of contact such as a phone number, fax number, and/or an e-mail address. The mailing address will, however, be considered the primary means of notification by the board. It will be the responsibility of the pilot applicant to ensure that the board has a current mailing address at all times. If a pilot applicant cannot personally receive mail at the address provided to the board for any period of time, another person may be designated in writing with a notarized copy to the board as having power of attorney specifically to act in the pilot applicant's behalf regarding such notice. If notice sent to the address provided by the pilot applicant is returned after three attempts to deliver, that pilot applicant will be skipped and the next pilot applicant on the list will be contacted for entry into a training program. A person so skipped will remain next on the list. A pilot applicant or his/her designated attorney in fact shall respond within fifteen calendar days of receipt of notification to accept, refuse, or request a delayed entry into a training program.

(2) Entry. At such time that the board chooses to start a pilot applicant or applicants in a training program for a pilotage district, notification shall be given as provided in this section. Pilot applicants shall be ranked in accordance with a point system established by the board to assess overall performance on the written examination and simulator evaluation. Applicants shall be eligible to enter a training program for a pilotage district in the order of such rankings or as otherwise may be determined by the board. A pilot applicant who refuses entry into a program will be removed from the waiting list with no further obligation by the board to offer a position in that district's training program to such pilot applicant. If the pilot applicant applied for a license in the other pilotage district when applying for the written examination, the applicant shall remain available for that other district's training program in accordance with his/her position on that list.

(a) A pilot applicant who is not able to start a training program within two months of the board's specified entry date may, with written consent of the board, delay entry into that training program. When an applicant delays entry into a training program by more than two months, the board will give notice to the next pilot applicant on the list for that pilotage district to enter a training program. The pilot applicant who delays entry, shall remain eligible for the next position in that district, provided that the next position becomes available within the earlier of:

(i) Four years from the pilot applicant's taking the written examination; or

(ii) The date scheduled for the next pilotage examination for the district.

(b) A pilot applicant not able to start in a training program within two months of the board's specified entry date and who does not obtain the board's written consent to delay entry into a training program shall no longer be eligible for that district's training program without retaking the examination provided in WAC 363-116-076 and the simulator evaluation provided in WAC 363-116-077.

(3) Training license. Prior to receiving a training license pilot applicants must pass a physical examination by a board-designated physician and in accordance with the requirements of WAC 363-116-120 for initial pilot applicants. A form provided by the board must be completed by the physician and submitted to the board along with a cover letter indicating the physician's findings and recommendations as to the pilot applicant's fitness to pilot. The physical examination must be taken not more than ninety days before issuance of the training license. Holders of a training license will be required to pass a general physical examination annually within ninety days prior to the anniversary date of that license. Training license physical examinations will be at the expense of the pilot applicant. All training licenses shall be signed by the chairperson or his/her designee and shall have an expiration date. Training licenses shall be surrendered to the board upon completion or termination of the training program.

(4) Development. As soon as practical after receiving notification of eligibility for entry into a training program as set forth in this section, the pilot applicant shall meet with the trainee evaluation committee (TEC) for the purpose of devis-

ing a training program for that pilot applicant. The training program shall be tailored to the ability and experience of the individual pilot applicant and shall consist of observation trips, training trips and evaluation trips, and such other forms of learning and instruction that may be designated. The TEC shall recommend a training program for adoption by the board. After adoption by the board, it will be presented to the pilot applicant. If the pilot applicant agrees in writing to the training program, the board shall issue a training license to the pilot applicant, which license shall authorize the pilot applicant to take such actions as are contained in the training program. If the pilot applicant does not agree to the terms of a training program in writing within fifteen business days of it being mailed to the applicant by certified mail, return receipt requested, that pilot applicant shall no longer be eligible for entry into that pilotage district's training program and the board may give notice to the next available pilot applicant that he/she is eligible for entry into a training program pursuant to the terms in subsections (1) and (2) of this section.

(5) Initial route.

(a) The trainee evaluation committee (TEC) shall assign an initial route between a commonly navigated port or terminal and the seaward boundary of the pilotage district to each trainee at the beginning of his/her training program.

(b) Unless an extension of time is granted by the board, within eight months of the beginning of the training program if the trainee is on stipend or within fifteen months of the beginning of the training program if the trainee is not on stipend, the trainee must:

(i) Take and pass all conning quizzes provided by the board applicable to the assigned route. These quizzes can be repeated as necessary, provided that they may not be taken more than once in any seven-day period and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(ii) Take and pass the local knowledge examinations provided by the board applicable to the assigned route. These examinations can be repeated as necessary, provided that they may not be taken more than once in any seven-day period and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(iii) Possess a first class pilotage endorsement without tonnage or other restrictions on his/her United States Coast Guard license to pilot on the assigned initial route.

(6) Specification of trips. To the extent possible, a training program shall provide a wide variety of assignments, observation, training and evaluation trips. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, sequence of trips, weather conditions, day or night, stern or bow first, draft, size of ship and any other relevant factors. The board may designate specific trips or specific numbers of trips that shall be made with training pilots or with the pilot members of the trainee evaluation committee (TEC) or with pilots of specified experience. In the Puget Sound pilotage district, pilot trainees shall complete a minimum of one hundred fifty trips. The board shall set from time to time the minimum number of trips for pilot trainees in the Grays Harbor pilotage district. The total num-

ber of trips in a training program shall be established by the board based on the recommendation of the TEC. The board will ensure that during a training program the pilot trainee will get significant review by training pilots and the pilot members of the TEC.

(7) Length of training program. The board shall set the minimum length of a training program provided that it will not be less than eight months in the Puget Sound pilotage district.

(8) Local knowledge. A training program shall provide opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. This education program shall be developed by the trainee evaluation committee (TEC) and recommended to the board for adoption, in the form of a policy statement, and shall be tailored to the needs of the individual pilot trainee. It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which he/she is applying. Prior to the completion of a training program, the board, or its designee, may give such local knowledge examination(s) as it deems appropriate to the pilot trainees who shall be required to pass such examination(s) before completing a training program. The TEC may require a pilot trainee to sit for a local knowledge examination provided the TEC informs the pilot trainee in writing sixty days in advance of the scheduled date of the examination. Failure to sit for the examination on the date scheduled may constitute cause for removal from the training program. The TEC may also establish in writing such interim performance requirements as it deems necessary. These local examinations can be repeated as necessary, except that an examination for the same local area may not be taken more than once in any seven-day period and all required local knowledge examinations must be successfully passed before the expiration date of the training program. The local knowledge required of a pilot trainee and the local knowledge examination(s) may include the following subjects as they pertain to the pilotage district for which the pilot trainee seeks a license:

- (a) Area geography;
- (b) Waterway configurations including channel depths, widths and other characteristics;
- (c) Hydrology and hydraulics of large ships in shallow water and narrow channels;
- (d) Tides and currents;
- (e) Winds and weather;
- (f) Local aids to navigation;
- (g) Bottom composition;
- (h) Local docks, berths and other marine facilities including length, least depths and other characteristics;
- (i) Mooring line procedures;
- (j) Local traffic operations e.g., fishing, recreational, dredging, military and regattas;
- (k) Vessel traffic system;
- (l) Marine VHF usage and phraseology, including bridge-to-bridge communications regulations;
- (m) Air draft and keel clearances;
- (n) Submerged cable and pipeline areas;
- (o) Overhead cable areas and clearances;

(p) Bridge transit knowledge - Signals, channel width, regulations, and closed periods;

(q) Lock characteristics, rules and regulations;

(r) Commonly used anchorage areas;

(s) Danger zone and restricted area regulations;

(t) Regulated navigation areas;

(u) Naval operation area regulations;

(v) Local ship assist and escort tug characteristics;

(w) Tanker escort rules - State and federal;

(x) Use of anchors and knowledge of ground tackle;

(y) Applicable federal and state marine and environmental safety law requirements;

(z) Marine security and safety zone concerns;

(aa) Harbor safety plan and harbor regulations;

(bb) Chapters 88.16 RCW and 363-116 WAC, and other relevant state and federal regulations in effect on the date the examination notice is published pursuant to WAC 363-116-076; and

(cc) Courses in degrees true and distances in nautical miles and tenths of miles between points of land, navigational buoys and fixed geographical reference points, and the distance off points of land for such courses as determined by parallel indexing along pilotage routes.

(9) Rest. It is the pilot trainee's responsibility to provide adequate rest time so that he/she is fully able to pilot on training trips. Pilot trainees shall not take pilot training trips in which they will be piloting the vessel without observing the rest rules for pilots in place by federal or state law or regulation or any other rest requirements contained in a training program. For purposes of calculating rest required before a training trip in which the pilot trainee will be piloting after an observation trip in which the pilot trainee did not pilot the vessel, such observation trip shall be treated as though it had been a normal pilot training assignment.

(10) Stipend.

(a) At the initial meeting with the trainee evaluation committee (TEC) the pilot trainee shall indicate whether he/she wishes to receive a stipend during their training program. In the Puget Sound pilotage district, as a condition of receiving such stipend, pilot trainees will agree to forego during their training program other full- or part-time employment which prevents them from devoting themselves on a full-time basis to the completion of their training program. With the consent of the board and, if necessary, the restructuring of their training program, pilot trainees may elect to change from a stipend to nonstipend status, and vice versa, during their training program. In the Puget Sound pilotage district the stipend paid to pilot trainees shall be six thousand dollars per month (or such other amount as may be set by the board from time to time), shall be contingent upon the board's setting of a training surcharge in the tariffs levied pursuant to WAC 363-116-300 sufficient to cover the expense of the stipend and shall be paid from a pilot training account as directed by the board and pursuant thereto shall be paid to pilot trainees as set forth below:

(b) In the Grays Harbor pilotage district the stipend paid to pilot trainees shall be determined by the board and shall be contingent upon the board's (~~setting of a training surcharge in the tariffs levied pursuant to WAC 363-116-185~~) receipt of funds, from any party collecting the tariff or providing



funds, sufficient to cover the expense of the stipend and shall be paid from a pilot training account as directed by the board and pursuant thereto shall be paid to pilot trainees as set forth below:

((+)) Determinations as to stipend entitlement will be made on a full calendar month basis and documentation of trips will be submitted to the board by the fifth day of the following month. The stipend will be paid on an all or nothing basis for each month except that prorations shall be allowed at the rate of two hundred dollars per day (or such other amount as may be set by the board from time to time), under the following circumstances:

((A)) (i) For the first and last months of a training program (unless the training program starts on the first or ends on the last day of a month); or

((B)) (ii) For a pilot trainee who is deemed unfit for duty by a board-designated physician during a training month; or

((C)) (iii) For a pilot trainee who requests a change from a nonstipend status to a stipend status, or from a stipend status to a nonstipend status as set forth in ((a)(vi)) (g) of this subsection.

((+)) (c) In the Puget Sound pilotage district a minimum of eighteen trips are required each month for eligibility to receive the stipend. In the Grays Harbor pilotage district the minimum number of trips each month for eligibility to receive the stipend is ~~(fifty)~~ seventy percent or such number or percentage of trips that may be set by the board of the total number of vessel movements occurring in this district during that month. Only trips required by the training program can be used to satisfy these minimums. Trips will be documented at the end of each month.

((+)) (d) It is the pilot trainee's responsibility to make all hard-to-get trips before the end of the training program. If a training program is extended due to a failure to get all of these trips, the board may elect not to pay the stipend if the missing trips were available to the pilot trainee but not taken.

((+)) (e) The TEC with approval by the board may allocate, assign or specify training trips among multiple pilot trainees. Generally, the pilot trainee who entered his/her training program earlier has the right of first refusal of training trips provided that the TEC may, with approval by the board, allocate or assign training trips differently as follows:

((A)) (i) When it is necessary to accommodate any pilot trainee's initial route;

((B)) (ii) When it is necessary to spread hard-to-get trips among pilot trainees so that as many as possible complete required trips on time. If a pilot trainee is deprived of a hard-to-get trip by the TEC, that trip will not be considered "available" under ((a)(+)) (c) of this subsection. However, the pilot trainee will still be required to complete the minimum number of trips for the month in order to receive a stipend, and the minimum number of trips as required to complete his/her training program;

((+)) (f) If a pilot trainee elects to engage in any full-or part-time employment, the terms and conditions of such employment must be submitted to the TEC for prior determination by the board of whether such employment complies with the intent of this section prohibiting employment that

"prevents (pilot trainees) from devoting themselves on a full-time basis to the completion of the training program."

((+)) (g) If a pilot trainee requests to change to a non-stipend status as provided in this section such change shall be effective for a minimum nonstipend period of thirty days, provided that before any change takes effect the board and the pilot trainee must agree in writing on the terms of a revised training program.

((+)) (h) Any approved pilot association or other organization collecting the pilotage tariff levied by WAC 363-116-185 or 363-116-300 shall transfer the pilot training surcharge receipts to the board at least once a month or otherwise dispose of such funds as directed by the board. In the Grays Harbor pilotage district, if there is no separate training surcharge in the tariff, any organization collecting the pilotage tariff levied by WAC 363-116-185 shall transfer sufficient funds to pay the stipend to the board at least once a month or otherwise dispose of such funds as directed by the board. The board may set different training stipends for different pilotage districts. Receipts from the training surcharge shall not belong to the pilot providing the service to the ship that generated the surcharge or to the pilot association or other organization collecting the surcharge receipts, but shall be disposed of as directed by the board. Pilot associations or other organizations collecting surcharge receipts shall provide an accounting of such funds to the board on a quarterly basis or at such other intervals as may be requested by the board. Any audited financial statements filed by pilot associations or other organizations collecting pilotage tariffs shall include an accounting of the collection and disposition of these surcharges. The board shall direct the disposition of all funds in the account.

(11) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board. The TEC shall include at a minimum: Three active licensed Washington state pilots, who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license and at least one of whom shall be a member of the board; one representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW 88.16.090; and one other member of the board who is not a pilot. The TEC may include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete the tasks accorded it. In the event that the TEC cannot reach consensus with regard to any issue it shall report both majority and minority opinions to the board.

(12) Training pilots. The board shall designate as training pilots those pilots who are willing to undergo such specialized training as the board may require and provide. Training pilots shall receive such training from the board to better enable them to give guidance and training to pilot trainees and to properly evaluate the performance of pilot trainees. The board shall keep a list of training pilots available for public inspection at all times. All pilot members of the trainee evaluation committee (TEC) shall also be training pilots.

(13) Training and assessment. Before, during and after a pilot trainee pilots a vessel under the supervision of a pilot on a training trip, the supervising pilot shall, to the extent possi-

ble, communicate with and give guidance to the pilot trainee in an effort to make the trip a valuable learning experience. On an evaluation trip, this communication will normally occur after completion of the trip. After each trip, the supervising pilot shall complete a trip report form provided by the board. Trip report forms prepared by licensed pilots who are not training pilots shall be used by the trainee evaluation committee (TEC) and the board for assessing a pilot trainee's progress, providing guidance to the pilot trainee and for making alterations to a training program. The use of trip report forms prepared by licensed pilots who are not training pilots shall be appropriately weighed by the board and the TEC when making licensing decisions and recommendations. All trip report forms shall be delivered or mailed by the supervising pilot to the board. They shall not be given to the pilot trainee. The supervising pilot may show the contents of the form to the pilot trainee, but the pilot trainee has no right to see the form until it is filed with the board. The TEC shall review these trip report forms from time to time and the chairperson of the TEC shall report the progress of all pilot trainees at each meeting of the board. If it deems it necessary, the TEC may recommend, and the board may make, changes from time to time in the training program requirements applicable to a pilot trainee, including the number of trips in a training program.

(14) Termination of and removal from a training program. A pilot trainee's program may be immediately terminated and the trainee removed from a training program by the board if it finds any of the following:

- (a) Failure to maintain the minimum federal license required by RCW 88.16.090;
- (b) Conviction of an offense involving drugs or involving the personal consumption of alcohol;
- (c) Failure to devote full time to training in the Puget Sound pilotage district if receiving a stipend;
- (d) The pilot trainee is not physically fit to pilot;
- (e) Failure to make satisfactory progress toward timely completion of the program or timely meeting of interim performance requirements in a training program;
- (f) Inadequate performance on examinations or other actions required by a training program;
- (g) Failure to complete the initial route requirements specified in subsection (5) of this section within the time periods specified;
- (h) Inadequate, unsafe, or inconsistent performance in a training program and/or on training trips as determined by the supervising pilots, the trainee evaluation committee (TEC) and/or the board; or
- (i) Violation of a training program requirement, law, regulation or directive of the board.

(15) Completion of a training program shall include the requirement that the pilot trainee:

- (a) Successfully and timely complete the requirements set forth in the training program;
- (b) Possess a valid first class pilotage endorsement without tonnage or other restrictions on his/her United States government license to pilot in all of the waters of the pilotage district in which the pilot applicant seeks a license; and

(c) Successfully complete any local knowledge examination(s) required by the board and specified in the training program.

## WSR 13-08-028

### PERMANENT RULES

### DEPARTMENT OF REVENUE

[Filed March 27, 2013, 11:55 a.m., effective April 27, 2013]

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

Purpose: Rules from chapter 458-16A WAC amended:

WAC 458-16A-100 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Definitions, this section contains definitions of the terms used for the senior citizen, disabled person, and one hundred percent disabled veteran exemption from property taxes contained in RCW 84.36.381 through 84.36.389.

WAC 458-16A-135 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Application procedures, this section explains when and how a senior citizen, disabled person, or one hundred percent disabled veteran may apply for a property tax exemption on that person's principal residence. RCW 84.36.381 through 84.36.389.

WAC 458-16A-140 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Exemption described—Exemption granted—Exemption denied—Freezing property values, this section explains how county assessors process a claimant's application form for the senior citizen, disabled person, or one hundred percent disabled veteran property tax exemption. The rule describes the exemption and what happens when the exemption is granted or denied by the assessor.

WAC 458-16A-150 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Requirements for keeping the exemption, this section explains how and when a senior citizen, disabled person, or one hundred percent disabled veteran must file additional reports with the county assessor to keep the senior citizen, disabled person, or one hundred percent disabled veteran property tax exemption. This section also explains what happens when the claimant or the property no longer qualifies for the full exemption.

The department of revenue amended these rules to recognize and incorporate the following legislation:

- 2012 - SHB 2056 (WAC 458-16A-100 and 458-16A-135). This legislation changed the term "boarding home" to "assisted living facility" throughout the Revised Code of Washington;
- 2012 - E2SHB [ESSB] 6239 (WAC 458-16A-100 only). This legislation redefined "domestic partner" and "domestic partnership" as a union between two persons of legal age where one is at least sixty-two years of age. (See RCW 26.60.030);
- 2012 - ESSB 6470 (WAC 458-16A-140 only). This updated the types of fire benefit charges that are reduced by twenty-five percent, fifty percent, or seventy-five percent depending upon the combined

disposable income of the claimant. See also RCW 52.26.270 (HB 2519, 2004).

- 2011 - SSB 5167 (WAC 458-16A-100, 458-16A-135, 458-16A-150). This made two changes to the property tax relief program for low-income seniors and disabled persons: (1) Eligibility requirements for disabled veterans are modified to reflect federal definitions of service-connected disability; and (2) a section requiring notice to taxpayers is changed to reflect the 2010 legislative changes to renewal filings.
- 2010 - E2SHB 1597 (WAC 458-16A-100, 458-16A-135, 458-16A-150). This made various technical corrections, including making two reference dates to federal law the same within the senior property tax relief law, and the department of revenue is allowed to update the reference by rule in a way that is consistent with the purpose. Also, the time period for exemption renewal is extended under the senior property tax relief program from four to six years, and recovery of back taxes is also allowed for up to five years if an exemption was based on erroneous information.
- 2009 - E2SHB 1208 (WAC 458-16A-135, 458-16A-140, 458-16A-150). This amended RCW 84.69.030 to change one of the requirements for administrative refunds of property taxes. The county treasurer now only refunds property taxes that were due within the three years prior to the refund request. Various clarifications are made throughout chapter 458-16A WAC, including the definition of "annuity" in WAC 458-16A-100(2).

Citation of Existing Rules Affected by this Order: Amending WAC 458-16A-100 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Definitions, 458-16A-135 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Application procedures, 458-16A-140 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Exemption described—Exemption granted—Exemption denied—Freezing property values and 458-16A-150 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Requirements for keeping the exemption.

Statutory Authority for Adoption: RCW 84.36.389 and 84.36.865.

Adopted under notice filed as WSR 13-02-086 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 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 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: March 27, 2013.

Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-16-075, filed 7/31/08, effective 8/31/08)

**WAC 458-16A-100 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—**

**Definitions.** (1) **Introduction.** This rule contains definitions of the terms used for the senior citizen, disabled person, and one hundred percent disabled veteran exemption from property taxes. The definitions apply to the senior citizen, disabled person, and one hundred percent disabled veteran exemption contained in sections RCW 84.36.381 through 84.36.389 unless the context clearly requires otherwise.

(2) **Annuity.** "Annuity" means a series of payments, fixed or variable, under a contract or agreement. (~~Annuity contracts pay a fixed sum of money at regular intervals for more than one full year.~~) An annuity may be paid as the proceeds of a life insurance contract (other than as a lump sum payment), unemployment compensation, disability payments, or (~~even~~) welfare receipts. It does not include payments for the care of dependent children.

(a) Annuity distributions must be included in "disposable income," as that term is defined in subsection (12) of this section, whether or not they are taxable under federal law. A one-time, lump sum, total distribution is not an "annuity" for purposes of this section, and only the taxable portion that would be included in federal adjusted gross income should be included in disposable income.

(b) Disability payments include, but are not limited to, payments made by such agencies as the federal Department of Veterans Affairs for service-connected disabilities, the federal Social Security Administration, and the Washington state department of labor and industries.

(c) A "series of payments" means at least one payment per period over more than one period, where a period can be a week, month, or year. Payment amounts do not have to be equal. Annuity distributions may fluctuate based on the age of the individual, the performance of the investment options, etc. Payment periods do not have to be consecutive. For example, if a distribution is made one year and four years pass before another distribution is made, this can still qualify as an "annuity" for purposes of this section.

(3) **Assessment year.** "Assessment year" means the year when the assessor lists and values the principal residence for property taxes. The assessment year is the calendar year prior to the year the taxes become due and payable. It is always the year before the claimant receives a reduction in his or her property taxes because of the senior citizen, disabled person, and one hundred percent disabled veteran exemption.

(4) **Capital gain.** "Capital gain" means the amount the seller receives for property (other than inventory) over that seller's adjusted basis in the property. The seller's initial basis

in the property is the property's cost plus taxes, freight charges, and installation fees. In determining the capital gain, the seller's costs of transferring the property to a new owner are also added onto the adjusted basis of the property. If the property is acquired in some other manner than by purchase, the seller's initial basis in the property is determined by the way the seller received the property (e.g., property exchange, payment for services, gift, or inheritance). The seller adjusts (increases and decreases) the initial basis of the property for events occurring between the time the property is acquired and when it is sold (e.g., increased by the cost of improvements made later to the property).

(5) **Claimant.** "Claimant" means a person claiming the senior citizen, disabled person, and one hundred percent disabled veteran exemption by filing an application with the county assessor in the county where the property is located.

(6) **Combined disposable income.** "Combined disposable income" means the annual disposable income of the claimant, the claimant's spouse or domestic partner, and any cotenant reduced by amounts paid by the claimant or the claimant's spouse or domestic partner for their:

- (a) Legally prescribed drugs;
- (b) Home health care;
- (c) Nursing home, boarding home, or adult family home expenses; and
- (d) Health care insurance premiums for medicare under Title XVIII of the Social Security Act.

Disposable income is not reduced by these amounts if payments are reimbursed by insurance or a government program (e.g., medicare or medicaid). When the application is made, the combined disposable income is calculated for the assessment year.

(7) **Cotenant.** "Cotenant" means a person who resides with the claimant and who has an ownership interest in the residence.

(8) **Department.** "Department" means the state department of revenue.

(9) **Depreciation.** "Depreciation" means the annual deduction allowed to recover the cost of business or investment property having a useful life of more than one year. In limited circumstances, this cost, or a part of this cost, may be taken as a section 179 expense on the federal income tax return in the year business property is purchased.

(10) **Disability.** "Disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. (RCW 84.36.383(7); 42 U.S.C. Sec. 423(d)(1)(A).)

(11) **Disabled veteran.** "Disabled veteran" means a veteran of the armed forces of the United States (~~(with a one hundred percent disability rating that is)~~ entitled to and receiving compensation from the United States Department of Veterans Affairs at a total disability rating for a service-connected disability. (RCW 84.36.381 (3)(b).)(-))

(12) **Disposable income.** "Disposable income" means the adjusted gross income as defined in the Federal Internal Revenue Code of 2001, and as amended after that date, plus all the other items described below to the extent they are not

included in or have been deducted from adjusted gross income. (RCW 84.36.383)

(a) Capital gains, other than gain excluded from the sale of a principal residence that is reinvested prior to the sale or within the same calendar year in a different principal residence;

(b) Losses. Amounts deducted for loss;

(c) Depreciation. Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments. Attendant-care and medical-aid payments are any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the military;

(f) Veterans benefits other than:

(i) Attendant-care payments and medical-aid payments, defined as any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the Department of Veterans Affairs (VA);

(ii) Disability compensation, defined as payments made by the VA to a veteran because of service-connected disability;

(iii) Dependency and indemnity compensation, defined as payments made by the VA to a surviving spouse, child, or parent because of a service-connected death.

(g) Federal Social Security Act and railroad retirement benefits;

(h) Dividend receipts;

(i) Interest received on state and municipal bonds.

(13) **Domestic partner.** "Domestic partner" means a person registered under chapter 26.60 RCW or a partner in a legal union of two persons (~~(of the same sex)~~), other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(14) **Domestic partnership.** "Domestic partnership" means a partnership registered under chapter 26.60 RCW or a legal union of two persons (~~(of the same sex)~~), other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(15) **Excess levies.** "Excess levies" means voter-approved levies by taxing districts, other than port or public utility districts, of additional taxes in excess of the statutory aggregate dollar rate limit, the statutory dollar rate limit, or the constitutional one percent levy limit. It does not include regular levies allowed to exceed a statutory limit with voter approval or voted regular levies.

(16) **Excluded military pay or benefits.** "Excluded military pay or benefits" means military pay or benefits excluded from a person's federal gross income, other than those amounts excluded from that person's federal gross income for attendant-care and medical-aid payments. Members of the armed forces receive many different types of pay and allowances. Some payments or allowances are included in their gross income for the federal income tax while others are excluded from their gross income. Excluded military pay or benefits include:

(a) Compensation for active service while in a combat zone or a qualified hazardous duty area;

(b) Death allowances for burial services, gratuity payment to a survivor, or travel of dependents to the burial site;

(c) Moving allowances;

(d) Travel allowances;

(e) Uniform allowances;

(f) Group term life insurance payments made by the military on behalf of the claimant, the claimant's spouse or domestic partner, or the cotenant; and

(g) Survivor and retirement protection plan premiums paid by the military on behalf of the claimant, the claimant's spouse or domestic partner, or the cotenant.

(17) **Family dwelling unit.** "Family dwelling unit" means the dwelling unit occupied by a single person, any number of related persons, or a group not exceeding a total of eight related and unrelated nontransient persons living as a single noncommercial housekeeping unit. The term does not include a boarding or rooming house.

(18) **Home health care.** "Home health care" means the treatment or care of either the claimant or the claimant's spouse or domestic partner received in the home. It must be similar to the type of care provided in the normal course of treatment or care in a nursing home, although the person providing the home health care services need not be specially licensed. The treatment and care must meet at least one of the following criteria. It must be for:

(a) Medical treatment or care received in the home;

(b) Physical therapy received in the home;

(c) Food, oxygen, lawful substances taken internally or applied externally, necessary medical supplies, or special needs furniture or equipment (such as wheel chairs, hospital beds, or therapy equipment), brought into the home as part of a necessary or appropriate in-home service that is being rendered (such as a meals on wheels type program); or

(d) Attendant care to assist the claimant, or the claimant's spouse or domestic partner, with household tasks, and such personal care tasks as meal preparation, eating, dressing, personal hygiene, specialized body care, transfer, positioning, ambulation, bathing, toileting, self-medication a person provides for himself or herself, or such other tasks as may be necessary to maintain a person in his or her own home, but shall not include improvements or repair of the home itself.

(19) **Lease for life.** "Lease for life" means a lease that terminates upon the demise of the lessee.

(20) **Legally prescribed drugs.** "Legally prescribed drugs" means drugs supplied by prescription of a medical practitioner authorized to issue prescriptions by the laws of this state or another jurisdiction.

(21) **Life estate.** "Life estate" means an estate whose duration is limited to the life of the party holding it or of some other person.

(a) Reservation of a life estate upon a principal residence placed in trust or transferred to another is a life estate.

(b) Beneficial interest in a trust is considered a life estate for the settlor of a revocable or irrevocable trust who grants to himself or herself the beneficial interest directly in his or her principal residence, or the part of the trust containing his or her personal residence, for at least the period of his or her life.

(c) Beneficial interest in an irrevocable trust is considered a life estate, or a lease for life, for the beneficiary who is granted the beneficial interest representing his or her principal residence held in an irrevocable trust, if the beneficial interest is granted under the trust instrument for a period that is not less than the beneficiary's life.

(22) **Owned.** "Owned" includes "contract purchase" as well as "in fee," a "life estate," and any "lease for life." A residence owned by a marital community or domestic partnership or owned by cotenants is deemed to be owned by each spouse or each domestic partner or each cotenant.

(23) **Ownership by a marital community or domestic partnership.** "Ownership by a marital community or domestic partnership" means property owned in common by both spouses or domestic partners. Property held in separate ownership by one spouse or domestic partner is not owned by the marital community or domestic partnership. The person claiming the exemption must own the property for which the exemption is claimed. Example: A person qualifying for the exemption by virtue of age, disability, or one hundred percent disabled veteran status cannot claim exemption on a residence owned by the person's spouse or domestic partner as a separate estate outside the marital community or domestic partnership unless the claimant has a life estate therein.

(24) **Pension.** "Pension" means an agreement to provide for payments, not wages, to a person (or to that person's family) who has fulfilled certain conditions of service or reached a certain age. A pension may allow payment of all or a part of the entire pension benefit, in lieu of regular periodic payments.

(25) **Principal residence.** "Principal residence" means the claimant owns and occupies the residence as his or her principal or main residence. It does not include a residence used merely as a vacation home. For purposes of this exemption:

(a) Principal or main residence means the claimant occupies the residence for more than six months each year.

(b) Confinement of the claimant to a hospital or nursing home does not disqualify the claim for exemption if:

(i) The residence is temporarily unoccupied;

(ii) The residence is occupied by the claimant's spouse or domestic partner or a person financially dependent on the claimant for support;

(iii) The residence is occupied by a caretaker who is not paid for watching the house;

(iv) The residence is rented for the purpose of paying nursing home, hospital, boarding home or adult family home costs.

(26) **Regular gainful employment.** "Regular gainful employment" means consistent or habitual labor or service which results in an increase in wealth or earnings.

(27) **Replacement residence.** "Replacement residence" means a residence that qualifies for the senior citizen, disabled person, and one hundred percent disabled veteran exemption and replaces the prior residence of the person receiving the exemption.

(28) **Residence.** "Residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling and includes up to one acre of the parcel of land on which the dwelling stands, and it includes any addi-

tional property up to a total of five acres that comprises the residential parcel if land use regulations require this larger parcel size. The term also includes:

(a) A share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides.

(b) A single-family dwelling situated upon leased lands and upon lands the fee of which is vested in the United States, any instrumentality thereof including an Indian tribe, the state of Washington, or its political subdivisions.

(c) A mobile home which has substantially lost its identity as a mobile unit by being fixed in location upon land owned or rented by the owner of said mobile home and placed on a foundation, posts, or blocks with fixed pipe connections for sewer, water or other utilities even though it may be listed and assessed by the county assessor as personal property. It includes up to one acre of the parcel of land on which a mobile home is located if both the land and mobile home are owned by the same qualified claimant and it includes any additional property up to a total of five acres that comprises the residential parcel if land use regulations require this larger parcel size.

(29) **Veteran.** "Veteran" means a veteran of the armed forces of the United States.

(30) **Veterans benefits.** "Veterans benefits" means benefits paid or provided under any law, regulation, or administrative practice administered by the VA. Federal law excludes from gross income any veterans' benefits payments, paid under any law, regulation, or administrative practice administered by the VA.

AMENDATORY SECTION (Amending WSR 08-16-079, filed 7/31/08, effective 8/31/08)

**WAC 458-16A-135 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Application procedures.** (1) **Introduction.** This rule explains when and how a senior citizen, disabled person, or one hundred percent disabled veteran may apply for a property tax exemption on that person's principal residence. RCW 84.36.381 through 84.36.389.

(2) **When to apply for the exemption.** A claimant may first apply for the exemption in the calendar year that he or she meets the age, disability, or disabled veteran requirements for exemption of taxes due in the following year. If the claimant does not apply when he or she meets the age, disability, or disabled veteran requirements, then he or she may apply for the exemption in any subsequent year. The exemption may be claimed on his or her principal residence for previous years by applying with separate applications for each year. However, refunds based upon an exemption made in previous years may be refunded only for up to three years after the taxes were ~~(paid)~~ due as provided in chapter 84.69 RCW.

(3) **Application required.** A claimant must submit to the county assessor's office an application for exemption with supporting documents. If the claimant applies for more than

one year when the application is first made, an application must be made for each year the claimant seeks the exemption.

(4) **Where to obtain the application form.** A claimant may obtain the application form and the list of required supporting documents from the county assessor's office where his or her principal residence is located.

(5) **How to apply for the exemption.** Applications and supporting documents are filed in person or by mail at the county assessor's office where the principal residence is located.

(a) **The application form.** The county assessor designs the application form or adapts a master form obtained from the department. The county must obtain approval of the final form from the department before it may be distributed and used. The claimant must use an application form from the county where the principal residence is located and provide true and accurate information in the application.

(b) **Signatures.** The signature must certify that under penalty of perjury under the laws of Washington the application is true and correct. The application must be signed, dated, and state the place (city, county, or address) where it was signed. The application must be signed by:

- (i) The claimant;
- (ii) The claimant's designated agent;
- (iii) The legal guardian for the claimant (if applicable);

or

(iv) If the property is subject to a deed of trust, mortgage, or purchase contract requiring an accumulation of reserves to pay property taxes, the lien holder; and

(v) If the claimant resides in a cooperative housing unit or portion of a cooperative structure representing the claimant's ownership share in that cooperative, the authorized agent of the cooperative must also sign the application.

(c) **Perjury statement.** The perjury statement certifying under the penalty of perjury that the application is true and correct must be placed upon the application immediately above a line for the signature. Any person signing a false claim with the intent to defraud or evade the payment of any tax is guilty of perjury under chapter 9A.72 RCW. If a person receives an exemption based on erroneous information, the assessor assesses any unpaid taxes with interest for up to ~~((three))~~ five years. If a person receives an exemption based on erroneous information, and the person either provided that information with the intent to defraud or intentionally failed to correct that information, the assessor assesses any unpaid taxes with interest, for up to ~~((three))~~ five years, with the one hundred percent penalty provided in RCW 84.40.130. RCW 84.36.385(5).

(d) **Cooperative agreement to reduce rent.** A cooperative must also agree, in a statement attached to the application, to reduce amounts owed by the claimant to the cooperative by the amount of the tax exemption. The agreement must also state that when the exemption exceeds the amount owed to the cooperative, the cooperative must pay to the claimant any amount of the tax exemption remaining after this offsetting reduction. RCW 84.36.387(5).

(e) **Supporting documents.** Unless the assessor determines that all or some of the supporting documents are not necessary, a claimant must present the documents listed below with his or her application. Except for affidavits, the

assessor's office should not accept original documents from the claimant. If the assessor's office is presented with original documents (other than affidavits), they must make copies or note the information provided in the documents on a separate sheet and return these original documents to the claimant. The claimant submits the following documents with the application:

(i) If the county records do not reflect the claimant as the property owner, copies of any legal instruments demonstrating the claimant's interest held in the property;

(ii) Documents demonstrating that the property is the claimant's principal residence (i.e., copy of a driver's license and voter's registration card);

(iii) Copies of legal identification showing the claimant's age (i.e., copy of a driver's license or birth certificate);

(iv) If the claim is based upon a physical disability, either:

(A) An affidavit from a licensed physician or certified physician's assistant (medical or osteopath doctor), a licensed or certified psychologist for disabling mental impairments, or a licensed podiatrist for disabling impairments of the foot, that states the claimant is unable to enter into regular gainful employment because of his or her disability and the expected term of the disability; or

(B) Copies of a written acknowledgment or decision by the Social Security Administration or Veterans Administration that the claimant is permanently disabled;

(v) If the claim is based upon the claimant's veteran status, copies of legal documents showing that the claimant is a veteran of the armed forces of the United States (~~with one hundred percent~~) entitled to and receiving compensation from the United States Department of Veterans Affairs at a total disability rating for a service-connected disability (as provided in 42 U.S.C. Sec. 423 (d)(1)(A) as amended prior to January 1, 2005);

(vi) Copies of documents showing income earned or reported by the claimant, the claimant's spouse or domestic partner and any cotenants, even when the income is estimated (income information should be provided to the degree possible and then confirmed with supporting documents in the follow-up period), such proof shall include to the extent it is relevant:

(A) If the claimant, the claimant's spouse or domestic partner, or any cotenants receive Social Security payments, a federal statement showing Social Security paid (generally, Form SSA-1099);

(B) If the claimant, the claimant's spouse or domestic partner, or any cotenants receive railroad retirement benefits, a federal statement showing railroad retirement benefits paid (generally, Forms RRC-1099 and RRC 1099-R);

(C) If the claimant, the claimant's spouse or domestic partner, or any cotenants file federal income tax returns, those returns with supporting forms, schedules, and, if specifically requested, worksheets for the deductions taken from gross income (generally, Form 1040 with its supporting forms and schedules);

(D) If the claimant or the claimant's spouse or domestic partner has been in a nursing home, (~~boarding home~~) assisted living facility, or adult family home or has been receiving in-home care, copies of invoices (or an equivalent

billing statement or payment statement) for nonreimbursed nursing home and in-home care;

(E) If the claimant indicates that the nonreimbursed prescription drug expenses for the claimant and the claimant's spouse or domestic partner for the period under review exceeds five hundred dollars, copies of checks or other payment statements (i.e., pharmacy printout of payments for purchases) showing amounts paid for nonreimbursed prescription drug expenses;

(F) Copies of documents showing premiums paid if the claimant or the claimant's spouse or domestic partner pays health care insurance premiums for medicare under Title XVIII of the Social Security Act (i.e., 1099, or medicare plan policy declaration);

(G) If no federal returns were filed or received, the claimant must still provide copies of documents to demonstrate his or her income and the income of his or her spouse or domestic partner and any cotenants (i.e., federal income statements such as Form W-2 (wages), Form 1099-INT (interest), Form 1099-DIV (dividends), Form 1099-R (pension amounts), Form 1099-G (unemployment), or Form 1099-Misc. (contract income)). Even claimants who claim they have no federal income (or an inordinately small amount of federal income) must have income to maintain themselves and their residences. In these situations, the claimant must produce copies of documents demonstrating the source of the funds they are living on (i.e., checking account registers and bank statements) and the bills for maintaining the claimant and the residence (i.e., public assistance check stubs, utility invoices, cable TV invoices, check registers, bank statements, etc.); and

(vii) Any other copies of documents the assessor requires in his or her discretion for the claimant to produce in order to demonstrate the claimant qualifies for the exemption.

(f) Public disclosure of the application. The application form may not be disclosed. A copy of the application may be disclosed only if all income information on the form is obliterated so that it cannot be read. Except as required by law, no public disclosure may be made of the checklist of supporting documents or any supporting documents retained that concern the income of the claimant, the claimant's spouse or domestic partner, or any cotenant.

AMENDATORY SECTION (Amending WSR 08-16-079, filed 7/31/08, effective 8/31/08)

**WAC 458-16A-140 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Exemption described—Exemption granted—Exemption denied—Freezing property values.** (1) **Introduction.** This rule explains how county assessors process a claimant's application form for the senior citizen, disabled person, or one hundred percent disabled veteran property tax exemption. The rule describes the exemption and what happens when the exemption is granted or denied by the assessor.

(2) **The exemption described.** This property tax exemption reduces or eliminates property taxes on a senior citizen's, disabled person's, or one hundred percent disabled veteran's principal residence. Except for benefit charges made by a fire protection district, this exemption does not

reduce or exempt an owner's payments for special assessments against the property. Local governments impose special assessments on real property because the real property is specially benefitted by improvements made in that area (e.g., local improvement district assessments for roads or curbs, surface water management fees, diking/drainage fees, weed control fees, etc.). All the property owners in that area share in paying for these improvements. The only exceptions related to this program is for benefit charges made by a fire protection district, a regional fire protection service authority, or by a city or town for enhancement of fire protection services. Fire protection (~~(district)~~) benefit charges are reduced twenty-five, fifty, or seventy-five percent depending upon the combined disposable income of the claimant. RCW 52.18-090, 52.26.270, and 35.13.256.

(a) **Excess levies.** A qualifying claimant receives an exemption from excess levies on his or her principal residence.

(b) **Regular levies.** Depending upon the claimant's combined disposable income, the exemption may also apply to all or a portion of the regular levies on the claimant's principal residence. Both the level of the claimant's combined disposable income and the assessed value of the home determine the amount of the regular levy exempted from property taxes. The exemption applies to all the regular and excess levies when the assessed value of the claimant's principal residence falls below the amount of exempt assessed value identified in RCW 84.36.381 (5)(b) and the claimant's combined disposable income is also below the levels set in that section.

(c) **Property taxes due.** Generally the owner pays the property taxes on the principal residence and obtains directly the benefit of this exemption. If the claimant is not the property's owner, or is not otherwise obligated to pay the property taxes on the principal residence, but "owned" the principal residence for purposes of this exemption, the property owner that owes the tax must reduce any amounts owed to them by the claimant up to the amount of the tax exemption. If the amounts owed by the claimant to this property owner are less than the tax exemption, the owner must pay to the claimant in cash any amount of the tax exemption remaining after this offsetting reduction. RCW 84.36.387(6).

(3) **Processing exemption applications.** County assessors process applications for the senior citizen, disabled person, or one hundred percent disabled veteran exemption. The assessors grant or deny the exemption based upon these completed applications.

(a) **Application review.** The county assessor reviews a completed application and its supporting documents.

The assessor:

(i) Notes on a checklist for the claimant's file the supporting documents received;

(ii) Reviews the supporting documents;

(iii) Records relevant information from the supporting documents into the claimant's file. In particular, the assessor records into the file the claimant's age and a summary of the income information received; and

(iv) After reviewing the supporting documents, must either destroy or return the supporting documents used to verify the claimant's age and income.

(b) **Incomplete applications.** A county assessor may return an incomplete application or a duplicate application. An incomplete application may be missing:

(i) Signatures;

(ii) Information upon the form; or

(iii) Supporting documents.

Upon returning an incomplete application, the assessor should provide the claimant with a dated denial form listing the signatures, information, or documents needed to complete the application. The denial of an incomplete application may be appealed in the same manner as a denial of the exemption.

(c) The assessor may accept any late filings for the exemption even after the taxes have been levied, paid, or become delinquent. An application filed for the exemption in previous years constitutes a claim for a refund under WAC 458-18-210.

(4) **Exemption timing if approved.** Property taxes are reduced or eliminated on the claimant's principal residence for the year following the year the claimant became eligible for the program. When a late application is filed, the exemption may only result in:

(a) A (~~(property tax)~~) refund for any paid property taxes (~~(paid)~~) that were due within the previous three years (~~(of the payment date)~~); and

(b) Relief from unpaid property taxes for any previous years.

(5) **Exemption procedure when claim granted.** When the exemption is granted, the county assessor:

(a) Freezes the assessed value of the principal residence upon the assessment roll;

(b) Determines the level of exemption the claimant qualifies for;

(c) Notifies the claimant that the exemption has been granted;

(d) Notifies the claimant of his or her duty to file timely renewal applications;

(e) Notifies the claimant of his or her duty to file change of status forms when necessary;

(f) Notifies the claimant of the need to reapply for the exemption if the claimant moves to a replacement residence;

(g) Notifies the claimant that has supplied estimated income information whether or not follow-up income information is needed;

(h) Places the claimant on a notification list for renewal of the exemption;

(i) Places the claimant on a notification list if supporting documents are needed to confirm estimated income information prior to May 31st of the following year;

(j) Exempts the residence from all or part of its property taxes; and

(k) Provides the department with a recomputation of the assessed values for the immediately preceding year as a part of the annual recomputation process.

(6) **Exemption procedure when claim denied.** The assessor denies the exemption when the claimant does not qualify. The assessor provides a dated denial form listing his or her reasons for this denial. A claimant may appeal the exemption's denial to the county board of equalization as provided for in WAC 458-14-056.



(7) **Freezing the property value.** The assessor freezes the assessed value of the principal residence either on the latter of January 1, 1995, or January 1st of the year when a claimant first qualifies for the exemption. The assessor then tracks both the market value of the principal residence and its frozen value. The assessor provides both the principal residence's market value and its frozen value in the valuation notices sent to the owner.

(a) **Frozen values in counties using a cyclical revaluation plan.** In counties using a cyclical revaluation plan, the assessor:

(i) Revalues the principal residence, for property revalued in that assessment year, before the assessed value is frozen; or

(ii) Freezes the principal residence's value at the most recent assessed value for property that is not revalued in that assessment year.

The assessor continues to revalue the principal residence during the regular revaluation cycles to track the market value for the property.

(b) **Adding on improvement costs.** The assessor adds onto the frozen assessed value the cost of any improvements made to the principal residence.

(c) **One-year gaps in qualification.** If a claimant receiving the exemption fails to qualify for only one year because of high income, the previous frozen property value must be reinstated on January 1st of the following year when the claimant again qualifies for the program.

(d) **Moving to a new residence.** If an eligible claimant moves, the county assessor freezes the assessed value of the new principal residence on January 1st of the assessment year in which the claimant transfers the exemption to the replacement residence.

AMENDATORY SECTION (Amending WSR 08-16-076, filed 7/31/08, effective 8/31/08)

**WAC 458-16A-150 Senior citizen, disabled person, and one hundred percent disabled veteran exemption—Requirements for keeping the exemption.** (1) **Introduction.** This rule explains how and when a senior citizen, disabled person, or one hundred percent disabled veteran must file additional reports with the county assessor to keep the senior citizen, disabled person, or one hundred percent disabled veteran property tax exemption. The rule also explains what happens when the claimant or the property no longer qualifies for the full exemption.

(2) **Continuing the exemption.** The claimant must keep the assessor up to date on the claimant's continued qualification for the senior citizen, disabled person, or one hundred percent disabled veteran property tax exemption. The claimant keeps the assessor up to date in three ways. First, the claimant submits a change in status form when any change affects his or her exemption. In some circumstances, the change in status form may be submitted by an executor, a surviving spouse, a surviving domestic partner, or a purchaser to notify the county of a change in status affecting the exemption. Second, the claimant submits a renewal application for the exemption either upon the assessor's request following an amendment of the income requirement, or every (~~four~~) six

years. Third, the claimant applies to transfer the exemption when moving to a new principal residence.

(3) **Change in status.** When a claimant's circumstances change in a way that affects his or her qualification for the senior citizen, disabled person, or one hundred percent disabled veteran property tax exemption, the claimant must submit a completed change in status form to notify the county of this change.

(a) **When to submit form.** The claimant must submit a change in status form to the county assessor for any change affecting that person's qualification for the exemption within thirty days of such change in status. If the claimant is unable or fails to submit a change in status form, any subsequent property owner, including a claimant's estate or surviving spouse or surviving domestic partner, should submit a change in status form to avoid interest and in some cases the penalty for willfully claiming the exemption based upon erroneous information.

(b) **Changes in status described.** Changes in status include:

(i) Changes that affect the property (i.e., changes in land use regulations, new construction, boundary line changes, rentals, ownership changes, etc.);

(ii) Changes to the property owner's annual income that increase or decrease property taxes due under the program; or

(iii) Changes that affect the property owner's eligibility for the exemption (i.e., death, moving to a replacement residence, moving to another residence the claimant does not own, moving into a hospice, a nursing home, or any other long-term care facility, marriage, registration in a state registered domestic partnership, improvement of a disability for a disabled person's claim, or a disabled person entering into gainful employment).

(c) **Change in status form.** The county assessor designs the change in status form or adapts a master form obtained from the department. The county must obtain approval of the final form from the department before it may be distributed. The claimant, the claimant's agent, or a subsequent owner of the residence must use a change in status form from the county where the principal residence is located. The person filing the form must provide true and accurate information on the change in status form.

(d) **Obtaining the form.** The claimant or subsequent property owner may obtain the form from the county assessor where his or her principal residence is located.

(e) **Failure to submit the form after a change in status occurs.** If the claimant fails to submit the change in status form, the application information relied upon becomes erroneous for the period following the change in status. Upon discovery of the erroneous information, the assessor determines the status of the exemption, and notifies the county treasurer to collect any unpaid property taxes and interest from the claimant, the claimant's estate, or if the property has been transferred, from the subsequent property owner. The treasurer may collect any unpaid property taxes, interest, and penalties for a period not to exceed (~~three~~) five years as provided for under RCW 84.40.380. In addition, if a person willfully fails to submit the form or provides erroneous information, that person is liable for an additional penalty equal to one hundred percent of the unpaid taxes. RCW 84.36.385. If

the change in status results in a refund of property taxes, the treasurer may refund property taxes and interest for up to the most recent three years after the taxes were ~~((paid))~~ due as provided in chapter 84.69 RCW.

(f) **Loss of the exemption.** If the change in status disqualifies the applicant for the exemption, property taxes must be recalculated based upon the current full assessed value of the property and paid from the date the change in status occurred. RCW 84.40.360. For example, the exemption is lost when the claimant dies (unless the spouse or domestic partner is also qualified). The property taxes are recalculated to the full assessed amount of the principal residence on a pro rata basis beginning the day following the date of the claimant's death for the remainder of the year.

(g) **Loss of exemption on part of the property.** If the change in status removes a portion of the property from the exemption, property taxes in their full amount on that portion of the property that is no longer exempt must be recalculated based upon the current full assessed value of that portion of the property and paid from the date the change in status occurred. For example, a property owner subdivides his or her one-acre lot into two parcels. The parcel that does not have the principal residence built upon it no longer qualifies for the exemption. The property taxes are recalculated to the full assessed amount of that parcel on a pro rata basis for the remainder of the year beginning the day following the date the subdivision was given final approval.

(h) **Exemption reduced.** If the change in status reduces the exemption amount, the increased property taxes are due in the year following the change in income. For example, a claimant's income rises so that only excess levies on ~~((her))~~ the principal residence are exempt. The claimant's income is based upon the assessment year. The following year when the taxes are collected, the property taxes due are calculated with only an exemption for excess levies.

(4) **Renewal application.** The county assessor must notify claimants when to file a renewal application with updated supporting documentation.

(a) **Notice to renew.** Written notice must be sent by the assessor ~~((in the year the renewal application is requested. Notice must be sent no later than December 10th, three weeks before the December 31st filing requirement))~~ and must be mailed at least three weeks in advance of the expected taxpayer response date.

(b) **When to renew.** The assessor must request a renewal application at least once every ~~((four))~~ six years. The assessor may request a renewal application for any year the income requirements are amended in the statute after the exemption is granted. ~~((Once notified, the claimant must file the renewal application by December 31st of that year.))~~

(c) **Processing renewal applications.** Renewal applications are processed in the same manner as the initial application.

(d) **The renewal application form.** The county assessor may design the renewal application form or adapt either its own application form or the application master form obtained from the department. The county must obtain approval of the final renewal application form from the department before it may be distributed. The property owner must use a renewal form from the county where the principal residence is

located. The claimant must provide true and accurate information on the renewal application form.

(e) **Obtaining the form.** The assessor provides this form to senior citizens, disabled persons, or one hundred percent disabled veterans claiming the exemption when requesting renewal.

(f) **Failure to submit the renewal application.** If the property owner fails to submit the renewal application form, the exemption is discontinued until the claimant reapplies for the program. The assessor may postpone collection activities and continue to work with an eligible claimant to complete an application for a missed period.

(5) **Transfer of the exemption.** When a claimant moves to a replacement residence, the claimant must file a change in status form with the county where his or her former principal residence was located. No claimant may receive an exemption on more than the equivalent of one residence in any year.

(a) **Exemption on the former residence.** The exemption on the former residence applies to the closing date on the sale of the former residence, provided the claimant lived in the residence for most of the portion of that year prior to the date of closing. Property taxes in their full amount must be recalculated based upon the current full assessed value of the property and paid from the day following the date the sale closed. The taxes are paid for the remaining portion of the year. RCW 84.40.360.

(b) **Exemption upon the replacement residence.** Upon moving, the claimant must reapply for the exemption in the county where the replacement residence is located if the claimant wants to continue in the exemption program. The same application, supporting documents, and application process is used for the exemption on the replacement residence as when a claimant first applies. See WAC 458-16A-135. The exemption on the replacement residence applies on a pro rata basis in the year he or she moves, but only from the latter of the date the claimant moves into the new principal residence or the day following the date the sale closes on his or her previous residence.

## WSR 13-08-030

### PERMANENT RULES

#### DEPARTMENT OF REVENUE

[Filed March 27, 2013, 12:14 p.m., effective April 27, 2013]

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

Purpose: Rules from chapter 458-18A WAC amended:

- WAC 458-18A-010 Deferral of special assessments and/or property taxes—Definitions, this section provides definitions of the terms most frequently used to administer the deferral program for special assessments and/or property taxes on residential housing created by chapter 84.37 RCW.
- WAC 458-18A-020 Deferral of special assessments and/or property taxes—Qualifications for deferral, this section explains the qualification under which a person may defer payment of the second installment portion of special assessments and/or real property

taxes included on the annual property tax statement and due on October 31 in any year.

- WAC 458-18A-060 Deferral of special assessments and/or property taxes—Limitations of deferral—Interest, this section explains the limitation to the deferral program when liens created by the deferrals of special assessments and/or real property taxes equal or exceed forty percent of the claimant's equity value in said property.
- WAC 458-18A-080 Deferral of special assessments and/or property taxes—Duties of the department of revenue—State treasurer, this section explains various duties of the department of revenue and state treasurer relating to the administration of the deferral program.

The department of revenue amended these rules to recognize and incorporate the following legislation:

- 2012 - ESSB 6239 (WAC 458-18A-010 only). This legislation redefined "domestic partner" and "domestic partnership" as a union between two persons of legal age where one is at least sixty-two years of age. (See RCW 26.60.030); SHB 2056 (WAC 458-18A-020 only). This legislation changed the term "boarding home" to "assisted living facility" throughout the boarding home licensing statute and elsewhere in the Revised Code of Washington.
- 2010 - SB 6379 (WAC 458-18A-060 and 458-18A-080 only). This technical change legislation provided that the state's lien under this program is now shown on the "certificate of title" of a mobile home. Previously, the "certificate of title" was termed "the certificate of ownership."
- 2010 - E2SHB 1597 (WAC 458-18A-020 only). Under this legislation, the special assessments eligible for deferral under the low-income property tax deferral program are limited to those that are listed on the annual property tax statement. Additionally, duplicate audits of the low-income property tax deferral program by the joint legislative audit and review committee were eliminated and the reporting was made consistent with the review of tax preferences schedule.

Citation of Existing Rules Affected by this Order: Amending WAC 458-18A-010 Deferral of special assessments and/or property taxes—Definitions, 458-18A-020 Deferral of special assessments and/or property taxes—Qualifications for deferral, 458-18A-060 Deferral of special assessments and/or property taxes—Limitations of deferral—Interest, and 458-18A-080 Deferral of special assessments and/or property taxes—Duties of the department of revenue—State treasurer.

Statutory Authority for Adoption: RCW 84.37.090 and 84.38.180.

Adopted under notice filed as WSR 13-02-088 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 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 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: March 27, 2013.

Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-14-038, filed 6/24/09, effective 7/25/09)

**WAC 458-18A-010 Deferral of special assessments and/or property taxes—Definitions. Introduction.** This section is intended to provide definitions of the terms most frequently used to administer the deferral program for special assessments and/or property taxes on residential housing created by chapter 84.37 RCW. Unless a different meaning is plainly required by the context, the words and phrases used in this chapter have the following meanings:

(1) "Boarding house" means a residence in which lodging and meals are provided. Each resident of a boarding house is charged a lump sum to cover the costs of lodging and meals with no separate accounting for the fair selling price of the meals.

(2) "Claimant" means a person who elects under chapter 84.37 RCW to defer payment of special assessments and/or real property taxes accrued on his or her residence by filing a declaration to defer as allowed under chapter 84.37 RCW. If more than one individual in a household wishes to defer special assessments and/or taxes, only one may file a declaration to defer; in other words, only one claimant per household is allowed.

(3) "Cooperative housing" means any existing structure, including surrounding land and improvements, that contains one or more dwelling units and is owned by:

(a) An association with resident shareholders who are granted renewable leasehold interests in dwelling units in the building. Unlike owners of a condominium, the resident shareholders who hold a renewable leasehold interest do not own their dwelling units; or

(b) An association organized under the Cooperative Association Act (chapter 23.86 RCW).

(4) "Department" means the state department of revenue.

(5) "Domestic partner" means a person registered under chapter 26.60 RCW or a partner in a legal union of two persons (~~(of the same sex)~~), other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(6) "Domestic partnership" means a partnership registered under chapter 26.60 RCW or a legal union of two per-

sons (~~of the same sex~~), other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(7) "Equity value" means the amount by which the true and fair value of a residence exceeds the total amount of all liens, obligations, and encumbrances against the property excluding the deferral liens. As used in this context, the "true and fair value" of a residence is the value shown on the county tax rolls maintained by the assessor for the assessment year in which the deferral claim is made.

(8) "Fire and casualty insurance" means a policy with an insurer that is authorized by the state insurance commission to insure property in this state.

(9) "Good cause" means factors peculiar to each claimant. At a minimum, the applicant must be able to demonstrate that factors outside of his or her control were the cause for missing the statutory deadline. This includes factors which would effectively prevent a reasonable person facing similar circumstances from filing a timely application, such as acting or failing to act based on authoritative written advice received directly from persons upon which a reasonable person would normally rely, severe weather conditions preventing safe travel to the point of filing, incapacity due to illness or injury, and other factors of similar gravity. Inadvertence or oversight is not a basis for a "good cause" extension of the filing deadline.

(10) "Irrevocable trust" means a trust that may not be revoked after its creation by the trustor.

(11) "Lease for life" means a lease that terminates upon the death of the lessee.

(12) "Lien" means any interest in property given to secure payment of a debt or performance of an obligation, including a deed of trust. A lien includes the total amount of special assessments and/or property taxes deferred and the interest thereon. It also may include any other outstanding balance owed to local government for special assessments.

(13) "Life estate" means an estate that consists of total rights to use, occupy, and control real property, but is limited to the lifetime of a designated party; this party is often called a "life tenant."

(14) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special assessments.

(15) "Perjury" means the willful assertion as to a matter of fact, opinion, belief, or knowledge made by a claimant upon the declaration to defer that the claimant knows to be false.

(16) "Real property taxes" means ad valorem property taxes levied on a residence in this state. The term includes foreclosure costs, interest, and penalties accrued as of the date the declaration to defer is filed.

(17) "Residence" has the same meaning given in RCW 84.36.383; it means a single-family dwelling unit whether the unit is separate or part of a multiunit dwelling and includes up to one acre of the parcel of land on which the dwelling stands, and it includes any additional property up to a total of five

acres that comprises the residential parcel if local land use regulations require this larger parcel size.

(18) "Revocable trust" means an agreement that entitles the trustor to have the full right to use the real property and to revoke the trust and retake complete ownership of the property at any time during his or her lifetime. The trustee of a revocable trust holds only bare legal title to the real property. Full equitable title to the property remains with the trustor; the original property owner.

(19) "Rooming house" means a residence where persons may rent rooms.

(20) "Special assessment" means the charge or obligation imposed by local government upon real property specially benefited by improvements.

AMENDATORY SECTION (Amending WSR 09-14-038, filed 6/24/09, effective 7/25/09)

**WAC 458-18A-020 Deferral of special assessments and/or property taxes—Qualifications for deferral.** A person may defer payment of the second installment portion of special assessments and/or real property taxes included on the annual property tax statement and due on October 31 in any year in which the following conditions are met:

(1) The special assessments and/or real property taxes must be imposed upon a residence that was occupied by the claimant as a principal place of residence as of January 1 of the year in which the special assessments and/or real property taxes are due. Confinement of the person to a hospital, nursing home, (~~boarding home~~) assisted living facility, or adult family home does not disqualify the claim for deferral if:

(a) The residence is temporarily unoccupied;

(b) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support;

(c) The residence is rented for the purpose of paying nursing home, hospital, (~~boarding home~~) assisted living facility, or adult family home costs; or

(d) The residence is occupied by a caretaker who is not paid for watching the house.

(2) The claimant must have a combined disposable income, as defined in RCW 84.36.383, of fifty-seven thousand dollars or less.

(3) The first installment portion of the special assessments and/or property taxes listed on the annual tax statement and due on April 30 for the year in which the deferral claim is made must already be paid.

(4) A deferral is not allowed for special assessments and/or property taxes levied for payment in the first five calendar years in which the claimant owns the residence. To defer special assessments and/or property taxes in 2008, the claimant must have had an ownership interest in the residence by December 31, 2003.

(5) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection a residence owned by a marital community, a state registered domestic partnership, or cotenants is deemed to be owned by each spouse, each domestic partner, and each cotenant. A claimant who has only a share ownership in coopera-

tive housing, a life estate, a lease for life or a revocable trust does not satisfy the ownership requirement.

(6) The total amount deferred must not exceed forty percent of the amount of the claimant's equity value in the residence. If the amount deferred is to exceed one hundred percent of the claimant's equity value in the land or lot only, the claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington and designate the state as a loss payee upon said policy. In no case should the deferred amount exceed the amount of the insured value of the improvement plus the land value.

(7) A claimant may not defer taxes under both this chapter and chapter 84.38 RCW in the same tax year.

(8) In the case of special assessment deferral, the special assessments must have been included on the annual property tax statement.

**AMENDATORY SECTION** (Amending WSR 09-14-038, filed 6/24/09, effective 7/25/09)

**WAC 458-18A-060 Deferral of special assessments and/or property taxes—Limitations of deferral—Interest.** No deferral will be granted if the liens created by the deferrals of special assessments and/or real property taxes equal or exceed forty percent of the claimant's equity value in said property. Equity value will be determined as of January 1 in the year the taxes are to be deferred.

The liens include:

(1) The total amount of special assessments and/or real property taxes deferred; plus

(2) Interest on the amount deferred. The rate of interest is an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year is computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average is calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year. The interest is calculated from the time it could have been paid before delinquency until such obligation is paid. In the case of a mobile home, the department of licensing will show the state's lien on the certificate of ((ownership)) title for the mobile home. In the case of all other property, the department of revenue will file a notice of the deferral with the county recorder or auditor.

**AMENDATORY SECTION** (Amending WSR 09-14-038, filed 6/24/09, effective 7/25/09)

**WAC 458-18A-080 Deferral of special assessments and/or property taxes—Duties of the department of revenue—State treasurer.** The department will:

(1) Notify the county assessor as soon as possible of any declaration to defer, where any factor appears to disqualify the claimant.

(2) Certify to the state treasurer the amount due the respective treasurers for any special assessments and/or real property taxes deferred for that year.

(3) File a notice of the deferral with the county recorder or auditor.

(4) Notify the department of licensing to show the state's lien on the certificate of ((ownership)) title of a mobile home.

(5) The department may audit any "declaration to defer" and/or "declaration to renew deferral" it deems necessary.

(6) The state treasurer will pay, before delinquency, to the county treasurers the amounts certified by the department of revenue. The amount paid must be distributed to the districts which levied the taxes.

### WSR 13-08-031

#### PERMANENT RULES

#### DEPARTMENT OF REVENUE

[Filed March 27, 2013, 12:22 p.m., effective April 27, 2013]

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

Purpose: Rules from chapter 458-18 WAC amended:

- WAC 458-18-010 Deferral of special assessments and/or property taxes—Definitions, this section provides definitions of the terms most frequently used to administer the deferral program for special assessments and/or property taxes created by chapter 84.38 RCW.
- WAC 458-18-030 Deferral of special assessments and/or property taxes—Declarations to defer—Filing—Forms, this section explains the due date for filing the declaration to defer as well as the contents of the form.
- WAC 458-18-080 Deferral of special assessments and/or property taxes—Duties of the department of revenue—State treasurer, this section explains the department and state treasurer's responsibilities under the deferral program.

The department of revenue amended these rules to recognize and incorporate the following legislation:

- 2012 - E2SB [ESSB] 6239 (WAC 458-18-010 only). This legislation redefined "domestic partner" and "domestic partnership" as a union between two persons of legal age where one is at least sixty-two years of age. (See RCW 26.60.030.)
- 2010 - SB 6379 (WAC 458-18-080 only). This technical change legislation provided that the state's lien under this program is now shown on the "certificate of title" of a mobile home. Previously, the "certificate of title" was termed "the certificate of ownership."
- Additionally, language is added to WAC 458-18-030 to recognize a legislative amendment from 2006 made to the definition of "residence" contained in RCW 84.36.383 (section 1, chapter 62, Laws of 2006).

Citation of Existing Rules Affected by this Order:  
Amending WAC 458-18-010 Deferral of special assessments and/or property taxes—Definitions, 458-18-030 Deferral of special assessments and/or property taxes—Declarations to defer—Filing—Forms, and 458-18-080 Deferral of special

assessments and/or property taxes—Duties of the department of revenue—State treasurer.

Statutory Authority for Adoption: RCW 84.38.180.

Adopted under notice filed as WSR 13-02-087 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 3, 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: March 27, 2013.

Alan R. Lynn  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 08-16-080, filed 8/1/08, effective 9/1/08)

**WAC 458-18-010 Deferral of special assessments and/or property taxes—Definitions. Introduction.** This section is intended to provide definitions of the terms most frequently used to administer the deferral program for special assessments and/or property taxes on residential housing created by chapter 84.38 RCW. Unless a different meaning is plainly required by the context, the words and phrases used in this chapter have the following meanings:

(1) "Boarding house" means a residence in which lodging and meals are provided. Each resident of a boarding house is charged a lump sum to cover the costs of lodging and meals with no separate accounting for the fair selling price of the meals.

(2) "Claimant" means a person who either elects under chapter 84.38 RCW or is required under RCW 84.64.050 to defer payment of special assessments and/or real property taxes accrued on his or her residence by filing a declaration to defer as allowed under chapter 84.38 RCW. If more than one individual in a household wishes to defer special assessments and/or taxes, only one may file a declaration to defer; in other words, only one claimant per household is allowed.

(3) "Cooperative housing" means any existing structure, including surrounding land and improvements, that contains one or more dwelling units and is owned by:

(a) An association with resident shareholders who are granted renewable leasehold interests in dwelling units in the building. Unlike owners of a condominium, the resident shareholders who hold a renewable leasehold interest do not own their dwelling units; or

(b) An association organized under the Cooperative Association Act (chapter 23.86 RCW).

(4) "Department" means the state department of revenue.

(5) "Domestic partner" means a person registered under chapter 26.60 RCW or a partner in a legal union of two persons (~~(of the same sex)~~), other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(6) "Domestic partnership" means a partnership registered under chapter 26.60 RCW or a legal union of two persons (~~(of the same sex)~~), other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(7) "Equity value" means the amount by which the true and fair value of a residence exceeds the total amount of all liens, obligations, and encumbrances against the property excluding the deferral liens. As used in this context, the "true and fair value" of a residence is the value shown on the county tax rolls maintained by the assessor for the assessment year in which the deferral claim is made.

(8) "Fire and casualty insurance" means a policy with an insurer that is authorized by the state insurance commission to insure property in this state.

(9) "Irrevocable trust" means a trust that may not be revoked after its creation by the trustor.

(10) "Lease for life" means a lease that terminates upon the death of the lessee.

(11) "Lien" means any interest in property given to secure payment of a debt or performance of an obligation, including a deed of trust. A lien includes the total amount of special assessments and/or property taxes deferred and the interest thereon. It also may include any other outstanding balance owed to local government for special assessments.

(12) "Life estate" means an estate that consists of total rights to use, occupy, and control real property but is limited to the lifetime of a designated party; this party is often called a "life tenant."

(13) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special assessments.

(14) "Perjury" means the willful assertion as to a matter of fact, opinion, belief, or knowledge made by a claimant upon the declaration to defer that the claimant knows to be false.

(15) "Real property taxes" means ad valorem property taxes levied on a residence in this state. The term includes foreclosure costs, interest, and penalties accrued as of the date the declaration to defer is filed.

(16) "Residence" has the same meaning given in RCW 84.36.383; it means a single-family dwelling unit whether the unit is separate or part of a multiunit dwelling and includes up to one acre of the parcel of land on which the dwelling stands, and it includes any additional property up to a total of five acres that comprises the residential parcel if local land use regulations require this larger parcel size.

(17) "Revocable trust" means an agreement that entitles the trustor to have the full right to use the real property and to revoke the trust and retake complete ownership of the property at any time during his or her lifetime. The trustee of a

revocable trust holds only bare legal title to the real property. Full equitable title to the property remains with the trustor; the original property owner.

(18) "Rooming house" means a residence where persons may rent rooms.

(19) "Special assessment" means the charge or obligation imposed by local government upon real property specially benefited by improvements.

AMENDATORY SECTION (Amending Order PT 84-4, filed 10/5/84)

**WAC 458-18-030 Deferral of special assessments and/or property taxes—Declarations to defer—Filing—Forms.** (1) Declarations to defer special assessments and/or real property taxes for any year shall be filed no later than thirty days before the tax or assessment is due, or thirty days after receiving notice under RCW 84.64.030 or 84.64.050 whichever is later. For good cause shown the department may waive this requirement. All declarations to defer shall be made and signed by the claimant. If the claimant is unable to make his or her own declaration, it may be made and signed by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

(2) The declaration to defer shall be made solely upon forms prescribed by the department of revenue and supplied by the county assessor. Such forms shall contain the following:

(a) Name and address of the claimant.

(b) If the property described upon the assessment rolls by the assessor contains more than one acre, the claimant must supply a complete and accurate legal description that encompasses the residence and that does not contain more than one acre, except that a residence may include any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations as provided by RCW 84.36.383.

(c) An affirmation that the claimant meets the conditions of WAC 458-18-020 including, but not limited to the name, address, policy number, and amount of fire and casualty insurance carried on the residence.

~~((e))~~ (d) A list of all members of the claimant's household.

~~((e))~~ (e) The claimant's equity in his residence including all liens, obligations and encumbrances against the property.

~~((e))~~ (f) Information concerning any special assessments to be deferred.

~~((e))~~ (g) The names of other parties with an interest in the residence to which the deferral applies.

~~((e))~~ (h) Signatures of other parties in interest designating the claimant.

~~((e))~~ (i) Signature of any mortgagee, contract purchase holder and/or beneficiary under a deed of trust.

~~((e))~~ (j) An affirmation that the claimant is aware of the lien of the deferred special assessments and/or real property taxes and when the lien becomes payable.

~~((e))~~ (k) A numbering system approved by the department.

~~((e))~~ (l) Any other pertinent information the department deems relevant.

AMENDATORY SECTION (Amending Order PT 84-4, filed 10/5/84)

**WAC 458-18-080 Deferral of special assessments and/or property taxes—Duties of the department of revenue—State treasurer.** The department ~~((shall))~~ will:

(1) Notify the county assessor as soon as possible of any declaration to defer, where any factor appears to disqualify the claimant;

(2) Certify to the state treasurer the amount due the respective treasurers for any special assessments and/or real property taxes deferred for that year;

(3) File a notice of the deferral with the county recorder or auditor;

(4) Notify the department of licensing to show the state's lien on the certificate of ~~((ownership))~~ title of a mobile home. The department may audit any "declaration to defer" and/or "declaration to renew deferral" it deems necessary.

The state treasurer ~~((shall))~~ will pay, before delinquency, to the county treasurers and the treasurers of the respective local improvement districts the amounts certified by the department of revenue. The amount paid ~~((shall))~~ must be distributed to the districts which levied the taxes.

## WSR 13-08-033

### PERMANENT RULES

#### WASHINGTON STATE UNIVERSITY

[Filed March 27, 2013, 1:35 p.m., effective April 27, 2013]

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

Purpose: The university is adopting rules regarding conduct on campus that will be applicable to the university community.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 13-03-135 on January 23, 2013.

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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, 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 0, Repealed 0.

Date Adopted: March 22, 2013.

Ralph T. Jenks, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

## Chapter 504-31 WAC

## CONDUCT ON CAMPUS CODE

NEW SECTION

**WAC 504-31-010 General policy.** It is the policy of Washington State University to support and promote each individual's right to express their views and opinions for or against actions or ideas in which the individual has an interest, to associate freely with others, and to assemble peacefully.

The above rights exist in equal measure for each member of the university community. They exist regardless of the professional stature or rank of the individual and regardless of the degree of acceptability among others of the views or opinions advocated. Each individual has an obligation to respect the rights of all members of the university community.

This rule shall be read and applied together with any other applicable university policies and rules, in the event of a conflict more specific provisions shall take precedence. WAC 504-35-150 shall apply to violations of this rule.

NEW SECTION

**WAC 504-31-020 Prohibited conduct.** In order to assure the above rights to all members of the university community and to maintain a peaceful atmosphere in which the university may continue to make its unique contribution to society, the following types of conduct are hereby prohibited on or in property either owned, controlled, or operated by the university which is used or set aside for university purposes, hereinafter referred to as the university campus:

(1) Conduct that intentionally and substantially obstructs or disrupts teaching or freedom of movement or other lawful activities on the university campus;

(2) Physical abuse of any person or conduct that unlawfully threatens imminent bodily harm or endangers the health or safety of any person on the university campus;

(3) Malicious damage to or malicious misuse of university property, or the property of any person where such property is located on the university campus;

(4) Refusal to comply with any lawful order to leave the university campus or any portion thereof;

(5) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the university campus. This prohibition does not apply to possession of such items for authorized university purposes; possession of such items by authorized law enforcement officers; individuals who have obtained prior written approval from the university chief of police, president, or designee; or lawful possession of firearms by persons other than students in privately owned vehicles while on any university campus.

(6) Unlawful possession, use, distribution, or manufacture of alcohol or controlled substances on the university campus or during university-sponsored activities;

(7) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is advocacy that pre-

pares the group addressed for imminent action and steels it to the conduct prohibited herein.)

**WSR 13-08-047****PERMANENT RULES****OFFICE OF****ADMINISTRATIVE HEARINGS**

[Filed March 28, 2013, 3:51 p.m., effective April 28, 2013]

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

Purpose: To inform the public of our office locations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 10-04-020.

Statutory Authority for Adoption: Chapter 34.12 RCW.

Adopted under notice filed as WSR 13-03-077 on January 14, 2013.

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 0, Repealed 0.

Date Adopted: March 28, 2013.

Lorraine Lee

Chief Administrative Law Judge

AMENDATORY SECTION (Amending WSR 08-12-025, filed 5/29/08, effective 6/29/08)

**WAC 10-04-020 Function—Organization—Offices.**

The office of administrative hearings conducts impartial administrative hearings for state agencies and local governments pursuant to chapter 34.12 RCW. The office is under the direction of the chief administrative law judge.

Administrative law judges preside over hearings in adjudicative proceedings and issue initial or final orders, including findings of fact and conclusions of law.

The administrative office is located at 2420 Bristol Ct. SW, P.O. Box 42488, Olympia, Washington, 98504-2488. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday except legal holidays. Administrative law judges are assigned to field offices located in Olympia, Seattle, Spokane, Tacoma, Vancouver, and Yakima. Each office is headed by an assistant deputy chief administrative law judge.

All written communications by parties pertaining to a particular case shall be filed with the field office, if any,



assigned to the case, and otherwise with the chief administrative law judge or designee at the administrative office.

**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:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 13-08-055**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed March 29, 2013, 1:45 p.m., effective May 1, 2013]

Effective Date of Rule: May 1, 2013.

**Purpose:** Implements the provisions of 2ESB 6378 related to changing the retirement allowance reductions for members who begin membership in PERS, SERS or TRS on or after May 1, 2013, and subsequently retire after reaching age fifty-five and completing thirty or more years of service. These changes are necessary to clarify when membership begins for substitutes who establish membership by purchasing service credit on or after May 1, 2013.

**Citation of Existing Rules Affected by this Order:** Repealing WAC 415-110-605, 415-112-501 and 415-112-502; and amending WAC 415-110-685 and 415-112-140.

**Statutory Authority for Adoption:** RCW 41.50.050(5).

Adopted under notice filed as WSR 13-05-080 on February 20, 2013.

**Changes Other than Editing from Proposed to Adopted Version:** The text being adopted reflects minor revisions from the text proposed in WSR 13-05-080. The changes relate to eligibility for membership based on work performed in prior periods.

**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 3.

**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: March 29, 2013.

Marcie Frost  
Director

AMENDATORY SECTION (Amending WSR 04-04-041, filed 1/29/04, effective 3/1/04)

**WAC 415-110-685 Am I eligible for membership and service credit as a classified substitute employee? ((+) ~~You may establish or reestablish membership by purchasing service credit in SERS as a classified substitute if you meet eligibility criteria:~~**

**(a) ~~SERS Plan 2:~~**

~~You may apply to the department for membership in Plan 2 if you work at least seventy hours for five or more months during a school year and:~~

~~(i) Were previously a member of SERS Plan 2 and withdrew; or~~

~~(ii) Are or were a member of PERS Plan 2.~~

**(b) ~~SERS Plan 3:~~**

~~You may apply to the department for membership in Plan 3 if you work at least seventy hours for five or more months during a school year and:~~

~~(i) You have never been a member of SERS Plan 2;~~

~~(ii) You have never been a member of PERS Plan 2; or~~

~~(iii) You were a member of PERS Plan 2 who transferred to PERS Plan 3.~~

~~(2) **As an established member you may purchase any amount of service credit as a classified substitute.**~~

~~**SERS Plan 2 or 3.**~~

~~(a) You must purchase all of the service you rendered during the school year.~~

~~(b) You do not have a minimum amount of service you must have worked.~~

~~(3) **To apply, you must submit your application to the department at the end of the school year.**~~

~~To apply for membership and service credit as a classified substitute, you must submit the correct application form (Plan 2 or Plan 3) and your employer's quarterly reports to the department, if applicable, no earlier than August 31 of the school year for which you are applying for service credit.~~

~~(4) **You must make payments within six months of the end of the school year to avoid recovery interest charges.**~~

~~(a) You have six months following the end of the school year in which the service was provided to purchase the service credit by paying the appropriate member contributions in full to avoid interest charges.~~

~~(b) After the six-month period, recovery interest shall be charged prospectively (March 1 forward) on the contributions due.~~

~~(i) **SERS Plan 2 members:** Interest is charged on both employer and member contributions.~~

~~(ii) **SERS Plan 3 members:** Interest is charged on employer contributions only.~~

~~(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed:~~

~~(a) "Classified employee" - RCW 41.35.010(37).~~

~~(b) "Member" - RCW 41.35.010(5).~~

~~(c) "Service" - RCW 41.35.010(7).~~

~~(d) "Substitute employee" - RCW 41.35.010(38).))~~

You may be eligible to apply for membership and receive service credit for time worked as a classified substitute employee that occurred on or after July 27, 2003.

(1) If you have never been a member of the school employees' retirement system (SERS), you may establish

membership in Plan 2 or Plan 3 if you worked as a classified substitute employee for seventy or more hours per month during at least five months within a single school year period of September 1st through August 31st. Your membership will begin when your first optional bill to purchase substitute teaching service credit is paid in full.

(2) If you have already established membership in SERS Plan 3, or if you have established membership in SERS Plan 2 and have not withdrawn your contributions, you may apply to the department for service credit as described in subsection (4) of this section, for any compensated employment as a classified substitute employee that occurs after your first month of established service credit. You may apply for service credit for compensated employment as a classified substitute employee that occurred prior to your first month of established service credit if it meets the requirements for membership as described in subsection (1) of this section.

(3) If you previously established membership in SERS Plan 2 and withdrew your contributions, you may reestablish your membership by purchasing service credit if you worked as a classified substitute employee for seventy or more hours per month during at least five months within a single school year period of September 1st through August 31st.

(4) To apply, you must submit a classified substitute's application for service credit.

(a) Applications must be submitted no earlier than September 1st following the end of the school year in which you worked.

(b) If you are establishing membership in SERS for the first time, you must also submit a member information form to indicate your selection of Plan 2 or Plan 3.

(c) If you are an established Plan 3 member, you must also submit a member information form to indicate your contribution rate and investment options.

(d) If you are purchasing service credit for the 2003-04 school year, you must also submit quarterly reports to DRS along with your application for service credit. Quarterly reports must show the exact hours worked and compensation earned each month, and must be signed by the employer.

(5) To receive classified substitute employee's service credit, you must pay the appropriate member contributions.

(a) Upon receipt of your application materials, the department will determine the amount of service credit you are eligible to purchase and will provide an optional bill for the amount due. Your service credit will be applied when the bill is paid in full.

(b) You have six months following the end of the school year in which you worked to pay the member contributions interest-free. Interest will begin to accrue on the first day of the seventh month following the end of the school year. The school year ends on August 31st for Plans 2 and 3.

(i) SERS Plan 2. If payment is received after the six month interest-free period, the amount due will include interest on both the member and employer contributions.

(ii) SERS Plan 3. If payment is received after the six month interest-free period, the amount due will include interest on the Plan 3 employer contributions.

(6) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Classified employee" - RCW 41.35.010(7).

(b) "Member" - RCW 41.35.010(20).

(c) "Service" - RCW 41.35.010(32).

(d) "Substitute employee" - RCW 41.35.010(38).

AMENDATORY SECTION (Amending WSR 04-21-080, filed 10/20/04, effective 11/20/04)

**WAC 415-112-140 Am I eligible for membership and service credit as a substitute teacher? ~~((1) You may apply for membership and service credit in TRS as a substitute teacher if you meet eligibility criteria:~~**

**~~(a) TRS Plan 1.~~**

~~(i) If you are a former Plan 1 member, you may apply to reestablish Plan 1 membership if you work ninety or more full-time days during a fiscal year as a teacher.~~

~~(ii) If you are a Plan 1 member, you may apply to the department for service credit in Plan 1 as a substitute teacher if you work a minimum of twenty full-time days during a fiscal year.~~

**~~(b) TRS Plan 2.~~**

~~(i) You may apply to the department for membership in Plan 2 if you:~~

~~(A) Work at least seventy hours for five or more months during an annual period September through August; or~~

~~(B) Worked at least ninety hours for two consecutive months during the period of September 1, 1990, through August 31, 1991.~~

~~(ii) If you have previously established membership in Plan 2 and have not withdrawn your contributions, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher.~~

**~~(c) TRS Plan 3.~~**

~~(i) You may apply to the department for membership in Plan 3 if you:~~

~~(A) Began employment after July 1, 1996; and~~

~~(B) Work at least seventy hours for five or more months during an annual period September through August.~~

~~(ii) If you have established membership in Plan 3, either by transferring from Plan 2 or establishing membership after July 1, 1996, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher.~~

**~~(2) To apply, you must submit your employer's quarterly reports to the department at the end of a year.~~**

~~(a) To apply for membership and service credit as a substitute teacher, you must submit your employer's quarterly reports to the department no earlier than:~~

~~(i) June 30 of the year for which you are applying for Plan 1 service credit; or~~

~~(ii) August 31 of the year for which you are applying for Plan 2 or Plan 3 service credit.~~

~~(b) Your employer cannot report your service and earnings history as a substitute teacher to the department through the retirement system monthly reporting system unless you are also employed in a separate, eligible position with the same employer.~~

**~~(3) Defined terms used.~~** Definitions for the following terms used in this section may be found in the sections listed:

~~(a) "Member" - RCW 41.32.010.~~

~~(b) "Service" - RCW 41.32.010.~~

(c) "Substitute teacher" - RCW 41.32.010.

(d) "Teacher" - RCW 41.32.010-)) (1) If you have never been a member of the teachers' retirement system (TRS), you may establish membership in Plan 2 or Plan 3 if you worked as a substitute teacher for seventy or more hours per month during at least five months within a single school year period of September 1st through August 31st, during the 1991-92 school year or later. You may apply for membership for work prior to the 1991-92 school year if it meets the membership requirements in effect when the work was performed. Your membership will begin when your first optional bill to purchase substitute teaching service credit is paid in full.

(2) If you have already established membership and have not withdrawn your contributions, you may be eligible to purchase service credit for working as a substitute teacher.

(a) TRS Plan 1. If you are a Plan 1 member, you may apply to the department for service credit as a substitute teacher for any school year during which you worked a minimum of twenty full-time days between July 1st and June 30th.

(b) TRS Plan 2 or Plan 3. If you are a Plan 2 or Plan 3 member, you may apply to the department for service credit as described in subsection (4) of this section, for any compensated employment as a substitute teacher that occurs after your first month of established service credit. You may apply for service credit for compensated employment as a substitute teacher that occurred prior to your first month of established service credit if it meets the requirements for membership as described in subsection (1) of this section.

(3) If you previously established membership and withdrew your contributions, you may purchase service credit as a substitute teacher if you meet the criteria in this subsection.

(a) TRS Plan 1. You may reestablish membership in TRS Plan 1 if you worked as a substitute teacher for the equivalent of ninety full-time days within a single school year period of July 1st through June 30th.

(b) TRS Plan 2. You may reestablish membership in TRS Plan 2 if you worked as a substitute teacher as described in subsection (1) of this section.

(c) TRS Plan 3. If you are a Plan 3 member and withdrew your contributions, you may apply to the department for service credit for any compensated employment as a substitute teacher that occurred after your first month of established service credit. You may apply for service credit for compensated employment as a substitute teacher that occurred prior to your first month of established service credit if it meets the requirements for membership as described in subsection (1) of this section.

(4) To apply, you must submit a substitute teacher's application for service credit.

(a) Applications must be submitted no earlier than the end of your plan's school year in which you worked. The school year ends on June 30th for Plan 1, and August 31st for Plans 2 and 3.

(b) If you are establishing membership in TRS for the first time, you must also submit a member information form to indicate your selection of Plan 2 or Plan 3.

(c) If you are an established Plan 3 member, you must also submit a member information form to indicate your contribution rate and investment options.

(d) If you are purchasing service credit for a period prior to the 2004-05 school year, or for work performed for a higher education employer or for the Washington state center for childhood deafness and hearing loss or the school for the blind, you must also submit quarterly reports to DRS along with your application for service credit. Quarterly reports must show the exact hours worked and compensation earned each month, and must be signed by the employer.

(5) To receive substitute teacher's service credit, you must pay the appropriate member contributions.

(a) Upon receipt of your application materials, the department will determine the amount of service credit you are eligible to purchase and will provide an optional bill for the amount due. Your service credit will be applied when the bill is paid in full.

(b) You have six months following the end of the school year in which you worked to pay the member contributions interest-free. Interest will begin to accrue on the first day of the seventh month following the end of the school year. The school year ends on June 30th for Plan 1, and August 31st for Plans 2 and 3.

(i) TRS Plan 1 or Plan 2. If payment is received after the six month interest-free period, the amount due will include interest on both the Plan 1 or Plan 2 member and employer contributions.

(ii) TRS Plan 3. If payment is received after the six month interest-free period, the amount due will include interest on the Plan 3 employer contributions.

(6) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Member" - RCW 41.32.010(25).

(b) "Service" - RCW 41.32.010(43).

(c) "Substitute teacher" - RCW 41.32.010(48).

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-110-605	Do I qualify for retirement from Plan 3?
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#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 415-112-501	Do I qualify for retirement from Plan 2?
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WAC 415-112-502	Do I qualify for retirement from Plan 3?
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**WSR 13-08-059**  
**PERMANENT RULES**  
**PUGET SOUND**  
**CLEAN AIR AGENCY**

[Filed March 29, 2013, 5:33 p.m., effective May 1, 2013]

Effective Date of Rule: May 1, 2012 [2013].

Purpose: Amendments will update the agency's references to be consistent with the latest version of ecology's rules. There are no new provisions of those ecology regulations being included in this proposal. These proposed amendments are only intended to update the referenced effective dates of previous ecology rule provisions adopted. We have amended these regulations several times before, the most recent being in September 2011, in response to updated ecology regulations which became effective on April 1, 2011.

Citation of Existing Rules Affected by this Order: Amending Regulation I, Section 6.01.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 13-05-079 on February 19, 2013.

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

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

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

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

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

Date Adopted: March 28, 2013.

Craig Kenworthy  
Executive Director

## **AMENDATORY SECTION**

### **SECTION 6.01 COMPONENTS OF NEW SOURCE REVIEW PROGRAM**

(a) In addition to the provisions of this regulation, the Agency adopts by reference and enforces the following provisions of the new source review program established by the Washington State Department of Ecology:

WAC 173-400-030 Definitions. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-081 Startup and shutdown. (effective 4/01/11)

WAC 173-400-110 New source review (NSR) for sources and portable sources. (effective 12/29/12 (~~(4/01/11)~~)) (1)(c)(i), (1)(d) and (1)(e)

WAC 173-400-111 Processing notice of construction applications for sources, stationary sources and portable sources. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-112 Requirements for new sources in nonattainment areas. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-113 Requirements for new sources in attainment or unclassifiable areas. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-114 Requirements for replacement or substantial alteration of emission control technology at an existing stationary source. (effective 12/29/12 (~~(9/15/01)~~))

WAC 173-400-117 Special protection requirements for federal Class I areas. (effective 12/29/12 (~~(2/10/05)~~))

WAC 173-400-171 Public notice. (effective 12/29/12 (~~(04/01/11)~~))

WAC 173-400-200 Creditable stack height and dispersion techniques. (effective 2/10/05)

WAC 173-400-560 General order of approval. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-700 Review of major stationary sources of air pollution. (effective 4/01/11)

WAC 173-400-710 Definitions. (effective 12/29/12 (~~(6/08/07)~~))

WAC 173-400-720 Prevention of significant deterioration (PSD). (effective 12/29/12 (~~(09/10/11)~~))

WAC 173-400-730 Prevention of significant deterioration application processing procedures. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-740 PSD permitting public involvement requirements. (effective 12/29/12 (~~(2/10/05)~~))

WAC 173-400-750 Revisions to PSD permits. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-800 Major stationary source and major modification in a nonattainment area. (effective 4/01/11)

WAC 173-400-810 Major stationary source and major modification definitions. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-820 Determining if a new stationary source or modification to a stationary source is subject to these requirements. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-830 Permitting requirements. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-840 Emission offset requirements. (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-850 Actual emissions plantwide applicability limitation (PAL). (effective 12/29/12 (~~(4/01/11)~~))

WAC 173-400-860 Public involvement procedures. (effective 4/01/11)

WAC 173-460-020 Definitions. (effective 6/20/09)

WAC 173-460-030 Applicability. (effective 6/20/09)

WAC 173-460-040 New source review. (effective 6/20/09)

(2)-(3)

WAC 173-460-050 Requirement to quantify emissions. (effective 6/20/09)

WAC 173-460-060 Control technology requirements. (effective 6/20/09)

(1)

WAC 173-460-070 Ambient impact requirement. (effective 6/20/09)

WAC 173-460-071 Voluntary limits on emissions. (effective 6/20/09)

WAC 173-460-080 First tier review. (effective 6/20/09)

(2)-(4)

WAC 173-460-090 Second tier review. (effective 6/20/09)

WAC 173-460-100 Third tier review. (effective 6/20/09)

WAC 173-460-150 Table of ASIL, SQER and de minimis emission values. - excluding references to de minimis emission values (effective 6/20/09)

(b) The Washington State Department of Ecology is the permitting agency for the Prevention of Significant Deterioration (PSD) program under WAC 173-400-700 through WAC 173-400-750 (as delegated by agreement with the US Environmental Protection Agency, Region 10), and for primary aluminum smelters, kraft pulp mills, and sulfite pulp mills.

(c) The Washington State Department of Health is the permitting agency for radionuclides under chapter 246-247 WAC.

(d) The Energy Facility Site Evaluation Council (EFSEC) is the permitting agency for large natural gas and oil pipelines, electric power plants above 350 megawatts, new oil refineries or large expansions of existing facilities, and underground natural gas storage fields under chapter 463-78 WAC.

**WSR 13-08-063**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 1, 2013, 9:01 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: A department study identified the need for a single classification that appropriately rates product demonstrator services according to the industry's level of hazard. The proposed subclassification is a special exception available to product demonstrator services, manufacturers, and wholesalers if hiring product demonstrators with no other exposure to their business' operations. At today's rates, the base rate for product demonstrators would be about nine cents per hour higher for firms currently reporting product demonstrators in Classification 6303 (outside sales) and twenty-eight cents per hour lower for any firm currently reporting product demonstrators in Classification 7106-01 (temporary staffing services, retail or wholesale store operations).

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-31018 Exception classifications, 296-17A-6303 Classification 6303 (outside sales) and 296-17A-6406 Classification 6406 (retail stores).

Statutory Authority for Adoption: RCW 51.04.020, 51.16.035.

Adopted under notice filed as WSR 12-22-055 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 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: April 1, 2013.

Joel Sacks  
Director

AMENDATORY SECTION (Amending WSR 09-16-110, filed 8/4/09, effective 10/1/09)

**WAC 296-17-31018 Exception classifications. (1) What are exception classifications?**

In *WAC 296-17-31012* we discussed our classification policy. We described the process used to classify risk and stated that we assign the basic classification or basic classifications that best describe the nature of your company's business. While this policy is modeled after the policy used by private insurance carriers and is geared to administrative ease for you, we recognize that there are some duties or operations where your employees do not share the same general workplace hazards that your other employees are exposed to. To provide for those operations that are outside the scope of a basic classification, we have created three types of exception classifications listed below:

- Standard exception classifications(♣);
- Special exception classifications(♣); and
- General exclusion classifications.

**(2) What are the standard exception classifications?**

Standard exception classifications cover those employments that are administrative in nature and common to many industries. Employees covered by a standard exception classification cannot be exposed to any operative hazard of the business. If the language of the basic classification assigned to your business does not include these employments, you may be able to report them separately. You cannot divide the work hours of an employee between a standard exception classification and a basic classification unless it is permitted by another rule. If an employee works part of their time in a standard exception classification and part of their time in your basic classification, then all exposure (hours) must be reported in the highest rated basic classification applicable to the work being performed. The standard exception classifications are:

- Classification 4904 (*WAC 296-17A-4904*) "clerical office employment." This classification includes clerical, administrative, and drafting employees.
- Sales personnel classifications 6301 (*WAC 296-17A-6301*), and 6303 (*WAC 296-17A-6303*) includes outside sales personnel and messengers.
- Classification 7101 (*WAC 296-17A-7101*) applies to corporate officers who have elected optional coverage. A corporate officer as used in these rules is a person who is an officer in the corporation, such as the president, who also serves on the corporation's board of directors and owns stock in the corporation.
- Classification 7100 (*WAC 296-17A-7100*) applies to members of a limited liability company who have elected optional coverage.

**Clerical office employees** are defined as employees whose duties are limited to: Answering telephones; handling correspondence; creating or maintaining financial, employment, personnel, or payroll records; composing informational material on a computer; creating or maintaining computer software; and technical drafting. Their work must be performed in a clerical office which is restricted to:

- A work area which is physically separated by walls, partitions, or other physical barriers, from all other work areas of the employer(§); and
- Where only clerical office work as described in this rule is performed.

A clerical office does not include any work area where inventory is located, where products are displayed for sale, or area where the customer brings products for payment. Clerical office employees can perform cashiering and telephone sales work if they do not provide any retail or wholesale customer service that involves handling, showing, demonstrating, or delivering any product sold by the employer. Clerical office employees can make bank deposits, pick up and deliver mail at the post office, or purchase office supplies, if their primary work duties are clerical office duties as defined in this rule.

**Sales personnel** are defined as employees whose duties are limited to: Soliciting new customers by telephone or in person; servicing existing customer accounts; showing, selling, or explaining products or services; completing correspondence; placing orders; performing public relations duties; and estimating. Although some of sales person's duties may be performed in a clerical office, most of their work is conducted away from the employer's physical business location or in showrooms. We refer to work that takes place away from the employer's premises as "*outside sales*." Sales personnel whose duties include customer service activities such as, but not limited to, the delivery of product, stocking shelves, handling inventory, or otherwise merchandising products sold to retail or wholesale customers are excluded from all standard exception classifications. Sales personnel with duties such as delivery and stocking of shelves are to be reported in the basic classification applicable to the business unless the basic classification assigned to the business requires another treatment.

**Messengers** are defined as employees whose duties are delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business. Classification 6303 "messengers" does not include delivering mail or packages to the employer's customer or as a service to the public. If a messenger is engaged in delivering mail or packages as a service to the public they are to be assigned to the basic classification of the business or classification 1101 as applicable.

**Corporate officers'** duties in classification 7101 must be limited to: Clerical duties; outside sales duties as described above; administrative duties such as hiring staff, attending meetings, negotiating contracts, and performing public relations work. To qualify for this classification, a corporate officer must:

- Be a shareholder in the corporation(§);

- Be elected as a corporate officer and empowered in accordance with the articles of incorporation or bylaws of the corporation(§);
- Serve on the corporation's board of directors(§);
- Not have any exposure to any operative hazard of the business(§); and
- Not directly supervise employees who have any exposure to any operative hazard of the business.

**Members of a limited liability company (LLC)** duties in classification 7100 must be limited to: Clerical duties; outside sales duties as described above; administrative duties such as hiring staff, attending meetings, negotiating contracts, and performing public relations work. This includes only those members who have duties and authority similar to the exemption criteria of corporate officers in RCW 51.12.-020.

Classification 6303 may apply to a corporate officer or member of a limited liability company whose duties are limited to outside sales activities as described in the sales personnel section of this rule. Under no circumstance is classification 4904 to be assigned to any corporate officer or member of a limited liability company. ~~(You cannot divide the work hours of an employee between a standard exception classification and a basic classification unless it is permitted by another rule. If an employee works part of their time in a standard exception classification and part of their time in your basic classification, then all exposure (hours) must be reported in the highest rated basic classification applicable to the work being performed.)~~

### (3) What are the special exception classifications?

Special exception classifications represent operations found within an employer's business that are allowed to be reported separately when certain conditions are met. Assuming the conditions noted under each exception below have been met, the following classifications may be used even if your basic classification includes the phrases "all operations" or "all employees." These special exceptions are subject to a division of worker hours in connection with all other basic classifications unless specifically prohibited in an individual classification WAC rule.

**Farms: Hand harvesting crops** - Classification 4806 (*WAC 296-17A-4806*) will apply if the employee:

- Is hand harvesting crops such as nuts, berries, prunes, field flowers, or bulbs(§); and
- Is harvesting by picking from trees while standing on the ground or harvesting from the ground while sitting, kneeling, bending, or stooping.

**Security guards** - Classification 6601 (*WAC 296-17A-6601*) will apply if the security guard:

- Is an employee of an employer engaged in logging or construction(§);
- Is for the purpose of guarding the employer's logging or construction sites(§);
- Is employed at the site only during the hours the employer is not conducting any other operations at the site(§);
- Has no other duties during their work shift as a security guard.

If all of the above conditions are not met, the security guard is to be reported in the basic classification applicable to the construction or logging operation being conducted.

**Janitors** - Classification 6602 (*WAC 296-17A-6602*) will apply if:

- The janitorial/cleaning activities being performed are limited to the employer's clerical office((-));
- The clerical office meets the criteria described earlier in this rule((-);
- The employer's office employment is assigned to be reported in classification 4904.

**Construction: Superintendent or project manager** - Classification 4900 (*WAC 296-17A-4900*) will apply if the superintendent or project manager:

- Is an employee of a licensed contractor engaged in construction((-);
- Has no direct control over work crews((-);
- Performs no construction labor at the construction site or project location.

If all of the conditions are not met, the superintendent or project manager is to be reported in the basic classification applicable to the construction project.

**Construction: Estimator** - Classification 4911 (*WAC 296-17A-4911*) will apply if the estimator:

- Is the employee of a licensed contractor engaged in construction((-); and
- Has no duties other than estimating during their work shift.

If these conditions are not met, the estimator is to be reported in the basic classification applicable to their employer's business or the construction project.

**Permanent yard or shop operations** - Classification 5206 (*WAC 296-17A-5206*) will apply if:

- The permanent yard or shop is maintained exclusively for the storage and maintenance of materials or equipment used in the business of logging, log hauling, construction, or trucking.

**Log truck drivers** - Classification 5003 (*WAC 296-17A-5003*) will apply if the log truck driver has no other duties during their work shift that are subject to the logging classification 5001 (*WAC 296-17A-5001*).

**Retail product demonstrators** - Classification 6406 (*WAC 296-17A-6406*) will apply if the product demonstrator:

- Has no other duties during the work shift, other than minor set up and preparation, demonstrating, or providing sample products free of charge to the public;
- Does not demonstrate equipment or machinery;
- Does no delivery, selling, stocking of shelves, or assembly requiring the use of power tools;
- Does not set up product displays that remain after the demonstration;
- Is employed by a manufacturer, wholesaler, or business specializing in providing product demonstrators and their services to others.

If all of these conditions are not met, product demonstrators are to be reported in the basic classifications applicable to their employers.

#### (4) What are the general exclusion classifications?

General exclusion classifications represent operations that are so exceptional or unusual that they are excluded from the scope of all basic classifications. If you have these operations, we will assign a separate classification to cover them. You must keep accurate records of the work hours your employees work in these classifications. If you do not keep accurate time records for each employee performing work covered by a general exclusion classification, we will assign the work hours in question to the highest rated classification applicable to those hours. The general exclusion classifications are:

- Aircraft operations: All operations of the flying crew((-);
- Racing operations: All operations of the drivers and pit crews((-);
- Diving operations: All operations of diving personnel and ship tenders who assist in diving operations((-);
- New construction or alterations of the business premises((-);
- Musicians and entertainers.

A division of work time is permitted between a standard exception classification and flight crew operations, racing operations, or diving operations. If you fail to keep original time records that clearly show the time spent in the office or in sales work, we will assign all work hours in question to the highest rated classification applicable to the work hours in question.

*Example: Assume a corporate officer performs duties which are described in classification 7101. Occasionally, the officer flies a plane to attend a meeting. You would report the flying exposure (hours) of the corporate officer in classification 6803. The remainder of the corporate officer's time would continue to be reported in classification 7101.*

**AMENDATORY SECTION** (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

#### **WAC 296-17A-6303 Classification 6303.**

##### **6303-00 Outside sales personnel, N.O.C.; messengers**

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering outside sales personnel, and who are not covered by another classification (N.O.C.) assigned to the employer's account. Duties of outside sales personnel contemplated by this classification are limited to soliciting new customers by telephone or in person, showing, selling, and explaining products or services in a showroom or other location, servicing existing accounts, completing correspondence, placing orders, performing public relations duties, and estimating. Duties of messengers are limited to delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business.

This classification excludes:

- The delivery of products or merchandise or the stocking of shelves which is to be reported separately as applicable;
- The demonstration or delivery of machinery or equipment which are to be reported separately as applicable(,);
- Establishments engaged as collection agencies or public relations agencies which are to be reported separately in classification 5301;
- Sales personnel engaged in home or door-to-door sales which are to be reported in classification 6309;
- Retail product demonstrators - Workers who show and explain specific products in a retail setting and who are to be reported as required by WAC 296-17-31018(3) and 296-17A-6406;
- Establishments engaged in providing inspection and valuations exclusively for insurance companies which are to be reported separately in classification 4903;
- Establishments engaged in process and legal messenger services which are to be reported separately in classification 6601.

**Special note:** When considering this classification care must be taken to look beyond titles of employees. Employees with occupational titles such as, but not limited to, collectors, counselors, consultants, or appraisers may or may not qualify for this classification. This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

### **6303-03 Insurance sales personnel and claims adjusters**

Applies to insurance sales personnel and claims adjusters with outside duties. Duties of employees subject to this classification are limited to selling insurance policies at their place of business or at the client's home, or going to the scene of an accident or catastrophe to assess damage. Work may be performed within an office or away from the employer's premises.

**Special note:** Individuals performing duties as an agent, broker, or solicitor (and who hold a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010. To elect voluntary coverage these individuals must submit a completed optional coverage form to the department.

### **6303-21 Home health care services: Social workers and dietitians**

Applies to social workers and dietitians employed by home health care service establishments who provide care for handicapped individuals. Duties of these employees include teaching physically or developmentally disabled individuals in their own home to manage daily living skills such as caring for themselves, dressing, cooking, shopping, and going to the doctor. This classification also includes dietitians, sometimes called nutritionists, who usually are referred to patients by their physicians. The dietitian assesses the patient's current nutritional status, including current food intake, medical background, family history, currently prescribed medications, and social and psychological needs, then develops a

food plan to meet the patient's needs. Employees subject to this classification do no cooking.

This classification excludes nursing and home health care services which are to be reported separately in classification 6110; therapy services which are to be reported separately in classification 6109; domestic servants who are to be reported separately in classification 6510; and chore workers who are to be reported separately in classification 6511.

**Special note:** This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met. *This classification is not to be assigned to any account that does not also have classification 6110 and/or 6511.*

**AMENDATORY SECTION** (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

### **WAC 296-17A-6406 Classification 6406.**

This classification applies to specialty retail store operations engaged primarily in the sale of a wide variety of products ranging from collectibles such as stamps, coins, sports cards, and dolls to table top appliances such as portable televisions, blenders, mixers and toasters. This classification is comprised of subclassifications that cover a specific type of retail store operation. One of the subclassifications applies to the sale of products which are not covered by another classification. Although the products sold by establishments subject to this classification will vary by each subclassification, the overall operational activities are similar. Each business covered by this classification will generally employ cashiers and merchandise stockers, as well as other occupations of workers.

**Special note:** This classification excludes all repair operations unless it is specifically included in the classification, delivery service, outside installation work, and lunch counters and restaurants which are to be reported separately in the classification applicable to the work or service being performed.

Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

### **6406-00 Retail stores, N.O.C.**

Applies to establishments engaged in the retail sale of merchandise or services not covered by another classification (N.O.C.). Merchandise includes, but is not limited to, greeting cards, costume jewelry, scarves, tropical fish and birds and related fish or bird supplies, table top appliances such as mixers, blenders, microwave ovens, or table top satellite receiving units, copy or fax services and related specialty items or services. This classification also applies to establishments that provide inventory services for other businesses.

This classification excludes pet stores that sell dogs or cats and establishments engaged in pet grooming services which are to be reported separately in classification 7308; pet food stores which are to be reported separately in classification 6403; and offset, cold press and similar printing opera-



tions which are to be reported separately in classification 4101.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-01 Stores: Camera or photography supply - Retail**

Applies to establishments engaged in the retail sale of cameras and photography and dark room supplies such as, but not limited to, batteries, film, processing trays, chemicals, print paper, enlargers, and timers. It is common for these establishments to offer film developing services which may be either a one-hour service or an overnight process. Both types of film developing services are included in this classification when conducted in connection with a camera and photography supply store. This classification is distinguishable from classification 6506 in that establishments covered in classification 6506 are not engaged in the sale of cameras or photo developing equipment.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-03 News and magazine stands - Retail**

Applies to establishments engaged in the retail sale of newspapers and magazines. Establishments subject to this classification may sell newspapers or magazines from various locations such as, but not limited to, stands at public markets, store operations in malls, or from a street corner.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-09 Arcades: Coin or token operated**

Applies to establishments engaged in operating coin- or token-operated arcades. This classification covers attendants, change makers, and security personnel who monitor the game rooms and make change. Attendants may remove tokens and money from machines and may perform minor adjustments such as resetting a jarred machine.

This classification excludes the installation, removal or repair of machines which is to be reported separately in classification 0606.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-11 Stores: Office stationery and machinery - Retail**

Applies to establishments engaged in the retail sale of office stationery, supplies, and/or machinery. For purposes of this classification "office stationery and supplies" includes, but is not limited to, paper, writing tablets, computer software, pens, pencils, markers, staples, staplers, scissors, paper clips, and binders. "Office machinery or business machinery" includes, but is not limited to, calculators, typewriters, various types of copy machines, fax machines, and desk top and lap top computers.

This classification excludes service and repair of office/business machines which is to be reported separately in classification 4107 and establishments engaged in sale of office furniture which are to be reported separately in classification 6306.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-12 Stores: Fabric, yardage, yarn and needlework supplies - Retail**

Applies to establishments engaged in the retail sale of fabric, yardage, yarn and needlework supplies. It is common for establishments subject to this classification to have a small inventory of noncommercial/industrial sewing machines and sergers for sale in addition to fabric, sewing notions, patterns, and related supplies. Fabric and yarn stores may also offer sewing and craft classes which are included in this classification when taught by employees of an employer subject to this classification. This classification is distinguishable from sewing machine stores in classification 6309 in that the principle products sold in classification 6406 are fabric and sewing notions while sewing machine stores are not engaged in the sale of fabric or yardage.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-14 Stores: Wind or string musical instruments - Retail**

Applies to establishments engaged in the retail sale of musical instruments such as, but not limited to, drums, wind instruments, guitars, and banjos. This classification includes music lessons when provided by employees of an employer subject to this classification and includes minor adjustment services such as replacing a drum skin or a broken string on a guitar.

This classification excludes the repair of wind and string musical instruments which is to be reported separately in the applicable repair classification; establishments engaged in the repair of pianos which are to be reported separately in classification 2906; and establishments engaged in the sale of pianos and organs which are to be reported separately in classification 6306.

**Special notes:** Classification 6406 does not apply to any establishments that sell pianos or organs in addition to wind or string instruments. Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-16 Stores: Drug - Retail**

Applies to establishments engaged in the retail sale of prescription and nonprescription drugs and/or nutritional supplements such as, but not limited to, vitamins, herbal compounds, and energy bars. Drug stores subject to this classification may also carry a variety of personal care and grooming products and may rent crutches, canes, wheel chairs, and walkers.

This classification excludes establishments engaged in the sale and/or rental of hospital beds, motorized wheel chairs, and other patient appliances which are to be reported separately in classification 6306, and establishments engaged in the sale/rental and service (repair) of motorized mobility aids such as wheelchairs and 3-wheel scooters which are to be reported separately in classification 3309.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-17 Stores: Variety - Retail**

Applies to establishments engaged in the retail sale of a variety of consumer goods such as, but not limited to, housewares, linens, clothing, toys, and candy. In earlier years establishments subject to this classification were often referred to as "5 and 10 cent stores." Although these stores carry much of the same merchandise as a department store, they are distinguishable in that variety stores are not comprised of specialized departments and do not generally carry the quantity/assortment of products that department stores do.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-18 Private mail box; safety deposit box; computer tape storage facilities - Rent or lease**

Applies to establishments engaged in renting or leasing private mail boxes, safety deposit boxes, or computer and financial record storage facilities. Establishments subject to this classification will operate a secured facility where they receive and sort their customers' mail, parcels and packages from the U.S. Post Office or other parcel/package delivery companies, and package articles for shipment for their customers. They also provide a secured storage facility equipped with safety deposit boxes which they rent out on a short or long term basis. It is common for these establishments to offer additional services such as fax, and copying services.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-19 Stores: Coins, stamps, baseball cards, and comic books - Retail**

Applies to establishments engaged in the retail sale of coins, stamps, baseball cards, comic books, and similar collectibles. Establishments subject to this classification may be engaged exclusively in mail order sales, sell from browse tables at collectible or trade shows, through specialty auctions, or may sell from a store location. Coin and stamp stores routinely sell magazines, periodicals, and supplies that cater to collections or hobbies. Card shops routinely sell other sports memorabilia such as autographed baseballs, footballs and basketballs, framed pictures, POGS and buttons.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-20 Stores: Book, record, cassette, compact disc, and video - Retail**

Applies to establishments engaged in the retail sale or rental of new or used books, records, cassettes, compact discs or videos. Establishments subject to this classification may be engaged exclusively in mail order sales, sell from browse tables or trade shows, through specialty auctions or may sell from a store location.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-23 Stores: Candy - Retail**

Applies to establishments engaged in the retail sale of packaged and unpackaged candy they have purchased from others.

This classification excludes establishments engaged in the on-premise manufacture of candy and the subsequent retail sale of these products which are to be reported separately in classification 3905; and establishments engaged in the manufacture of candy or confections for wholesale to retail establishments or distributors which are to be reported separately in classification 3906.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-24 Stores: Cigarette and tobacco - Retail**

Applies to establishments engaged in the retail sale of cigarettes, tobacco, and related products such as, but not limited to, pipes, pipe cleaning supplies, rolling machines, cigarette papers, lighters, lighter fluid, and cigarette cases.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-25 Stores: Telephones - Retail**

Applies to establishments engaged in the retail sale of telephones, pagers, and cell phones. Establishments subject to this classification are not a utility company in that they do not operate telephone exchanges and are not regulated by the utilities and transportation commission of Washington. Their operations are limited to the sale of communication hardware. Stores subject to this classification may arrange activation and service for their customer, or the customer may contact the service provider directly.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-27 Stores: Stereo components - Retail**

Applies to establishments engaged in the retail sale of stereo components. Establishments subject to this classification will sell a variety of audio and video appliances such as, but not limited to, video players, stereos and portable televisions. These establishments may also sell and install automobile stereo speaker systems and car phone systems; however, the installation is not covered in classification 6406-27.

This classification excludes the installation, service or repair of home or car stereos and car phone systems which are to be reported separately in classification 0607, and establishments engaged in the sale of stereo and television console sets, big screen televisions, or other major appliances which are to be reported separately in classification 6306.

**Special note:** Classification 6306 applies to any establishment that sells TV console sets or big screen TVs, even if the majority of their inventory is stereo components and/or portable TVs. Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-29 Stores: Toys - Retail**

Applies to establishments engaged in the retail sale of a variety of toys, games, and related items for persons of all ages. Merchandise includes, but is not limited to, video games, tricycles or bicycles, books, dolls and stuffed animals, outdoor play equipment, and specialty clothing.

This classification excludes establishments engaged in the retail sale of sporting goods and bicycles which are to be reported separately in classification 6309. This classification is distinguishable from businesses in classification 6309 in that the principle products of stores subject to classification 6406 are toys and games, as compared to stores in classification 6309 which are primarily engaged in the sales of sporting goods and bicycles.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-30 Stores: Cosmetics - Retail**

Applies to establishments engaged in the retail sale of cosmetics and fragrances. Related services usually offered by these types of stores include consultations with clients regarding make-up techniques, styles, and colors.

This classification excludes hair and nail salons which are to be reported separately in classification 6501.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-31 Stores: Housewares - Retail**

Applies to establishments engaged in the retail sale of housewares such as, but not limited to, pots and pans, flatware, dishes, towels, canister sets, soap dishes, towel bars, waste baskets, plant stands, and curtains or draperies.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-33 Stores: Gift shops, N.O.C. - Retail**

Applies to establishments engaged in the retail sale of gift items not covered by another classification (N.O.C.) such as, but not limited to, crystal and silver serving pieces, china, cut glass, picture frames, wedding and shower books and invitations, special occasion cards, decorative statues, boxed candy, and ornaments. This merchandise tends to be of a finer selection than the everyday wares common in variety shops.

**Special note:** Refer to classification 6406 general description at the beginning of this rule for operations excluded from this classification.

**6406-40 Retail product demonstrators**

Applies to workers who show and explain, but do not sell, specific products in a retail setting. Product demonstrators can work in a variety of locations, such as stores, fairs, and exhibition sites. The classification includes associated administrative duties, set up and break down of a demonstration display space, preparing and setting out products to demonstrate, providing samples without charge, and cleaning up. This classification allows the use of kitchen appliances and utensils to prepare food samples, and the use of nonpowered hand tools and battery-powered screwdrivers to assemble and disassemble displays and products packaged for end-user

assembly. Workers reported in this classification can have no duties during their work shift other than those permitted for product demonstrators.

This classification excludes:

• Stocking shelves;

• Selling;

• Setting up product displays intended to remain after the product demonstration;

• Delivery;

• Demonstrating machinery or equipment;

**Special note:** This is a special exception classification that is only applicable to manufacturers, wholesalers, and businesses specializing in providing product demonstrators and their services to others.

• Product demonstrators employed by a retail store, are to be reported under the store's basic classification;

• Product demonstrators employed by a temporary help service, are to be reported in classification 7106.

**WSR 13-08-064****PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed April 1, 2013, 12:32 p.m., effective May 2, 2013]

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

Purpose: To ensure accuracy and update child care rates. The current statewide rate structure (infant, toddler, pre-school, and school age) is now under department of early learning collective bargaining agreement between the state of Washington and Service Employees International Union 925.

Citation of Existing Rules Affected by this Order: Amending WAC 388-165-180 and 388-165-185.

Statutory Authority for Adoption: RCW 74.12.340, 74.04.050, 74.04.055, and 74.08.090.

Adopted under notice filed as WSR 13-04-006 on January 24, 2013.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: March 20, 2013.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-180 What are the maximum child care subsidy rates DSHS pays for child care in a licensed or certified child care center? ((DSHS pays directly to a licensed or certified child care center, whichever is less:

- (1) The provider's usual rate for that child; or
(2) The DSHS maximum child care subsidy rate for that child as listed in the following table.))

((DSHS Maximum Child Care Subsidy Rate for Licensed Child Care Centers))

Table with 6 columns: Region, Care Type, Infants (Birth-11 mos.), Toddlers (12-29 mos.), Preschool (30 mos.-5 years), School-age (5-12 years). Rows include Region 1-6 for Full-Day and Half-Day care.

((3) The maximum rate paid for a five year old child is: (a) The preschool rate for a child who has not entered kindergarten; or (b) The school age rate for a child who has entered kindergarten)) DSHS maximum child care subsidy rates for licensed child care centers are located on the Washington state child care resource & referral network website at: http://wa.childcareaware.org.

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-185 What are the maximum child care subsidy rates DSHS pays for child care in a licensed or certified family child care home? ((DSHS pays directly to a licensed or certified family child care provider, whichever is less:

- (1) The provider's usual rate for that child; or
(2) The DSHS maximum child care subsidy rate for that child as listed in the following table.))

((DSHS Maximum Child Care Subsidy Rate for Licensed Family Child Care Homes))

Table with 6 columns: Region, Care Type, Infants (Birth-11 mos.), Toddlers (12-29 mos.), Preschool (30 mos.-5 years), School-age (5-12 years). Rows include Region 1-3 for Full-Day and Half-Day care.

Table with 5 columns: Region, Care Type, Infants (Birth-11 mos.), Toddlers (12-29 mos.), Preschool (30 mos.-5 years), School-age (5-12 years). Rows include Region 4-6 for Full-Day and Half-Day care.

((3) The maximum rate paid for a five year old child is: (a) The preschool rate for a child who has not entered kindergarten; or (b) The school age rate for a child who has entered kindergarten)) DSHS maximum child care subsidy rates for licensed or certified family child care homes are located on the Washington state child care resource & referral network website at: http://wa.childcareaware.org.

WSR 13-08-068

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed April 1, 2013, 4:48 p.m., effective May 2, 2013]

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

Purpose: WAC 246-330-010 Definitions, the rule amendment restores the definition of ambulatory surgical facilities as per RCW 70.230.010 that was adopted in rule and filed as WSR 12-10-010 in April 2012. This revision does not change the effect of the rules.

Citation of Existing Rules Affected by this Order: Amending WAC 246-330-010.

Statutory Authority for Adoption: RCW 70.230.020.

Other Authority: RCW 70.230.010.

Adopted under notice filed as WSR 12-23-046 on November 16, 2012.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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: April 1, 2013.

Mary C. Selecky Secretary

AMENDATORY SECTION (Amending WSR 12-16-057, filed 7/30/12, effective 10/1/12)

**WAC 246-330-010 Definitions.** ~~((The definitions in this section apply throughout this chapter.))~~ ~~[[For the purposes of this chapter, the following words and phrases will have the following meanings.]]~~ The definitions in this section apply throughout this chapter unless the context clearly ~~((requires))~~ requires otherwise:

(1) "Abuse" means injury or sexual abuse of a patient indicating the health, welfare, and safety of the patient is harmed:

(a) "Physical abuse" means acts or incidents which may result in bodily injury or death.

(b) "Emotional abuse" means to impose willful or reckless mental or emotional anguish by threat, verbal behavior, harassment, or other verbal or nonverbal actions which may result in emotional or behavioral stress or injury.

(2) "Advanced registered nurse practitioner" means an individual licensed under chapter 18.79 RCW.

(3) "Agent," when referring to a medical order or procedure, means any power, principle, or substance, whether physical, chemical, or biological, capable of producing an effect upon the human body.

(4) "Alteration" means any change, addition, functional change, or modification to an existing ambulatory surgical facility or a portion of an existing ambulatory surgical facility.

"Minor alteration" means renovation that does not require an increase in capacity to structural, mechanical or electrical systems, does not affect fire and life safety, and does not add facilities in addition to that for which the ambulatory surgical facility is currently licensed. Minor alterations do not require prior review and approval by the department.

(5) "Ambulatory surgical facility" means any distinct entity that operates for the primary purpose of providing specialty or multispecialty outpatient surgical services in which patients are admitted to and discharged from the facility within twenty-four hours and do not require inpatient hospitalization, whether or not the facility is certified under Title XVIII of the federal Social Security Act. ~~[[An ambulatory surgical facility includes one or more surgical suites that are adjacent to and within the same building as, but not in, the office of a practitioner in an individual or group practice, if the primary purpose of the one or more surgical suites is to provide specialty or multispecialty outpatient surgical services, irrespective of the type of anesthesia administered in the one or more surgical suites. An ambulatory surgical facility that is adjacent to and within the same building as the office of a practitioner in an individual or group practice may include a surgical suite that shares a reception area, restroom, waiting room, or wall with the office of the practitioner in an individual or group practice.]]~~ ~~[[Excluded from this definition are a dental office, an ambulatory surgical facility licensed as part of a hospital under chapter 70.41 RCW or a practitioner's office where surgical procedures are conducted without general anesthesia.]]~~ An ambulatory surgical facility includes one or more surgical suites that are adjacent to and within the same building as, but not in, the office of a practitioner in an individual or group practice, if the primary purpose of the one or more surgical suites is to provide specialty or multispe-

cialty outpatient surgical services, irrespective of the types of anesthesia administered in the one or more surgical suites. An ambulatory surgical facility that is adjacent to and within the same building as the office of a practitioner in an individual or group practice may include a surgical suite that shares a reception area, restroom, waiting room, or wall with the office of the practitioner in an individual or group practice.

(6) "Assessment" means the:

(a) Systematic collection and review of patient-specific data;

(b) A process for obtaining appropriate and necessary information about individuals seeking entry into the ambulatory surgical facility or service; and

(c) Information used to match an individual with an appropriate setting or intervention. The assessment is based on the patient's diagnosis, care setting, desire for care, response to any previous treatment, consent to treatment, and education needs.

(7) "Authentication" means the process used to verify an entry is complete, accurate, and final.

(8) "Change of ownership" means:

(a) A sole proprietor who transfers all or part of the ambulatory surgical facility's ownership to another person or persons;

(b) The addition, removal, or substitution of a person as a general, managing, or controlling partner in an ambulatory surgical facility owned by a partnership where the tax identification number of that ownership changes; or

(c) A corporation that transfers all or part of the corporate stock which represents the ambulatory surgical facility's ownership to another person where the tax identification number of that ownership changes.

(9) "Clinical evidence" means evidence used in diagnosing a patient's condition or assessing a clinical course and includes, but is not limited to:

(a) X-ray films;

(b) Digital records;

(c) Laboratory slides;

(d) Tissue specimens; or

(e) Medical photographs.

(10) "Department" means the Washington state department of health.

(11) "Double-checking" means verifying patient identity, agent to be administered, route, quantity, rate, time, and interval of administration by two persons.

(12) "Drugs" as defined in RCW 18.64.011(3) means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection but not including devices or component parts or accessories.

(13) "Emergency medical condition" means a condition manifesting itself by acute symptoms of severity (including

severe pain, symptoms of mental disorder, or symptoms of substance abuse) that absent of immediate medical attention could result in:

- (a) Placing the health of an individual in serious jeopardy;
- (b) Serious impairment to bodily functions;
- (c) Serious dysfunction of a bodily organ or part; or
- (d) With respect to a pregnant woman who is having contractions:
  - (i) That there is inadequate time to provide a safe transfer to a hospital before delivery; or
  - (ii) That the transfer may pose a threat to the health or safety of the woman or the unborn child.

(14) "Emergency services" means health care services medically necessary to evaluate and treat a medical condition that manifests itself by the acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, and that the absence of immediate medical attention could reasonably be expected to result in serious impairment to bodily functions or serious dysfunction of an organ or part of the body, or would place the person's health, or in the case of a pregnant woman, the health of the woman or her unborn child, in serious jeopardy.

(15) "Family" means individuals designated by a patient who need not be relatives.

(16) "General anesthesia" means a state of unconsciousness intentionally produced by anesthetic agents, with absence of pain sensation over the entire body, in which the patient is without protective reflexes and is unable to maintain an airway. Lower levels of sedation that unintentionally progress to the point at which the patient is without protective reflexes and is unable to maintain an airway is not considered general anesthesia.

(17) "Governing authority/body" means the person or persons responsible for establishing the purposes and policies of the ambulatory surgical facility.

(18) "Hospital" means any institution, place, building, or agency providing accommodations, facilities, and services as defined in chapter 70.41 RCW.

(19) "Individualized treatment plan" means a written and/or electronically recorded statement of care planned for a patient based upon assessment of the patient's developmental, biological, psychological, and social strengths and problems, and including:

- (a) Treatment goals, with stipulated time frames;
- (b) Specific services to be utilized;
- (c) Designation of individuals responsible for specific service to be provided;
- (d) Discharge criteria with estimated time frames; and
- (e) Participation of the patient and the patient's designee as appropriate.

(20) "Invasive medical procedure" means a procedure involving puncture or incision of the skin or insertion of an instrument or foreign material into the body including, but not limited to, percutaneous aspirations, biopsies, cardiac and vascular catheterizations, endoscopies, angioplasties, and implantations. Excluded are venipuncture and intravenous therapy.

(21) "Maintenance" means the work of keeping something in safe, workable or suitable condition.

(22) "Medical equipment" means equipment used in a patient care environment to support patient treatment and diagnosis.

(23) "Medical staff" means practitioners and advanced registered nurse practitioners appointed by the governing authority.

(24) "Medication" means any substance, other than food or devices, intended for use in diagnosing, curing, mitigating, treating, or preventing disease.

(25) "Near miss" means an event which had the potential to cause serious injury, death, or harm but did not happen due to chance, corrective action or timely intervention.

(26) "Neglect" means mistreatment or maltreatment, a disregard of consequences constituting a clear and present danger to an individual patient's health, welfare, and safety.

(a) "Physical neglect" means physical or material deprivation, such as lack of medical care, lack of supervision, inadequate food, clothing, or cleanliness.

(b) "Emotional neglect" means acts such as rejection, lack of stimulation, or other acts that may result in emotional or behavioral problems, physical manifestations, and disorders.

(27) "New construction" means any renovation, alteration or new facility to be licensed as an ambulatory surgical facility.

(28) "Nonambulatory" means an individual physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another.

(29) "Operating room" means a room intended for invasive procedures.

(30) "Patient" means an individual receiving (or having received) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative health services.

(31) "Patient care areas" means all areas of the ambulatory surgical facility where direct patient care is delivered and where patient diagnostic or treatment procedures are performed.

(32) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

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

(34) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(35) "Physician" means an individual licensed under chapter 18.71 RCW, Physicians, chapter 18.22 RCW, Podiatric medicine and surgery, or chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery.

(36) "Practitioner" means any physician or surgeon licensed under chapter 18.71 RCW, an osteopathic physician or surgeon licensed under chapter 18.57 RCW, or a podiatric physician or surgeon licensed under chapter 18.22 RCW.

(37) "Prescription" means an order for drugs or devices issued by a practitioner authorized by law or rule in the state of Washington for a legitimate medical purpose.

(38) "Protocols" and "standing order" mean written or electronically recorded descriptions of actions and interven-

tions for implementation by designated ambulatory surgical facility staff under defined circumstances recorded in policy and procedure.

(39) "Recovery unit" means a physical area for the segregation, concentration, and close or continuous nursing observation of patients for less than twenty-four hours immediately following anesthesia, surgery, or other diagnostic or treatment procedures.

(40) "Registered nurse" means an individual licensed under chapter 18.79 RCW.

(41) "Restraint" means any method used to prevent or limit free body movement including, but not limited to, involuntary confinement, a physical or mechanical device, or a drug given not required to treat a patient's symptoms.

(42) "Room" means a space set apart by floor-to-ceiling partitions on all sides with proper access to a corridor and with all openings provided with doors or windows.

(43) "Sedation" means the administration of drugs to obtund, dull, reduce the intensity of pain or awareness, allay patient anxiety and control pain during a diagnostic or therapeutic procedure where the administration of those drugs by any route carries the risk of loss of protective reflexes to include any of the following:

(a) "Minimal sedation or anxiolysis" is a state during which patients respond normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are unaffected;

(b) "Moderate or conscious sedation" is a depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained; and

(c) "Deep sedation" is a depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(44) "Sexual assault" means, according to RCW 70.125.-030, one or more of the following:

- (a) Rape or rape of a child;
- (b) Assault with intent to commit rape or rape of a child;
- (c) Incest or indecent liberties;
- (d) Child molestation;
- (e) Sexual misconduct with a minor;
- (f) Custodial sexual misconduct;
- (g) Crimes with a sexual motivation; or
- (h) An attempt to commit any of the offenses in (a) through (h) of this subsection.

(45) "Severe pain" means a level of pain reported by a patient of 8 or higher based on a 10-point scale with 1 being the least and 10 being the most pain.

(46) "Staff" means paid employees, leased or contracted persons, students, and volunteers.

(47) "Surgical services" means invasive medical procedures that:

(a) Utilize a knife, laser, cautery, cytogenics, or chemicals; and

(b) Remove, correct, or facilitate the diagnosis or cure of disease, process or injury through that branch of medicine that treats diseases, injuries and deformities by manual or operative methods by a practitioner.

(48) "Surrogate decision-maker" means an individual appointed to act on behalf of another when an individual is without capacity or has given permission.

(49) "Transfer agreement" means a written agreement providing an effective process for the transfer of a patient requiring emergency services to a hospital providing emergency services and for continuity of care for that patient.

(50) "Treatment" means the care and management of a patient to combat, improve, or prevent a disease, disorder, or injury, and may be:

- (a) Pharmacologic, surgical, or supportive;
- (b) Specific for a disorder; or
- (c) Symptomatic to relieve symptoms without effecting a cure.

(51) "Vulnerable adult" means:

(a) As defined in chapter 74.34 RCW, a person sixty years of age or older who lacks the functional, physical, or mental ability to care for him or herself;

(b) An adult with a developmental disability per RCW 71A.10.020;

(c) An adult with a legal guardian per chapter 11.88 RCW;

(d) An adult living in a long-term care facility (an adult family home, boarding home or nursing home);

(e) An adult living in their own or a family's home receiving services from an agency or contracted individual provider; or

(f) An adult self-directing their care per RCW 74.39.050;

(g) For the purposes of requesting background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

(52) "Well-being" means free from actual or potential harm, abuse, neglect, unintended injury, death, serious disability or illness.

## WSR 13-08-078

### PERMANENT RULES

### OFFICE OF

### FINANCIAL MANAGEMENT

[Filed April 2, 2013, 11:54 a.m., effective May 3, 2013]

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

Purpose: To establish official pay dates for state officers and employees for calendar year 2013.

Citation of Existing Rules Affected by this Order: Amending WAC 82-50-021.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Adopted under notice filed as WSR 13-03-133 on January 22, 2013.

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: April 2, 2013.

Sandi Stewart  
Rules Coordinator

[AMENDATORY SECTION (Amending WSR 12-09-016, filed 4/5/12)]

**WAC 82-50-021 Official lagged, semimonthly pay dates established.** Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years (~~(2012 and)~~) 2013 and 2014:

<del>(CALENDAR YEAR 2012</del>	<u>CALENDAR YEAR 2013</u>
<del>Tuesday, January 10, 2012</del>	<u>Thursday, January 10, 2013</u>
<del>Wednesday, January 25, 2012</del>	<u>Friday, January 25, 2013</u>
<del>Friday, February 10, 2012</del>	<u>Monday, February 11, 2013</u>
<del>Friday, February 24, 2012</del>	<u>Monday, February 25, 2013</u>
<del>Friday, March 9, 2012</del>	<u>Monday, March 11, 2013</u>
<del>Monday, March 26, 2012</del>	<u>Monday, March 25, 2013</u>
<del>Tuesday, April 10, 2012</del>	<u>Wednesday, April 10, 2013</u>
<del>Wednesday, April 25, 2012</del>	<u>Thursday, April 25, 2013</u>
<del>Thursday, May 10, 2012</del>	<u>Friday, May 10, 2013</u>
<del>Friday, May 25, 2012</del>	<u>Friday, May 24, 2013</u>
<del>Monday, June 11, 2012</del>	<u>Monday, June 10, 2013</u>
<del>Monday, June 25, 2012</del>	<u>Tuesday, June 25, 2013</u>
<del>Tuesday, July 10, 2012</del>	<u>Wednesday, July 10, 2013</u>
<del>Wednesday, July 25, 2012</del>	<u>Thursday, July 25, 2013</u>
<del>Friday, August 10, 2012</del>	<u>Friday, August 9, 2013</u>
<del>Friday, August 24, 2012</del>	<u>Monday, August 26, 2013</u>
<del>Monday, September 10, 2012</del>	<u>Tuesday, September 10, 2013</u>
<del>Tuesday, September 25, 2012</del>	<u>Wednesday, September 25, 2013</u>
<del>Wednesday, October 10, 2012</del>	<u>Thursday, October 10, 2013</u>
<del>Thursday, October 25, 2012</del>	<u>Friday, October 25, 2013</u>
<del>Friday, November 9, 2012</del>	<u>Friday, November 8, 2013</u>
<del>Monday, November 26, 2012</del>	<u>Monday, November 25, 2013</u>
<del>Monday, December 10, 2012</del>	<u>Tuesday, December 10, 2013</u>
<del>Monday, December 24, 2012</del>	<u>Tuesday, December 24, 2013</u> )
<u>CALENDAR YEAR 2013</u>	<u>CALENDAR YEAR 2014</u>
<u>Thursday, January 10, 2013</u>	<u>Friday, January 10, 2014</u>

<u>CALENDAR YEAR 2013</u>	<u>CALENDAR YEAR 2014</u>
<u>Friday, January 25, 2013</u>	<u>Friday, January 24, 2014</u>
<u>Monday, February 11, 2013</u>	<u>Monday, February 10, 2014</u>
<u>Monday, February 25, 2013</u>	<u>Tuesday, February 25, 2014</u>
<u>Monday, March 11, 2013</u>	<u>Monday, March 10, 2014</u>
<u>Monday, March 25, 2013</u>	<u>Tuesday, March 25, 2014</u>
<u>Wednesday, April 10, 2013</u>	<u>Thursday, April 10, 2014</u>
<u>Thursday, April 25, 2013</u>	<u>Friday, April 25, 2014</u>
<u>Friday, May 10, 2013</u>	<u>Friday, May 9, 2014</u>
<u>Friday, May 24, 2013</u>	<u>Friday, May 23, 2014</u>
<u>Monday, June 10, 2013</u>	<u>Tuesday, June 10, 2014</u>
<u>Tuesday, June 25, 2013</u>	<u>Wednesday, June 25, 2014</u>
<u>Wednesday, July 10, 2013</u>	<u>Thursday, July 10, 2014</u>
<u>Thursday, July 25, 2013</u>	<u>Friday, July 25, 2014</u>
<u>Friday, August 9, 2013</u>	<u>Monday, August 11, 2014</u>
<u>Monday, August 26, 2013</u>	<u>Monday, August 25, 2014</u>
<u>Friday, September 10, 2013</u>	<u>Wednesday, September 10, 2014</u>
<u>Wednesday, September 25, 2013</u>	<u>Thursday, September 25, 2014</u>
<u>Thursday, October 10, 2013</u>	<u>Friday, October 10, 2014</u>
<u>Friday, October 25, 2013</u>	<u>Friday, October 24, 2014</u>
<u>Friday, November 8, 2013</u>	<u>Monday, November 10, 2014</u>
<u>Monday, November 25, 2013</u>	<u>Tuesday, November 25, 2014</u>
<u>Tuesday, December 10, 2013</u>	<u>Wednesday, December 10, 2014</u>
<u>Tuesday, December 24, 2013</u>	<u>Wednesday, December 24, 2014</u>

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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