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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 24, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 24, Amended 2, Repealed 0.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

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-25-0110 What is the effective date for termination of foster care payments? (1) The department ends payment on the day before the child actually leaves the foster home or facility. The department does not pay for the last day that a child is in a foster care home or facility.

(2) The department terminates family foster care payments for children in family foster care effective the date:

(a) The child no longer needs foster care; or

(b) The child no longer resides in foster care except as provided in WAC 388-25-0180; or

(c) The child reaches the age of eighteen.

(i)If the child continues to attend, but has not finished, high school or an equivalent educational program at the age of eighteen and has a need for continued family foster care services, the department may continue payments until the date the child completes the high school program or equivalent educational or vocational program. The department must not extend payments for a youth in care beyond age twenty.

(ii) If the child has applied and demonstrates he or she intends to timely enroll, or is enrolled and participating in a post-secondary education program, or a post-secondary vocational program at the age of eighteen and has a need for continued family foster care services, the department may continue payments until the date the child reaches his or her twenty-first birthday or is no longer enrolled in and participating in a post secondary program, whichever is earlier.

(3) The department must terminate foster care payments for children in the behavior rehabilitative services program effective the date:

(a) The child no longer needs rehabilitative services; or

(b) The child is no longer served through contracted rehabilitative services program except as provided in WAC 388-25-0030; or

(c) The child reaches the age of eighteen and continues to attend, but has not finished, high school or an equivalent educational program and has a need for continued rehabilitative treatment services, the department may continue payments until the date the youth completes the high school program or equivalent educational or vocational program. The department must not extend payments for a youth in care beyond age twenty.

NEW SECTION

WAC 388-25-0500 What is the legal basis of the extended foster care program? The legal authorities for the program are:

(1) Revised Code of Washington: RCW 74.13.031 and RCW 13.34.267;

(2) United States Code: 42 USC sec. 671-675; and

(3) The U.S. Department of Health and Human Services (DHHS) policy guidelines for states to use in determining a child's eligibility for participation in extended foster care programs.

NEW SECTION

WAC 388-25-0502 What is the purpose of the extended foster care program? The extended foster care program provides an opportunity for young adults in foster care at age eighteen to voluntarily agree to continue receiving foster care services, including placement services, while the youth completes a secondary or post-secondary academic or vocational program.

NEW SECTION

WAC 388-25-0504 What is extended foster care? Extended foster care is a program offered to young adults, age eighteen up to twenty-one, who turn eighteen while in foster care, to enable them to complete:

(1) A high school diploma or general equivalency diploma;

(2) Post secondary or vocational education.

NEW SECTION

WAC 388-25-0506 Who is eligible for extended foster care? To be eligible for the extended foster care program a youth, on his or her eighteenth birthday, must:

(1) Be dependent under chapter 13.34 RCW;

(2) Be placed in foster care (as defined in WAC 388-25-0508) by children's administration, and:

(a) Be enrolled (as described in WAC 388-25-0512) in a high school or secondary education equivalency program; or

(b) Be enrolled (as described in WAC 388-25-0512) in a post secondary academic or vocational education program; or

(c) Have applied for and can demonstrate intent to timely enroll in a post secondary academic or vocational education program (as described in WAC 388-25-0514).

NEW SECTION

WAC 388-25-0508 When is a youth considered to be "in foster care"? For the purpose of determining initial eligibility for the extended foster care program, a youth is in foster care if the youth is under children's administration (CA) placement and care authority, is placed by CA in out of home care, in relative care, licensed foster home, licensed group care, or other suitable person placement. Provided:

(1) A youth who is temporarily away from a foster care placement in:

(a) A hospital;

(b) A drug/alcohol treatment facility;

(c) A mental health treatment facility; or

(d) For less than thirty days in a county detention center is considered to be in foster care.

(2) A youth who is temporarily away from his or her foster car e placement without permission of the case worker or care giver, but who is expected to return to foster care within twenty days, is considered to be in foster care for purposes of determining initial eligibility.

(3) A youth who is committed to juvenile rehabilitation administration custody and who resides in a foster home, group home, or community facility, as defined in RCW 74.15.020 (1)(a).

NEW SECTION

WAC 388-25-0510 When is a youth not "in foster care"? For the purposes of determining initial eligibility for the extended foster care program, a youth is not in foster care if the youth is:

(1) Placed with a parent;

(2) In a dependency guardianship or chapter 13.36 RCW;

(3) Committed to and residing in a juvenile rehabilitation administration (JRA) institution (as defined in RCW 13.30.-020(12)) or to the department of corrections; or

(4) Absent from his/her foster care placement without permission of the case worker or care giver for more than twenty consecutive days.

NEW SECTION

WAC 388-25-0512 How does a youth demonstrate enrollment in school? Enrollment in school is shown by documented registration or acceptance in:

(1) **Secondary** - a high school, secondary education equivalency program, or a state accredited on-line or other approved secondary education program.

(2) **Post secondary** - post secondary academic or vocational program.

NEW SECTION

WAC 388-25-0514 How does a youth demonstrate he/she has applied for and intends to timely enroll in a post-secondary program? (1) Applied for intends to timely enroll in a post-secondary program is demonstrated by the youth:

(a) Completing and submitting an application to a post secondary academic or vocational program; or

(b) Providing proof of Free Application for Federal Student Aid (FAFSA) submission.

(2) **Timely enroll** means participation in a post secondary program in the next reasonably available school term.

NEW SECTION

WAC 388-25-0516 What if an eligible youth does not want to participate in the extended foster care program at age eighteen? Youth may elect to participate in the extended foster care program beginning on their eighteenth birthday. The law recognizes an eligible youth may need time beyond the eighteenth birthday to consider if they want continued foster care services. It provides a six-month grace period or a time for "trial independence", from date of youth's eighteenth birthday, to give the youth an opportunity to change their mind.

NEW SECTION

WAC 388-25-0518 What is the trial independence or grace period? Trial independence is a period of time, up to six months, during which an eligible youth who did not elect to participate in extended foster care on their eighteenth birthday, may change their mind and participate in the program. During this period, the youth is not in extended foster care, but dismissal of the dependency action is postponed and children's administration is relieved of all supervisory and placement responsibility for the youth. If the youth does not request to participate in the extended foster care program within the six-month trial independence period, the dependency is dismissed and extended foster care is no longer available to the youth.

NEW SECTION

WAC 388-25-0520 Does an eligible youth who elects to participate in extended foster care on his or her eighteenth birthday receive a trial independence period? No, the trial independency period is only available to eligible youth who have not yet elected to participate in extended foster on their eighteenth birthday.

NEW SECTION

WAC 388-25-0522 When does the six-month trial independence period end? The trial independence period ends six month after the eligible youth's eighteenth birthday, or when the youth elects to participate in the extended foster care program.

NEW SECTION

WAC 388-25-0524 If a youth does not remain enrolled in school during the trial independence period may the youth still elect to participate in the program? Yes, as long as the youth is enrolled (as described in WAC 388-25-0512 and or 388-25-0514) in an applicable education program at the time the youth elects to participate in extended foster care.

NEW SECTION

WAC 388-25-0526 Does a youth have to agree to participate in extended foster care program? Yes, a youth must agree to participate in extended foster care. A youth who reaches the age of eighteen years old is not required to continue to receive foster care services.

NEW SECTION

WAC 388-25-0528 How does a youth agree to participate in extended foster care program? An eligible dependent youth can agree to participate by:

(1) Signing an extended foster care agreement; or

(2) For developmentally delayed youth, remaining in the foster care placement and continuing in an appropriate educational program.

NEW SECTION

WAC 388-25-0530 Where do youth obtain information about how to participate in the program Youth can contact:

(1) Youth's attorney/CASA/GAL.

(2) Youth's social worker.

(3) Local children's administration office.

(4) www.independence.wa.gov.

(5) 1-866-END-HARM.

NEW SECTION

WAC 388-25-0532 Can a youth participating in the extended foster care program to complete a secondary education or equivalency program continue to receive extended foster care services to participate in a post secondary education program? Yes, if at the time the secondary program is completed, the youth is enrolled in, or has applied to, and can demonstrate they intend to timely enroll in, a post secondary academic or vocational program.

NEW SECTION

WAC 388-25-0534 Is there a trial independence period for a youth who completes his or her secondary education program while participating in extended foster care and before the youth enters a post secondary program? No, if a youth completes a secondary education program while in extended foster care, the dependency will be dismissed and foster care services will end, unless the youth has enrolled in, or applied to and can demonstrate an intent to timely enroll in, a post secondary academic or vocational program.

NEW SECTION

WAC 388-25-0536 What are CA's responsibilities to a youth who is participating in extended foster care? Children's administration (CA) is required to have placement and care authority over the youth and to provide foster care services, including transition planning and independent living services, medical assistance through medicaid, and case management. Case management includes findings or approving a foster care placement for the youth, convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the youth, caseworker visits, and court-related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the youth is progressing toward independence within state and federal mandates. CA has responsibility to inform the court of the status of the child (including health, safety, welfare, education status and continuing eligibility for extended foster care program).

NEW SECTION

WAC 388-25-0538 What is the CA's responsibility for the youth during the six-month trial independence period? Children's administration is relieved of all supervisory and placement responsibility for the youth during the trial independence period until the youth elects to participate in extended foster care or the dependency is dismissed.

NEW SECTION

WAC 388-25-0540 How does CA determine a youth's continuing eligibility for extended foster care program? At least every six months, children's administration will determine if youth continues to:

(1) Agree to participate in the extended foster care program.

(2) Be enrolled in an education program.

(3) Continue to reside in approved placement.

(4) Comply with youth's responsibilities in WAC 388-25-0546.

NEW SECTION

WAC 388-25-0542 What are the legal rights of a dependent youth in extended foster care to travel out of state, buy a car or engage in other activities as an adult? The youth is a "child" for the purposes of the dependency and must comply with responsibilities in WAC 388-25-0546, otherwise the youth has the legal status and legal rights of an adult. The youth is responsible for their actions, including responsibility for purchases, driving, traveling or financial obligations related to the activities they participate in.

NEW SECTION

WAC 388-25-0544 What are the youth's rights in the extended foster care program? Youth have a right to:

(1) An approved foster care placement.

(2) Foster care services including medical assistance through medicaid.

(3) Participate in the court process as a party to the case.

(4) Have an attorney appointed for them in dependency proceedings.

(5) End their participation in the program at any time.

(6) Referrals to community resources as appropriate.

NEW SECTION

WAC 388-25-0546 What must the youth do to remain in the extended foster care program? Unless otherwise authorized by court order the youth must:

(1) Agree to participate in the program as expressed in the written extended foster care agreement;

(2) Maintain standard of eligibility as set by the youth's academic program;

(3) Participate in the case plan, including monthly health and safety visits;

(4) Acknowledge that children's administration (CA) has responsibility for the youth's care and placement by authorizing CA to have access to records related to court-ordered medical, mental health, drug/alcohol treatment services, educational records needed to determine continuing eligibility for the program, and for additional necessary services; and

(5) Remain in the approved foster care placement and follow placement rules. This means the youth will:

(a) Stay in placement identified by CA or approved by the court;

(b) Obtain approval from case worker and notify caregiver for extended absence from the placement of more than three days; and

(c) Comply with court orders and any specific rules developed in collaboration by the youth, caregiver and social worker.

NEW SECTION

WAC 388-25-0548 When is a youth no longer eligible for the extended foster care program? A youth is no longer eligible for the extended foster care program and department will ask the court to dismiss the dependency when the youth:

(1) Graduates from high school or equivalency program, and has not enrolled in, or applied for and demonstrated an intent to timely enroll in a post secondary academic or vocational program;

(2) Graduates from a post secondary education or vocational program;

(3) Reaches their twenty-first birthday;

(4) Is no longer participating or enrolled in high school, equivalency program, post secondary or vocational program;

(5) No longer agrees to participate in foster care services;

(6) Fails or refuses to comply with youth responsibilities outlined in WAC 388-25-0546; or

(7) Is incarcerated in an adult detention facility on a criminal conviction.

AMENDATORY SECTION (Amending WSR 06-22-030, filed 10/25/06, effective 11/25/06)

WAC 388-148-0010 What definitions do I need to know to understand this chapter? The following definitions are for the purpose of this chapter and are important to understand these rules:

"Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or mistreatment of a child where the child's health, welfare and safety are harmed.

"Agency" is defined in RCW 74.15.020(1).

"Assessment" means the appraisal or evaluation of a child's physical, mental, social and/or emotional condition.

"Capacity" means the maximum number of children that a home or facility is licensed to care for at a given time.

"Care provider" means any licensed or certified person or organization or staff member of a licensed organization that provides twenty-four-hour care for children.

"Case manager" means the private agency employee who coordinates the planning efforts of all the persons working on behalf of a child. Case managers are responsible for implementing the child's case plan, assisting in achieving those goals, and assisting with day-to-day problem solving.

"Certification" means:

(1) Department approval of a person, home, or facility that does not legally need to be licensed, but wishes to have evidence that it meets the minimum licensing requirements; or

(2) Department licensing of a child-placing agency to certify that a foster home meets licensing requirements.

"Children" or **"youth,"** for this chapter, means individuals who are:

(1) Under eighteen years old, including expectant mothers under eighteen years old; or

(2) Up to twenty-one years of age and pursuing a high school, equivalent course of study (GED), or vocational program or post secondary academic or post secondary vocational program;

(3) Up to twenty-one years of age with developmental disabilities; or

(4) Up to twenty-one years of age if under the custody of the Washington state juvenile rehabilitation administration.

"Child-placing agency" means an agency licensed to place children for temporary care, continued care or adoption.

"Crisis residential center (CRC)" means an agency under contract with DSHS that provides temporary, protec-

tive care to children in a foster home, regular (semi-secure) or secure group setting.

"Compliance agreement" means a written licensing improvement plan to address deficiencies in specific skills, abilities or other issues of a fully licensed home or facility in order to maintain and/or increase the safety and well-being of children in their care.

"DCFS" means the division of children and family services.

"DDD" means division of developmental disabilities.

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

"Developmental disability" is a disability as defined in RCW 71A.10.020.

"DLR" means the division of licensed resources.

"Firearms" means guns or weapons, including but not limited to the following: BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, and shotguns.

"Foster-adopt" means placement of a child with a foster parent(s) who intends to adopt the child, if possible.

"Foster home or foster family home" means person(s) licensed to regularly provide care on a twenty-four-hour basis to one or more children in the person's home.

"Full licensure" means an entity meets the requirements established by the state for licensing or approved as meeting state minimum licensing requirements.

"Group care facility for children" means a location maintained and operated for a group of children on a twenty-four-hour basis.

"Group receiving center" or **"GRC"** means a facility providing the basic needs of food, shelter, and supervision for more than six children placed by the department, generally for thirty or fewer days. A group receiving center is considered a group care program and must comply with the group care facility licensing requirements.

"Hearing" means the administrative review process.

"I" refers to anyone who operates or owns a foster home, staffed residential home, and group facilities, including group homes, child-placing agencies, maternity homes, day treatment centers, and crisis residential centers.

"Infant" means a child under one year of age.

"License" means a permit issued by the department affirming that a home or facility meets the minimum licensing requirements.

"Licensor" means:

(1) A division of licensed resources (DLR) employee at DSHS who:

(a) Approves licenses or certifications for foster homes, group facilities, and child-placing agencies; and

(b) Monitors homes and facilities to ensure that they continue to meet minimum health and safety requirements.

(2) An employee of a child-placing agency who:

(a) Attests that foster homes supervised by the child-placing agency meets licensing requirements; and

(b) Monitors those foster homes to ensure they continue to meet the minimum licensing standards.

"Maternity service" as defined in RCW 74.15.020.

"Medically fragile" means the condition of a child who has a chronic illness or severe medical disabilities requiring regular nursing visits, extraordinary medical monitoring, or on-going (other than routine) physician's care.

"Missing child" means:

(1) Any child up to eighteen years of age for whom Children's Administration (CA) has custody and control (not including children in dependency guardianship) and:

(a) The child's whereabouts are unknown; and/or

(b) The child has left care without the permission of the child's caregiver or CA.

(2) Children who are missing are categorized under one of the following definitions:

(a) **"Taken from placement"** means that a child's whereabouts are unknown, and it is believed that the child is being or has been concealed, detained or removed by another person from a court-ordered placement and the removal, concealment or detainment is in violation of the court order;

(b) **"Absence not authorized, whereabouts unknown"** means the child is not believed to have been taken from placement, did not have permission to leave the placement, and there has been no contact with the child and the whereabouts of the child is unknown; or

(c) **"Absence not authorized, whereabouts known"** means that a child has left his or her placement without permission and the social worker has some contact with the child or may periodically have information as to the whereabouts of the child.

"Multidisciplinary teams (MDT)" means groups formed to assist children who are considered at-risk youth or children in need of services, and their parents.

"Nonambulatory" means not able to walk or traverse a normal path to safety without the physical assistance of another individual.

"Out-of-home placement" means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

"Premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"Probationary license" means a license issued as part of a disciplinary action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing requirements and has entered into an agreement aimed at correcting deficiencies to minimum licensing requirements.

"Psychotropic medication" means a type of medicine that is prescribed to affect or alter thought processes, mood, sleep, or behavior. These include anti-psychotic, antidepressants and anti-anxiety medications.

"Relative" means a person who is related to the child as defined in RCW 74.15.020 (4)(a)(i), (ii), (iii), and (iv) only.

"Respite" means brief, temporary relief care provided to a child and his or her parents, legal guardians, or foster parents with the respite provider fulfilling some or all of the functions of the care-taking responsibilities of the parent, legal guardian, or foster parent.

"Secure facilities" means a crisis residential center that has locking doors and windows, or secured perimeters intended to prevent children from leaving without permission.

"Service plan" means a description of the services to be provided or performed and who has responsibility to provide or perform the activities for a child or child's family.

"Severe developmental disabilities" means significant disabling, physical and/or mental condition(s) that cause a child to need external support for self-direction, self-support and social participation.

"Social service staff" means a clinician, program manager, case manager, consultant, or other staff person who is an employee of the agency or hired to develop and implement the child's individual service and treatment plans.

"Staffed residential home" means a licensed home providing twenty-four-hour care for six or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers. It may or may not be a family residence.

"Standard precautions" is a term relating to procedures designed to prevent transmission of bloodborne pathogens in health care and other settings. Under standard precautions, blood or other potentially infectious materials of all people should always be considered potentially infectious for HIV and other pathogens. Individuals should take appropriate precautions using personal protective equipment like gloves to prevent contact with blood or other bodily fluids.

"Washington state patrol fire protection bureau" or **"WSP/FPB"** means the state fire marshal.

"We" or **"our"** refers to the department of social and health services, including DLR licensors and DCFS social workers.

"You" refers to anyone who operates a foster home, staffed residential home, and group facilities, including group homes, maternity programs, day treatment programs, crisis residential centers, group receiving centers, and child-placing agencies.

WSR 13-09-010
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed April 5, 2013, 12:11 p.m., effective May 6, 2013]

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

Purpose: WAC 192-150-130, 192-180-005, 192-300-230, 192-310-090, and 192-350-010 are amended solely to correct statutory references. WAC 192-140-095 is repealed as inconsistent with federal guidelines; failure to provide details about a job separation is to be treated as a failure to provide information when requested rather than as a voluntary quit.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-140-095; and amending WAC 192-150-130, 192-180-005, 192-300-230, 192-310-090, and 192-350-010.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 13-03-078 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 5, Repealed 1.

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

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

Date Adopted: March 29, 2013.

Dale Peinecke
Commissioner

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-130 Worksite safety—RCW ((~~50.22.050~~)) 50.20.050 (2)(b)(viii). (1) At the time of hire, you can reasonably expect that your worksite complies with applicable federal and state health and safety regulations. If, after beginning work or accepting the job offer, you become aware of a safety issue that was not previously disclosed by your employer, the department will consider the safety of the worksite to have deteriorated.

(2) To establish good cause for quitting work under this section, you must notify your employer of the safety issue and give your employer a reasonable period of time to correct the situation. For purposes of this section:

(a) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the safety condition at issue;

(b) "Reasonable period of time" means the amount of time a reasonably prudent person would have remained at the worksite or continued working in the presence of the condition at issue. In addition:

(i) For health or safety issues that present imminent danger of serious bodily injury or death to any person, your employer must take immediate steps to correct the situation;

(ii) If your employer has been issued a citation by a regulatory agency charged with monitoring health or safety conditions, the employer must correct the condition within the time period specified in the citation.

(c) "Serious bodily injury" means bodily injury which creates a probability of death, or which causes serious permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ whether permanent or temporary.

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07, effective 12/2/07)

WAC 192-180-005 Registration for work—RCW 50.20.010(1) and 50.20.230. (1) **Am I required to register for work?** You must register for work unless you are:

(a) Attached to an employer, meaning you are:

(i) Partially unemployed as defined in WAC 192-180-013(1);

(ii) On standby as defined by WAC 192-110-015;

(iii) Unemployed because you are on strike or locked out from the worksite as provided in RCW 50.20.090((~~(2)~~)); or

(iv) Participating in the shared work program under chapter 50.60 RCW;

(b) A member of a union that participates in the referral union program (see WAC 192-210-110);

(c) Participating in a training program approved by the commissioner; or

(d) The subject of an antiharassment order. This includes any court-issued order providing for your protection, such as restraining orders, no contact orders, domestic violence protective orders, and similar documents.

(2) **How soon do I have to register?**

(a) If you live within the state of Washington, the department will register you automatically based on information contained in your application for benefits. In unusual circumstances where you are not automatically registered, you must register within one week of the date on which you are notified by the department of the requirement to register for work.

(b) If you live in another state, you must register for work within one week of the date your first payment is issued on your new or reopened claim.

(3) **Where do I register for work?** You will be registered for work with your local WorkSource office. However, if you live in another state, you must register for work with the equivalent public employment agency in that state.

(4) **What is the penalty if I do not register for work?** You will not be eligible for benefits for any week in which you are not registered for work as required by this section.

AMENDATORY SECTION (Amending WSR 07-23-130, filed 11/21/07, effective 1/1/08)

WAC 192-300-230 What enforcement, penalties, and collection procedures apply to professional employer organizations and client employers? (1) A professional employer organization may collect and make payments on behalf of a client employer, but the client employer remains liable for the payments of any taxes, interest, or penalties due.

(2) Unless the professional employer organization has already notified the department that it has not received payments from the client employer, the department shall first attempt to collect any payments due from the professional employer organization and shall not attempt to collect from the client employer until at least ten days from the date payment was due. Collection procedures shall follow the requirements of chapter 50.24 RCW.

(3) A professional employer organization may elect to provide a bond to cover payments due. Any bond for this purpose shall be filed with the department, shall be in a form satisfactory to the commissioner, and shall be in an amount not less than the amount of contributions due in the highest quarter of the preceding calendar year. A bond does not relieve the professional employer organization or its client employers of ultimate liability for payments due.

(4) In case of error by a professional employer organization in which reports are incomplete, inaccurate, or late, or if the professional employer organization makes a single payment that does not match the amount due for multiple employers, the department will initially apply any penalty and interest charges for all amounts due against the professional employer organization, regardless of whether the professional employer organization has employees in Washington. However, the client employer ultimately remains liable for any taxes, penalties, or interest due.

All client employers of a professional employer organization may be subject to the tax rate for delinquent taxpayers if a delinquency under WAC 192-320-035 or 192-320-036 cannot be assigned to a specific client employer.

(5) If a professional employer organization reports employees of a client employer as its own employees, a first violation will be considered an incorrect report for the professional employer organization and an untimely report for the client employer under RCW 50.12.220(2). A second violation will be considered knowing misrepresentation under RCW 50.12.220(3). A third violation will be considered grounds for revocation of the authority of a professional employer organization to act on behalf of its client employers.

(6) The department may revoke the authority of a professional employer organization to act on behalf of its client employers if the professional employer organization substantially fails to comply with the provisions of RCW 50.12.300. An order to revoke the authority of a professional employer organization shall be considered an appealable order under chapter 34.05 RCW comparable to an order and notice of assessment under RCW 50.32.030.

AMENDATORY SECTION (Amending WSR 07-23-127, filed 11/21/07, effective 1/1/08)

WAC 192-310-090 When is "casual labor" exempt from unemployment insurance? (RCW 50.04.270.) "Casual labor" that is not in the course of the employer's trade or business and does not promote or advance the employer's trade or business is not considered employment. This exemption only applies to services such as yard work or minor repair work which is performed for a private individual on nonbusiness property. Any employment which is treated as a business expense does not qualify for this exemption.

"Domestic service" is considered a separate exemption under RCW ((~~50.05.160~~)) 50.04.160.

AMENDATORY SECTION (Amending WSR 12-23-087, filed 11/20/12, effective 12/21/12)

WAC 192-350-010 What is a predecessor-successor relationship? (1) This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(2) A predecessor-successor relationship exists when a transfer occurs and one business (successor) acquires all or part of another business (predecessor). It may arise from the transfer of operating assets including, but not limited to, the transfer of one or more employees from a predecessor to a successor. It may also arise from an internal reorganization of affiliated companies. A predecessor-successor relationship also exists when an employer transfers its business to another

employer, and both employers are at the time of transfer under substantially common ownership, management or control. Whether or not a predecessor-successor relationship (including a "partial predecessor" or "partial successor" relationship) exists depends on the totality of the circumstances.

(3) **Predecessor.** An employer may be a "predecessor," including a "full predecessor" or "partial predecessor," if, during any calendar year, it transfers any of the following to another individual or organization:

(a) All or part of its operating assets as defined in subsection (5) of this section; or

(b) A separate unit or branch of its trade or business.

(4) **Successor.** A "successor" may be either a "full successor" or a "partial successor." An employer may be a "full successor" if, during any calendar year, it acquires substantially all of a predecessor employer's operating assets. It may be a "partial successor" if, during any calendar year, it acquires:

(a) Part of a predecessor employer's operating assets; or

(b) A separate unit or branch of a predecessor employer's trade or business.

(5) **Operating assets.** "Operating assets" include the resources used in the normal course of business to produce operating income. They may include resources that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, employees, or goodwill. "Goodwill" includes the value of a trade or business based on expected continued customer patronage due to its name, reputation, or any other factor.

(6) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection ((~~(12)~~)) (13) of this section.

(7) **Simultaneous acquisition.** For purposes of successor simultaneous acquisition, the term "simultaneous" means all transfers that resulted from acquiring or reorganizing the business, beginning when the acquisition started and ending when the primary unit is transferred.

(8) **Common ownership, management and control.** Common ownership, common management and common control must be established when the transfer of a business occurs. In determining whether common ownership, management and control exist, the department may consider:

(a) Ownership-legal owner for tax and liability purposes;

(b) Familial relationships;

(c) Principals;

(d) Organized structure;

(e) Day-to-day operations;

(f) Assets and liabilities;

(g) Stated business purposes; and

(h) Other information pertinent to the inquiry.

The employer must meet all three elements, common ownership, common management and common control, for the exemption to apply.

(9) **Substantially common ownership, management or control.** In determining whether substantially common ownership, management or control exists, the department may consider the extent of commonality and similarity between employers based on:

(a) Ownership-legal owner for tax and liability purposes;

(b) Familial relationships;

(c) Principals;

(d) Corporate officers;

(e) Organized structure;

(f) Day-to-day operations;

(g) Assets and liabilities;

(h) Stated business purposes; and

(i) Other information pertinent to the inquiry.

This standard is met when **any** common ownership, management or control exists between the employers.

(10) **Substantially similar businesses.** Substantially similar business are businesses:

(a) In which the products sold or services provided exhibit a high degree of likeness but may be less than identical; and

(b) Which could reasonably be in competition with one another to provide a substantially similar service or a substantially similar product.

(11) A significant purpose of the transfer of business must be more than an incidental purpose, but may be one of many purposes. Evidence of a significant purpose of the transfer of a business may be shown by:

(a) Business records, such as corporate minutes or other documents;

(b) Statements by owners or officers of the business, or by an outside party, such as an accounting firm or tax advisor, made contemporaneous with the transfer; or

(c) Other credible evidence of the employer's intent.

Employers must provide the department evidence of the purpose of the transfer no later than thirty days after the date of transfer.

(12) **Factors.** Factors should be weighed instead of merely adding up the number of individual factors. No single factor is necessarily conclusive. Some of the factors which the department may consider as favoring establishment of a predecessor-successor (including a "full successor" or "partial successor") relationship are:

(a) Whether the employers are in the same or a like business (e.g., providing similar or comparable goods or services or serving the same market);

(b) Whether the asset(s) transferred constitute a substantial or key portion of similar assets for either the predecessor or successor;

(c) Whether the assets were transferred directly and not through an independent third party;

(d) Whether multiple types of assets (e.g., employees, real property, equipment, goodwill) transferred;

(e) Whether a significant number or significant group of employees transferred between employers;

(f) Whether the assets transferred at the same time or in a connected sequence, as opposed to several independent transfers;

(g) Whether the business name of the first employer continued or was used in some way by the second employer;

(h) Whether the second employer retained or attempted to retain customers of the first employer;

(i) Whether there was relative continuity and not a significant lapse in time between the operations of the first and second employers;

(j) Whether there was continuity of management between employers;

(k) Whether the employers shared one or more of the same or related owners;

(l) Whether documents, such as a contract or corporate minutes, show the sale or transfer of a business or a portion of a business; and

(m) Whether other factors indicate that a predecessor-successor relationship exists.

(13) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of chapter 50.29 RCW (experience rating):

(i) When any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by the predecessor, successor, or a combination of both; or

(ii) When a significant purpose of the transfer of a business or its operating assets is for the employer to move or expand an existing business, or for an employer to establish a substantially similar business under common ownership, management and control.

(14) **Burden of proof.** The department has the burden to prove by a preponderance of the evidence that a business is the successor or partial successor to a predecessor business. However, if a business fails to respond to requests for information necessary to determine a predecessor-successor relationship, the department may meet its burden by applying RCW 50.12.080 to determine the necessary facts.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-140-095	What happens if I do not respond to a request for details about my separation from work?

WSR 13-09-013
PERMANENT RULES
OFFICE OF INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-28—Filed April 8, 2013, 10:44 a.m., effective May 9, 2013]

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

Purpose: Section 1303 of the Affordable Care Act (Pub. L. 111-148, 2010, as amended) requires carriers to establish allocation accounts that segregate subsidy funding for a plan's abortion benefit from other premium funds received from exchange enrollees. The section also requires inclusion of notice of the fund segregation in the summary of benefits and coverage explanation. Specifically, 1303 (b)(E)(i) places the obligation to ensure compliance with the segregation requirements on state insurance commissioners. The rule explains the commissioner's implementation of the Affordable Care Act's requirements in this regard.

Statutory Authority for Adoption: RCW 48.02.060.

Other Authority: Section 1303(b) of the Affordable Care Act, P.L. 111-148 (as amended) (2010).

Adopted under notice filed as WSR 13-05-076 on February 19, 2013.

A final cost-benefit analysis is available by contacting Meg Jones, P.O. Box 40258, phone (360) 725-7170, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

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

Date Adopted: April 8, 2013.

Mike Kreidler
Insurance Commissioner

NEW SECTION

WAC 284-07-540 Issuer segregation of premium accounting plan. (1) For purposes of this section, "issuer" has the definition found in RCW 48.01.053.

(2) A health plan issuer, whether domestic, foreign or alien, must obtain the commissioner's prior written approval of its accounting practice plan for segregating premium allocated to a termination of pregnancy benefit. This requirement only applies to qualified issuers certified through the health benefit exchange, for qualified health plans issued on the exchange.

(a) The segregation plan must describe the accounting practices the issuer will use to ensure segregation of federal funds for premium and claims for nonexcepted termination of pregnancy benefits from other premium received from an enrollee who receives a premium tax benefit or cost-sharing subsidy pursuant to enrollment on the health benefit exchange. The segregation plan must allocate the two types of premium to separate accounts (allocation accounts). The segregation plan must also ensure that claims for the nonexcepted termination of pregnancy benefit are not paid from an allocation account into which federal funds are placed.

(b) The segregation plan must ensure strict separation of funds between the allocation accounts, and include at least one allocation account solely for the deposit of private premium dollars used to pay for abortion coverage, and a second

allocation account to process premium dollars paid for all other covered benefits.

(c) This rule does not require an issuer to conduct two separate premium transactions with enrollees. For purposes of approval by the commissioner, the segregation of premium may occur solely as an accounting transaction.

(3) A health plan issuer must submit its plan to the commissioner in writing more than thirty days prior to its proposed effective date, and may not be used until thirty days after the commissioner has approved the plan in writing. For good cause, the commissioner may reduce either time period.

(4) A health plan issuer may not implement any changes or amendments to its segregated account accounting plan prior to receiving the commissioner's written approval.

(5) Instructions as to how and where an issuer must send its request for approval of its segregation of premium accounting plan may be found on the commissioner's web site at www.insurance.wa.gov.

(6) A filing under this section must include the following information:

(a) The proposed effective date and the date of the first filed financial statement in which the proposed segregated account will be reported;

(b) A description of accounting systems for processing premium payments for products on the exchange that offer termination of pregnancy benefits, including:

(i) The financial accounting systems, including documentation and internal controls, to ensure the appropriate segregation of payments received for coverage of nonexcepted termination of pregnancy benefits from those received for coverage of all other services, which may be supported by federal premium tax credits and cost-sharing reduction payments;

(ii) The financial accounting systems, including accounting documentation and internal controls, that ensure that all expenditures for nonexcepted termination of pregnancy benefits are reimbursed from the appropriate allocation account; and

(iii) An explanation of how the issuer's systems, including accounting documentation and internal controls meet the requirements for segregation accounts under the law.

(7) After an accounting practice plan for segregating premium has been approved, an issuer must file with its annual statement filed with the commissioner on or before March 1st of each year:

(a) Certification that the issuer is certified as a qualified issuer through the exchange;

(b) An annual supplemental information schedule containing a reconciliation of all segregated account activity (beginning balance + receipts - disbursements = ending balance) for the year. The annual supplemental information schedule shall be electronically filed with the commissioner in PDF format in compliance with the form and instructions contained on the commissioner's web site;

(c) The annual supplemental information schedule shall contain an affirmation of the issuer's CEO and CFO that the financial accounting systems, including accounting documentation and internal controls, of the segregated account covered by the annual supplemental information schedule meet the requirements for segregated accounts under the ACA;

(d) The annual audit of issuers conducted by independent certified public accountants, in addition to all other requirements of opinions, shall opine on whether the supplementary information contained in the annual supplemental information schedule is fairly stated, and, if the segregated accounts financial accounting systems, including documentation and internal controls, comply with the requirements of the ACA. The CPA report will be filed with the issuers annual audited financial statement filed with the commissioner;

(e) Stating the amount of premium segregated for each product offered on the exchange, calculated as if the coverage were included for the entire population of enrollees. The amount of premium must not be less than one dollar per enrollee, per month; and

(f) Stating the number of enrollees, by plan for the benefit year, for whom premium was segregated pursuant to this rule, P.L. 111-148 (111th Congress, 2010), at Section 1303 (b)(2)(B) and (C), and 45 C.F.R. Sec. 156.280.

(8) The commissioner may periodically audit issuers and each product subject to which this regulation applies to verify compliance. The commissioner will retain working papers and periodic audit reports for a period of not less than three years, and may make the reports available to the state health benefit exchange or the U.S. Department of Health and Human Services upon request.

WSR 13-09-023
PERMANENT RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 9, 2013, 9:42 a.m., effective May 10, 2013]

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

Purpose: SSB 5801 (chapter 6, Laws of 2011), as it amends RCW 51.36.010, directs the department of labor and industries (L&I) to establish a statewide health care provider network to treat injured and ill workers and to expand the Centers for Occupational Health and Education (COHEs) in the workers' compensation system. Rules are necessary to implement these changes.

Self-insurers are included within the network provisions in SSB 5801.

An amendment to WAC 296-15-330 is adopted to ensure that L&I rules for self-insurers related to medical care are consistent with and include reference to the statewide health care provider network established in SSB 5801.

This rule making includes requirements that self-insurers make certain their workers receive the information necessary to access care within the health care provider network.

Citation of Existing Rules Affected by this Order: Amending WAC 296-15-330.

Statutory Authority for Adoption: RCW 51.36.010.

Other Authority: RCW 51.04.020 and 51.04.030.

Adopted under notice filed as WSR 13-03-126 on January 22, 2013.

A final cost-benefit analysis is available by contacting Leah Hole-Curry, L&I, P.O. Box 44321, Olympia, WA 98504-4321, phone (360) 902-4996, fax (360) 902-6315, e-mail Leah.Hole-Curry@Lni.wa.gov.

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

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

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

Date Adopted: April 9, 2013.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 06-06-066, filed 2/28/06, effective 4/1/06)

WAC 296-15-330 Authorization of medical care. What are the requirements for authorization of medical care? Every self-insurer must:

(1) Authorize treatment and pay bills in accordance with Title 51 RCW and the medical aid rules and fee schedules of the state of Washington.

(2) Provide a written explanation of benefits (EOB) to the provider, with a copy to the worker if requested, for each bill adjustment. A written explanation is not required if the adjustment was made solely to conform to the maximum allowable fees as set by the department.

(3) Establish procedures to ensure prompt responses to inquiries regarding authorization decisions and bill adjustments.

(4) Comply with the requirements of the health care provider network. This includes:

(a) Utilizing only those providers approved for the provider network, except when the provider specialty or geographic location is not yet covered by the network;

(b) Providing information to workers about the requirement for providers to be enrolled in the network in order to treat injured workers and information on how a worker can find network providers. This information must be included in publications used by self-insurers to comply with WAC 296-15-400 (2)(a);

(c) Ensuring, when applicable, that only network providers are paid for care after the initial office or emergency room visit; and

(d) Promptly assisting workers who are being treated by a nonnetwork provider to transfer their care to a network provider of their choice; including, at a minimum, notification to the worker within forty-five days of receipt of the first bill from a nonnetwork provider that the provider will not be paid for treatment beyond the initial visit on the claim and information about how to find network providers.

WSR 13-09-025
PERMANENT RULES
DEPARTMENT OF EARLY LEARNING

[Filed April 9, 2013, 11:07 a.m., effective May 10, 2013]

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

Purpose: To clarify WAC 170-296A-2950, regarding carbon monoxide detector requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 170-296A-2950.

Statutory Authority for Adoption: Chapter 43.215 RCW.

Adopted under notice filed as WSR 13-04-100 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 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 9, 2013.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-2950 Smoke and carbon monoxide detectors. (1)(a) The licensee must have and maintain working smoke detectors in the home.

(b) At least one smoke detector must be located:

(i) In each licensed sleeping area; and

(ii) On each level of the home.

(c) Smoke detectors must be placed on the ceiling or wall, but not on the wall above any door.

(2) ((~~To comply with~~)) The licensee must have and maintain working carbon monoxide detectors in the home as provided in RCW 19.27.530 and WAC 51-51-0315((~~, if the licensee's home was built on or after July 1, 2010, a working carbon monoxide detector must be installed in each area licensed for sleeping or napping. The licensee may use combination smoke/carbon monoxide detectors~~)).

(3) One extra battery for each smoke detector and each carbon monoxide detector must be kept on the premises.

WSR 13-09-034
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed April 11, 2013, 10:02 a.m., effective June 1, 2013]

Effective Date of Rule: June 1, 2013.

Purpose: The department is amending WAC 388-418-0011 to eliminate medical assistance programs language. The community services division in collaboration with health care authority amended WAC 388-418-0011 to eliminate mid-certification review requirements for medical programs effective June 1, 2013.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0011.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090 and 74.04.510.

Other Authority: 2E2SHB 1738, chapter 15, Laws of 2011.

Adopted under notice filed as WSR 13-04-090 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 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 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 8, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-02-053, filed 12/28/07, effective 2/1/08)

WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? (1) A **mid-certification review** (MCR) is a form we send you to ask about your current circumstances. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance((~~, family-related medical,~~)) or Basic Food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) Only receive Refugee Cash Assistance as described under WAC 388-400-0030; or

(ii) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for Basic food if:

(i) Your assistance unit has a certification period of six months or less; or

(ii) All adults in your assistance unit are elderly or disabled and have no earned income.

(3) **When we send the review form:**

If you must complete a MCR ...	We send your review form ...
(a) For one program such as Basic Food ((~~or Family Medical~~)).	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(b) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(c) For Basic Food and another program when either program has a certification or review period between six and twelve months.	In the fifth month of your Basic Food certification period when you receive Basic Food and another program. You must complete your review by the 10th day of month six of your Basic Food certification.

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review in one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Complete the review form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the form;

(iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iv) ((~~If you receive family medical benefits, give us proof of your income even if it has not changed;~~

~~(v)~~)) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(((~~(vi)~~))) (v) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;

(ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iii) ((~~If you receive family medical benefits, give us proof of your income even if it has not changed;~~

~~(iv)~~)) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

((~~(v)~~)) (iv) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even if this does not give you ten days notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

WSR 13-09-040
PERMANENT RULES
STATE BOARD OF HEALTH

[Filed April 11, 2013, 4:27 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The state board of health anticipates restrictions imposed by the 2009 legislature on the implementation of new or amended school facility rules will continue through June 2015.

Purpose: This filing delays the effective date of new sections of chapter 246-366 WAC, Primary and secondary schools, and chapter 246-366A WAC, Environmental health and safety standards for primary and secondary schools, two years because of anticipated state budget shortfalls in the 2013-2015 biennium and previous legislative direction. These rules provide minimum environmental health and safety standards for schools.

NOTE: New sections of chapter 246-366 WAC, Primary and secondary schools, and new chapter 246-366A WAC, Environmental health and safety standards for primary and secondary schools, were adopted by the state board of health on August 12, 2009. The board filed a rule-making order, WSR 10-01-174, on December 22, 2009, setting the effective date for the new rules as July 1, 2010. On March 10, 2010, the board voted to file an amended rule-making order (WSR 10-12-018) to change the effective date of these new rules to July 1, 2011. On April 13, 2011, the board again considered the need to match resources and capacity to be able to implement the rules as intended and voted another rule-making order (WSR 11-10-080) to delay the effective date of the new rules another two years to July 1, 2013. Because the state budget situation still was looking bad and the bill submitted for Governor Gregoire's budget proposal for the 2013-2015 biennium still contained restrictions on implementing new school facility rules, the board again voted on March 13, 2013, to delay the effective date of the new rules another two years, until July 1, 2015.

Statutory Authority for Adoption: RCW 43.20.050.

Adopted under notice filed as WSR 09-14-136 on July 1, 2009.

Changes Other than Editing from Proposed to Adopted Version: See WSR 10-01-174.

A final cost-benefit analysis is available by contacting Vicki Bouvier, P.O. Box 47821, Olympia, WA 98504-7821, phone (360) 236-3011, fax (360) 236-2250, e-mail vicki.bouvier@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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 13, 2013.

Michelle A. Davis
Executive Director

WSR 13-09-047
PERMANENT RULES
GAMBLING COMMISSION

[Order 686—Filed April 15, 2013, 3:20 p.m., effective July 1, 2013]

Effective Date of Rule: July 1, 2013.

Purpose: This rule change assists licensees by clarifying that they must report certain new and updated information to us within thirty days, such as changes in their articles of incorporation or bylaws, contracts that relate to gambling activities, and cash contributions.

Reasons Supporting Proposal: The thirty day requirement was previously in our rules and was inadvertently removed during a rules simplification project (RSP) that was completed in 2008 to rewrite our rules in plain talk. Prior to

the RSP, this rule was worded slightly different. The thirty day reporting requirement was specifically required for the items listed in subsection (2) of the rule. During RSP, the thirty day timeframe was only included in subsection (1), which only pertains to items initially submitted with an application. This change clarifies the timeline for licensees to submit new and updated documents to us.

Citation of Existing Rules Affected by this Order: Amending WAC 230-06-080.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 13-05-069 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 1, Repealed 0.

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

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

Date Adopted: April 16, 2013.

Susan Newer
Rules Coordinator

AMENDATORY SECTION (Amending Order 601, filed 8/22/06, effective 1/1/08)

WAC 230-06-080 Report changes to application information and submit updated documents and information. (1) Licensees must notify us in writing if any information filed with the application changes in any way within thirty days of the change.

(2) Licensees must submit to us any new or updated documents and information within thirty days of the effective date of the document or information, including the following:

(a) Articles of incorporation or bylaws, or any other documents which set out the organizational structure and purposes; and

(b) All oral or written contracts and agreements which relate to gambling activities or alter the organizational structure of the licensee's organization or business activities in Washington; and

(c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations; and

(d) Internal Revenue Service tax deductible status of contributions for charitable and nonprofit organizations.

WSR 13-09-048
PERMANENT RULES
GAMBLING COMMISSION

[Order 687—Filed April 15, 2013, 3:21 p.m., effective May 16, 2013]

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

Purpose: This change will no longer require spouses of officers of charitable or nonprofit organizations (C/NP), or officers and board members of publicly traded entities or subsidiaries of publicly traded entities to undergo background checks. Staff has found that these spouses typically have little to no decision-making power or influence over the operations of the companies. If evidence is found to the contrary, an investigation will be conducted to determine if they qualify as a substantial interest holder.

Reasons Supporting Proposal: Removing the requirement of fingerprinting spouses will save resources as we will spend considerably less time obtaining fingerprints from these individuals, as well as the cost of processing the fingerprints. Furthermore, it will save licensees time and money for fingerprinting.

Citation of Existing Rules Affected by this Order: Amending WAC 230-03-045 and 230-03-065.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 12-22-044 on November 2, 2012.

Changes Other than Editing from Proposed to Adopted Version: After this proposed rule change was filed for discussion under WSR 12-22-044, a licensee asked us to consider no longer backgrounding spouses of officers of publicly traded companies, and officers or board members of subsidiaries of publicly traded entities. Staff worked with the licensee to incorporate the changes after it was determined there were no regulatory concerns.

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

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

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

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

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

Date Adopted: April 15, 2013.

Susan Newer
Rules Coordinator

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-03-045 Defining substantial interest holder. (1) "Substantial interest holder" means a person who has actual or potential influence over the management or

operation of any organization, association, or other business entity.

(2) Evidence of substantial interest may include, but is not limited to:

(a) Directly or indirectly owning, operating, managing, or controlling an entity or any part of an entity; or

(b) Directly or indirectly profiting from an entity or assuming liability for debts or expenditures of the entity; or

(c) Being an officer or director or managing member of an entity; or

(d) Owning ten percent or more of any class of stock in a privately or closely held corporation; or

(e) Owning five percent or more of any class of stock in a publicly traded corporation; or

(f) Owning ten percent or more of the membership shares/units in a privately or closely held limited liability company; or

(g) Owning five percent or more of the membership shares/units in a publicly traded limited liability company; or

(h) Providing ten percent or more of cash, goods, or services for the start up of operations or the continuing operation of the business during any calendar year or fiscal year. To calculate ten percent of cash, goods, or services, take the operational expenses of the business over the past calendar or fiscal year, less depreciation and amortization expenses, and multiply that number by ten percent; or

(i) Receiving, directly or indirectly, a salary, commission, royalties, or other form of compensation based on the gambling receipts.

(3) Spouses of officers of charitable or nonprofit organizations and spouses of officers or board members of publicly traded entities or subsidiaries of publicly traded entities are not considered substantial interest holders, unless there is evidence to the contrary. If so, then an investigation will be conducted to determine if they qualify as a substantial interest holder.

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-03-065 Spouses must also be qualified. (1) Applicants' spouses must also meet the qualifications to hold a gambling license when married persons who maintain a marital community apply for or hold a license to operate gambling activities. This includes, but is not limited to, owners and substantial interest holders of commercial gambling establishments ((~~and officers of charitable or nonprofit organizations~~)).

(2) If you are a licensed employee of a gambling operation, officer of a charitable or nonprofit organization, or an officer or a board member of a publicly traded entity or subsidiary of a publicly traded entity, your spouse does not need to meet the licensing qualifications, unless they are deemed to be a substantial interest holder.

WSR 13-09-051
PERMANENT RULES
UTILITIES AND TRANSPORTATION COMMISSION

[Docket UT-120451, General Order R-570—Filed April 16, 2013, 8:08 a.m., effective May 17, 2013]

In the matter of amending and adopting WAC 480-150-251 relating to directory service.

1 **STATUTORY OR OTHER AUTHORITY:** The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 13-06-026, filed with the code reviser on February 27, 2013. The commission has authority to take this action pursuant to RCW 80.01.040 and 80.04.160.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 **DATE OF ADOPTION:** The commission adopts this rule on the date this order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 The commission amends WAC 480-120-251 to require only that local exchange carriers make basic directory listings available to their local exchange customers by providing those customers with access to electronic listings and making printed directories available to customers who request them. If a carrier chooses to distribute printed directors to all customers, the carrier may not distribute a directory to customers who request not to receive them. There are no differences between the text of the proposed rule as published in the register at WSR 13-06-026 and the text of the rule adopted. The commission designates the discussion in this order, including appendices, as its concise explanatory statement.

6 **REFERENCE TO AFFECTED RULES:** This order amends WAC 480-120-251 Directory service.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The commission filed a preproposal statement of inquiry (CR-101) on April 18, 2012, at WSR 12-09-084. The statement advised interested persons that the commission was considering entering a rule making to modify or eliminate the requirement that local exchange companies provide each customer a cop of a telephone director for the customer's exchange area, as described in WAC 480-120-251. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's lists of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all registered telecommunications companies, the commission's list of telecommunications attorneys, and the list for all persons interested in rule-making dockets. The commission

posted the relevant rule-making information on its internet web site at http://www.utc.wa.gov/120451. Pursuant to the notice, the commission received written comments.

8 **NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on July 18, 2012, at WSR 12-15-070. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 12-15-070 at 9:30 a.m., Wednesday, September 12, 2012, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

9 **CONTINUED NOTICE OF PROPOSED RULE MAKING:** The commission filed a continuance of the CR-102 on August 24, 2012, at WSR 12-18-018. The commission rescheduled this matter for oral comment and adoption under Notice No. WSR 12-18-018 at 9:30 a.m., Thursday, October 18, 2012, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission. The comments that the commission received raised issues that merited further discussion before it considered adopting revisions to the existing rule.

10 **WORKSHOP:** On October 12, 2012, the commission issued a notice to all interested persons in this rule making converting the previously scheduled adoption hearing of October 18, 2012, to a stakeholder workshop. The workshop was held on October 18, 2012, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. Participants in the workshop included Dex One Corporation; the City of Seattle Public Utilities (City of Seattle); the Washington Independent Telephone Association (WITA); Toledo Telephone; Frontier Communications Northwest Inc. (Frontier); CenturyTel; the public counsel section of the Washington state attorney general's office (public counsel); and the Broadband Communications Association.

11 **NOTICE OF SUPPLEMENTAL PROPOSED RULE MAKING:** The commission filed a supplemental CR-102 notice to WSR 12-18-018 on December 18, 2012, at WSR 13-01-068. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 13-01-068 at 1:30 p.m., Thursday, February 14, 2013, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

12 **WRITTEN COMMENTS:** The commission received written comments from Dex One Corporation, CenturyLink, Frontier, WITA, Public Counsel, City of Seattle, Sightline Institute, and Jeannette Henderson. Summaries of all written comments and commission responses are contained in Appendix A, shown below, and made part of, this order.

13 **RULE-MAKING HEARING:** The commission considered the proposed rule for adoption at a rule-making hearing on February 14, 2013, before Chairman Jeffrey D. Goltz and Commissioner Philip B. Jones. The commission heard oral comments from Lisa Anderl, representing CenturyLink, Carl Gipson, representing Frontier, Dick Lilly, representing the City of Seattle, Brooks Harlow, representing Dex One, and Lisa Gafken, representing public counsel, all of whom reiterated their prior written comments.

14 **NOTICE OF SECOND SUPPLEMENTAL PROPOSED RULE MAKING:** The commission filed a supplemental CR-102 notice to WSR 13-01-068 on February 27, 2013, at WSR 13-06-026. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 13-06-026 at 1:30 p.m., Thursday, April 11, 2013, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

15 **WRITTEN COMMENTS:** The commission received written comments from Dex One Corporation, CenturyLink, Frontier, WITA, Public Counsel, City of Seattle, and Jeannette Henderson. Summaries of all written comments and commission responses are contained in Appendix A, shown below, and made part of, this order.

16 **RULE-MAKING HEARING:** The commission considered the proposed rule for adoption at a rule-making hearing on April 11, 2013, before Chairman David W. Danner, and Commissioner Jeffrey D. Goltz. The commission heard oral comments from Richard Finnigan, representing WITA, Brooks Harlow, representing Dex One, Dick Lilly, representing the City of Seattle, and Lisa Anderl, representing CenturyLink, all of whom reiterated their prior written comments.

17 **SUGGESTIONS FOR CHANGE THAT ARE ACCEPTED OR REJECTED:** Written and oral comments suggested changes to the proposed rule. Several commenters expressed concern that the rule as drafted could be interpreted to require a local exchange carrier (LEC) to make directory listings available for other companies' customers located within the same local calling area, potentially preventing the LEC from complying with the rule if those other companies refuse to share their listing information. The language and intent of the rule do not support such an interpretation. The rule requires only that an LEC make accessible to its customers the directory listings of the LEC's customers. An LEC's inclusion in its directory of listings for other carriers' customers is a matter of separate legal obligations or agreement between carriers.[1]

[1] Incumbent local exchange carriers, for example, have obligations under interconnection agreements with competing local exchange carriers to include the competitor's customer's listings in the incumbent's directory.

18 The commission also notes that the rule does not prohibit LECs from widely distributing printed directories except to those customers who request not to receive them, despite concerns with the environmental impact of such distribution. The commission shares these concerns. Subsection (3) of the rule, however, represents an acknowledgment of the First Amendment rights of LECs to engage in commercial speech[2], balanced against the rights of their customers not to receive such speech, and reflects the commission's expectation that LECs likely will not incur the costs to distribute printed directories to all of their customers without a legal obligation to do so. The commission nevertheless may revisit this issue if LECs continue to broadly distribute

printed directories or if the commission receives complaints from consumers concerning receipt of unwanted directories.

[2] *See Dex Media West, Inc. v. City of Seattle,* 696 F.3d 952 (9th Cir., 2012).

19 The remainder of the suggested changes and the commission's reason for accepting or rejecting the suggested changes are included in the staff response column to the comment matrix included in Appendix A.

20 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rule as proposed in the CR-102 at WSR 13-06-026.

21 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that WAC 480-120-251 should be amended to read as set forth in Appendix B, as a rule of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

APPENDIX A
Docket UT-120451
Comment Summary Matrix

February 14, 2013

General Comments		
Commenter	**Comment**	**Staff Position**
Jeanette Henderson	Proposed rule would be improved if the printed directory option in subsection (2)(b) were opt-in rather than opt-out. "Otherwise, the proposed rule is an excellent improvement over the existing rule."	Staff believes the revised rule as currently drafted strikes the appropriate balance between company, customer, and environmental concerns and does not recommend accepting this change.
Sightline Institute Represented by Eric de Place	In subsection (2), the word "free" should be added, to read, :…free access to directory listings…" Believes the printed directory option in subsection (2)(b) should be opt-in rather than opt-out.	*See* first staff position statement above. In addition, inclusion of "free" is unnecessary because the rule already states that access to directory listings is included with local exchange service.
Seattle Public Utilities Represented by Timothy Croll	"We urge the Commission to enact the rule amendment as written."	Staff agrees.
Frontier Communications Represented by Carl Gipson	Existing rule should be eliminated. As an option to eliminating the existing rule, an opt-in rule should be implemented. "Frontier is largely supportive of the proposed rule…"	*See* first staff position statement above.
Public Counsel Represented by Lisa Gafken	Pleased that the language in subsection (4), related to updating directories no less frequently than every fifteen months, is being retained. Believes the rule should require saturation distribution of "Blue Pages." Believes the rule should state that directories must be provided free of charge. Believes the consumer rights and responsibilities guide, required in subsection (6) of the existing rule, should continue to be required in the new rule.	*See* first and second staff position statements above. In addition, whether to include information in addition to listings in directories should be a decision for the LEC to make.
WITA Represented by Betty S. Buckley	"WITA supports the proposed revisions contained in the Notice and the Supplemental CR-102."	Staff agrees.

General Comments		
Commenter	**Comment**	**Staff Position**
Century Link Represented by Lisa Anderl	Believes the language in subsection (2), which reads: "An LEC must ensure that each of its basic local exchange service customers has access to directory listings for the customer's local calling area through at least one of the following means:" Should be modified as follows: "A LEC shall determine how each of its basic local exchange service customers will receive access to directory listings for the customer's local calling area using at least one of the following means:"	Staff does not believe that the language CenturyLink proposes is substantively different than the language in the latest proposed revised rule but would not object to making the suggested change.
Dex One Represented by Brooks Harlow	Believes the mandatory opt-out provision is "inconsistent with the First Amendment," however supports the rule as proposed in the supplemental CR-102.	Staff disagrees with Dex One's constitutional analysis but otherwise agrees.

Second Supplemental CR-102 Comment Matrix
April 11, 2013

Commenter	Comment	Staff Position
Jeanette L. Henderson	Proposed rule would be improved by removing subsection (3).	Staff believes the revised rule as currently drafted strikes the appropriate balance between company, customer, and environmental concerns and does not recommend accepting this change.
Seattle Public Utilities Represented by Timothy Croll	Supports the most recent draft, particularly subsection (2)(a), the opt-in provision.	
Century Link Represented by Lisa Anderl	The current draft does not allow for the protection of nonpublished customers' information because personal and proprietary information is available to those who use the Dex online web site. An opt-in approach would result in customers not getting notice that they would not receive a printed phone book. An opt-in approach should apply only to residential white pages, not business listing in the white pages, so that the company, or Dex, would not be out of compliance if it were to deliver combined white and yellow page business listings. An opt-in approach should be phased in, with a notice about how a customer can continue to receive directories. Subsection (2) should be modified so that an LEC is obligated to provide access to listings only for its own customers and customers of carriers who provide their listings at no charge.	LECs have the same ability to protect customer privacy under the proposed rule that they have under the existing rule. The proposed rule does not require an LEC *not* to publish a printed directory and thus the LEC would be able to provide what it believes is an appropriate phase-out period and notice if the LEC chooses not to publish a printed directory for all of its customers. Similarly, an LEC will not be out of compliance with the rule if it continues to publish a printed directory that combines white and yellow pages.
Public Counsel Represented by Lisa A. Gafken	No further comments.	

Commenter	Comment	Staff Position
WITA Represented by Betty S. Buckley WITA (cont'd)	Language in subsection (2) implies that an LEC must be responsible for making "all" directory listings in the local calling area available, rather than just the listings of the LEC's own customers. There are potential problems in providing electronic listings of other LECs, related to licensing agreements, that could make some listings unavailable or burdensome to obtain. Does not understand how listings will be handled on situations where an ILEC also conducts CLEC activities in the local calling area. Recommends subsection (2) be rewritten as follows: (2) A local exchange company must allow access by the local exchange customers it serves to the publicly available listings for the local exchange company's exchange area by publishing those publicly available listings electronically via a document, database, or link on the local exchange company's web site. A local exchange company is not required to distribute a printed directory.	*See* first staff position statement above. **CTL, WITA, and Frontier contend that the rule creates an obligation to provide access to directory listings of other LECs' customers. The description of "directory listings" in subsection (1), however, makes clear that an LEC's directory listings include only the LECs' customers, although ILECs remain subject to the obligation to include competitors' listings in their directories under federal law and interconnection agreements. "Exchange area" has no meaning for customers, and customers should have access to the listings within their local calling area.**
Dex One Represented by Brooks Harlow	Supports the rule as drafted and urges prompt approval.	
Frontier Communications Represented by Carl Gipson	Recommends eliminating the rule altogether, or as an alternative, an opt-in rule. To eliminate the problem of an LEC being required to provide information that is unavailable, Frontier recommends the following language amendment: (2) An LEC must ensure that its basic local exchange service customers have access to directory listings ~~for the~~ of its customers' local calling area by making those listings available electronically via a document, data base, or link on the LEC's web site. The LEC also must distribute or arrange to distribute printed directory listings to all of the LEC's customers who request a printed directory. An LEC is not otherwise required to distribute a printed directory.	*See* staff position statements above.

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

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

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

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

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

ORDER

22 **THE COMMISSION ORDERS:**

23 The commission amends WAC 480-120-251 to read as set forth in Appendix B, as a rule of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

24 This order and the rule set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, April 16, 2013.

Washington Utilities and Transportation Commission

David W. Danner, Chairman

Philip B. Jones, Commissioner

Jeffrey D. Goltz, Commissioner

APPENDIX B

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-251 Directory ((~~service~~)) listings. (((~~(1) A local exchange company (LEC) must ensure that a telephone directory is regularly published for each local exchange it serves, listing the name, address (unless omission is requested), and primary telephone number for each customer who can be called in that local exchange and for whom subscriber list information has been provided.~~

~~(2) Any residential customer may request from the LEC a dual-name primary directory listing that contains, in addition to the customer's surname, the customer's given name or initials (or combination thereof) and either one other person with the same surname who resides at the same address or a second name, other than surname, by which the customer is also known, including the married name of a person whose spouse is deceased.~~

~~(3) A LEC must provide each customer a copy of the directory for the customer's local exchange area. If the directory provided for in subsection (1) of this section does not include the published listing of all exchanges within the customer's local calling area, the LEC must, upon request, provide at no charge a copy of the directory or directories that contain the published listing for the entire local calling area.~~

~~(4) Telephone directories published at the direction of a LEC must be revised at least once every fifteen months, except when it is known that impending service changes require rescheduling of directory revision dates. To keep directories correct and up to date, companies may revise the directories more often than specified.~~

~~(5) Each LEC that publishes a directory, or contracts for the publication of a directory, must print an informational listing (LEC name and telephone number) when one is requested by any other LEC providing service in the area covered by the directory. The LEC to whom the request is made may impose reasonable requirements on the timing and format of informational listings, provided that these requirements do not discriminate between LECs.~~

~~(6) Telephone directories published at the direction of the LEC must include a consumer information guide that details the rights and responsibilities of its customer. The guide must describe the:~~

~~(a) Process for establishing credit and determining the need and amount for deposits;~~

~~(b) Procedure by which a bill becomes delinquent;~~

~~(c) Steps that must be taken by the company to disconnect service;~~

~~(d) Washington telephone assistance program (WTAP);~~

~~(e) Federal enhanced tribal lifeline program, if applicable; and~~

~~(f) Right of the customer to pursue any dispute with the company, including the appropriate procedures within the company and then to the commission by informal or formal complaint.~~)) (1) Basic local exchange service includes access to directory listings comprised of the name, address, and primary telephone number for each customer that the local exchange company (LEC) serves in a local calling area unless the customer requests to exclude some or all of this information from the LEC's directory listings.

(2) A LEC must ensure that its basic local exchange service customers have access to directory listings for the customers' local calling area by making those listings available electronically via a document, data base, or link on the LEC's web site. The LEC also must distribute or arrange to distribute printed directory listings to all of the LEC's customers who request a printed directory. A LEC is not otherwise required to distribute a printed directory.

(3) If the LEC distributes or arranges for a third-party to distribute printed directory listings to the LEC's customers who have not requested a printed directory, the LEC must not distribute or arrange to distribute printed directory listings to any customer who requests not to receive a printed directory.

(4) A LEC must establish or arrange for reasonable means for its customers to request to exclude some or all of their information from the LEC's directory listings and to request to receive, or not to receive, a printed directory.

(5) The directory listings must be updated no less frequently than every fifteen months.

WSR 13-09-061
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 16, 2013, 3:33 p.m., effective May 17, 2013]

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

Purpose: WAC 246-12-050 Temporary practice permit—National background check, clarify the purpose of the rule by adding "National background check" to the title, and making typographical corrections to clarify that subsections (4)(a), (b), and (c) of the rule are connected and inclusive.

Citation of Existing Rules Affected by this Order: Amending WAC 246-12-050.

Statutory Authority for Adoption: RCW 43.70.040.

Adopted under notice filed as WSR 12-23-045 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 16, 2013.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 09-23-082, filed 11/16/09, effective 12/17/09)

WAC 246-12-050 How to obtain a temporary practice permit—National background check. Fingerprint-based national background checks may cause a delay in licensing. Individuals who satisfy all other licensing requirements and qualifications may receive a temporary practice permit while the national background check is completed. This section applies to any profession listed in RCW 18.130.-040 (2)(a) that does not currently issue a temporary practice permit under the profession's specific statute or rule, unless the profession prohibits temporary practice permits by statute or rule.

(1) A temporary practice permit may be issued to an applicant who:

(a) Holds an unrestricted, active license in another state that has substantially equivalent licensing standards for the same profession to those in Washington;

(b) Is not subject to denial of a license or issuance of a conditional or restricted license; and

(c) Does not have a criminal record in Washington.

(2) A temporary practice permit grants the individual the full scope of practice for the profession.

(3) A temporary practice permit will not be renewed, reissued, or extended. A temporary practice permit expires when any one of the following occurs:

(a) The license is granted;

(b) A notice of decision on application is mailed to the applicant, unless the notice of decision on application specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(4) To receive a temporary practice permit, the applicant must:

(a) Submit the necessary application, fee(s), and documentation for the license((-));

(b) Meet all requirements and qualifications for the license, except the results from a fingerprint-based national background check, if required((-));

(c) Provide verification of having an active unrestricted license in the same profession from another state that has substantially equivalent licensing standards for the profession in Washington((-)); and

(d) Submit the fingerprint card and a written request for a temporary practice permit when the department notifies the applicant the national background check is required.

WSR 13-09-069
PERMANENT RULES
DEPARTMENT OF ENTERPRISE SERVICES

[Filed April 17, 2013, 11:08 a.m., effective May 18, 2013]

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

Purpose: RCW 39.26.200 grants the director of the department of enterprise services (DES) the authority to debar a vendor from future state contracting opportunities if the director finds cause, provides notice to the vendor and any affiliates, and affords an opportunity to be heard. RCW 39.26.200 (1)(a) provides that DES must establish the debarment process by rule. The purpose of this order is to establish the debarment process by rule as required.

Statutory Authority for Adoption: RCW 39.26.200.

Other Authority: RCW 43.19.011.

Adopted under notice filed as WSR 13-02-102 on January 2, 2013.

Changes Other than Editing from Proposed to Adopted Version: No changes were made except for clarifying edits.

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 13, 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 13, 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: April 17, 2013.

Joyce Turner
Director

Chapter 200-305 WAC

DEBARMENT PROCEDURES

NEW SECTION

WAC 200-305-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Affiliate" means a person in a business relationship who either directly or indirectly controls or has the power to control the other or a third party controls or has the power to control both. Factors used to determine control include:

(a) Interlocking management or ownership;

(b) Identity of interests among family members;

(c) Shared facilities and equipment;

(d) Common use of employees; or

(e) A business entity organized following the debarment or proposed debarment of a person which has the same or

similar management, ownership, or principal employees as the person that was debarred or proposed for debarment.

(2) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in RCW 28B.10.016, and correctional and other types of state institutions.

(3) "Bid" means an offer, proposal, or quote for goods or services in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(4) "Bidder" means an individual or entity who submits a bid, quotation, or proposal in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(5) "Contractor" means an individual or entity awarded a contract with an agency to perform a service or provide goods.

(6) "Conviction" means:

(a) A judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, including a plea of nolo contendere; or

(b) Any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution. A disposition without the participation of the court is the functional equivalent of a judgment only if it includes an admission of guilt.

(7) "Covered transaction" means submitting a bid, having a bid considered, entering into a state contract, or subcontracting on a state contract.

(8) "Debar" means to prohibit a contractor, individual, or other entity from submitting a bid, having a bid considered, or entering into a state contract during a specified period of time as set forth in a debarment order.

(9) "Debarring official" means the director of the department of enterprise services or the director's designee.

(10) "Department" means the department of enterprise services.

(11) "Director" means the director of the department of enterprise services.

(12) "Person" means any individual, corporation, partnership, association, unit of government, or legal entity, however organized.

(13) "Principal" means:

(a) An officer, director, owner, partner, principal investigator, or other person within a bidder or contractor with management or supervisory responsibilities related to a covered transaction; or

(b) A consultant or other person, whether or not employed by the bidder or contractor, who:

(i) Is in a position to handle state funds;

(ii) Is in a position to influence or control the use of those funds; or

(iii) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

(14) "Service" for any delivery required under this chapter means personal delivery, delivery by US postal mail service, electronic mail delivery, or delivery by other reasonable commercially acceptable means of delivery.

NEW SECTION

WAC 200-305-020 Causes for debarment. The director may debar a contractor based on a finding of one or more of the causes specified in RCW 39.26.200. A debarment may include any affiliate of the contractor if specifically named and given notice of the proposed debarment pursuant to this chapter. The director may also debar a contractor or affiliate for any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations.

NEW SECTION

WAC 200-305-030 Aggravating and mitigating factors. The following are the mitigating and aggravating factors that the reviewing official and debarring official may consider in determining whether to debar and the length of the debarment period.

(1) The actual or potential harm or impact that resulted or may result from the wrongdoing.

(2) The frequency of incidents and/or duration of the wrongdoing.

(3) Whether there is a pattern or prior history of wrongdoing.

(4) Whether the contractor or affiliate has been excluded or disqualified by an agency of the federal government or has not been allowed to participate in state or local contracts or assistance agreements on a basis of conduct similar to one or more of the causes for debarment specified in this rule.

(5) Whether the contractor or affiliate has entered into an administrative agreement with a federal agency or a state or local government that is not government-wide but is based on conduct similar to one or more of the causes for debarment specified in this rule.

(6) Whether the contractor or affiliate has accepted responsibility for the wrongdoing and recognizes the seriousness of the misconduct that led to the cause for debarment.

(7) Whether the contractor or affiliate has paid or agreed to pay all criminal, civil and administrative liabilities for the improper activity, including any investigative or administrative costs incurred by the government, and has made or agreed to make full restitution.

(8) Whether the contractor or affiliate has cooperated fully with the government agencies during the investigation and any court or administrative action. In determining the extent of cooperation, the reviewing official or debarring official may consider when the cooperation began and whether the contractor or affiliate disclosed all known pertinent information.

(9) The kind of positions held by the individuals involved in the wrongdoing.

(10) Whether the contractor or affiliate took appropriate corrective action or remedial measures, such as establishing ethics training and implementing programs to prevent recurrence.

(11) Whether the contractor or affiliate brought the activity cited as a basis for the debarment to the attention of the appropriate government agency in a timely manner.

(12) Whether the contractor or affiliate has fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the reviewing official or debarring official.

(13) Whether the contractor or affiliate had effective standards of conduct and internal control systems in place at the time the wrongdoing occurred.

(14) Whether the contractor or affiliate has taken appropriate disciplinary action against the individuals responsible for the activity that constitutes the cause for debarment.

(15) Other factors appropriate to the circumstances of a particular case.

NEW SECTION

WAC 200-305-040 Referring a person for debarment. (1) Any person may file a referral for debarment with the department. The referral must be in writing. The referring party may complete the department's debarment referral form. The referral should include the following information:

(a) The name and contact information of the person submitting the referral;

(b) The specific facts supporting the request for debarment, including the dates and locations for all events upon which the referral is made;

(c) The cause or causes specified in RCW 39.26.200(2) upon which debarment may be based that the referring party believes are supported by the facts presented; and

(d) The name of the contractor and any affiliates the referring party believes should be subject to debarment.

(2) The person submitting the referral should provide additional information if requested by the department.

(3) The department will make an initial assessment of the submittal. If the department determines that the facts as presented, if true, support a debarment, the department will conduct a review to substantiate the allegations. Otherwise, the department will reject the referral.

(4) The department will notify the referring party in writing and state whether the referral will be reviewed or rejected.

NEW SECTION

WAC 200-305-050 Review. (1) If the department accepts a debarment referral and conducts a review, the department will notify the contractor and affiliates in writing.

(2) The notice must:

(a) State the applicable cause(s) for debarment and the factual allegations supporting each cause in terms sufficient to put the contractor and affiliates on notice of the specific reasons for the review;

(b) Identify the statutory and administrative code provisions addressing debarment;

(c) Request a written response to the allegations including any documents that support the response, and state that failure to respond will result in the department making a decision without the recipient's input; and

(d) State the effects of a debarment order.

(3) At the conclusion of the review, the reviewing official will issue a report that includes the following information:

(a) Facts found by the reviewing official;

(b) Whether the facts support debarment; and

(c) Either a recommendation that the referral be dismissed with no further action taken or that a debarment order be issued, including the duration of the debarment.

NEW SECTION

WAC 200-305-060 Notice of recommended debarment. (1) If, based on the review, the reviewing official determines that the facts support debarment the reviewing official shall notify the affected contractor and affiliates. The reviewing official shall cause service of the notice of recommended debarment on the affected contractor and affiliates. The notice shall include the following information:

(a) Date when the recommended debarment takes effect;

(b) Each cause for the recommended debarment and the facts that the reviewing official found that support each cause;

(c) The period of the recommended debarment;

(d) How the recommended debarment will impact either the contractor or affiliates or both;

(e) Either the contractor or affiliates or both may request a hearing in accordance with WAC 200-305-070 to dispute the recommended debarment or the recommended debarment period. The notice shall state that if no hearing is requested within thirty days of the date of issuance of the notice, the debarring official shall issue a final, unappealable debarment order; and

(f) The recommended debarment order will not go into effect until the resolution of the hearing in accordance with WAC 200-305-080.

(2) In the event either an affected contractor or affiliate or both does not request a hearing, the reviewing official will provide the report and recommendation to the debarring official, who may issue a final debarment order. The order shall include the effective date of the debarment order.

NEW SECTION

WAC 200-305-070 Request for a hearing on recommended debarment. Either the contractor or affiliate or both may request a hearing on the recommended debarment. The request must be filed with the director within thirty days after the date the reviewing official issued the notice of recommended debarment. The person requesting the hearing must also serve a copy of the request on the reviewing official.

The request for hearing must be in writing and must specify:

(1) The name of the person requesting the hearing and the person's contact information; and

(2) The items, facts or conclusions in the notice of recommended debarment that the requestor contests.

NEW SECTION

WAC 200-305-080 Hearing on recommended debarment. (1) The director may hear the appeal personally or may

delegate the authority to hold the hearing and draft a proposed decision to another person or to an administrative law judge pursuant to chapter 34.12 RCW. The reviewing official, on behalf of the department, shall be the petitioner in the hearing, and the contractor and affiliates shall be the respondents.

(2) The reviewing official shall have the burden of proving the basis for the cause for debarment and the debarment period as set forth in the notice for recommended debarment.

(3) The hearing shall be conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW and to the extent not covered in this chapter, by the uniform procedural rules in chapter 1-08 WAC.

(4) If the director presides over the hearing, the director shall issue a final decision in writing that includes findings of fact, conclusions of law, and, if appropriate the debarment period. The director shall cause service of the final decision on all parties.

(5) If the director's delegate or an administrative law judge presides over the hearing, she or he shall issue a proposed decision that includes findings of fact, conclusions of law and if appropriate the debarment period. The proposed decision shall also include instructions on how to file objections and written arguments or briefs with the debarring official. Objections and written arguments and briefs must be filed within twenty (20) days from the date of receipt of the proposed decision.

(6) The parties shall agree to the method of service, as defined in WAC 200-305-010(14) for the proposed decision.

NEW SECTION

WAC 200-305-090 Final decision. (1) The debarring official shall review the proposed decision in accordance with the Administrative Procedure Act, chapter 34.05 RCW and any objections, written arguments and briefs timely filed by the parties. The debarring official may:

(a) Allow the parties to present oral arguments;

(b) Allow the parties to submit additional information if circumstances so warrant; or

(c) Remand the matter to the delegate or administrative law judge for further proceedings;

(2) The debarring official shall issue a final decision that adopts in whole or in part, modifies or rejects the proposed decision. If the decision is to issue a debarment order, the debarment becomes effective on the date specified in the debarment order, but in no event will the debarment order go into effect sooner than five (5) days from the date issued.

(3) The debarring official shall cause service of the final decision on all parties. Either the contractor or affiliate or both may file a petition for review of the final decision to superior court. If neither the contractor nor affiliate appeals within the period set by RCW 34.05.542, the debarring official's decision is conclusive and binding on all parties. The appeal must be filed within 30 days from service of the final decision.

NEW SECTION

WAC 200-305-100 Effect of a debarment order on the contractor and affiliate. The effects of a debarment order on the contractor and affiliate are:

(1) A debarred contractor and affiliate is ineligible to be a participant in any covered transaction or act as a principal of a person participating in any covered transaction as defined in WAC 200-305-010(7).

(2) Debarment constitutes debarment of all divisions or other organizational elements of the debarred person, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities.

(3) A person's debarment shall be effective in every agency, unless the director states in writing the compelling reasons justifying continued business dealings between an agency and the debarred person.

NEW SECTION

WAC 200-305-110 Effect of a debarment order on state agencies. The effects of a debarment order on state agencies are:

(1) Agencies shall not permit debarred persons to participate in covered transactions, unless the debarring official determines in writing that there is a compelling reason to do so.

(2) If the period of debarment expires or is terminated prior to award, the contracting officer may, but is not required to, consider a debarred persons bid.

(3) Notwithstanding debarment, agencies may continue contracts or subcontracts in existence at the time the person was debarred unless the debarring official determines otherwise.

(4) Agencies shall not add new work, exercise options, or otherwise extend the duration of current contracts or orders for debarred persons, unless the debarring official makes a written determination of the compelling reasons for doing so.

NEW SECTION

WAC 200-305-120 Relief from a debarment order. (1) A debarred contractor or affiliate may request that the debarring official grant relief from the final debarment order or reduce the time period or scope of the final debarment order.

(2) The debarring official may reduce or terminate the debarment based on:

(a) Newly discovered material evidence;

(b) A reversal of the conviction upon which debarment was based;

(c) A bona fide change in ownership or management;

(d) Elimination of other causes for which the debarment was imposed; or

(e) Other reasons the debarring official finds appropriate.

NEW SECTION

WAC 200-305-130 Delivery to the department. (1) Any notice, objection or information that is required or allowed by these rules may be delivered to:

Department of Enterprise Services
1500 Jefferson Street SE
Olympia, WA 98504-1466
Attn: Office of the Director

(2) Or, mailed, by certified mail, return receipt requested to:

Department of Enterprise Services
Office of the Director
1500 Jefferson Street SE
MS: 41466
Olympia, WA 98504-1466

(3) Or, electronically mailed to Department of Enterprise Services at the following email address: director@des.wa.gov