WSR 13-15-089
PERMANENT RULES
UTILITIES AND TRANSPORTATION COMMISSION

[Docket UE-112133, General Order R-571—Filed July 18, 2013, 12:27 p.m., effective August 18, 2013]

In the matter of amending and repealing rules in chapter 480-108 WAC, relating to Electric companies—Interconnection with electric generators.

I. INTRODUCTION

1 **STATUTORY OR OTHER AUTHORITY:** The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 13-09-054, filed with the code reviser on April 16, 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 amends and 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. The commission designates the discussion in this order as its concise explanatory statement.

5 The revised rules establish standards for interconnection of distributed generation facilities, including renewable energy facilities such as small solar and wind, to the electric delivery systems of electrical companies subject to commission jurisdiction. These revised rules are designed to encourage distributed generation, simplify and streamline the application process, and address technological advancements.

6 In 2006, the commission adopted chapter 480-108 WAC, establishing an application process and standards for the interconnection of distributed generation facilities to electric systems owned by electrical companies under the commission's jurisdiction.[1] In response to federal and state legislation passed in 2005 and 2006, the commission amended these rules in 2007.[2]

7 In early 2011, at the request of the Washington state house technology, energy, and communications committee, the commission conducted a study of distributed electric generation and offered recommendations for changes in statute and rules to encourage development of cost-effective distributed generation in areas served by electrical companies.[3] During the commission's study in the summer of 2011, stakeholders suggested that streamlining the interconnection application process could reduce the costs of interconnecting distributed generation facilities, and technological advances made some of the current requirements obsolete.[4] As a result, the commission initiated this rule making to determine if amending the rules governing the interconnection of generation facilities was warranted.

8 **REFERENCE TO AFFECTED RULES:** This order amends and repeals certain sections of chapter 480-108 WAC, Electric companies—Interconnection with electric generators. The following sections are amended: WAC 480-108-001 Purpose and scope, 480-108-005 Application of rules, 480 480-108-010 Definitions, 480-108-015 Scope of Part 1, 480-108-020 Eligibility and technical requirements for Tier 1, Tier 2, and Tier 3 interconnection, 480-108-030 Application for interconnection, 480-108-040 General terms and conditions for interconnection, 480-108-050 Completion of interconnection process, 480-108-080 Interconnection service tariffs, 480-108-110 Required filings—Exceptions, 480-108-120 Cumulative effects of interconnections, and 480-108-999 Adoption by reference.

The following sections are repealed: WAC 480-108-035 Model interconnection agreement, review and acceptance of interconnection agreements and costs, 480-108-055 Dispute resolution, 480-108-060 Required filings—Exceptions, 480-108-065 Cumulative effects of interconnections with a nameplate capacity rating of 300 kW or less, 480-108-070 Scope of Part 2, and 480-108-090 Alternative interconnection service tariff.

II. HISTORY

9 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** On December 21, 2011, the commission filed with the code reviser, at WSR 12-01-100, a preproposal statement of inquiry (CR-101) to consider revising the standards for interconnecting electric generators in the service territories of commission-regulated electrical companies in chapter 480-108 WAC. The commission opened Docket UE-112133 to commence this proceeding.

10 **ADDITIONAL NOTICES AND ACTIVITIES PURSUANT TO PREPROPOSAL STATEMENT:** On March 29, 2012, the commission held a workshop in this rule-making proceeding to discuss comments filed by interested persons. In joint comments, the Washington Public Utility District Association (WPUDA), the Washington Rural Electric Cooperatives Association (WRECA) and the Association of Washington Cities (AWC) proposed that interested stakeholders form a workgroup with technical staff from electric utilities, both public and private, to discuss possible rule changes. At the workshop, there was wide stakeholder support to pursue the collaborative discussions proposed by WPUDA, WRECA and AWC.

11 The commission formed a workgroup of technical representatives to recommend changes to the rule. Representatives of WPUDA, Puget Sound Energy, Inc. (PSE), Inland Power and Light Company (Inland) and the Interstate Renewable Energy Council (IREC) jointly chaired the workgroup, and other stakeholders were invited to participate. The workgroup filed a report and a draft proposed rule, termed a "model rule," with the commission on July 13, 2012. On July 26, 2012, the commission circulated a notice soliciting comments on the report and model rule. The commission received

comments on the report and model rule on September 7, 2012.

12 The primary purpose of the rule making is to streamline and simplify the process of applying to interconnect distributed generation with the distribution system of commission-regulated electric companies. The model rule embraced this primary purpose. The commission issued draft rules on November 21, 2012, including most of the substantive changes the workgroup proposed. The commission received comments on its draft rules on December 21, 2012. In response to these comments, the commission issued a second set of draft rules on February 5, 2013, and received comments on March 6, 2013.

13 All comments submitted and draft rules issued by the commission are available on the commission's web site at http://www.utc.wa.gov/112133. Similarly, a summary of the comments on the draft rules filed in this docket, and the commission's response to the issues raised in the comments are available on the commission's web site.

14 **NOTICE OF PROPOSED RULE MAKING:** The commission filed a CR-102 notice, proposed rules, and small business economic impact statement with the code reviser on April 16, 2013, WSR 13-09-054, scheduling the matter for oral comment and providing interested persons the opportunity to submit written comments to the commission by May 17, 2013. On June 5, 2013, the commission circulated a notice of revisions to the proposed rules based on the comments received and issued a notice of opportunity to respond to certain stakeholder comments.

15 **WRITTEN COMMENTS:** The commission received written comments from PSE; Northwest Sustainable Energy for Economic Development (NW SEED); members of the Washington state senate energy, environment and telecommunications committee; Cascade Power Group; NW Energy Coalition (NWEC); PacifiCorp; Avista Corporation, d/b/a Avista Utilities (Avista); Renewable Northwest Project (RNP) and NW SEED, jointly; Tacoma Power; and WPUDA, WRECA, Inland, and Klickitat Public Utility District, jointly, identifying themselves as COU (consumer-owned utilities) parties. With a few exceptions, all stakeholders support the changes in the proposed rules, which streamline and simplify the process of applying to interconnect distributed generation with electric systems owned by electrical companies under the commission's jurisdiction. Summaries of all written comments and the commission's responses are contained in Appendix B, 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 June 13, 2013, before Chairman David W. Danner, Commissioner Jeffrey D. Goltz, and Commissioner Philip B. Jones. The commission heard oral comments from: David Meyer, representing Avista Corporation; Lou Walter, International Brotherhood of Electrical Workers, Local Union 77 (IBEW); David Warren, WPUDA; Tim Stearns, Evergreen State Solar Partnership, department of commerce (commerce); Mary Winke and Eric Anderson, PacifiCorp; Thad Culley, IREC; Michael O'Brien and Megan Decker, RNP; Lynne Dial, NWEC; Linda Irvine, NW SEED; and Lynn Logen, PSE.

17 The oral comments addressed three issues: Disconnect switches for Tier 1 systems, third-party ownership of net metering systems, and the commission's regulation of third-party owners of net metering systems. The investor-owned utility representatives also provided data concerning the level of net metering in their service territories.

III. DISCUSSION AND RESPONSE TO WRITTEN AND ORAL COMMENTS

18 Chapter 480-108 WAC requires electric utilities under commission jurisdiction to interconnect distributed generation facilities, including renewable energy such as small solar and wind, owned by a customer or located on a customer's property. Our task is to simplify and streamline the rules governing this service to advance Washington state's policies encouraging renewable energy, distributed generation, and net metering, while at the same time fulfilling our longstanding statutory obligation to ensure safe and reliable electric utility service for all customers at prices that are just and reasonable.[5] With that task in mind, we turn to the comments and recommendations we received regarding the proposed rules.

19 Commenters agree on the majority of the revisions to the rules, which are focused on streamlining and simplifying the process of applying to interconnect distributed generation with the electrical system. The commenters concentrate primarily on three substantive issues: Whether the commission should (1) require an external disconnect switch for Tier 1 systems in WAC 480-108-020 (3)(a)(iv), (2) address the ownership of net metering systems in WAC 480-108-010, and (3) address the commission's jurisdiction to regulate third-party owners of net metering systems as public service companies. We address each of these issues in detail below. In addition to these issues, commenters also raised several other issues for clarification and requested minor technical changes. A detailed summary of the comments and the commission's response to the issues raised in those comments is provided in Appendix B.

1. External disconnect switches are not required by the commission for Tier 1 inverter-based systems.

20 Utilities have traditionally required all generating facilities to have an external disconnect switch in order to protect worker safety. Line workers occasionally must come in close contact with an electric line. To prevent injury, line workers disconnect the line from the utility's grid, including the utility's generating stations. The customer's generating facility must also be disconnected. An external disconnect switch provides a physical switch that a line worker can turn to ensure that the customer's generating facility is not exporting power to the line.

21 Proposed WAC 480-108-040(20) requires any inverter used for interconnection to "be certified by an independent, nationally recognized testing laboratory to meet the requirements of [Underwriters Laboratories] 1741."[6] The Underwriters Laboratories standard requires that an inverter automatically shut off and stop the export of power when no other source of power is connected to the utility's grid.[7] Accordingly, after the worker disconnects the line from the utility's grid, the inverter will detect that no other source of power is present and automatically prevent the export of

power. Thus, inverters that meet the Underwriters Laboratories standard automatically perform the same function as a disconnect switch.

22 NW SEED commented that requiring a disconnect switch is obsolete and unnecessary.[8] Cascade Power Group said that the disconnect switch requirement is an appropriate issue for the Washington state department of labor and industries to address.[9] Mr. Stearns of commerce commented at the hearing that streamlining and standardizing interconnection practices is important to the development of distributed solar resources and that addressing line worker safety may be an issue of training rather than requiring disconnect switches.[10]

23 In written comments, Avista and the COU parties suggested that an external disconnect switch should be required unless the utility agrees otherwise.[11] In oral comments at the rule-making hearing, Avista clarified its position to mean the commission should not require a disconnect switch for Tier 1 systems.[12] At the hearing, Mr. Warren of WPUDA reiterated the comments of the COU parties, recommending that the language be changed to allow utilities to waive the requirement for Tier 1 systems.[13]

24 In written comments, PSE stated it "is not opposed to eliminating the requirement for a disconnect switch," but noted that the elimination of the disconnect switch requirement "will likely impact PSE's service restoration guarantee and its Service Quality Indices."[14] PSE said that it will address the impact of not installing a disconnect switch in its tariff.[15]

25 At the hearing, Mr. Walter of IBEW stated that to protect worker safety a disconnect switch should be required.[16] IBEW argued that relying on an inverter (a new computer technology) to disconnect a generating facility is not sufficient to guarantee safety.[17]

26 The proposed rule language in WAC 480-108-020 (2)(a)(iv) prohibits electrical companies from requiring a visible, lockable alternating current disconnect switch for small inverter-based systems, unless the Washington state department of labor and industries (LNI) requires a switch. The record in this docket, and our previous investigation into distributed generation, does not persuade us that worker safety requires a redundant disconnect switch on small inverter-based systems.[18] However, we defer in the rule to LNI, an agency dedicated to the safety, health and security of workers. LNI may determine that such a switch is required. In the absence of such a determination, a utility may not require a redundant disconnect switch for small inverter-based systems.

27 WAC 480-108-020 (2)(b)(ix), requires a disconnect switch for larger systems that qualify for Tier 2 procedures, but allows the utility to waive this requirement for inverter-based systems. The commission inadvertently removed any reference to a Tier 2 disconnect switch in the proposed rules circulated with the CR-102 notice on April 17, 2013. Accordingly, we will restore the provision in WAC 480-108-BBB (2)(b)(ix) from the February 5, 2013, draft, but modify the language so as not to require a specific placement of the switch. A utility may specify the placement of the switch in its interconnection agreement or tariff. This language is included in paragraph 48 of this order.

2. The third-party ownership of net metering systems is permissible under RCW 80.60.010.

28 Net metering is a program that "encourage[s] private investment in renewable energy resources" by allowing electric utilities to provide a bill credit for certain types of power produced on a customer's property.[19] Power produced from a small fuel cell, cogeneration, or renewable energy system qualifies for the program, which is most commonly used by homeowners who install rooftop solar panels.[20] The homeowner is often called the "host customer" or "customer-generator" because she hosts the power generating system, and we adopt this terminology for use in this order. The question presented in this rule making is whether a host customer must own the power generating facility located on her property in order to qualify for the net metering program, or whether a third party may own the facility. We first examine this question and then respond to several specific concerns regarding our resolution of this issue.

29 NWEC, RNP, and NW SEED argue in written and oral comments that third-party ownership is permissible under the state's net metering statute and express support for the definitions of "interconnection customer" and "third-party owner" in the proposed rule.[21] Mr. Culley of IREC recommends the commission clarify that third-party ownership is allowed under the net metering statutes.[22] Mr. Stearns of commerce states that the commission's proposed rules would promote clarity in the law.[23]

30 In written comments, PacifiCorp suggests that third-party ownership is not authorized by, and may not be legal under, Washington law.[24] Avista originally commented that the legislative process is the best setting for resolving this question,[25] but at the rule-making hearing recommended that the commission address the issue of third-party ownership in the rule making and expressed support for the definitions of "interconnection customer" and "third-party owner" in the proposed rules.

31 The COU parties requested the commission remove all references to third-party ownership, launch an investigation into the issue, and open a new docket for net metering rules.[26] Alternatively, the COU parties requested that this rule making include an investigation into the issue of third-party ownership.[27] During the rule-making hearing, Mr. Warren repeated the concerns expressed in written comments, opposing the interpretation of "interconnection customer" in the proposed rules and arguing that by allowing third-party owners, the proposed rule would expand the meaning of "customer-generator" in the net metering statute to include both a host customer and a generator.[28]

32 Our review of Washington's net metering statutes, as currently enacted, leads us to conclude they allow third parties to own net metering systems. The statute provides two definitions that guide our interpretation of the net metering program's requirements. First, RCW 80.60.010 defines the types of power-generating facilities that qualify for the program:

"Net metering system" means a fuel cell, a facility that produces electricity and used and useful thermal energy from a common fuel source, or a facility for the production of electrical energy that generates renewable energy, and that:

(a) Has an electrical generating capacity of not more than one hundred kilowatts;

(b) *Is located on* the customer-generator's premises;

(c) Operates in parallel with the electric utility's transmission and distribution facilities; and

(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.[29]

33 This provision only specifies certain requirements, including the type, size, location, and use of a net metering system. The law requires that the system be located on the customer-generator's property, but does not require the system be owned by the customer-generator.

34 Second, the statute requires an electric utility to "offer to make net metering available to eligible customers-generators."[30] "Customer-generator" is further defined as "*a user of* a net metering system."[31] The meaning of "user" is not synonymous with the meaning of "owner," suggesting that a customer can "use" a system owned by a third party. Similar to the definition of net metering system discussed above, there is no requirement in statute that a customer-generator own the net metering system.

35 Additionally, RCW 80.60.010 uses the term "owned" or "owned by" three times in other definitions, indicating that as a matter of statutory construction the legislature appreciated the difference between the concepts of ownership and use when drafting the definitions of "customer-generator" and "net metering system."[32] Therefore, we interpret the statutes to mean that the net metering program, as defined in chapter 80.60 RCW, is open to a customer-generator using a net metering system owned by a third party.

36 Several commenters ask the commission to delay this rule making to investigate further the commission's authority to allow third-party ownership. We decline to do so. RCW 80.60.040(2) allows the commission to "adopt by regulation additional safety, power quality, and interconnection requirements for customer-generators." We embrace our responsibility under the net metering statute and the Administrative Procedure Act, chapter 34.05 RCW, to clarify through rule the meaning of laws we have the authority to administer. Accordingly, this rule addresses net metering in several places and has since the rule was first adopted in 2006. As there are no separate net metering rules, the interconnection rules are an appropriate place to address the third-party ownership of net metering systems.

37 Further, there is no reason to delay this rule making to conduct further inquiry into the issue of whether third parties may own net metering systems. Beginning in Docket UE-110667, the commission since 2011, has closely examined the question of third-party ownership. The commission received extensive comments on the issue in the distributed generation docket, resulting in the distributed generation report, and in this docket leading up to this rule. A complete record on this question of third-party ownership, including multiple rounds of comments, is available in this docket.[33] While some issues remain related to the third-party ownership of net metering systems, the definitions in the proposed rules address only whether third-party ownership is allowed under the current statute. Further investigation is unlikely to raise any new issues or arguments related to this narrow issue.[34]

38 Finally, we address other concerns raised by commenters. Cascade Power Group and PSE raised concerns about the rule's definition of "third-party owner." Cascade Power Group disagrees with the definition of "third-party owner," preferring that it participate in a business relationship with the utility.[35] Cascade Power Group also asks that the definition make clear that a third-party owner is allowed to resell electricity produced from a net metering facility.[36]

39 We decline to make any changes along the lines suggested by Cascade Power Group because the resale of power may implicate federal jurisdiction. One purpose of this rule is to interpret chapter 80.60 RCW to clarify that a third-party owner may legally provide power to a host customer on whose property a net metering system is located. The host customer may export power to the grid pursuant to a legal net metering arrangement.[37] The definition of third-party owner in the proposed rule, as modified in paragraph 47 below, excludes a person who resells power produced by the net metering system to a person who is not the customer-generator.

40 In written and oral comments, PSE noted that the definition of "interconnection customer" allows a customer to purchase power from a third-party owner, and the definition of "third-party owner" may be in conflict with this provision by prohibiting a utility from allowing a third-party owner to resell electricity produced from a net metering system.[38] PSE recommended the commission delete the last sentence of the definition of "third-party owner" to eliminate this potential conflict.[39]

41 The commission does not believe there is a conflict between the two definitions, as a third-party owner is selling, not reselling, power to a customer-generator. Nevertheless, one purpose of these rules is to eliminate ambiguity in the interpretation of the state's net metering statutes. So while we believe there is no conflict between the definitions, we modify the last sentence of the definition of "third party owner" to read: "A third-party owner does not resell the electricity produced from a net metered generating facility." We identify this language change below in paragraph 47. By making this modification, we exclude from the definition of "third-party owner" one who resells electricity produced from a net metering system. This rule *does not* authorize a customer-generator to accept power from a person who resells electricity, or provide power to a person who is not the incumbent electrical company.

42 In sum [summary], the plain language of the statute allows a third party to own a net metering system, the commission has the authority to interpret the statute through this rule, and the definitions in the rule are carefully crafted to comply with the law.

3. Commission jurisdiction to regulate third-party owners as "public service companies."

43 In written comments, RNP and NW SEED, jointly, and NW Energy Coalition urged the commission to signal in this order that a third-party owner, in factual circumstances described in the comments, would not be subject to regulation as a public service company.[40] The COU parties recommended that the commission regulate third-party owners of net metering systems.[41] After receiving these comments, the commission issued a notice requesting further discussion of

this issue at its rule adoption hearing on June 13, 2013. At the hearing, David Warren, representing WPUDA, repeated the COU parties' arguments that the commission to [too] should regulate third-party owners of net metering systems.[42] David Meyer for Avista Corporation, Thad Culley for IREC, and Michael O'Brien and Megan Decker for RNP, asked the commission to use its adoption order to clarify that third-party owners are not subject to commission jurisdiction.[43]

44 We are authorized and encouraged under RCW 34.05.230(1) to advise the public of our "current opinions, approaches and likely courses of action by means of interpretive or policy statements." We construe the joint request by RNP and NW SEED as one to issue an interpretive statement on this issue, and we grant this request. We will issue an interpretive statement on this issue in a separate order.

IV. COMMISSION ACTION

45 After considering all of the information and comments regarding this proposal, the commission finds and concludes that it should repeal and amend the rules as proposed in the CR-102 at WSR 13-09-054, subject to the modifications discussed in this order.

46 **CHANGES FROM PROPOSAL:** After reviewing the entire record, the commission adopts the CR-102 proposal with the minor changes from the text noticed at WSR 13-09-054. We adopt the rule as presented below, with the minor changes italicized. These changes clarify the meaning of the rule and respond to comments, as discussed above and in Appendix B.

47 For clarity in the rule and pursuant to comments received, the commission removes the definitions of "Grid network distribution system," "In-service date," "Model interconnection agreement," "PURPA qualifying facility," and "Spot network distribution system," which are not used in the chapter, and modifies the following definitions in WAC 480-108-010:

"Interconnection customer" means the person, corporation, partnership, government agency, or other entity that proposes to interconnect, or has executed an interconnection agreement with the electrical company. *The interconnection customer must:*

(a) Own a generating facility interconnected to the electric system;

(b) *Be* a customer-generator of net-metered facilities, as defined in RCW 80.60.010(2); or

(c) Otherwise *be authorized to interconnect* by law.

The interconnection customer is responsible for the generating facility, and may assign to another party responsibility for compliance with the requirements of this rule only with the express written permission of the electrical company. A net metered interconnection customer may lease *a generating facility* from, or purchase power from, a third-party owner of an on-site generating facility.

"Net metering," *as defined in RCW 80.60.010*, means measuring the difference between the electricity supplied by an electrical company and the electricity generated by a generating facility that is fed back to the electrical company over the applicable billing period.

"Network protectors" means devices installed on a ~~*spot*~~ network distribution system designed to detect and interrupt reverse current-flow (flow out of the network) as quickly as possible, typically within three to six cycles.

"Point of common coupling" ~~or "PCC"~~ means the point where the generating facility's local electric power system connects to the electric system, such as the electric power revenue meter or at the location of the equipment designated to interrupt, separate or disconnect the connection between the generating facility and electrical company. The point of common coupling is the point of measurement for the application of Institute of Electrical and Electronics Engineers standard (IEEE) 1547.

"Third-party owner" means an entity that owns a generating facility located on the premises of an interconnection customer and has entered into a contract with the interconnection customer for provision of power from the generating facility. When a third-party owns a net-metered generating facility, the interconnection customer maintains the net metering relationship with the electrical company. A third-party owner *does not* resell the electricity produced from a net metered generating facility.

48 Throughout this rule making, the commission intended to require a disconnect switch for larger systems that qualify for Tier 2 procedures but allow the utility to waive this requirement for inverter-based systems. The commission inadvertently removed this reference to a Tier 2 disconnect switch in the proposed rules noticed on April 17, 2013. For this reason, and for additional clarifications, the proposed WAC 480-108-020 is modified as follows:

(1) **Applicability.** (a) **Tier 1.** Interconnection of a generating facility will use Tier 1 processes and technical requirements if the proposed generating facility meets all of the following *criteria*:

* * *

(2) **Technical requirements.*** * * (b) **Tier 2.** * * *

(ix) Disconnect switch.

(A) Except as provided in subsections B, C, and D of this subsection, the generating facility must include a visible, lockable AC disconnect switch. The electrical company shall have the right to disconnect the generating facility at a UL listed disconnect switch to meet electrical company operating safety requirements.

(B) An electrical company may waive the visible, lockable disconnect switch requirement for an inverter-based system.

(C) To maintain electrical company operating and personnel safety in the absence of an external disconnect switch, the interconnection customer shall agree that the electrical company has the right to disconnect electric service through other means if the generating facility must be physically disconnected for any reason, without liability to the electrical company. These actions to disconnect the generating facility (due to an emergency or maintenance or other condition on the electric system) will result in loss of electrical service to the customer's facility or residence for the duration of time that work is actively in progress. The duration of outage may be longer than it would otherwise have been with an AC disconnect switch.

(D) In the absence of an external disconnect switch, the interconnection customer is required to operate and maintain the inverter in accordance with the manufacturer's guide-

lines, and retain documentation of commissioning. In the absence of such documentation the electric company may, with 5 days' notice and at the interconnection customer's expense, test or cause to be tested the inverter to ensure its continued operation and protection capability. The person that tests the inverter shall provide documentation of the results to both the electrical company and the interconnection customer. Should the inverter fail the test, the electric company may disconnect the generating facility, and require the interconnection customer to repair or replace the inverter. The cost of any such repair or replacement required by the electric company shall be the sole responsibility of the interconnection customer.

49 For clarification and to correct an inadvertent error, the commission modifies the proposed WAC 480-108-030 as follows:

(8)(b)(iv) ***Initial* operation.** An interconnection customer must interconnect and operate the generating facility within one year from the date of approval of the application, or the application expires, unless the electrical company, in its sole discretion, grants an extension in writing.

(9) **Tier 2 application timeline.**

(a) **Notice of receipt.** Notice of receipt of an application and application fee shall be sent by the electrical company to the interconnection customer within five business days.

(b) **Notice of complete application.** (i) The electrical company shall notify the interconnection customer if the application is complete or incomplete, and if incomplete specifying any deficiencies, within *ten* business days after notice of receipt of application.

* * *

(e) ***Initial* operation.** An interconnection customer must interconnect and operate the generating facility within one year from the date of approval of the application, or the application expires, unless the electrical company, in its sole discretion, grants an extension in writing.

(10) **Tier 3 application timeline.**

* * *

(e) An interconnection customer must execute an interconnection agreement, and simultaneously pay any deposit required by the electrical company not to exceed fifty percent of the estimated costs to complete the interconnection, within thirty business days from the date of approval of the final application. *At the electrical company's discretion, an extension may be granted in writing.* If the electrical company must upgrade or construct new electric system facilities, the interconnection customer must meet the credit requirements of the electric company prior to the start of construction.

(f) Initial operation. An interconnection customer must begin operation of the generating facility within two years of the effective date of the interconnection agreement, or both the application and subsequent interconnection agreement expire. At the electrical company's discretion, an extension may be granted in writing.

50 For clarification and to maintain consistency with the previously enacted rule, the commission modifies proposed WAC 480-108-040(16) as follows:

Chapter 80.60 RCW limits the total capacity of generation for net metering. However, the electrical company may restrict or prohibit new or expanded net metered systems on any feeder, circuit or network if engineering, safety, or reliability studies *establish the need for a restriction or prohibition*.

51 The commission modifies, for clarification, proposed WAC 480-108-080(5) as follows:

Tier 3 alternative interconnection service tariff. If an electrical company demonstrates that the small generator interconnection provisions will impair service adequacy, reliability or safety or will otherwise be incompatible with its electric system, the electrical company may file a Tier 3 alternative interconnection service tariff. An alternative interconnection service tariff must meet the following requirements *and be consistent with all provisions of this chapter*:

* * *

52 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that WAC 480-108-001, 480-108-005, 480-108-010, 480-108-015, 480-108-020, 480-108-030, 480-108-040, 480-108-050, 480-108-080, 480-108-110, 480-108-120, and 480-108-999 should be amended to read as set forth in Appendix A, as rules of the commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

53 After reviewing the entire record, the commission determines that WAC 480-108-035, 480-108-055, 480-108-060, 480-108-065, 480-108-070, and 480-108-090 should be repealed as rules of the commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 12, Repealed 6.

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.

V. ORDER

THE COMMISSION ORDERS:

54 (1) The commission amends WAC 480-108-001, 480-108-005, 480-108-010, 480-108-015, 480-108-020, 480-108-030, 480-108-040, 480-108-050, 480-108-080, 480-108-110, 480-108-120, and 480-108-999 to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

55 (2) The commission repeals WAC 480-108-035, 480-108-055, 480-108-060, 480-108-065, 480-108-070, and 480-108-090 as rules of the Washington utilities and transporta-

tion commission, to take effect pursuant to RCW 34.05.380 (2) on the thirty-first day after filing with the code reviser.

56 (3) This order and the rule set out below, after being recorded in the order 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.

1 WSR 06-07-017.

2 WSR 07-20-059.

3 *Study of the Potential for Distributed Energy in Washington State,* Docket UE-110667, Report on the Potential for Cost-Effective Distributed Generation in Areas Served by Investor-Owned Utilities in Washington State (October 7, 2011) (hereinafter "Distributed Generation Report").

4 *Id.* at 11-19.

5 RCW 80.60.005 ("The legislature finds that it is in the public interest to: (1) Encourage private investment in renewable energy resources; … and (3) Enhance the continued diversification of the energy resources used in this state."); RCW 19.285.010 *et seq.* (requiring the state's largest electric utilities to procure fifteen percent of their energy from renewable sources by 2020, and providing an incentive for distributed generation resources); RCW 19.280.030 (1)(d) (requiring an electric utility to determine the value of certain transmission and distribution costs in its integrated resource plan); chapter 80.80 RCW (setting a greenhouse gas performance standard that prohibits the use of certain polluting power plants); RCW 82.16.110 *et seq.* (providing tax incentives for certain types of distributed generation); RCW 80.28.020 ("the commission shall determine the just, reasonable, or sufficient rates, charges, regulations, [and] practices" of electrical companies); RCW 80.28.010(2) (every electrical company shall provide services that are "safe, adequate and efficient, and in all respects just and reasonable.")

6 Power produced by renewable energy systems is direct current electricity, while the utility's grid and household appliances use alternating current electricity. An inverter converts direct current electricity to alternating current electricity.

7 *See, i.e.*, Comments of the Interstate Renewable Energy Council on the Utilities and Transportation Commission's Proposed Rulemaking on Generator Interconnection Procedures, at 9-11 (January 30, 2012).

8 May 16, 2013, letter from Jennifer Grove and Linda Irvine, at 1.

9 May 17, 2013, letter from Chuck Collins, at 4.

10 Tim Stearns for Commerce, TR 27:16-28:12.

11 May 17, 2013, letter from Linda Gervais, at 2-4; May 20, 2013, letter from David Warren, *Richard* Damiano, Kent Lopez, and Holly Dohrman (hereinafter "COU Parties Letter"), at 1.

12 David Meyer for Avista, TR 9:21-10:10.

13 David Warren for WPUDA, TR 23:17-24.

14 May 14, 2013, letter from Kenneth S. Johnson, at 3.

15 *Id.*

16 Lou Walter for IBEW, TR 13:25-14:3.

17 Lou Walter for IBEW, TR 13:20-14:3.

18 *See i.e.*, Comments of the Interstate Renewable Energy Council on the Utilities and Transportation Commission's Proposed Rulemaking on Generator Interconnection Procedures, at 9-11 (January 30, 2012); Distributed Generation Report, 16-18.

19 RCW 80.60.005; RCW 80.60.010 (10)(a).

20 RCW 80.60.010(10).

21 May 17, 2013, letter from Lynn Dial, at 1-2; May 17, 2013, letter from Megan W. Decker, Michael O'Brien, Jennifer Grove, and Linda Irvine, at 1.

22 Thad Cully [Culley] for IREC, TR 39:25-40:3.

23 Tim Stearns for Commerce, TR 68:6-8.

24 PacifiCorp raised this concern in written comments submitted on December 21, 2012. These earlier comments are incorporated by reference into PacifiCorp's May 17, 2013, comments.

25 May 17, 2013, letter from Linda Gervais, at 5. On May 16, 2013, Members of the Washington Senate Energy, Environment, and Telecommunications Committee submitted a letter making similar comments, asking the commission to omit references to third-party ownership in the rule.

26 May 20, 2013, COU Parties Letter, at 2-3.

27 *Id.* at 3.

28 David Warren for WPUDA, TR 52:10-54:21.

29 RCW 80.60.010(10) (emphasis added).

30 RCW 80.60.020 (1)(a).

31 RCW 80.60.010(2) (emphasis added).

32 The legislative history of this chapter does not address the third-party ownership of net metering systems.

33 The commission solicited written comments five times in this docket. In response to four of these solicitations, we received substantive comments from stakeholders regarding third-party ownership issues.

34 The COU Parties Letter requests that the commission delay its rule making due to COU parties' recent discovery that Germany is installing smart inverters. We agree that smart inverters are worthy of consideration and note that the Federal Energy Regulatory Commission's (FERC) is currently addressing this issue a [in] rule making. *Small Generator Interconnection Agreements and Procedures*, FERC Docket No. RM13-2-000. The commission may choose to open an investigation into smart inverters at a later date, including whether to modify these rules to address smart inverter issues. However, as noted above, we do not wish to delay further the adoption of these rules.

35 May 17, 2013, letter from Chuck Collins, at 3.

36 *Id.*

37 FERC determined that a net metering arrangement does not normally constitute a sale of electricity. *MidAmerican*, 94 FERC ¶ 61,340, 62,262-63 (2001). Thus, the export of power from a net metering system owned by a third party is not a resale of power. *Sun Edison LLC*, 129 FERC ¶ 61,146, 61,621 (2009) ("We agree that, where the [customer-generator] does not, in turn, make a net sale to a utility, the sale of electric energy by [the third-party owner] to the [customer-generator] is not a sale for resale, and our jurisdiction under the [Federal Power Act] is not implicated."). We do not intend this rule to prevent an electrical company from accepting power exported by a net metering system.

38 Lynn Logen for PSE, TR 104:10-105:15.

39 May 14, 2013, letter from Kenneth S. Johnson, at 2.

40 May 17, 2013, letter from Megan W. Decker, Michael O'Brien, Jennifer Grove, and Linda Irvine; May 17, 2013, letter from Lynn Dial.

41 COU Parties Letter, at 2.

42 David Warren for WPUDA, TR 113:18-19.

43 David Meyer for Avista Corporation, TR 76:25-77:3; Thad Culley for IREC, TR 90:12-14; Megan Decker for RNP, TR 96:1-23.

DATED at Olympia, Washington, July 18, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

David W. Danner, Chairman
Philip B. Jones, Commissioner
Jeffrey D. Goltz, Commissioner

Appendix A
Chapter 480-108 WAC Amended Rules

Appendix B
May 17, 2013, Comment Summary and Commission Response

Interconnection Rule Making
Docket UE-112133
Comment Summary - May 17, 2013

WAC 480-108/ Topic	Commenter	Comment	Response
Major Issues			
010 Third party ownership	Avista; Washington Senate Energy, Environment, and Telecommunications Committee	Avista and the senate committee members comment that the legislative process is the best setting for this policy-making discussion. The committee members urge the commission to omit references to third-party ownership from the rule.	The state net metering statutes, as currently enacted, allow third parties to own net metering systems. RCW 80.60.010 defines a "customer-generator" as a "user", not as an "owner" of a net metering system. The commission believes it is an appropriate role for an agency to interpret statutes through rule making. The commission has no separate net metering rules, thus chapter 480-108 WAC is an appropriate place to address this issue, as the rule currently addresses net metering in several places.
	NW Energy Coalition, RNP and NW SEED	Commenters support the inclusion of third-party ownership in this rule. The NW Energy Coalition suggests that including third-party ownership in this rule is not "premature" as members of the state senate suggest.	
	RNP and NW SEED; NW Energy Coalition; COU parties[1]	RNP and NW SEED, and NW Energy Coalition urge the commission to use its rule adoption order to signal that a third-party owner, in factual circumstances described in the comments, would not be subject to regulation as a public service company. COU Parties urge the commission to regulate third-party owners of net metering systems.	The commission heard comments at the adoption hearing on this issue. IREC submitted a legal memo on September 29, 2011, in a prior docket regarding distributed generation, UE-110667, arguing that third-party owners are not subject to UTC jurisdiction.
	Cascade Power Group and PSE	PSE is concerned that the definition of "third-party owner" prohibits a utility from allowing a third-party owner to resell electricity produced from a net metered system. PSE suggests minor edits to the definition of "third-party owner." Cascade Power disagrees that a third-party owner may not resell electricity produced from a net metered facility. Cascade Power thinks the third-party owner and the utility should have a business relationship.	The commission does not believe there is a conflict between the two definitions, as a third-party owner is selling, not reselling, power to a customer-generator. Nevertheless, one purpose of these rules is to eliminate ambiguity in the interpretation of the state's net metering statutes. Thus, we modify the last sentence of the definition of "third-party owner" to read: "A third-party owner does not resell the electricity produced from a net metered generating facility." By making this modification, we exclude from the definition of "third-party owner" one who resells electricity produced from a net metering system. One purpose of this rule is to interpret chapter 80.60 RCW to clarify that a third-party owner may legally provide power to a host customer on whose property a net metering system is located. The host customer may export power to the grid pursuant to a legal net metering arrangement. The definition of third-party owner in the proposed rule, as modified by this order, excludes a person that resells power produced by the net metering system to a person who is not the customer-generator.

WAC 480-108/ Topic	Commenter	Comment	Response
	COU parties	The COU parties request the commission remove all references to third-party ownership, launch an investigation into the issue, and open a new docket for net metering rules. Alternatively, the COU parties request that this rule making include an investigation into the issue of third-party ownership. The COU parties request the commission delay the rule making and launch an investigation into smart inverters.	The commission is thoroughly familiar with the issue of the third-party ownership of net metering systems. Beginning with our investigation of distributed generation in Docket UE-110667, the commission has closely examined this question concerning third-party ownership. Over the last two years, we received extensive comments on the issue in the distributed generation docket and this rule-making docket. A complete record on this question of third-party ownership, including multiple rounds of comments, is available in this docket. The commission does not wish to delay its rule making at this time. The commission may choose to open an investigation into smart inverters at a later date, as well as whether to modify the rules to address smart inverter issues.
	PSE	Add "or" in between subsection (1) and subsection (2) of the definition of interconnection customer.	To add clarity, this sentence is broken into two [parts] and subsection (c) is modified to be grammatically correct. The list is separated by "or" in between (b) and (c), thus adding another "or" in between (a) and (b) is unnecessary.
020 (2)(a)(iv) Disconnect switch	Avista, COU parties	A disconnect switch should be required unless the utility agrees that a switch is not required.	The commission intends these rules to promote the adoption of distributed generation and reduce the cost of interconnecting distributed generation facilities. Accordingly, the proposed rule prohibits electrical companies from requiring a visible, lockable AC disconnect switch in Tier 1 systems (inverter-based systems up to 25 kW), unless L&I requires a switch. The record in this docket, including the use of inverters in other states, does not persuade the commission that worker safety requires a redundant disconnect switch on the small inverter-based systems in Tier 1. Through this rule, the commission defers this decision to L&I, an agency dedicated to the safety, health and security of workers that is well positioned to make this determination. The commission removed any reference to a Tier 2 disconnect switch in the April 17, 2013, proposed rules. The provision in WAC 480-108-BBB (2)(b)(ix) from the February 5, 2013, draft will be restored in the proposed rules, but modified to not require a specific placement of the switch. A utility may specify the placement of the switch in its tariff.
	Cascade Power Group	The disconnect switch requirement is an appropriate issue for the department of labor and industries (L&I).	
	NW SEED	Requiring a disconnect switch is obsolete and unnecessary.	
	PSE	PSE "is not opposed to eliminating the requirement for a disconnect switch." The elimination of the disconnect switch requirement "will likely impact PSE's service restoration guarantee and its Service Quality Indices." PSE will address the impact of not installing a disconnect switch in its tariff.	
030 (1)(b) Voltage	Cascade Power Group	Allow a generator to operate at higher voltages, or prevent the utility from operating in conditions that limit the probability of the generator to export power.	After careful consideration of the concerns raised in comments filed on March 5, 2013, the commission revised the voltage requirement to include a standard notification to interconnection customers. The commission encourages interconnection customers that experience high voltage or voltage irregularities to work with their electrical company to resolve the problem. If an electrical company and interconnection customer are unable to resolve a voltage issue, the customer should contact the commission for assistance.
Other Issues			
010 Nameplate capacity	PSE	PSE is concerned that the definition of "Nameplate capacity" allows an interconnection customer to replace the inverter and inappropriately increase the size of its system. PSE will address this issue in its revised tariff.	Using an inverter with a nameplate capacity larger than the size approved by the electrical company in the interconnection agreement is a violation of this chapter. Under WAC 480-108-040 (9)(a)(iii), an electrical company may disconnect "a generating facility [that] does not operate in a manner consistent with this chapter or an approved tariff."
010	Tacoma Power	Tacoma Power suggests a minor modification to the definition of "network protectors" and deleting the unused definitions of "spot network distribution system" and "grid network distribution system."	The proposed changes are included. The commission will also delete the unused definitions of "in-service date," "model interconnection agreement," and "PURPA qualifying facility" as these terms are not used in the chapter.

WAC 480-108/ Topic	Commenter	Comment	Response
020 (2)(b) Technical requirements	PSE	"[A] new provision that allows the interconnection of a generator of up to 50 kW to a single-phase electric system has been added. The Company has not had time to evaluate the impacts of these new changes."	No new provisions were added to WAC 480-108-020 (2)(b) in the proposed rules circulated on April 17, 2013.
020 Radial distribution circuit	Tacoma Power	Tacoma Power recommends adding the following language to the Tier 1 applicability requirements so that Tier 1 and Tier 2 applications have the same restrictions: "The aggregate nameplate capacity of all inverter-based systems must not exceed the smaller of five percent of a spot network's maximum load or 50 kW."	Tacoma Power's recommendation is reasonable because it incorporates a provision equivalent to one found in the Tier 2 standards and FERC's Small Generator Interconnection Agreement. The commission nonetheless declines to make the change at this late date.
030(7) Queue timeline	PacifiCorp	Change the date that a project enters the queue from the date that the utility sends a notice of complete application to the date the utility sends a notice of application receipt.	PacifiCorp's suggestion could allow an interconnection customer who submits an incomplete application to be placed in a more advantageous queue position than a similarly situated person who originally submitted a complete application. Thus, the commission declines to make this change.
030 (9)(b)(i) Tier 2 timeline	Inadvertent error	The wrong number of days for the notice of complete application in Tier 2 was inadvertently included in the proposed rules.	As requested by the utilities, timelines are standardized when possible. For all tiers, utilities shall send a notice of complete or incomplete application within ten business days after a notice of receipt of application is sent.
030 (10)(c)(iii)(A) Cost allocation	Avista	Add "replacement" to the list of costs that an interconnection customer must pay for when a utility adds facilities to its electric system that are dedicated solely to the interconnection customer's use.	The commission declines to make this substantive change to the rule at this late stage in the rule-making process. Other parties have not had the opportunity [to] respond to this proposal regarding replacement costs. The proposed language is not included in the current rule, the model rules, or FERC's Small Generator Interconnection Agreement.
030 (10)(c)(iii)(B) Cost disputes	PacifiCorp	Remove the provision allowing a customer to provide an "alternative cost estimate from a third-party qualified to perform the studies required."	The subsection in question is available to customers under the current rules, and provides a consumer protection function should a utility drastically overestimate the time or cost of required studies. Under the current rules, the utility and the interconnection customer must come to an agreement on the cost and timeline for performing any required studies, and if no agreement can be reached, the commission's normal dispute resolution procedures are available. In other states, the timing and cost of system impact studies have been sources of disagreement between interconnection customers and utilities. The commission hopes that such disputes do not become common in this state, but retains this consumer protection provision in the event such disputes do arise.
040(16)	Inadvertent error	WAC 480-108-040(11) currently reads: "The electrical company also may restrict or prohibit new or expanded interconnected generation capacity on any feeder, circuit or network if engineering, safety or reliability studies establish a need for restriction or prohibition." In the proposed rule, the commission inadvertently changed the language [to] allow restrictions "supported by" engineering, safety or reliability studies.	The commission retains the intent of the current rule by reverting to the original language that requires studies to "establish" a need for the restriction or prohibition.

1 Washington Public Utility Districts Association, Washington Rural Electric Cooperative Association, Inland Power and Light, and Klickitat PUD submitted joint comments on May 22, 2013, identifying themselves as the COU parties.

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-001 Purpose and scope. (1) ((~~The purpose of~~)) This chapter ((~~is two-fold:~~

~~(a) Part 1 of this chapter~~)) establishes rules for:

(a) Determining the charges, terms and conditions governing the interconnection of customer-owned electric generating facilities with a nameplate generating capacity of no more than ((~~300 kilowatts (kW)~~)) 20 megawatts (MW) to the electric system of an electrical company over which the commission has jurisdiction.

(b) ((~~Part 2 of this chapter establishes rules~~)) Requiring each electrical company to file interconnection service tariffs for interconnection of some electric generating facilities ((~~with a nameplate generating capacity greater than 300 kW but no more than 20 megawatts (MW)~~)) to the electric system of an electrical company over which the commission has jurisdiction. The terms and conditions in such interconnection service tariffs must be either equivalent in all procedural and technical respects with the electrical company's interconnection service offered under its open access transmission tariff approved by the Federal Energy Regulatory Commission, or they must ((~~comply with a specified set of requirements set out in WAC 480-108-090~~)) be consistent with this chapter.

(2) These rules are intended:

(a) To be consistent with the requirements of chapter 80.60 RCW, Net metering of electricity;

(b) To comply with Section 1254 of the Energy Policy Act of 2005, Pub. L. No. 109-58 (2005) that amended section 111(d) of the Public Utility Regulatory Policy Act (PURPA) relating to Net Metering (subsection 11) and Interconnection (subsection 15)((~~; and~~

~~(c) To promote the purposes of RCW 82.16.120 (effective July 1, 2005)~~)).

(3) This chapter governs the terms and conditions under which an interconnection customer's generating facility, including without limitation net-metered facilities, will interconnect with, and operate in parallel with, the ((~~electrical company's~~)) electric system. This chapter does not govern the settlement, purchase or delivery of any power generated by an interconnection customer's net-metered or production-metered generating facility.

(4) This chapter does not govern interconnection of, or electrical company services to, PURPA qualifying facilities pursuant to chapter 480-107 WAC.

(5) This chapter does not govern standby generators designed and used only to provide power to the customer when ((~~the local electric distribution~~)) electrical company service is interrupted and that operate in parallel with the electric ((~~distribution company~~)) system for less than 0.5 seconds both to and from emergency service.

(6) The specifications and requirements in these rules are intended to mitigate possible adverse impacts caused by a generating facility on electrical company equipment and personnel and on other customers of the electrical company. They are not intended to address protection of the interconnection customer's generating facility, facility personnel, or internal load. It is the responsibility of the interconnection customer to comply with the requirements of all appropriate standards, codes, statutes and authorities to protect its own facilities, personnel, and loads.

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-005 Application of rules. (1) ((~~The rules in~~)) This chapter ((~~apply~~)) applies to any electrical company ((~~that is~~)) subject to commission jurisdiction under RCW 80.04.010 and chapter 80.28 RCW. ((~~These rules~~)) This chapter also ((~~include various~~)) includes eligibility and other requirements applicable to existing or potential interconnection customers.

(2) This chapter governs interconnections subject to the jurisdiction of the commission and does not govern interconnections subject to the jurisdiction of the Federal Energy Regulatory Commission.

(3) The tariff provisions filed by electrical companies must conform to these rules. If the commission accepts a tariff that conflicts with these rules, the acceptance does not constitute a waiver of these rules unless the commission specifically approves the variation consistent with WAC 480-100-008.

(4) Electrical companies shall modify existing tariffs, if necessary, to conform to these rules. This includes, but is not limited to, tariffs implementing chapter 80.60 RCW, Net metering of electricity.

(5) Disputes that arise under this chapter will be addressed in accordance with chapter 480-07 WAC. Any existing or potential interconnection customer may ask the commission to review the interpretation or application of these rules by an electrical company by making an informal complaint under WAC 480-07-910, Informal complaints, or by filing a formal complaint under WAC 480-07-370, Pleadings—General.

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-010 Definitions. "Application" means the written notice as defined in WAC 480-108-030 that the interconnection customer provides to the electrical company to ((~~initiate~~)) start the interconnection process.

"Business day" means Monday through Friday excluding official federal and state holidays.

"Certificate of completion" means the form described in WAC 480-108-050(2) that must be completed by the interconnection ((~~customer and the~~)) customer's electrical inspector ((~~having jurisdiction over the installation of the facilities~~)) and approved by the electrical company indicating completion of installation and inspection of the interconnection. ((~~As provided in WAC 480-108-050, the certificate of completion must be reviewed and approved, in writing, by the electrical company before the interconnection customer's generation facility may be connected and operated in parallel with the electrical company's electrical system.~~))

"Commission" means the Washington utilities and transportation commission.

"Electric system" means all electrical wires, equipment, and other facilities owned by the electrical company ((~~that are~~)) used to transmit electricity to customers.

"Electrical company" means any public service company, as defined by RCW 80.04.010, engaged in the generation, distribution, sale or furnishing of electricity and subject to the jurisdiction of the commission.

"Generating facility" means a source of electricity owned, or whose electrical output is owned, by the interconnection customer that is located on the interconnection customer's side of the point of common coupling, and all ancillary and appurtenant facilities, including interconnection facilities, which the interconnection customer requests to interconnect to the ((~~electrical company's~~)) electric system.

((~~**["]Grid network distribution system"** means electrical service from a distribution system consisting of two or more primary circuits from one or more substations or transmission supply points arranged such that they collectively feed secondary circuits serving more than one location and more than one electrical company customer.~~

~~**"Interconnection customer"** means the person, corporation, partnership, government agency, or other entity that owns and operates a generating facility interconnected or requested to be interconnected to the electrical company's electric system. The interconnection customer may assign to another party responsibility for compliance with the requirements of this rule only with the express written permission of the electrical company.~~))

"Initial operation" means the first time the generating facility ((~~is~~)) operates in parallel ((~~operation~~)) with the electric system.

((~~**"In-service date"** means the date on which the generating facility and any related facilities are complete and ready for service, even if the generating facility is not placed in service on or by that date.~~))

"Interconnection" means the physical connection of a generating facility to the electric system so that parallel operation may occur.

"Interconnection agreement" means an agreement between an electrical company and the interconnection customer which outlines the interconnection requirements, costs and billing agreements, insurance requirements, and ongoing inspection, maintenance, and operational requirements.

"Interconnection customer" means the person, corporation, partnership, government agency, or other entity that proposes to interconnect, or has executed an interconnection agreement with the electrical company. The interconnection customer must:

(a) Own a generating facility interconnected to the electric system;

(b) Be a customer-generator of net-metered facilities, as defined in RCW 80.60.010(2); or

(c) Otherwise be authorized to interconnect by law.

The interconnection customer is responsible for the generating facility, and may assign to another party responsibility for compliance with the requirements of this rule only with the express written permission of the electrical company. A net metered interconnection customer may lease a generating facility from, or purchase power from, a third-party owner of an on-site generating facility.

"Interconnection facilities" means the electrical wires, switches and other equipment owned by the electrical company or the interconnection customer and used to interconnect a generating facility to the electric system. Interconnection facilities are located between the generating facility and the point of common coupling. Interconnection facilities do not include system upgrades.

((~~**"Model interconnection agreement"** means a written agreement including standardized terms and conditions that govern the interconnection of generating facilities pursuant to this chapter. The model interconnection agreement may be modified to accommodate terms and conditions specific to individual interconnections, subject to the conditions set forth in these rules.~~))

"Islanding" means the condition that occurs when power from the electric system is no longer present and the generating facility continues exporting energy onto the electric system.

"Minor modification" means a physical modification to the electric system with a cost of no more than ten thousand dollars.

"Nameplate capacity" means the manufacturer's output capacity of the generating facility. For a system that uses an inverter to change DC energy supplied to an AC quantity, the nameplate capacity will be the manufacturer's AC output rating for the inverter(s). Nameplate capacities shall be measured in the unit of kilowatts.

"Net metering," as defined in RCW 80.60.010, means measuring the difference between the electricity supplied by an electrical company and the electricity generated by a generating facility that is fed back to the electrical company over the applicable billing period.

"Network protectors" means devices installed on a ((~~spot~~)) network distribution system designed to detect and interrupt reverse current-flow (flow out of the network) as quickly as possible, typically within three to six cycles.

"Parallel operation" or **"operate in parallel"** means the synchronous operation of a generating facility while interconnected with an ((~~electrical company's~~)) electric system.

"Point of common coupling" ((~~or **"PCC"**~~)) means the point where the generating facility's local electric power system connects to the ((~~electrical company's~~)) electric system, such as the electric power revenue meter or at the location of the equipment designated to interrupt, separate or disconnect the connection between the generating facility and electrical company. The point of common coupling is the point of measurement for the application of ((~~IEEE 1547, clause 4~~)) Institute of Electrical and Electronics Engineers standard (IEEE) 1547.

((~~**"PURPA qualifying facility"** means a generating facility that meets the criteria specified by the Federal Energy Regulatory Commission (FERC) in 18 C.F.R. Part 292 Subpart B and that sells power to an electrical company under chapter 480-107 WAC.~~

~~**"Spot network distribution system"** means electrical service from a distribution system consisting of two or more primary circuits from one or more substations or transmission supply points arranged such that they collectively feed a secondary circuit serving a single location (e.g., a large facility or campus) containing one or more electrical company customers.~~))

"System upgrades" means the additions, modifications and upgrades to the ((~~electrical company's electrical~~)) electric system at or beyond the point of common coupling necessary to ((~~facilitate the interconnection of~~)) interconnect the generating facility. System upgrades do not include interconnection facilities.

"Third-party owner" means an entity that owns a generating facility located on the premises of an interconnection customer and has entered into a contract with the interconnection customer for provision of power from the generating facility. When a third-party owns a net-metered generating facility, the interconnection customer maintains the net metering relationship with the electrical company. A third-party owner does not resell electricity produced from a net metered generating facility.

PART 1: INTERCONNECTION OF GENERATION FACILITIES ((~~WITH NAMEPLATE CAPACITY RATING OF 300 KW OR LESS~~)) UNDER TIER 1, TIER 2, OR TIER 3 PROCEDURES

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-015 Scope of Part 1. (1) The provisions in Part 1 of this chapter apply to interconnections, and to applications to interconnect, ((~~customer-owned~~)) generating facilities with a nameplate capacity ((~~rating~~)) of ((~~300 kW~~)) 20 MW or less to an ((~~electrical company's electrical~~)) electric system under this chapter. Interconnections fall within three categories - Tier 1, 2, and 3, which differ by capacity and complexity. This section defines the applicability and technical standards for these interconnection categories.

(2) This chapter facilitates the interconnection process for both the interconnection customer and the electrical company by classifying interconnections based on shared characteristics. As smaller facilities with appropriate interconnection technologies are expected to have a much lower impact on the electric system, expedited processes and standardized interconnection requirements are allowed for these interconnections. Larger generating facilities using different generating and interconnection technologies can have significant impacts on the electric system, such that more in-depth review is required and additional technical requirements may apply.

(3) Tiers 1, 2, and 3 listed below contain initial applicability tests that determine which tier process an interconnection customer and electrical company will use, along with process descriptions, technical requirements and completion criteria for each tier. Tier 3 facilities include a set of alternative service tariffs and other requirements. Additionally, all facilities must meet the appropriate requirements of this chapter, and the rules and standards adopted by reference in WAC 480-108-999.

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-020 Eligibility and technical ((~~standards for~~)) requirements for Tier 1, Tier 2, and Tier 3 interconnection. ((~~(1) General interconnection requirements.~~

~~(a) The interconnection of a generating facility with the electrical company's electric system, the modification of a generating facility that is currently interconnected to the electrical company's electric system, or the modification of an existing interconnection must meet all minimum technical specifications applicable, in their most current approved version, as set forth in WAC 480-108-999.~~

~~(b) Interconnection of a generation facility with a nameplate capacity rating of 300 kW or less must comply with all applicable requirements in Table 1.~~

~~**Table 1. 300 kW Capacity or Less.**~~

	~~Single Phase~~		~~Three Phase~~	
~~Feature~~	~~< 50 kW Inverter based~~	~~< 50 kW Noninverter based~~	~~< 300 kW Inverter based~~	~~< 300 kW Noninverter based~~
~~IEEE 1547 compliant~~	~~X~~	~~X~~	~~X~~	~~X~~
~~UL 1741 listed~~	~~X~~		~~X~~	
~~Interrupting devices (capable of interrupting maximum available fault current)~~	~~X (8)~~	~~X~~	~~X (8)~~	~~X~~
~~Interconnection disconnect device (manual, lockable, visible, accessible)~~	~~X (1)~~	~~X~~	~~X~~	~~X~~
~~System protection~~		~~X (3)(4)(6)~~		~~X (3)(4)(5)(6)~~
~~Over-voltage trip~~	~~X (8)~~	~~X~~	~~X (8)~~	~~X~~
~~Under-voltage trip~~	~~X (8)~~	~~X~~	~~X (8)~~	~~X~~
~~Over/under frequency trip~~	~~X (8)~~	~~X~~	~~X (8)~~	~~X~~
~~Automatic synchronizing check~~		~~X~~		~~X~~

	Single-Phase		Three-Phase	
Feature	< 50 kW Inverter-based	< 50 kW Noninverter based	< 300 kW Inverter-based	< 300 kW Noninverter based
Ground over-voltage or over-current trip for utility system faults				X (2)
Power factor		X (7)		X (7)

Notes:
X - Required feature (blank = not required).
(1) - Electrical company may choose to waive this requirement.
(2) - May be required by electrical company; selection based on grounding system.
(3) - No single point of failure shall lead to loss of protection.
(4) - All protective devices shall fully meet the requirements of American National Standards Institute C37.90.
(5) - Electrical company will specify the transformer connection.
(6) - It is the customer's responsibility to ensure that its system is effectively grounded as defined by IEEE Std. 142 at the point of common coupling.
(7) - Variance may be allowed based upon specific requirements per electrical company review. Charges may be incurred for losses.
(8) - UL 1741 listed equipment provides required protection.

(c) Any single or aggregated generating facility with a capacity greater than 50 kW requires a three-phase interconnection.

(d) The specification and requirements in this section are intended to mitigate possible adverse impacts caused by the generating facility on electrical company equipment and personnel and on other customers of the electrical company. The specifications and requirements in this section are not intended to address protection of the generating facility or its internal load, or generating facility personnel. The interconnection customer is responsible for complying with the requirements of all appropriate standards, codes, statutes, and authorities to protect its own facilities, personnel, and loads.

(e) The specifications and requirements in this section apply generally to the interconnection to an electrical company's electric system of customer-owned and operated electric equipment and any other facilities or equipment not owned by the electrical company to which interconnection agreement(s) apply throughout the period encompassing the interconnection customer's installation, testing and commissioning, operation, maintenance, decommissioning and removal of equipment. The electrical company may verify compliance at any time, with reasonable notice.

(f) The electrical company may refuse to establish or maintain interconnection with any interconnection customer that fails to comply with the requirements in (f)(i), (ii) and (iii) of this subsection. However, at its sole discretion, the electrical company may approve alternatives that satisfy the intent of, and/or may excuse compliance with, any specific elements of these requirements except local, state and federal building codes.

(i) Code and standards. All interconnections must conform to all applicable codes and standards for safe and reliable operation. Among these are the National Electric Code (NEC); National Electric Safety Code (NESC); the standards of the Institute of Electrical and Electronics Engineers (IEEE); the standards of the North American Electric Reliability Corporation (NERC); the standards of the Western Electricity Coordinating Council (WECC); American National Standards Institute (ANSI); Underwriters Laboratories (UL) standards; local, state and federal building codes, and any electrical company's written electric service requirement approved by the commission. Electrical companies may require verification that an interconnection customer has obtained all applicable permit(s) for the equipment installations on its property.

(ii) Safety. All safety and operating procedures for interconnection facilities must comply with the Occupational Safety and Health Administration (OSHA) Standard at 29 C.F.R. 1910.269, the NEC, Washington Administrative Code (WAC) rules, the Washington Industrial Safety and Health Administration (WISHA) Standard, and equipment manufacturer's safety and operating manuals.

(iii) Power quality. Installations must be in compliance with all applicable standards including, without limitation, IEEE Standard 519 Harmonic Limits, and IEEE Standard 141 Flicker as measured at the PCC.

(2) Specific interconnection requirements.

(a) The electrical company must verify that the interconnection customer has furnished and installed on its side of the meter, a UL-approved safety disconnect switch that can fully disconnect the interconnection customer's generating facility from the electrical company's electric system. The disconnect switch must be located adjacent to electrical company meters and shall be of the visible break type in a metal enclosure that can be secured by a padlock. The disconnect switch must be accessible to electrical company personnel at all times.

(b) The requirement in (a) of this subsection may be waived by the electrical company if the interconnection customer:

(i) Provides interconnection facilities that the interconnection customer can demonstrate, to the satisfaction of electrical company, perform physical disconnection of the generating equipment supply internally; and

(ii) Agrees that its service may be disconnected entirely if generating equipment must be physically disconnected for any reason.

Such waiver granted by the electrical company to the interconnection customer must be explicit and in writing.

(c) The electrical company has the right to disconnect the generating facility at the disconnect switch:

(i) When necessary to maintain safe electrical operating conditions;

(ii) If the generating facility does not meet required standards; or

~~(iii) If the generating facility at any time adversely affects or endangers any person, the property of any person, the electrical company's operation of its electric system or the quality of electrical company's service to other customers.~~

~~(d) Nominal voltage and phase configuration of interconnection customer's generating facility must be compatible with the electrical company's system within generally accepted engineering standards including without limitation IEEE Standards 141 and 519 at the point of common coupling.~~

~~(e) The electrical company must verify on the basis of evidence provided by the interconnection customer that a generating facility interconnected to a grid network distribution system or a spot network distribution system will not impair public safety or quality of service to the electrical company's other customers as a result of reverse current flow through the electrical company's network protectors.~~

~~(f) All instances of interconnection to spot network distribution systems require review, studies as necessary, and written approval by the electrical company.~~

~~(g) All instances of interconnection to grid network distribution systems require review, studies as necessary, and written approval by the electrical company.~~

~~(h) Closed transition transfer switches are not allowed in network distribution systems.~~

~~(3) Specifications applicable to all inverter-based interconnections. In addition to the requirements contained in subsections (1) and (2) of this section, the interconnection of any inverter-based generating facility with the electrical company's electric system, or the modification of an existing interconnection with an inverter-based generating facility must meet the following additional technical specifications, in their most current approved version:~~

~~(a) IEEE Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems;~~

~~(b) UL Standard 1741, Inverters, Converters, and Controllers for Use in Independent Power Systems. Equipment must be UL listed; and~~

~~(c) IEEE Standard 929, IEEE Recommended Practice for Utility Interface of Photovoltaic (PV) Systems.~~

~~(4) In addition to the requirements in subsections (2) and (3) of this section, all noninverter-based interconnections and all inverter-based interconnections failing to meet the requirements of subsection (3) of this section may require more detailed electrical company review. The electrical company must demonstrate the need for additional testing and approval of equipment if the same equipment has been tested and approved previously for any of the electrical company's interconnection customers. Electrical companies may require interconnection customers to pay for needed testing and approval of the equipment proposed to be installed to ensure compliance with applicable technical specifications, in their most current approved version, including:~~

~~(a) IEEE Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, for systems 10 MVA or less; and~~

~~(b) ANSI Standard C37.90, IEEE Standard for Relays and Relay Systems Associated with Electric Power Apparatus.~~

~~(5) The electric company may require interconnection customers proposing noninverter-based interconnection to submit a power factor mitigation plan for electrical company review and approval.~~)) (1) **Applicability.**

(a) **Tier 1.** Interconnection of a generating facility will use Tier 1 processes and technical requirements if the proposed generating facility meets all of the following criteria:

(i) Uses inverter-based interconnection equipment;

(ii) Is single phase;

(iii) Has a nameplate capacity of 25 kW or less;

(iv) Is proposed for interconnection at secondary voltages (600 V class);

(v) Requires no construction or upgrades to electrical company facilities, other than meter changes;

(vi) The aggregated generating capacity on the service wire does not exceed the service wire capability;

(vii) The aggregated generating capacity on the transformer secondary does not exceed the nameplate of the transformer;

(viii) If proposed to be interconnected on a center tap neutral of a 240 volt service, its addition shall not create an imbalance between the two sides of the 240 volt service of more than 5 kVA; and

(ix) The aggregated nameplate capacity of all generating facilities on any line section does not exceed fifteen percent of the line section annual peak load as most recently measured or calculated for that line section, or fifteen percent of the circuit annual peak load as most recently measured or calculated for the circuit. For the purposes of this subsection:

(A) "All generating facilities" means all interconnected generating facilities, the proposed generating facility, and all other proposed generating facilities already in the queue defined in WAC 480-108-030(7); and

(B) "Line section" means that portion of an electric system connected to the generating facility and bounded by sectionalizing devices or the end of the distribution line.

(b) **Tier 2.** Interconnection of a generating facility will use Tier 2 processes and technical requirements if the proposed generating facility meets all of the following criteria:

(i) It does not qualify for Tier 1 interconnection applicability requirements;

(ii) Has a nameplate capacity of 500 kW or less;

(iii) Is proposed for interconnection to an electric system distribution facility operated at or below 38 kV class;

(iv) Is not a synchronous generator;

(v) If it is proposed to be interconnected on a shared secondary, the aggregate generating capacity on the shared secondary, including the proposed generating facility, must not exceed the lesser of the service wire capability or the nameplate of the transformer;

(vi) The aggregated nameplate capacity of all generating facilities on any line section does not exceed fifteen percent of the line section annual peak load as most recently measured or calculated for that line section, or fifteen percent of the circuit annual peak load as most recently measured or calculated for the circuit. For the purposes of this subsection:

(A) "All generating facilities" means all interconnected generating facilities, the proposed generating facility, and other proposed generating facilities already in the queue defined in WAC 480-108-030(7); and

(B) "Line section" means that portion of an electric system connected to the generating facility and bounded by sectionalizing devices or the end of the distribution line;

(vii) Any upgrades required to the electric system must fall within the requirements in subsection (2)(b)(ii) of this section;

(viii) For interconnection of a proposed generating facility to the load side of spot network protectors, the proposed generating facility must utilize an inverter. The aggregate nameplate capacity of all inverter-based systems must not exceed the smaller of five percent of a spot network's maximum load or 50 kW;

(ix) The aggregated nameplate capacity of existing and proposed generating facilities must not contribute more than ten percent to the distribution circuit's maximum fault current at the point on the primary voltage distribution line nearest the point of interconnection; and

(x) The generating facility's point of interconnection must not be on a circuit where the available short circuit current, with or without the proposed generating facility, exceeds 87.5 percent of the interrupting capability of the electrical company's protective devices and equipment (including substation breakers, fuse cutouts, and line reclosers).

(c) **Tier 3.** Interconnection of a generating facility will use Tier 3 processes and technical requirements if the proposed generating facility does not qualify for Tier 1 or Tier 2.

(2) **Technical requirements.**

(a) **Tier 1.**

(i) The purpose of the protection required for Tier 1 generating facilities is to prevent islanding and to ensure that inverter output is disconnected when the electric system is deenergized.

(ii) An interrupting device must be provided which is capable of safely interrupting the maximum available fault current (typically the maximum fault current is that supplied by the electrical company).

(iii) The generating facility must operate within the voltage and power factor ranges specified by the electrical company and as allowed by Underwriters Laboratories standard (UL) 1741.

(iv) **Disconnect switch.** Unless the Washington state department of labor and industries requires a visible, lockable AC disconnect switch, an electrical company shall not require a visible, lockable AC disconnect switch for interconnection customers installing and operating an inverter-based UL 1741 certified system interconnected through a self-contained socket-based meter of 320 amps or less.

(b) **Tier 2.**

(i) In all cases, the interconnection facilities must isolate the generating facility from the electric system as specified by IEEE 1547, and the interconnection agreement. The interconnection customer shall prevent its generating facility equipment from automatically reenergizing the electric system as specified by IEEE 1547, and the interconnection agreement. For inverter-based systems, the interconnecting facility must comply with IEEE 1547, UL 1741 and the interconnection agreement set forth by the electric utility. For noninverter based systems a separate protection package will be required to meet IEEE 1547 and the interconnection agreement set forth by the electric utility.

(ii) If the generating facility fails to meet the characteristics for Tier 2 applicability, but the electrical company determines that the generating facility could be interconnected safely if minor modifications to the transmission or distribution system were made (for example, changing meters, fuses, or relay settings), then the electrical company may offer the interconnection customer a good-faith, nonbinding estimate of the costs of such proposed minor modifications. If the interconnection customer authorizes the electrical company to proceed with the minor modifications and agrees to pay the entire cost of the modifications, then the electrical company may approve the application using Tier 2 processes and technical requirements.

(iii) For proposed generating facilities 50 kW and greater, three-phase connection may be required by the electric company.

(iv) For three-phase induction generator interconnections, the electrical company may, in its sole discretion, specify that ground fault protection must be provided. Use of ground overvoltage or ground overcurrent elements may be specified, depending on whether the electrical company uses three-wire or effectively grounded four-wire systems.

(v) If the generating facility is single-phase and interconnected on a center tap neutral of a 240 volt service, it must not create an imbalance between the two sides of the 240 volt service of more than 5 kW.

(vi) If the generating facility is proposed for interconnection at primary (greater than 600 V class) distribution voltages, the connection of the transformer(s) used to connect the generating facility to the electric system must be the electrical company's standard connection. This is intended to limit the potential for creating overvoltages on the electric system for a loss of ground during the operating time of functions designed to prevent islanding.

(vii) For primary-voltage connections to three-phase, three-wire systems, the transformer primary windings must be connected phase to phase.

(viii) For primary-voltage connections to three-phase, four-wire systems, the transformer primary windings may be connected phase to neutral.

(ix) **Disconnect switch.**

(A) Except as provided in (b)(i)(B), (C), and (D) of this subsection, the generating facility must include a visible, lockable AC disconnect switch. The electrical company shall have the right to disconnect the generating facility at a UL listed disconnect switch to meet electrical company operating safety requirements.

(B) An electrical company may waive the visible, lockable disconnect switch requirement for an inverter-based system.

(C) To maintain electrical company operating and personnel safety in the absence of an external disconnect switch, the interconnection customer shall agree that the electrical company has the right to disconnect electric service through other means if the generating facility must be physically disconnected for any reason, without liability to the electrical company. These actions to disconnect the generating facility (due to an emergency or maintenance or other condition on

the electric system) will result in loss of electrical service to the customer's facility or residence for the duration of time that work is actively in progress. The duration of outage may be longer than it would otherwise have been with an AC disconnect switch.

(D) In the absence of an external disconnect switch, the interconnection customer is required to operate and maintain the inverter in accordance with the manufacturer's guidelines, and retain documentation of commissioning. In the absence of such documentation the electric company may, with five days' notice and at the interconnection customer's expense, test or cause to be tested the inverter to ensure its continued operation and protection capability. The person that tests the inverter shall provide documentation of the results to both the electrical company and the interconnection customer. Should the inverter fail the test, the electric company may disconnect the generating facility, and require the interconnection customer to repair or replace the inverter. The cost of any such repair or replacement required by the electric company shall be the sole responsibility of the interconnection customer.

(c) **Tier 3.**

(i) In all cases, the interconnection facilities must isolate the generating facility from the electric system as specified by IEEE 1547, and the interconnection agreement. The interconnection customer shall prevent its generating facility equipment from automatically reenergizing the electric system as specified by IEEE 1547, and the interconnection agreement. For inverter-based systems, the interconnecting facility must comply with IEEE 1547, UL 1741 and the interconnection agreement set forth by the electric utility. For noninverter based systems a separate protection package will be required to meet IEEE 1547 and the interconnection agreement set forth by the electric utility.

(ii) The system must be designed to prevent a single point of failure from causing a loss of protective functions. This can be achieved by installing multiple discrete-function relays providing the required functions as a set, or by installing redundant multifunction devices, each of which provides all of the required functions.

(iii) Ground fault protection must be provided, unless waived by the utility in writing. Use of ground overvoltage or ground overcurrent elements may be specified, depending on whether the utility uses three-wire or effectively grounded four-wire systems.

(iv) Breaker failure detection must be provided, and secondary action initiated in the event that the interconnection breaker fails to clear for the trip condition, consistent with utility practice. This may require installation of dual generator breakers tripped by similar interconnection relays, or a main and backup relay with the same functions and zones of protection, one of which trips the generator breaker and one which trips the main incoming breaker.

(v) **System impact studies.** The electrical company may require a feasibility, system impact, facilities, or other study as described in WAC 480-108-030 (10)(c). These studies are intended to quantify the impacts of the generating facility on the electric system, and may include an analysis of power flow, stability, metering, relay/protection, and communications/telemetry. Acceptance of the results of these studies by the interconnection customer is a condition of approval of the application because the studies provide the basis for the detailed technical requirements for interconnection.

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-030 Application for interconnection.

(1) **Standard application.**

(a) The electrical company must file a standard application form ((~~of application~~)) with the commission((~~, which the~~)) that potential interconnection customers ((~~seeking to interconnect a generating facility~~)) must use to request interconnection under ((~~Part 1 of~~)) this chapter ((~~must fill out and submit to the electrical company along with~~)). The interconnection customer's request must include the application fee established ((~~according to~~)) in subsection (((~~(4)~~))) (5) of this section.

The electrical company must make the standard application form available on its web site and, unless unreasonably burdensome, allow for submission via the internet.

(b) **Notification of potential voltage irregularities.** Application materials shall include a notice explaining that voltage may be routinely at the upper limits of the range described in WAC 480-100-373, and this may limit the ability of a generating facility to export power to the electric system.

(2) **Point of contact and information disclosure.** The electrical company ((~~will~~)) must designate a point of contact and publish a telephone number and((~~/or~~)) web site address for the ((~~unique~~)) purpose of assisting potential interconnection customers. The electrical company must comply with reasonable requests for information including relevant system studies, interconnection studies, and other materials useful for ((~~an~~)) a potential interconnection customer to understand the circumstances of an interconnection at a particular point on the ((~~electrical company's~~)) electric system, to the extent provision of such information does not violate confidentiality provisions of prior electrical company agreements.

(3) ((~~Prior to submitting its interconnection request,~~)) When a potential interconnection customer ((~~may ask~~)) requests interconnection from the electrical company ((~~whether and how~~)), the ((~~proposed~~)) potential interconnection ((~~is subject to this chapter. The~~)) customer must conform to the rules and regulations in effect and on file with the electrical company ((~~must respond within fifteen business days~~)). The potential interconnection customer seeking to interconnect a generating facility under this chapter must fill out and submit, electronically or otherwise, a signed application form to the electrical company. Information on the form must be accurate and complete.

(4) **Phased installation.** When a project is designed for phased installation, the potential interconnection customer may choose to submit an application for approval of the final project size, or may choose to submit applications at each phase of the project. Each application will be evaluated based on the nameplate capacity stated on the application. If separate applications are submitted for each phase of a project, a separate application fee is required for each phase of the project.

(a) If the potential interconnection customer applies with a final phased in project size and the electrical company approves the application, then the potential interconnection customer must notify the electrical company as additional units are added.

(b) If a potential interconnection customer submits an application for an individual phase of a project, the potential interconnection customer may not develop the project beyond the size approved.

(((~~4~~))) (5) **Application fees.** The electrical company must establish a nonrefundable interconnection application fee set according to facility size to be paid by the interconnection customer to the electrical company when the interconnection customer submits its application. If an application is withdrawn, the application fee shall be applied to a request for reapplication submitted within thirty business days of the withdrawal. The fee, intended to cover the costs of processing the application, will be no greater than:

(a) One hundred dollars for facilities 0 to 25 kilowatts (kW); ((~~and~~))

(b) Five hundred dollars for facilities 26 to ((~~300~~)) 500 kW((~~,~~)); and

(((~~5) Interconnection application.~~)) (c) One thousand dollars for facilities 500 kW to 20 MW.

(6) **Nondiscriminatory processing and evaluation.** All generating facility interconnection applications will be processed and evaluated by the electrical company in a nondiscriminatory manner, consistent with other service requests and in a manner that does not delay other service requests. The electrical company must ((~~stamp all interconnection requests to~~)) document the date and time that all interconnection applications are received. ((~~The original~~))

(7) **Timelines.** The timeline for the application review process begins when the interconnection application and application fee are received. A project enters the queue on the date ((~~and time stamp affixed~~)) that the electrical company sends a notice of complete application to the interconnection ((~~request will serve~~)) customer, as ((~~the beginning point for purposes of~~)) described in this section. An electrical company may send any ((~~timetables in the application and review process~~)) notice described in this section by electronic mail.

(((~~6) Application evaluation. Upon~~))

(8) **Tier 1 applications.**

(a) **Tier 1 standard application.** Deviations from standard business practices described in this subsection are not violations of this rule. The electrical company's standard business practice for Tier 1 interconnection applications, shall:

(i) Offer a single application for interconnection, net metering and production metering; and

(ii) Include, in the same package as the notice of approval, an executable interconnection agreement and if applicable:

(A) The dollar amount due to complete the interconnection including the cost of the production meter;

(B) An executable net metering agreement;

(C) Notice of the steps the interconnection customer must take to receive any renewable energy production incentive payments administered by the electrical company;

(D) Any other information likely to expedite the remainder of the interconnection process.

(b) **Tier 1 application timeline.**

(i) **Notice of receipt.** Notice of receipt of an ((~~interconnection~~)) application((~~,~~)) and application fee shall be sent by the electrical company ((~~must~~)) to the interconnection customer within five business days.

(ii) **Notice of complete application.**

(A) The electrical company shall notify the interconnection customer ((~~within ten business days~~)) if the application is complete or incomplete, and if incomplete specifying any deficiencies, within ten business days after the notice of receipt of application.

(B) When an electrical company sends a notice of an incomplete application to an interconnection customer, the interconnection customer shall provide a complete application to the electrical company within fifteen business days of the notice. The electrical company may, but is not required to, grant an extension in writing. If the interconnection customer fails to complete the application, the application expires at the end of the incomplete application period.

(iii) **Approval or denial.** Within twenty business days after a complete application notice is sent to an interconnection customer, the electrical company shall approve, approve with conditions, or deny the application with written justification. The electrical company shall include, in the same package as the notice of approval, an executable interconnection agreement and any other information likely to expedite the remainder of the interconnection process. If delays result from unforeseen circumstances, customer variance requests, or other incentive program approval requirements, the customer shall be promptly notified.

(iv) **Initial operation.** An interconnection customer must interconnect and operate the generating facility within one year from the date of approval of the application, or the application expires, unless the electrical company, in its sole discretion, grants an extension in writing.

(9) **Tier 2 application timeline.**

(a) **Notice of receipt.** Notice of receipt of an application and application fee shall be sent by the electrical company to the interconnection customer within five business days.

(b) **Notice of complete application.**

(i) The electrical company shall notify the interconnection customer if the application is complete or incomplete, and if incomplete specifying any deficiencies, within ten business days after notice of receipt of application.

(ii) When an electrical company sends a notice of an incomplete application to an interconnection customer, the interconnection customer shall provide a complete application to the electrical company within fifteen business days of the notice. The electrical company may, but is not required to, grant an extension in writing. If the interconnection customer fails to complete the application, the application expires at the end of the incomplete application period.

(c) **Approval or denial.** Within thirty business days after a complete application notice is sent to an interconnection customer, the electrical company shall approve, approve with conditions, or deny the application with written justification. If delays result due to unforeseen circumstances, customer variance requests, or incentive program approval

requirements, the interconnection customer shall be promptly notified.

(d) **Offer of agreement.** The electrical company must offer the interconnection customer an executable interconnection agreement within five business days of the notification of approval described in (c) of this subsection.

(e) **Initial operation.** An interconnection customer must interconnect and operate the generating facility within one year from the date of approval of the application, or the application expires, unless the electrical company, in its sole discretion, grants an extension in writing.

(10) **Tier 3 application timeline.**

(a) **Notice of receipt.** Notice of receipt of an application and application fee shall be sent by the electrical company to the interconnection customer within five business days.

(b) **Notice of complete application.**

(i) The electrical company shall notify the interconnection customer if the application is complete or incomplete, and if incomplete specifying any deficiencies, within ten business days after notice of receipt of application.

(ii) When an electrical company sends a notice of an incomplete application to an interconnection customer, the interconnection customer shall provide a complete application to the electrical company within thirty business days of the notice. The electrical company may, but is not required to, grant an extension in writing. If the interconnection customer fails to complete the application, the application expires at the end of the incomplete application period.

(c) **Technical review and additional studies.**

(i) **Technical review.** Once an application is accepted by the electrical company as complete, the electrical company will review the application to determine if the interconnection request complies with the technical standards established in WAC 480-108-020 and to determine whether ((~~the interconnection request is complete. If the application is not complete, the electrical company must provide a written list detailing all additional information~~)) any additional engineering, safety, reliability or other studies are required. If the electrical company determines that additional studies are required, the electrical company must provide the interconnection customer a form of agreement that includes a description of what studies are required and a good faith estimate of the cost and time necessary to ((~~complete the application. The interconnection customer must supply the~~)) perform the studies. The electrical company must notify the interconnection customer of the result of these determinations within thirty business days of when the application is deemed complete, as described in subsection (b) of this section. The interconnection customer may request that studies be combined.

(ii) **Approval with no additional studies.** If the electrical company notifies the interconnection customer that the request complies with the technical requirements established in WAC 480-108-020 and no additional studies are required to determine the feasibility of the interconnection, the electrical company must offer the interconnection customer an executable interconnection agreement within five business days of such notification. The electrical company also will provide any additional interim agreements, such as construction agreements, that may be necessary ((~~information or request an extension of~~)) and a good faith estimate of the cost and time ((~~within ten business days. If the interconnection customer does not provide within ten business days the listed information~~)) necessary to complete the ((~~application or request an extension of time, the electrical company may reject the application~~)) interconnection.

(iii) **Cost of additional studies and upgrades.**

(A) **Cost allocation.** The interconnection customer is responsible for all reasonable costs incurred by the electrical company to study the proposed interconnection and to design and construct any required interconnection facilities or system upgrades. The interconnection customer is responsible for reasonable ongoing operation and maintenance costs for facilities added to the electric system that are dedicated to that interconnection customer's use.

(B) **Cost disputes.** Within thirty business days after receiving a notice that additional studies are required, as described in (c)(i) of this subsection, the interconnection customer may supply an alternative cost estimate from a third-party qualified to perform the studies required by the electrical company.

(C) **Study agreement and deposit.** After the electrical company and the interconnection customer agree on the estimated cost of the required studies and the identity of parties to perform the required studies, the interconnection customer and electrical company must execute an agreement describing these studies and any deposit to be paid to the electrical company. The deposit is not to exceed the lower of one thousand dollars, or fifty percent of the estimated study cost. After a study agreement is executed, the electrical company shall make its best effort to complete the required studies, consistent with time requirements for the studies and other service requests of a similar magnitude.

(iv) **Denial after additional studies.** The electrical company will provide the interconnection customer with the results of the studies conducted under this subsection. If the studies determine that the interconnection is not feasible, the electrical company will provide notice of denial to the interconnection customer and the reasons for the denial.

(v) **Modification after additional studies.** Based on the results of the studies, the electrical company and interconnection customer may agree to modify the previously complete application without penalty to the interconnection customer. A modified application shall be considered an approved final application.

(vi) **Approval after additional studies.** If the studies determine that the interconnection is feasible, the electrical company will notify the interconnection customer and provide an executable interconnection agreement to the interconnection customer within five business days of such notification if no system upgrades are required, or fifteen business days if system upgrades are required. The electrical company also will provide any additional interim agreements, such as construction agreements, that may be necessary and a good faith estimate of the cost and time necessary to complete the interconnection.

(vii) An interconnection customer's failure to execute and return completed agreements and required deposits within the time frames specified in this section or by the electrical company may result in termination of the application

process by the electrical company under terms and conditions stated in such agreements.

(d) Other than modifications to the complete application described in (c)(v) of this subsection, changes by the interconnection customer to a previously approved completed application will be considered a new application and shall be accompanied by a new application fee. Denied applications expire on the date of denial.

(e) An interconnection customer must execute an interconnection agreement, and simultaneously pay any deposit required by the electrical company not to exceed fifty percent of the estimated costs to complete the interconnection, within thirty business days from the date of approval of the final application. At the electrical company's discretion, an extension may be granted in writing. If the electrical company must upgrade or construct new electric system facilities, the interconnection customer must meet the credit requirements of the electric company prior to the start of construction.

(f) **Initial operation.** An interconnection customer must begin operation of the generating facility within two years of the effective date of the interconnection agreement, or both the application and subsequent interconnection agreement expire. At the electrical company's discretion, an extension may be granted in writing.

PART 2: GENERAL TERMS AND CONDITIONS FOR INTERCONNECTIONS

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-040 General terms and conditions of interconnection. (1) The ((~~general~~)) terms ((~~and~~)), conditions ((~~listed~~)), and technical requirements in this section ((~~shall~~)) apply to ((~~all interconnections of customer-owned generating facilities with nameplate capacity less than or equal to 300 kW to an~~)) the interconnection customer and generating facility throughout the generating facility's installation, testing, commissioning, operation, maintenance, decommissioning and removal. The electrical ((~~company's~~)) company may verify compliance at any time, with reasonable notice.

(2) Any generating facility proposing to be interconnected with the electric system ((~~under Part 1 of~~)) or any proposed change to a generating facility that requires modification of an existing interconnection agreement must meet all applicable terms, conditions, and technical requirements set forth in this chapter, including the regulations and standards adopted by reference in WAC 480-108-999.

(((~~(1) Any~~)) (3) The terms, conditions and technical requirements in this section are intended to mitigate possible adverse impacts caused by the generating facility on electrical ((~~generating facility with a maximum nameplate capacity rating~~)) company equipment and personnel and on other customers of the electrical company. They are not intended to address protection of ((~~300 kW~~)) the generating facility itself, generating facility personnel, or ((~~less must~~)) its internal load. It is the responsibility of the generating facility to comply with ((~~these rules to be~~)) the requirements of all appropriate standards, codes, statutes and authorities to protect its own facilities, personnel, and loads.

(4) The interconnection customer shall comply with and must ensure its generating facility meets the requirements in (a), (b), and (c) of this subsection. However, at its sole discretion, the electrical company may approve, in writing, alternatives that satisfy the intent of, or waive compliance with, any specific elements of these requirements except local, state and federal building codes.

(a) **Codes and standards.** These include the National Electric Code (NEC), National Electric Safety Code (NESC), the Institute of Electrical and Electronics Engineers (IEEE), American National Standards Institute (ANSI), and Underwriters Laboratories (UL) standards, and local, state and federal building codes. The interconnection customer shall be responsible for obtaining all applicable permit(s) for the equipment installations on its property.

(b) **Safety.** All safety and operating procedures for joint use equipment shall be in compliance with the Occupational Safety and Health Administration (OSHA) standard at 29 C.F.R. 1910.269, the NEC, Washington Administrative Code (WAC) rules, the Washington division of occupational safety and health (DOSH) standard, and equipment manufacturer's safety and operating manuals.

(c) **Power quality.** Installations will be in compliance with all applicable standards including IEEE standard 519 Harmonic Limits, or more stringent harmonic requirements of the electrical company that have been approved by the commission.

(5) Any electrical generating facility must comply with this chapter to be eligible to interconnect and operate in parallel with the ((~~electrical company's~~)) electric system. ((~~The rules under this chapter~~)) These specifications and standards shall apply to all ((~~interconnection customer-owned~~)) interconnecting generating facilities that are intended to operate in parallel with ((~~an electrical company's~~)) the electric system ((~~irrespective~~)) regardless of whether the interconnection customer intends to generate energy to serve all or a part of the interconnection customer's load; or to sell the output to the electrical company or any third party purchaser.

(((~~(2)~~))) (6) In order to ensure system safety and reliability of interconnected operations, all interconnected generating facilities ((~~must~~)) shall be constructed ((~~and~~)), operated and maintained by the interconnection customer in accordance with ((~~this chapter~~)) these rules, with the interconnection agreement, with the applicable manufacturer's recommended maintenance schedule and operating requirements, good electric company practice, and all other applicable federal, state, and local laws and regulations.

(((~~(3) Prior to initial operation, all interconnection customers must submit a completed certificate of completion to the electrical company, execute an appropriate interconnection agreement and any other agreement(s) required for the disposition of the generating facility's electric power output as described in WAC 480-108-040(15). The interconnection agreement between the electrical company and the interconnection customer outlines the interconnection standards, cost allocation and billing agreements, and on-going maintenance and operation requirements.~~

((~~(4) The~~)) (7) This section does not govern the settlement, purchase, sale, transmission or delivery of any power generated by interconnection customer's generating facility. The purchase, sale or delivery of power, including net metered electricity pursuant to chapter 80.60 RCW, and other services that the interconnection customer may require will be covered by separate agreement or pursuant to the terms, conditions and rates as may be from time to time approved by the commission. Separate agreements may be required with the electrical company, the balancing area authority or transmission provider, or other party but not necessarily with the electrical company. Any such agreement shall be complete prior to initial operation.

(8) An interconnection customer shall promptly furnish the electrical company with copies of such plans, specifications, records, and other information relating to the generating facility or the ownership, operation, use, ((~~electrical company access to,~~)) or maintenance of the generating facility, as may be reasonably requested by the electrical company from time to time.

(((~~(5)~~))) (9) **Disconnection.**

(a) **Electrical company's right to disconnect.**

(i) An electrical company may disconnect a generating facility as described in this subsection. The electrical company shall provide reasonable advance notice to an interconnection customer before any scheduled disconnection, or reasonable notice after an unscheduled disconnection.

(ii) **Unapproved interconnection.** For the purposes of public and working personnel safety, ((~~the electrical company may~~)) any unapproved generating facility will be immediately ((~~disconnect~~)) disconnected from the ((~~electrical company~~)) electric system ((~~any nonapproved generation~~)). Such disconnection of unapproved interconnections may result in disconnection of electric service to customers of the electrical company other than the owner of the generating facility.

(iii) **Unapproved operation.** If a generating facility does not operate in a manner consistent with this chapter or an approved tariff, the electrical company may disconnect the generating facility.

(iv) **Temporary disconnection.** To maintain electrical company operating and personnel safety the electrical company has the right to temporarily disconnect electric service to the interconnection customer if the generating facility must be physically disconnected for any reason. The disconnection of the generating facility (due to an emergency or maintenance or other condition on the electric system) will result in loss of electrical service to the customer's facility or residence for the duration of time that work is actively in progress. If no disconnect switch is present, the duration of such an outage may be longer than it would be with the switch.

(b) **Interconnection customer's right to disconnect.** The interconnection customer may disconnect the generating facility at any time, provided that the interconnection customer provides reasonable advance notice to the electrical company.

(((~~(6)~~))) (10) To ensure reliable service to all electrical company customers and to minimize possible problems for other customers, the electrical company ((~~will~~)) may review the need for upgrades to its system, including a dedicated ((~~to single customer distribution~~)) transformer. If the electrical company ((~~requires a dedicated distribution transformer~~)) notifies the interconnection customer that upgrades are required before or at the time of application approval, the interconnection customer ((~~must~~)) shall pay for all ((~~reasonable~~)) costs of ((~~the new transformer and related facilities in accordance~~)) those upgrades, except where inconsistent with ((~~subsection (13) of this section~~)) these rules.

(((~~(7)~~))) (11) The electrical company may require, and if it so requires will provide its reasoning in writing, a transfer trip system or an equivalent protective function for a generating facility, that cannot: Detect distribution system faults (both line-to-line and line-to-ground) and clear such faults within time and operating parameters found in IEEE 1547 Tables 1 and 2; or detect the formation of an unintended island and cease to energize the electric system within two seconds.

(12) **Metering.**

(a) **Net metering** ((~~for solar, wind, hydropower fuel cells and facilities that simultaneously produce electricity and useful thermal energy as set forth in chapter 80.60 RCW. The electrical company will~~)). The electrical company shall install, own, and maintain a kilowatt-hour meter((~~,~~)) or meters ((~~as the installation may determine,~~)) capable of registering the bi-directional flow of electricity at the point of common coupling ((~~at a level of accuracy that meets~~)). The meters shall meet or exceed all applicable accuracy standards((~~, regulations and statutes~~)). The meter(((~~(s)~~))) may measure ((~~such~~)) parameters ((~~as~~)) including the time of delivery, power factor, and voltage ((~~and such other parameters as the electrical company specifies~~)). The interconnection customer ((~~must~~)) shall provide space for metering equipment. The interconnection customer must provide the current transformer enclosure (if required), meter socket(s) and junction box after the electrical company approves the interconnection ((~~customer has submitted~~)) customer's drawings and equipment specifications ((~~for electrical company approval. The electrical company may approve other generating sources for net metering but is not required to do so~~)).

(b) **Production metering**((~~:~~)). The electrical company may require separate metering((~~, including, if necessary for safety or reliability, metering capable of being remotely accessed,~~)) for production. This meter will record all generation produced and may be billed separately from any net metering or customer usage metering. All costs associated with the installation of production metering will be paid by the interconnection customer.

(((~~(8) Common~~))) (13) **Labeling.** The interconnection customer must post common labeling, furnished or approved by the electrical company and in accordance with NEC requirements ((~~must be posted~~)), on the meter base, disconnects, and transformers informing working personnel that ((~~generation~~)) a generating facility is operating at or is located on the premises.

(((~~(9) As currently set forth for qualifying generation under chapter 80.60 RCW (net metering), no~~))) (14) **Insurance.** No additional insurance ((~~will be~~)) is necessary for ((~~interconnections that qualify for net metering. For generation other than qualifying generation under chapter 80.60 RCW, additional insurance, limitations of liability and~~

~~indemnification may be required by the~~)) a generating facility with a nameplate capacity under 100 kW.

(15) **Future modification.** An interconnection customer must obtain electrical company((~~.~~

~~(10) The electrical company must review and approve~~)) approval before any future modification or expansion of ((~~an interconnected~~)) a generating facility. The electrical company may require the interconnection customer, at the interconnection customer's expense, to provide ((~~and pay for~~)) corrections or additions to existing ((~~interconnection facilities if~~)) electrical devices in the event of modification of government or industry regulations and standards ((~~are modified. The~~)), or major changes in the electric ((~~company must notify the interconnection customer in writing of any such requirement. The electrical company may terminate interconnection service if~~)) system which impacts the interconnection ((~~customer does not within thirty business days of the date of the notice arrange with the electrical company a mutually agreed schedule to comply with such requirements~~)).

(((~~(11) For the overall safety and protection of the electrical company system,~~)) (16) Chapter 80.60 RCW limits ((~~interconnection of generation for net metering to .25 percent of the electrical company's peak demand during 1996 and, beginning in 2014, to .50 percent of the electrical company's peak demand during 1996. Additionally, interconnection of generating facilities for net metering to individual distribution feeders is limited to 10 percent of the feeder's peak capacity. The electrical company also~~)) the total capacity of generation for net metering. However, the electrical company may restrict or prohibit new or expanded ((~~interconnected generation capacity~~)) net metered systems on any feeder, circuit or network if engineering, safety, or reliability studies establish ((~~a~~)) the need for a restriction or prohibition.

(((~~(12) The interconnection customer is responsible for protecting its facilities, loads and equipment and complying with the requirements of all appropriate standards, codes, statutes and authorities.~~

~~(13)~~)) (17) **Cost allocation.** Charges by the electrical company to the interconnection customer in addition to the application fee, if any, ((~~must be cost-based and consistent with generally accepted engineering practices~~)) will be compensatory and applied as appropriate. Such ((~~charges~~)) costs may include, but are not limited to, ((~~the cost of engineering studies; the cost of~~)) transformers, production meters, and electrical company testing((~~; the cost of~~)), qualification, studies and approval of non-UL 1741 listed equipment((~~; the cost of interconnection facilities, and the cost of any required system upgrades. Unless an electrical company demonstrates by reference to its integrated resource plan prepared pursuant to WAC 480-100-238, its conservation targets pursuant to RCW 19.285.040, its studies performed under WAC 480-108-065, or other evidence that an interconnection will provide quantifiable benefits to the electrical company's other customers, electrical company charges to the interconnection customer will include all costs made necessary by the requested interconnection service. If an electrical company demonstrates that an interconnection will produce quantifiable benefits for the electrical company's other customers, it may incur a portion of these costs for commission consideration for recovery in its general rates commensurate with such benefits. If after consideration of any costs approved by the commission for recovery in general rates the remaining costs are less than any amounts paid by the interconnection customer, the electrical company must refund the excess amount to the interconnection customer.~~

~~(14)~~)). The interconnection customer ((~~is~~)) shall be responsible for any costs associated with any future upgrade((~~s~~)) or modification to its ((~~generating facility or interconnection facilities made necessary~~)) interconnected system required by modifications ((~~the electrical company makes to its~~)) in the electric system.

(((~~(15) This section does not govern the settlement, purchase or delivery of any power generated by the interconnection customer's generating facility. The purchase or delivery of power, including net metering of electricity pursuant to chapter 80.60 RCW, power purchases and sales to PURPA qualifying facilities pursuant to chapter 480-107 WAC, and other services that the interconnection customer may require will be covered by separate agreement or pursuant to the terms, conditions and rates as may be from time to time approved by the commission. Any such agreement shall be completed~~)) (18) **Sale and assignment.** The interconnection customer shall notify the electrical company prior to ((~~initial operation and filed with the commission.~~

~~(16) The interconnection customer may disconnect the generating facility at any time after providing reasonable advance notice to the electrical company.~~

~~(17) The electrical company must require an interconnection customer to provide notice of~~)) the sale or transfer of the ((~~interconnection customer's~~)) generating facility, the interconnection facilities or the premises upon which the ((~~interconnection~~)) facilities are located. ((~~To continue~~)) The interconnection ((~~service~~)) customer shall not assign its rights or obligations under any agreement entered into pursuant to ((~~a new owner,~~)) these rules without the prior written consent of electrical company ((~~must require the new owner to execute a new interconnection agreement~~)); such consent shall not be unreasonably withheld.

(19) If the interconnection customer is a different entity than the owner of the real property on which the generating facility is located, the interconnection customer shall indemnify the electrical company for all risks to the owner of the real property, including disconnection of service. In addition, the interconnection customer shall obtain all legal rights and easements requested by the electrical company for the electrical company to access, install, own, maintain, operate or remove its equipment and the disconnect switch, if installed, on the real property where the generating facility is located, at no cost to the electrical company.

(20) **Inverters.** If an inverter is utilized, the inverter must be certified by an independent, nationally recognized testing laboratory to meet the requirements of UL 1741. Inverters certified to meet the requirements of UL 1741 must use undervoltage, overvoltage, and over/under frequency elements to detect loss of electrical company power and initiate shutdown.

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-050 ((~~Certificate of~~)) Completion of interconnection process. ((~~Interconnection customers must obtain an electrical permit and pass electrical inspection for all generating and interconnection facilities before they can be connected or operated in parallel with the electrical company's electric system. The electrical company must receive written certification from the interconnection customer that the generating facility has been installed and inspected in compliance with the local building and/or electrical codes. The electrical company must review and approve in writing the certificate of completion, before the interconnection customer's generating facility may be operated in parallel with the electrical company's electric system. The electrical company shall not unreasonably withhold such approval, but shall have the right to inspect and test the interconnection facilities in accordance with IEEE 1547.1 prior to parallel operation.~~)) The interconnection process is complete and the generating facility can begin operation when:

(1) The interconnection customer and the electric company execute an interconnection agreement;

(2) The interconnection customer provides, and the electrical company issues written approval for, a certificate of completion demonstrating:

(a) The receipt of any required electrical and building permits, and installation in compliance with electrical and local building codes;

(b) Installation in compliance with the technical requirements for interconnection in this chapter;

(c) Inspection and approval of the system by the electrical inspector having jurisdiction over the installation.

(3) All required agreements with the balancing area authority having jurisdiction, and all agreements covering the purchase, sale or transport of electricity and provision of any ancillary services have been completed and signed by all parties;

(4) **Witness test.** If required by the electrical company, a representative of the electrical company witnesses and approves the operation of the generating facility in accordance with the requirements of this chapter; and

(5) All requirements and conditions of the interconnection agreement have been satisfied and permission granted by the electrical company to proceed with commercial operation.

((~~PART 2: INTERCONNECTION OF GENERATION FACILITIES WITH NAMEPLATE CAPACITY RATING GREATER THAN 300 KW BUT NO MORE THAN 20 MW~~))

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-080 Interconnection service tariffs. (1) ((~~No later than January 31, 2008~~)) Within sixty business days of the effective date of this rule, each electrical company over which the commission has jurisdiction must file an interconnection service tariff for ((~~facilities with nameplate generating capacity greater than 300 kW but no more than 20 MW~~)) interconnections consistent with this chapter.

(2) Interconnection service ((~~tariffs must~~)) includes only the terms and conditions that govern physical interconnection to the electrical company's delivery system and does not include sale or transmission of power by the interconnecting customer or retail service to the interconnecting customer.

(3) **Tier 3 tariff requirements.** Tariffs that govern the interconnection of Tier 3 generating facilities under this chapter must either:

(a) Offer service equivalent in all procedural and technical respects to the interconnection service the electrical company offers under the small generator interconnection provisions of its open access transmission tariff as approved by the Federal Energy Regulatory Commission (FERC); or

(b) Comply with the terms of an "alternative interconnection service tariff" described in subsection (5) of this section.

(4) **FERC Small Generator Interconnection Agreements.**

(((~~(3)~~))) For purposes of ((~~Part 2 of~~)) this ((~~chapter~~)) section, "small generator interconnection provisions" means the procedural and technical requirements established by the FERC in Standardization of Small Generator Interconnection Agreements and Procedures, Order No. 2006, 70 FR ((~~34100~~)) 34190 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 (2005) (Order No. 2006), order on reh'g, Order No. 2006-A, 70 FR 71760 (Nov. 30, 2005), FERC Stats. & Regs. ¶ 31,196 (2005), order on clarif'n, Order No. 2006-B, 71 FR 42587 (July 27, 2006), FERC Stats. & Regs. ¶ 61,046 (2006). "Small generator interconnection provisions" does not include the 10 kW inverter process required under the above-listed FERC regulations.

(((~~(4) Interconnection service includes only the terms and conditions that govern physical interconnection to the electrical company's delivery system and does not include sale or transmission of power by the interconnecting customer or retail service to the interconnecting customer.~~)))

(5) **Tier 3 alternative interconnection service tariff.** If an electrical company demonstrates that the small generator interconnection provisions will impair service adequacy, reliability or safety or will otherwise be incompatible with its electric system, the electrical company may file a Tier 3 alternative interconnection service tariff. An alternative interconnection service tariff must meet the following requirements and be consistent with all provisions of this chapter:

(a) All interconnection customers must be treated equally without undue discrimination or preference.

(b) Electric companies must ensure that interconnection service will not impair safe, adequate and reliable electric service to its retail electric customers.

(c) Technical requirements for all interconnections must comply with IEEE, NESC, NEC, North American Electric Reliability Corporation, Western Electricity Coordinating Council and other applicable safety and reliability standards.

(d) Charges by the electrical company to the interconnection customer in addition to the application fee, if any, must be cost-based and consistent with generally accepted engineering practices. Unless an electrical company demonstrates by reference to its integrated resource plan prepared

pursuant to WAC 480-100-238, its conservation targets pursuant to RCW 19.285.040, the studies it performs under WAC 480-108-120, or other evidence that an interconnection will provide quantifiable benefits to the electrical company's other customers, an interconnecting customer must pay all costs made necessary by the requested interconnection service. Such costs include, but are not limited to, the cost of engineering studies, upgrades to the electric system made necessary by the interconnection, metering and insurance. If an electrical company demonstrates that an interconnection will produce quantifiable benefits for the electrical company's other customers, it may incur a portion of these costs for commission consideration for recovery in its general rates commensurate with such benefits. If after consideration of any costs approved by the commission for recovery in general rates the remaining costs are less than any amounts paid by the interconnection customer, the electrical company must refund the excess to the interconnection customer.

(e) Interconnection customers must be responsible for all operation, maintenance and code compliance for facilities and equipment on the customer's side of the point of common coupling.

(f) Interconnection service tariffs must describe:

(i) The process, timelines and cost of feasibility and facility impact studies the electrical company may require before allowing interconnection.

(ii) The prioritization or other processes by which the electrical company will manage multiple requests for interconnection service.

(g) Interconnection service tariffs must state:

(i) Specific time frames for electrical companies to respond to interconnection applications.

(ii) Specific time frames for interconnection customers to respond to study and interconnection agreements offered by the electrical company. Time frames must be adequate for the electrical company and the interconnection customer to have adequate opportunity to examine engineering studies and project design options.

(h) The electrical company must make knowledgeable personnel available to answer questions regarding applicability of the interconnection service tariff and otherwise provide assistance to a customer seeking interconnection service. The electrical company must comply with reasonable requests for information including relevant system studies, interconnection studies, and other materials useful for an interconnection customer to understand the circumstances of an interconnection at a particular point on the electric system, to the extent provision of such information does not violate confidentiality provisions of prior electrical company agreements.

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-110 Required filings—Exceptions. (1) The electrical company must file for commission approval, as part of its tariff, and maintain on file for inspection at its place of business, the charges, terms and conditions for interconnections pursuant to ((~~Part 2 of~~)) this chapter. Such filing must include model forms of the following documents and contracts:

(a) Application;

(b) Feasibility Study Agreement;

(c) System Impact Study Agreement;

(d) Facilities Study Agreement;

(e) Construction Agreement;

(f) Interconnection Agreement; and

(g) Certificate of Completion.

(2) The commission may grant such exceptions to these rules as may be appropriate in individual cases.

AMENDATORY SECTION (Amending WSR 07-20-059, filed 9/27/07, effective 10/28/07)

WAC 480-108-120 Cumulative effects of interconnections ((~~with a nameplate capacity rating greater than 300 kW but no more than 20 MW~~)). Electrical companies will evaluate on an ongoing basis, but not less than once every five years, the cumulative effect, including benefits to its other customers, of interconnections made under ((~~Part 2 of~~)) this chapter on its electric system and will retain appropriate records of its evaluations.

AMENDATORY SECTION (Amending WSR 13-05-023, filed 2/11/13, effective 3/14/13)

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

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

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

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

(2) National Electrical Safety Code (NESC).

(a) The commission adopts the 2012 edition.

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

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

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

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

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

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

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

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

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

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

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

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

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

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

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

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

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

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

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

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

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

(b) This publication is referenced in WAC ((~~480-108-020~~)) 480-108-040.

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

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

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

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

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-108-035	Model interconnection agreement, review and acceptance of interconnection agreements and costs.
WAC 480-108-055	Dispute resolution.
WAC 480-108-060	Required filings—Exceptions.
WAC 480-108-065	Cumulative effects of interconnections with a nameplate capacity rating of 300 kW or less.
WAC 480-108-070	Scope of Part 2.
WAC 480-108-090	Alternative interconnection service tariff.

WSR 13-16-006
PERMANENT RULES
HEALTH CARE AUTHORITY
(Medicaid Program)

[Filed July 25, 2013, 9:49 a.m., effective August 25, 2013]

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

Purpose: Amendments to these sections are necessary to begin paying providers under fee-for-service for air ambulance services provided to clients enrolled in agency-contracted managed care organizations. These payments are no longer the responsibility of the prepaid managed care plans. This change is in accordance with the agency's state plan.

Citation of Existing Rules Affected by this Order: Amending WAC 182-546-0150 and 182-546-0400.

Statutory Authority for Adoption: RCW 41.05.021.

Adopted under notice filed as WSR 13-13-071 on June 18, 2013.

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

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

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

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

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

Date Adopted: June 25, 2013.

Kevin M. Sullivan
Rules Coordinator

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

WAC 182-546-0150 Client eligibility for ambulance transportation. (1) Except for clients in the Family Planning Only and TAKE CHARGE programs, ((~~MAA~~)) fee-for-service clients are eligible for ambulance transportation to ((~~MAA~~)) covered services with the following limitations:

(a) Clients in the following programs are eligible for ambulance services within Washington state or bordering cities only, as designated in WAC ((~~388-501-0175~~)) 182-501-0175:

(i) ((~~General assistance-unemployable (GA-U)~~)) Medical care services (MCS) as described in WAC 182-508-0005;

(ii) ((~~General assistance-expedited medical (GA-X);~~

~~(iii) General assistance-pregnancy (GA-S);~~

~~(iv)~~))) Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) as described in WAC 182-508-0320;

(((~~(v) Emergency medical programs, including~~)) (iii) Alien emergency medical (AEM)((~~;~~

~~(vi) LCP-MNP emergency medical only; and~~

~~(vii) State Children's Health Insurance Program (CHIP) when the client is not enrolled in a managed care plan~~)) services as described in chapter 182-507 WAC.

(b) Clients in the categorically needy/qualified medicare beneficiary (CN/QMB) and medically needy/qualified medicare beneficiary (MN/QMB) programs are covered by medicare and medicaid, with the payment limitations described in WAC ((~~388-546-0400(5)~~)) 182-546-0400(5).

(2) Clients enrolled in an ((~~MAA~~)) agency-contracted managed care ((~~plan receive all~~)) organization (MCO) must coordinate:

(a) Ground ambulance services through their designated ((~~plan~~)) MCO, subject to the ((~~plan's~~)) MCO coverage((~~s~~)) and limitations; and

(b) Air ambulance services through the agency under fee-for-service, subject to the coverage and limitations within this chapter.

(3) Clients enrolled in ((~~MAA's~~)) the agency's primary care case management (PCCM) program are eligible for ambulance services that are emergency medical services or that are approved by the PCCM in accordance with ((~~MAA~~)) the agency's requirements. ((~~MAA~~)) The agency pays for covered services for these clients according to ((~~MAA's~~)) the agency's published ((~~billing instructions~~)) medicaid provider guides and provider notices.

(4) Clients under the Involuntary Treatment Act (ITA) are not eligible for ambulance transportation coverage outside the state of Washington. This exclusion from coverage applies to individuals who are being detained involuntarily for mental health treatment and being transported to or from bordering cities. See also WAC ((~~388-546-4000~~)) 182-546-4000.

(5) See WAC ((~~388-546-0800~~)) 182-546-0800 and ((~~388-546-2500~~)) 182-546-2500 for additional limitations on out-of-state coverage and coverage for clients with other insurance.

(6) The agency does not pay for ambulance services for jail inmates and persons living in a correctional facility ((~~are not eligible for MAA ambulance coverage~~)). See WAC ((~~388-503-0505(5)~~)) 182-503-0505(5).

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

WAC 182-546-0400 General limitations on payment for ambulance services. (1) In accordance with WAC ((~~388-502-0100(8)~~)) 182-502-0100(8), the ((~~medical assistance administration (MAA)~~)) agency pays providers the lesser of the provider's usual and customary charges or the maximum allowable rate established by ((~~MAA~~)) the agency. ((~~MAA's~~)) The agency's fee schedule payment for ambulance services includes a base rate or lift-off fee plus mileage.

(2) ((~~MAA~~)) The agency:

(a) Does not pay providers under fee-for-service for ground ambulance services provided to a client who is enrolled in an ((~~MAA~~)) agency-contracted managed care ((~~plan~~)) organization (MCO). Payment in such cases is the responsibility of the ((~~prepaid managed care plan~~)) client's agency-contracted MCO;

(b) Pays providers under fee-for-service for air ambulance services provided to a client who is enrolled in an agency-contracted MCO.

(3) ((~~MAA~~)) The agency does not pay providers for mileage incurred traveling to the point of pickup or any other distances traveled when the client is not on board the ambulance. ((~~MAA~~)) The agency pays for loaded mileage only as follows:

(a) ((~~MAA~~)) The agency pays ground ambulance providers for the actual mileage incurred for covered trips by paying from the client's point of pickup to the point of destination.

(b) ((~~MAA~~)) The agency pays air ambulance providers for the statute miles incurred for covered trips by paying from the client's point of pickup to the point of destination.

(4) ((~~MAA~~)) The agency does not pay for ambulance services if:

(a) The client is not transported;

(b) The client is transported but not to an appropriate treatment facility; or

(c) The client dies before the ambulance trip begins (see the single exception for ground ambulance providers at WAC ((~~388-546-0500(2)~~)) 182-546-0500(2)).

(5) For clients in the categorically needy/qualified medicare beneficiary (CN/QMB) and medically needy/qualified medicare beneficiary (MN/QMB) programs ((~~MAA's~~)) the agency's payment is as follows:

(a) If medicare covers the service, ((~~MAA~~)) the agency will pay the lesser of:

(i) The full coinsurance and deductible amounts due, based upon medicaid's allowed amount; or

(ii) ((~~MAA's~~)) The agency's maximum allowable for that service minus the amount paid by medicare.

(b) If medicare does not cover or denies ambulance services that ((~~MAA~~)) the agency covers according to this chapter, ((~~MAA~~)) the agency pays ((~~at MAA's~~)) its maximum allowable fee; except ((~~MAA~~)) the agency does not pay for clients on the qualified medicare beneficiaries (QMB) only program.

WSR 13-16-008
PERMANENT RULES
HEALTH CARE AUTHORITY
(Medicaid Program)

[Filed July 25, 2013, 10:16 a.m., effective September 1, 2013]

Effective Date of Rule: September 1, 2013.

Purpose: The rules add language to clarify, update and ensure clear and consistent policies for family planning providers, and amend TAKE CHARGE rule sections on eligibility (WAC 182-532-700 through 182-532-790) so they comply with the new federal waiver for the TAKE CHARGE medicaid program. Changes to other sections in chapter 182-532 WAC include:

- Adding mammograms for women thirty-nine years of age and younger with prior authorization and mammograms for men when medically necessary in reproductive health services.
- Changing the time providers must forward the client's service card and related information to another client-requested address from seven to five days, to be consistent with the TAKE CHARGE agreement.
- Reflecting the discontinuation of payment for application assistance in TAKE CHARGE, related to budgetary decisions.
- Making housekeeping changes due to the health care authority (HCA) merger.

The related sterilization section, WAC 182-531-1550, is amended by: Adding a requirement for national board certification for becoming an approved hysteroscopic sterilization provider; clarifying other rule requirements; moving hysterectomy requirements from WAC 182-531-1550 to WAC 182-531-0150 and 182-531-0200 for a more suitable fit; and making housekeeping changes due to the HCA merger.

Citation of Existing Rules Affected by this Order: Repealing WAC 182-532-505 and 182-532-710; and amending WAC 182-531-0150, 182-531-0200, 182-531-1550, 182-532-001, 182-532-050, 182-532-100, 182-532-110, 182-532-120, 182-532-130, 182-532-140, 182-532-500, 182-532-510, 182-532-520, 182-532-530, 182-532-540, 182-532-550, 182-532-700, 182-532-720, 182-532-730, 182-532-740, 182-532-745, 182-532-750, 182-532-760, 182-532-780, and 182-532-790.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: RCW 74.09.520, 74.09.657, 74.09.659, 74.09.800.

Adopted under notice filed as WSR 13-11-069 on May 16, 2013.

Changes Other than Editing from Proposed to Adopted Version: Added "follows the guidelines of a nationally recognized protocol" to the clinical breast examination and pelvic examination in reproductive health, family planning only, and TAKE CHARGE yearly exams for women under covered services (WAC 182-532-120, 182-532-530 and 182-532-740.) Clarified to indicate that family planning providers or agency-contracted local health department STI clinics under contract with the agency's managed care plans must abide by their contract regarding lab services needed by clients for that plan (WAC 182-532-540(6)).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, 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 4, Amended 25, Repealed 2.

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 4, Amended 25, Repealed 2.

Date Adopted: July 25, 2013.

Kevin M. Sullivan
Rules Coordinator

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

WAC 182-531-0150 Noncovered physician-related and health care professional services—General and administrative. (1) Except as provided in WAC ((~~388-531-0100~~)) 182-531-0100 and subsection (2) of this section, the ((~~department~~)) medicaid agency does not cover the following:

(a) Acupuncture, massage, or massage therapy;

(b) Any service specifically excluded by statute;

(c) Care, testing, or treatment of infertility, frigidity, or impotency. This includes procedures for donor ovum, sperm, womb, and reversal of vasectomy or tubal ligation;

(d) Hysterectomy performed solely for the purpose of sterilization;

(e) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to trauma, birth defect, or illness;

((~~(e)~~)) (f) Experimental or investigational services, procedures, treatments, devices, drugs, or application of associated services, except when the individual factors of an individual client's condition justify a determination of medical necessity under WAC ((~~388-501-0165~~)) 182-501-0165;

((~~(f)~~)) (g) Hair transplantation;

((~~(g)~~)) (h) Marital counseling or sex therapy;

((~~(h)~~)) (i) More costly services when the ((~~department~~)) medicaid agency determines that less costly, equally effective services are available;

((~~(i)~~)) (j) Vision-related services as follows:

(i) Services for cosmetic purposes only;

(ii) Group vision screening for eyeglasses; and

(iii) Refractive surgery of any type that changes the eye's refractive error. The intent of the refractive surgery procedure is to reduce or eliminate the need for eyeglass or contact lens correction. This refractive surgery does not include intraocular lens implantation following cataract surgery.

((~~(j)~~)) (k) Payment for body parts, including organs, tissues, bones and blood, except as allowed in WAC ((~~388-531-1750~~)) 182-531-1750;

((~~(k)~~)) (l) Physician-supplied medication, except those drugs administered by the physician in the physician's office;

((~~(l)~~)) (m) Physical examinations or routine checkups, except as provided in WAC ((~~388-531-0100~~)) 182-531-0100;

((~~(m)~~)) (n) Foot care, unless the client meets criteria and conditions outlined in WAC ((~~388-531-1300~~)) 182-531-1300, as follows:

(i) Routine foot care, such as but not limited to:

(A) Treatment of tinea pedis;

(B) Cutting or removing warts, corns and calluses; and

(C) Trimming, cutting, clipping, or debriding of nails.

(ii) Nonroutine foot care, such as, but not limited to treatment of:

(A) Flat feet;

(B) High arches (cavus foot);

(C) Onychomycosis;

(D) Bunions and tailor's bunion (hallux valgus);

(E) Hallux malleus;

(F) Equinus deformity of foot, acquired;

(G) Cavovarus deformity, acquired;

(H) Adult acquired flatfoot (metatarsus adductus or pes planus);

(I) Hallux limitus.

(iii) Any other service performed in the absence of localized illness, injury, or symptoms involving the foot;

((~~(n)~~)) (o) Except as provided in WAC ((~~388-531-1600~~)) 182-531-1600, weight reduction and control services, procedures, treatments, devices, drugs, products, gym memberships, equipment for the purpose of weight reduction, or the application of associated services.

((~~(o)~~)) (p) Nonmedical equipment;

((~~(p)~~)) (q) Nonemergent admissions and associated services to out-of-state hospitals or noncontracted hospitals in contract areas;

((~~(q)~~)) (r) Bilateral cochlear implantation; and

((~~(r)~~)) (s) Routine or nonemergency medical and surgical dental services provided by a doctor of dental medicine or dental surgery for clients twenty one years of age and older, except for clients of the ((~~division of~~)) developmental disabilities administration in the department of social and health services.

(2) The ((~~department~~)) medicaid agency covers excluded services listed in (1) of this subsection if those services are mandated under and provided to a client who is eligible for one of the following:

(a) The EPSDT program;

(b) A medicaid program for qualified **medicare** beneficiaries (QMBs); or

(c) A waiver program.

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

WAC 182-531-0200 Physician-related and health care professional services requiring prior authorization. (1) The ((~~department~~)) medicaid agency requires **prior authorization** for certain services. Prior authorization includes **expedited prior authorization (EPA)** and **limitation extension (LE).** See WAC ((~~388-501-0165~~)) 182-501-0165.

(2) The EPA process is designed to eliminate the need for telephone prior authorization for selected admissions and procedures.

(a) The provider must create an authorization number using the process explained in the ((~~department's~~)) medicaid agency's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to the ((~~department~~)) medicaid agency showing how the authorization number was created.

(c) Selected nonemergency admissions to contract hospitals require EPA. These are identified in the ((~~department~~)) medicaid agency billing instructions.

(d) Procedures allowing expedited prior authorization include, but are not limited to, the following:

(i) Reduction mammoplasties/mastectomy for gynecomastia;

(ii) Strabismus surgery for clients eighteen years of age and older;

(iii) Meningococcal vaccine;

(iv) Placement of drug eluting stent and device;

(v) Cochlear implants for clients twenty years of age and younger;

(vi) Hyperbaric oxygen therapy;

(vii) Visual exam/refraction for clients twenty-one years of age and older;

(viii) Blepharoplasties; and

(ix) Neuropsychological testing for clients sixteen years of age and older.

(3) The ((~~department~~)) medicaid agency evaluates new technologies under the procedures in WAC ((~~388-531-0550~~)) 182-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

(a) Abdominoplasty;

(b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R);**

(c) Unilateral cochlear implants for clients twenty years of age and younger (refer to WAC ((~~388-531-0375~~)) 182-531-0375);

(d) Diagnosis and treatment of eating disorders for clients twenty-one years of age and older;

(e) Osteopathic manipulative therapy in excess of the ((~~department's~~)) medicaid agency's published limits;

(f) Panniculectomy;

(g) Bariatric surgery (see WAC ((~~388-531-1600~~)) 182-531-1600); and

(h) Vagus nerve stimulator insertion, which also:

(i) For coverage, must be performed in an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim.

(i) Osseointegrated/bone anchored hearing aids (BAHA) for clients twenty years of age and younger;

(j) Removal or repair of previously implanted BAHA or cochlear device for clients twenty one years of age and older when medically necessary.

(5) All hysterectomies performed for medical reasons may require prior authorization, as explained in subsection (2) of this section.

(a) Hysterectomies may be performed without prior authorization in either of the following circumstances:

(i) The client has been diagnosed with cancer(s) of the female reproductive organs; and/or

(ii) A hysterectomy is needed due to trauma.

(b) The agency reimburses all attending providers for a hysterectomy procedure only when the provider submits an accurately completed agency-approved consent form with the claim for reimbursement.

(6) The ((~~department~~)) medicaid agency may require a second opinion and/or consultation before authorizing any elective surgical procedure.

(((~~(6)~~))) (7) Children six years of age and younger do not require authorization for hospitalization.

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

WAC 182-531-1550 Sterilization physician-related services. (1) For purposes of this section, sterilization is any medical procedure, treatment, or operation for the purpose of rendering a client permanently incapable of reproducing. ((~~A hysterectomy is a surgical procedure or operation for the purpose of removing the uterus.~~))

Hysterectomy results in sterilization((~~, but the department does not cover hysterectomy performed~~)) and is not covered by the medicaid agency solely for that purpose. ((~~Both hysterectomy and sterilization procedures require the use of specific consent forms. See subsections (10), (11) and (12) of this section for additional coverage criteria for hysteroscopic sterilizations.~~)) (See WAC 182-531-0150 and 182-531-0200 for more information about hysterectomies.)

STERILIZATION

(2) The ((~~department~~)) medicaid agency covers sterilization when all of the following apply:

(a) The client is at least eighteen years of age at the time an agency-approved consent form is signed;

(b) The client is a mentally competent individual;

(c) The client participates in a medical assistance program (see WAC 182-501-0060);

(d) The client has voluntarily given **informed consent** ((~~in accordance with all the requirements defined in this subsection~~)); and

(((~~(d) At least thirty days, but not more than one hundred eighty days, have passed between the date the client gave informed consent and the date of the sterilization.~~

(~~3~~))) (e) The date the client signed a sterilization consent is at least thirty days and not more than one hundred eighty days before the date of the sterilization procedure.

(3) Any medicaid provider who is licensed to do sterilizations within their scope of practice may provide vasectomies and tubal ligations to any medicaid client. (See subsections (10), (11), and (12) of this section for additional qualifications of providers performing hysteroscopic sterilizations.)

(4) The ((~~department does not require the thirty-day waiting period, but does~~)) medicaid agency requires at least a seventy-two hour waiting period((~~,~~)) rather than the usual thirty-day waiting period for sterilization in either of the following circumstances:

(a) At the time of a premature delivery((~~,~~)) when the client gave consent at least thirty days before the expected date of delivery. (The expected date of delivery must be documented on the consent form((~~:~~)).)

(b) For emergency abdominal surgery((~~,~~)). (The nature of the emergency must be described on the consent form.)

(((~~(4)~~))) (5) The ((~~department~~)) medicaid agency waives the thirty-day consent waiting period for sterilization when the client requests that sterilization be performed at the time of delivery((~~,~~)) and completes a sterilization consent form. One of the following circumstances must apply:

(a) The client became eligible for **medical assistance** during the last month of pregnancy;

(b) The client did not obtain medical care until the last month of pregnancy; or

(c) The client was a substance abuser during pregnancy, but is not using alcohol or illegal drugs at the time of delivery.

(((~~(5)~~))) (6) The ((~~department~~)) medicaid agency does not accept informed consent obtained when the client is ((~~in any of the following conditions~~)):

(a) In labor or childbirth;

(b) In the process of seeking to obtain or obtaining an abortion; or

(c) Under the influence of alcohol or other substances, including pain medications for labor and delivery, that affects the client's state of awareness.

(((~~(6)~~))) (7) The ((~~department~~)) medicaid agency has certain consent requirements that the provider must meet before the ((~~department~~)) agency reimburses sterilization of ((~~a **mentally incompetent** or~~)) an institutionalized client or a client with mental incompetence. The ((~~department~~)) agency requires both of the following:

(a) A court order, which includes both a statement that the client is to be sterilized, and the name of the client's legal guardian who will be giving consent for the sterilization; and

(b) A sterilization consent form signed by the legal guardian, sent to the ((~~department~~)) agency at least thirty days ((~~prior to~~)) before the procedure.

(((~~(7)~~))) (8) The ((~~department~~)) medicaid agency reimburses epidural anesthesia in excess of the six-hour limit for ((~~sterilization procedures that are performed in conjunction with or immediately following a delivery. The provider cannot bill separately for BAUs for the sterilization procedure. The department determines total billable units by:~~

~~(a) Adding the time for the sterilization procedure to the time for the delivery; and~~

~~(b) Determining the total billable units by adding together the delivery BAUs, the delivery time, and the sterilization time.~~

~~(8) The physician identified in the "consent to sterilization" section of the DSHS-approved sterilization consent~~

~~form must be the same physician who completes the "physician's statement" section and performs the sterilization procedure. If a different physician performs the sterilization procedure, the client must sign and date a new consent form at the time of the procedure that indicates the name of the physician performing the operation under the "consent for sterilization" section. This modified consent must be attached to the original consent form when the provider bills the department~~)) deliveries if sterilization procedures are performed in conjunction with or immediately following a delivery.

(a) For reimbursement, anesthesia time for sterilization is added to the time for the delivery when the two procedures are performed during the same operative session.

(b) If the sterilization and delivery are performed during different operative sessions, the anesthesia time is calculated separately.

(9) The ((~~department~~)) medicaid agency reimburses all attending providers for the sterilization procedure only when the provider submits an ((~~appropriate, completed DSHS-approved~~)) agency-approved and complete consent form with the claim for reimbursement. (See subsections (10), (11), and (12) of this section for additional coverage criteria for hysteroscopic sterilizations.)

(a) The physician must complete and sign the physician statement on the consent form within thirty days of the sterilization procedure.

(b) The ((~~department~~)) agency reimburses attending providers after the procedure is completed.

HYSTEROSCOPIC STERILIZATIONS

(10) The ((~~department~~)) medicaid agency pays for hysteroscopic sterilizations when the following additional criteria are met:

(a) A ((~~department-approved~~)) device covered by the agency is used((~~:~~)).

(b) The procedure is predominately performed in a clinical setting, such as a physician's office, without general anesthesia and without the use of a surgical suite; and is covered according to the corresponding ((~~department~~)) agency fee schedule((~~:~~)).

(c) If determining that it is medically necessary to perform the procedure in an inpatient rather than outpatient setting, a provider must submit clinical notes with the claim, documenting the medical necessity.

(d) The client provides informed consent for the procedure ((~~in accordance with this section; and (d)~~)).

(e) The hysteroscopic sterilization is performed by ((~~a department-approved~~)) an approved provider who:

(i) Has a core provider agreement with the ((~~department~~)) agency;

(ii) Is nationally board certified in obstetrics and gynecology (OB-GYN);

(iii) Is privileged at a licensed hospital to do hysteroscopies;

(iv) Has successfully completed the manufacturer's training for the device covered by the agency;

(v) Has successfully performed a minimum of twenty hysteroscopies; and

(vi) Has established screening and follow-up protocols for clients being considered for hysteroscopic sterilization.

(((~~12~~))) (11) To become ((~~a department-approved provider~~)) approved for hysteroscopic sterilizations, interested providers must send the ((~~department~~)) medicaid agency-approved vendor, identified in the agency's billing instructions, the following:

(a) Documentation of successful completion of the manufacturer's training;

(b) Documentation demonstrating privilege at a licensed hospital to perform hysteroscopies;

(c) Documentation attesting to having successfully performed twenty or more hysteroscopies; ((~~and~~))

(d) Evidence of valid National Board Certification; and

(e) Office protocols for screening and follow-up.

((~~**HYSTERECTOMY**~~

~~(13) Hysterectomies performed for medical reasons may require expedited prior authorization as explained in WAC 388-531-0200(2).~~

~~(14) The department reimburses hysterectomy without prior authorization in either of the following circumstances:~~

~~(a) The client has been diagnosed with cancer(s) of the female reproductive organs; and/or~~

~~(b) The client is forty-six years of age or older.~~

~~(15) The department reimburses all attending providers for the hysterectomy procedure only when the provider submits an appropriate, completed DSHS-approved consent form with the claim for reimbursement. If a prior authorization number is necessary for the procedure, it must be on the claim. The department reimburses after the procedure is completed.~~)) (12) The provider will not be paid to perform the hysteroscopic procedure until the medicaid agency sends written approval to the provider.

((~~REPRODUCTIVE HEALTH SERVICES~~)) DEFINITIONS

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

WAC 182-532-001 Reproductive health services—((~~Purpose~~)) Definitions. ((~~The department of social and health services (DSHS) defines reproductive health services as those services that:~~

~~(1) Assist clients to avoid illness, disease, and disability related to reproductive health;~~

~~(2) Provide related and appropriate, medically necessary care when needed; and~~

~~(3) Assist clients to make informed decisions about using medically safe and effective methods of family planning.~~)) The following definitions and those found in WAC 182-500-0005 apply to this chapter.

340B dispensing fee - The medicaid agency's established fee paid to a registered and medicaid-participating 340B drug program provider under the public health service (PHS) act for expenses involved in acquiring, storing and dispensing prescription drugs or drug-containing devices (see WAC 182-530-7900). A dispensing fee is not paid for non-drug items, devices or supplies (see WAC 182-530-7050).

"Complication" - A condition occurring subsequent to and directly arising from the family planning services received under the rules of this chapter.

"Comprehensive prevention visit for family planning" - For the purposes of this program, a comprehensive, preventive, contraceptive visit that includes evaluation and management of an individual, such as: Age appropriate history, examination, counseling/anticipatory guidance, risk factor reduction interventions, and labs and diagnostic procedures that are covered under the client's respective medicaid agency program. These services may only be provided by and paid to TAKE CHARGE providers.

"Contraception" - Prevention of pregnancy through the use of contraceptive methods.

"Contraceptive" - A device, drug, product, method, or surgical intervention used to prevent pregnancy.

"Delayed pelvic protocol" - The practice of allowing a woman to postpone a pelvic exam during a contraceptive visit to facilitate the start or continuation of a hormonal contraceptive method.

"Education, counseling and risk reduction intervention (ECRR)" - Client-centered education and counseling services designed to strengthen decision-making skills and support a client's safe and effective use of a chosen contraceptive method. For women, ECRR is part of the comprehensive prevention visit for family planning. For men, ECRR is a stand-alone service for those men who seek family planning services and whose partners are at moderate to high risk of unintended pregnancy.

"Family planning only program" - The program that provides an additional ten months of family planning services to eligible women at the end of their pregnancy. This benefit follows the sixty-day postpregnancy coverage for women who received medical assistance benefits during the pregnancy.

"Family planning provider" - For this chapter, a physician or physician's assistant, advanced registered nurse practitioner (ARNP), or clinic that, in addition to meeting requirements in chapter 182-502 WAC, is approved by the medicaid agency to provide family planning services to eligible clients as described in this chapter.

"Family planning services" - Medically safe and effective medical care, educational services, and/or contraceptives that enable individuals to plan and space the number of their children and avoid unintended pregnancies.

"Medicaid agency" - Health care authority.

"Natural family planning" (also known as fertility awareness method) - Methods to identify the fertile days of the menstrual cycle and avoid unintended pregnancies, such as observing, recording, and interpreting the natural signs and symptoms associated with the menstrual cycle.

"Over-the-counter (OTC)" - Drugs that do not require a prescription before they can be sold or dispensed. (See WAC 182-530-1050.)

"Sexually transmitted infection (STI)" - A disease or infection acquired as a result of sexual contact.

"TAKE CHARGE" - The medicaid agency's demonstration and research program approved by the federal government under a medicaid program waiver to provide family planning services.

"TAKE CHARGE provider" - A family planning provider who has a TAKE CHARGE agreement to provide TAKE CHARGE family planning services to eligible clients under the terms of the federally approved medicaid waiver for the TAKE CHARGE program. (See WAC 182-532-730 for provider requirements.)

REPRODUCTIVE HEALTH SERVICES

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

WAC 182-532-050 Reproductive health services—((~~Definitions~~)) Purpose. ((~~The following definitions and those found in WAC 388-500-005, Medical definitions, apply to this chapter.~~

~~**"Complication"** - A condition occurring subsequent to and directly arising from the family planning services received under the rules of this chapter.~~

~~**"Comprehensive family planning preventive medicine visit"** - For the purposes of this program, is a comprehensive, preventive, contraceptive visit which includes:~~

~~• An age and gender appropriate history and examination offered to female medicaid clients who are at-risk for unintended pregnancies;~~

~~• Education and counseling for risk reduction (ECRR) regarding the prevention of unintended pregnancy; and~~

~~• For family planning only and TAKE CHARGE clients, routine gonorrhea and chlamydia testing for women thirteen through twenty-five years of age only.~~

~~This preventive visit may be billed only once every twelve months, per client, by a department-contracted TAKE CHARGE provider and only for female clients needing contraception.~~

~~**"Contraception"** - Preventing pregnancy through the use of contraceptives.~~

~~**"Contraceptive"** - A device, drug, product, method, or surgical intervention used to prevent pregnancy.~~

~~**"Delayed pelvic protocol"** - The practice of allowing a woman to postpone a pelvic exam during a contraceptive visit to facilitate initiation or continuation of a hormonal contraceptive method.~~

~~**"Department"** - The department of social and health services.~~

~~**"Department-approved family planning provider"** - A physician, advanced registered nurse practitioner (ARNP), or clinic that has:~~

~~• Agreed to the requirements of WAC 388-532-110;~~

~~• Signed a core provider agreement with the department;~~

~~• Been assigned a unique family planning provider number by the department; and~~

~~• Agreed to bill for family planning laboratory services provided to clients enrolled in a department managed care plan through an independent laboratory certified through the Clinical Laboratory Improvements Act (CLIA).~~

~~**"Family planning services"** - Medically safe and effective medical care, educational services, and/or contraceptives that enable individuals to plan and space the number of children and avoid unintended pregnancies.~~

~~**"Medical identification card"**~~ ~~The document the department uses to identify a client's eligibility for a medical program.~~

~~**"Natural family planning"**~~ ~~(Also known as fertility awareness method) means methods such as observing, recording, and interpreting the natural signs and symptoms associated with the menstrual cycle to identify the fertile days of the menstrual cycle and avoid unintended pregnancies.~~

~~**"Over-the-counter (OTC)"**~~ ~~See WAC 388-530-1050 for definition.~~

~~**"Sexually transmitted disease infection (STD-I)"**~~ ~~A disease or infection acquired as a result of sexual contact.~~)) The medicaid agency defines reproductive health services as those services that:

(1) Assist clients to avoid illness, disease, and disability related to reproductive health;

(2) Provide related, appropriate, and medically necessary care when needed; and

(3) Assist clients to make informed decisions about using medically safe and effective methods of family planning.

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

WAC 182-532-100 Reproductive health services—Client eligibility. (1) The ((~~department~~)) medicaid agency covers limited reproductive health services for clients eligible for the following:

(a) ((~~State~~)) Children's health insurance program (((~~SCHIP~~)) CHIP);

(b) Categorically needy program (CNP);

(c) ((~~General assistance unemployable (GAU) program;~~)) Medical care services (MCS) program;

(d) Limited casualty program-medically needy program (LCP-MNP); and

(e) Alcohol and Drug Abuse Treatment and Support Act (ADATSA) services.

(2) Clients enrolled in a ((~~department~~)) medicaid agency-contracted managed care organization (MCO) may self-refer outside their MCO for family planning services (excluding sterilizations for clients twenty-one years of age or older), abortions, and ((~~STD-I~~)) sexually transmitted infection (STI) services ((~~to~~)). These clients may seek services from any of the following:

(a) A ((~~department-approved~~)) medicaid agency-approved family planning provider;

(b) A ((~~department-contracted~~)) medicaid agency-contracted local health department/((~~STD-I~~)) STI clinic;

(c) A ((~~department-contracted~~)) medicaid agency-contracted provider for abortion services; or

(d) A ((~~department-contracted~~)) medicaid agency-contracted pharmacy ((~~for:~~

~~(i) Over-the-counter contraceptive drugs and supplies, including emergency contraception; and~~

~~(ii) Contraceptives and STD-I related prescriptions from a department-approved family planning provider or department-contracted local health department/STD-I clinic.~~))

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

WAC 182-532-110 Reproductive health services—Provider requirements. To be paid by the ((~~department~~)) medicaid agency for reproductive health services provided to eligible clients, ((~~physicians, ARNPs, licensed midwives, and department-approved~~)) family planning providers, including licensed midwives, must:

(1) Meet the requirements in chapter ((~~388-502~~)) 182-502 WAC((~~, Administration of medical programs—Provider rules~~));

(2) Provide only those services that are within the scope of their licenses;

(3) Comply with the required general medicaid agency and reproductive health provider policies, procedures, and administrative practices as detailed in the agency's billing instructions;

(4) Educate clients on Food and Drug Administration (FDA)-approved prescription birth control methods ((~~and~~)), over-the-counter (OTC) birth control drugs and supplies, and related medical services;

(((~~(4)~~))) (5) Provide medical services related to FDA-approved prescription birth control methods, and OTC birth control drugs and supplies upon request; and

(((~~(5)~~))) (6) Supply or prescribe FDA-approved prescription birth control methods, and OTC birth control drugs and supplies upon request((~~;~~

~~(6) Refer the client to an appropriate provider if unable to meet the requirements of subsections (3), (4), and (5) of this section[;] and~~

~~(7) Refer the client to available and affordable nonfamily planning primary care services, as needed~~)).

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

WAC 182-532-120 Reproductive health—Covered ((~~services~~)) yearly exams for women. ((~~In addition to those services listed in WAC 388-531-0100 Physician-related services, the department covers the following reproductive health services:~~

~~(1) **Services for women:**~~

~~(a) The department covers one of the following per client, per year as medically necessary:~~

~~(i) A gynecological examination, billed by a provider other than a TAKE CHARGE provider, which may include a cervical and vaginal cancer screening examination when medically necessary; or~~

~~(ii) One comprehensive family planning preventive medicine visit, billable by a TAKE CHARGE provider only. Under a delayed pelvic protocol, the comprehensive family planning preventive medicine visit may be split into two visits, per client, per year. The comprehensive family planning preventive medicine visit must be:~~

~~(A) Provided by one or more of the following TAKE CHARGE trained providers:~~

~~(I) A physician or physician's assistant (PA);~~

~~(II) An advanced registered nurse practitioner (ARNP); or~~

~~(III) A registered nurse (RN), licensed practical nurse (LPN), a trained and experienced health educator, medical assistant, or certified nursing assistant when used for assisting and augmenting the clinicians listed in (I) and (II) in subsection (1) of this section.~~

~~(B) Documented in the client's chart with detailed information that allows for a well-informed follow-up visit.~~

~~(b) Food and Drug Administration (FDA) approved prescription contraception methods as identified in chapter 388-530 WAC, Pharmacy services.~~

~~(c) Over-the-counter (OTC) family planning drugs, devices, and drug-related supplies without a prescription when the department determines it necessary for client access and safety as described in chapter 388-530 WAC, Prescription drugs (outpatient).~~

~~(d) Sterilization procedures that meet the requirements of WAC 388-531-1550, if:~~

~~(i) Requested by the client; and~~

~~(ii) Performed in an appropriate setting for the procedure.~~

~~(e) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory tests and procedures.~~

~~(f) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.~~

~~(g) Mammograms for clients forty years of age and older, once per year;~~

~~(h) Colposcopy and related medically necessary follow-up services;~~

~~(i) Maternity-related services as described in chapter 388-533 WAC; and~~

~~(j) Abortion.~~

~~(2) **Services for men:**~~

~~(a) Office visits where the primary focus and diagnosis is contraceptive management and/or there is a medical concern;~~

~~(b) Over-the-counter (OTC) contraceptives, drugs and supplies (as described in chapter 388-530 WAC, Prescription drugs (outpatient)).~~

~~(c) Sterilization procedures that meet the requirements of WAC 388-531-1550(1), if:~~

~~(i) Requested by the client; and~~

~~(ii) Performed in an appropriate setting for the procedure.~~

~~(d) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory tests and procedures.~~

~~(e) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.~~

~~(f) Prostate cancer screenings for men, once per year, when medically necessary.~~)) (1) Along with services listed in WAC 182-531-0100, the medicaid agency covers one of the following yearly exams per client per year:

(a) A cervical, vaginal, and breast cancer screening exam; or

(b) A comprehensive prevention visit for family planning. (Under a delayed pelvic protocol, the comprehensive prevention visit for family planning may be split into two visits, per client, per year.)

(2) The cervical, vaginal, and breast cancer screening examination:

(a) Must follow the guidelines of a nationally recognized protocol; and

(b) May be billed by a provider other than a TAKE CHARGE provider.

(3) The comprehensive prevention visit for family planning:

(a) Must be provided by one or more qualified TAKE CHARGE providers. (See WAC 182-532-730.)

(b) Must include:

(i) A clinical breast examination and pelvic examination that follows the guidelines of a nationally recognized protocol; and

(ii) Client-centered counseling that incorporates risk factor reduction for unintended pregnancy and anticipatory guidance about the advantages and disadvantages of all contraceptive methods.

(c) May include a pap smear according to current, nationally recognized clinical guidelines.

(d) Must be documented in the client's chart with detailed information that allows for a well-informed follow-up visit.

(e) Must be billed by a TAKE CHARGE provider only.

NEW SECTION

WAC 182-532-123 Reproductive health—Other covered services for women. Other reproductive health services covered for women include:

(1) Office visits when medically necessary;

(2) Food and Drug Administration (FDA)-approved prescription and nonprescription contraceptive methods, as identified in chapter 182-530 WAC;

(3) Over-the-counter (OTC) family planning drugs, devices, and drug-related supplies, as described in chapter 182-530 WAC;

(4) Sterilization procedures that meet the requirements of WAC 182-531-1550 if requested by the client and performed in an appropriate setting for the procedures;

(5) Screening and treatment for sexually transmitted infections (STI), including lab tests and procedures;

(6) Education and supplies for FDA-approved contraceptives, natural family planning, and abstinence;

(7) Mammograms for clients forty years of age and older once per year, and for clients thirty-nine years of age and younger with prior authorization;

(8) Colposcopy and related medically necessary follow-up services;

(9) Maternity-related services as described in chapter 182-533 WAC; and

(10) Abortion.

NEW SECTION

WAC 182-532-125 Reproductive health—Covered services for men. In addition to those services listed in WAC 182-531-0100, the medicaid agency covers the following reproductive health services for men:

(1) Office visits where there is a medical concern, including contraceptive and vasectomy counseling;

(2) Over-the-counter (OTC) contraceptive supplies as described in chapter 182-530 WAC;

(3) Sterilization procedures that meet the requirements of WAC 182-531-1550 if requested by the client and performed in an appropriate setting for the procedures;

(4) Screening and treatment for sexually transmitted infections (STI), including lab tests and procedures;

(5) Education and supplies for FDA-approved contraceptives, natural family planning, and abstinence;

(6) Prostate cancer screenings for men, once per year, when medically necessary; and

(7) Diagnostic mammograms for men when medically necessary.

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

WAC 182-532-130 Reproductive health—Noncovered services. Noncovered reproductive health services are ((~~the same as shown~~)) described in WAC ((~~388-531-0150, Noncovered physician-related services—General and administrative~~)) 182-531-0150.

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

WAC 182-532-140 Reproductive health services—Reimbursement and payment limitations. (1) The ((~~department~~)) medicaid agency reimburses providers for covered reproductive health services using the ((~~department's~~)) medicaid agency's published fee schedules.

(2) ((~~When a client enrolled in a department-approved managed care plan self-refers outside the plan to either a department-approved family planning provider or a department-contracted local health department STD-I clinic for family planning or STD-I services, all laboratory services must be billed through the family planning provider.~~

~~(3) When a client enrolled in a department managed care plan obtains family planning or STD-I services from a department-approved family planning provider or a department-contracted local health department/STD-I clinic which has a contract with the managed care plan, those services must be billed directly to the managed care plan.~~)) Family planning pharmacy services, family planning lab services, and sterilization services are reimbursed by the medicaid agency under the rules and fee schedules applicable to these specific programs.

(3) The medicaid agency pays a dispensing fee only for contraceptive drugs that are purchased through the 340B program of the Public Health Service Act. (See chapter 182-530 WAC.)

(4) Family planning providers under contract with the agency's managed care plans must directly bill the plans for family planning or STI services received by clients enrolled in the plan.

(5) Family planning providers not under contract with the agency's managed care plans must bill using fee for service when providing services to managed care clients who self-refer outside their plans.

(6) Family planning providers or agency-contracted local health department STI clinics under contract with the agency's managed care plans must abide by their contract regarding lab services needed by clients from that plan.

(7) Family planning providers or agency-contracted local health department STI clinics not under contract with the agency's managed care plans must pay a lab directly for services provided to clients who self-refer outside of their managed care plan. Providers then must bill the medicaid agency for reimbursement for lab services.

(a) Labs must be certified through the Clinical Laboratory Improvements Act (CLIA).

(b) Documentation of current CLIA certification must be kept on file.

(8) Under WAC 182-501-0200, the medicaid agency requires a provider to seek timely reimbursement from a third party when a client has available third-party resources. The exceptions to this requirement are described under WAC 182-501-0200 (2) and (3).

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

WAC 182-532-500 Family planning only program—Purpose. (1) The purpose of the family planning only program is to provide family planning services ((~~at the end of a pregnancy to women who received medical assistance benefits during their pregnancy. The primary goal of the family planning only program is to prevent an unintended, subsequent pregnancy~~)) to:

(a) Increase the healthy intervals between pregnancies; and

(b) Reduce unintended pregnancies in women who received medical assistance coverage while pregnant.

(2) Women receive ((~~this benefit~~)) these services automatically, regardless of how or when the pregnancy ends. This ten-month ((~~benefit~~)) coverage follows the ((~~department's~~)) medicaid agency's sixty-day postpregnancy coverage.

(3) Men are not eligible for the family planning only program.

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

WAC 182-532-510 Family planning only program—Client eligibility. A woman is eligible for family planning only services if:

(1) She received medical assistance ((~~benefits~~)) coverage during her pregnancy; or

(2) She is determined eligible for a retroactive period ((~~as defined in WAC 388-500-0005~~)) covering the end of the pregnancy.

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

WAC 182-532-520 Family planning only program—Provider requirements. To be reimbursed by the ((~~department~~)) medicaid agency for services provided to clients eligible for the family planning only program, ((~~physicians, ARNPs, and/or department-approved~~)) family planning providers must:

(1) Meet the requirements in chapter ((~~388-502~~)) 182-502 WAC((~~, Administration of medical programs—Provider rules~~));

(2) Provide only those services that are within the scope of their licenses;

(3) Comply with the required general medicaid agency and family planning only provider policies, procedures, and administrative practices as detailed in the agency's billing instructions;

(4) Educate clients on Food and Drug Administration (FDA)-approved prescription birth control methods ((~~and~~)), over-the-counter (OTC) birth control drugs and supplies, and related medical services;

(((~~4~~))) (5) Provide medical services related to FDA-approved prescription birth control methods, and OTC birth control drugs and supplies ((~~upon request~~)) as medically necessary;

(((~~5~~))) (6) Supply or prescribe FDA-approved prescription birth control methods, and OTC birth control drugs and supplies ((~~upon request~~)) as medically appropriate; and

(((~~(6) Refer the client to an appropriate provider if unable to meet the requirements of subsections (3), (4), and (5) of this section; and~~)))

(7) Refer the client to available and affordable nonfamily planning primary care services, as needed.

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

WAC 182-532-530 Family planning only program—Covered ((~~services~~)) yearly exams. ((~~The department covers the following services under the family planning only program:~~

~~(1) One of the following, per client, per year as medically necessary:~~

~~(a) One comprehensive family planning preventive medicine visit billable by a TAKE CHARGE provider only. Under a delayed pelvic protocol, the comprehensive family planning preventive medicine visit may be split into two visits, per client, per year. The comprehensive family planning preventive medicine visit must be:~~

~~(I) Provided by one or more of the following TAKE CHARGE trained providers:~~

~~(A) Physician or physician's assistant (PA);~~

~~(B) An advanced registered nurse practitioner (ARNP); or~~

~~(C) A registered nurse (RN), licensed practical nurse (LPN), a trained and experienced health educator, medical assistant, or certified nursing assistant when used for assisting and augmenting the clinicians listed in subsection (A) and (B) of this section.~~

~~(II) Documented in the client's chart with detailed information that allows for a well-informed follow-up visit; or~~

~~(b) A gynecological examination, billed by a provider other than a TAKE CHARGE provider, which may include a cervical and vaginal cancer screening examination, one per year when it is:~~

~~(i) Provided according to the current standard of care; and~~

~~(ii) Conducted at the time of an office visit with a primary focus and diagnosis of family planning.~~

~~(2) An office visit directly related to a family planning problem, when medically necessary.~~

~~(3) Food and Drug Administration (FDA) approved prescription contraception methods meeting the requirements of chapter 388-530 WAC, Prescription drugs (outpatient).~~

~~(4) Over-the-counter (OTC) family-planning drugs, devices, and drug-related supplies without a prescription when the department determines it necessary for client access and safety (as described in chapter 388-530 WAC, Prescription drugs (outpatient)).~~

~~(5) Sterilization procedure that meets the requirements of WAC 388-531-1550, if it is:~~

~~(a) Requested by the client; and~~

~~(b) Performed in an appropriate setting for the procedure.~~

~~(6) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory test and procedures only when the screening and treatment is:~~

~~(a) For chlamydia and gonorrhea as part of the comprehensive family planning preventive medicine visit for women thirteen to twenty-five years of age; or~~

~~(b) Performed in conjunction with an office visit that has a primary focus and diagnosis of family planning; and~~

~~(c) Medically necessary for the client to safely, effectively, and successfully use, or to continue to use, her chosen contraceptive method.~~

~~(7) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.~~)) (1) The medicaid agency covers one of the following services per client per year, as medically necessary:

(a) A cervical, vaginal, and breast cancer screening exam; or

(b) A comprehensive prevention visit for family planning. (Under a delayed pelvic protocol, the comprehensive prevention visit for family planning may be split into two visits, per client, per year.)

(2) The cervical, vaginal, and breast cancer screening exam:

(a) Must be:

(i) Provided following the guidelines of a nationally recognized protocol; and

(ii) Conducted at the time of an office visit with a primary focus and diagnosis of family planning.

(b) May be billed by a provider other than a TAKE CHARGE provider.

(3) The comprehensive prevention visit for family planning:

(a) Must be provided by one or more qualified TAKE CHARGE trained providers. (See WAC 182-532-730.)

(b) Must include:

(i) A clinical breast examination and pelvic examination that follows the guidelines of a nationally recognized protocol; and

(ii) Client-centered counseling that incorporates risk factor reduction for unintended pregnancy and anticipatory guidance about the advantages and disadvantages of all contraceptive methods.

(c) May include:

(i) A pap smear according to current, nationally recognized clinical guidelines; and

(ii) For women ages thirteen through twenty-five, routine gonorrhea and chlamydia testing and treatment.

(d) Must be documented in the client's chart with detailed information that allows for a well-informed follow-up visit.

(e) Must be billed by a TAKE CHARGE provider only.

NEW SECTION

WAC 182-532-533 Family planning only program—Other covered services. Other family planning only services covered for women may include all the following:

(1) An office visit directly related to a family planning problem, when medically necessary.

(2) Food and Drug Administration (FDA)-approved prescription and nonprescription contraceptive methods, as identified in chapter 182-530 WAC.

(3) Over-the-counter (OTC) family planning drugs, devices, and drug-related supplies, as described in chapter 182-530 WAC.

(4) Sterilization procedures that meet the requirements of WAC 182-531-1550 if requested by the client and performed in an appropriate setting for the procedures.

(5) Screening and treatment for sexually transmitted infections (STI), including lab tests and procedures, only when the screening and treatment are:

(a) For chlamydia and gonorrhea as part of the comprehensive prevention visit for family planning for women ages thirteen through twenty-five; or

(b) Part of an office visit that has a primary focus and diagnosis of family planning, and is medically necessary for the client's safe and effective use of her chosen contraceptive method.

(6) Education and supplies for FDA-approved contraceptives, natural family planning, and abstinence.

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

WAC 182-532-540 Family planning only program—Noncovered services. (1) Medical services are not covered under the family planning only program unless those services are:

((~~(1)~~)) (a) Performed in relation to a primary focus and diagnosis of family planning; and

((~~(2) Are~~)) (b) Medically necessary for ((~~the~~)) a client to safely((~~,~~)) and effectively((~~, and successfully~~)) use, or continue to use, her chosen contraceptive method.

(2) The medicaid agency does not cover inpatient services under the family planning only program except for complications arising from covered family planning services. For approval of exceptions, providers of inpatient services must submit a report to the medicaid agency, detailing the circumstances and conditions that required inpatient services. (See WAC 182-501-0160.)

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

WAC 182-532-550 Family planning only program—Reimbursement and payment limitations. (1) The ((~~department~~)) medicaid agency limits reimbursement under the family planning only program to ((~~visits and~~)) services that:

(a) Have a primary focus and diagnosis of family planning as determined by a qualified licensed medical practitioner; and

(b) Are medically necessary for the client to safely((~~,~~)) and effectively((~~, and successfully~~)) use, or continue to use, her chosen contraceptive method.

(2) The ((~~department~~)) medicaid agency reimburses providers for covered family planning only services using the ((~~department's~~)) agency's published fee schedules.

(3) ((~~The department does not cover inpatient services under the family planning only program. However, inpatient charges may be incurred as a result of complications arising directly from a covered family planning service. If this happens, providers of family planning related inpatient services that are not otherwise covered by third parties or other medical assistance programs must submit to the department a complete report of the circumstances and conditions that caused the need for the inpatient services.~~)) Family planning pharmacy services, family planning lab services, and sterilization services are reimbursed by the medicaid agency under the rules and fee schedules applicable to these specific programs.

(4) The medicaid agency pays a dispensing fee only for contraceptive drugs that are purchased through the 340B program of the Public Health Service Act. (See chapter 182-530 WAC.)

(5) Under WAC 182-501-0200, the medicaid agency requires a provider to seek timely reimbursement from a third party when a client has available third-party resources. The exceptions to this requirement are described under WAC 182-501-0200 (2) and (3).

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

WAC 182-532-700 TAKE CHARGE program—Purpose. TAKE CHARGE is a family planning demonstration and research program approved by the federal government under a medicaid ((~~program~~)) waiver. The purpose of ((~~the~~)) TAKE CHARGE ((~~program~~)) is to ((~~make family planning services available to men and women with incomes at or below two hundred percent of the federal poverty level. See WAC 388-532-710 for a definition of TAKE CHARGE~~)) reduce unintended pregnancies and lower the expenditures for medicaid-paid births.

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

WAC 182-532-720 TAKE CHARGE program—Eligibility. (1) The TAKE CHARGE program is for men and women. To be eligible for the TAKE CHARGE program, an applicant must:

(a) Be a United States citizen, U.S. National, or "qualified alien" as described in ((~~chapter 388-424~~)) WAC 182-503-0530, and ((~~provide~~)) give proof of citizenship or qualified alien status((~~,~~)) and identity upon request from the medicaid agency;

(b) Provide a valid Social Security number (SSN);

(c) Be a resident of the state of Washington as described in WAC 388-468-0005;

(((~~c~~))) (d) Have an income at or below two hundred fifty percent of the federal poverty level as described in WAC ((~~388-478-0075~~)) 182-505-0100;

(((~~d~~))) (e) Need family planning services;

(((~~e~~))) (f) Apply voluntarily for family planning services with a TAKE CHARGE provider; and

(((~~f~~))) (g) Not be ((~~currently~~)) covered currently through another medical assistance program for family planning ((~~or have any health insurance that covers family planning, except as provided in WAC 388-530-790~~)).

(2) A client who is pregnant or sterilized is not eligible for TAKE CHARGE.

(3) A client is authorized for TAKE CHARGE coverage for one year from the date the ((~~department~~)) medicaid agency determines eligibility ((~~or for the duration of the demonstration and research program, whichever is shorter, as long as the criteria in subsection (1) and (2) of this section continue to be met~~)). Upon reapplication for TAKE CHARGE by the client, the ((~~department~~)) medicaid agency may renew the coverage for an additional period((~~s~~)) of up to one year ((~~each~~)), or for the duration of the ((~~demonstration and research program~~)) waiver, whichever is shorter.

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

WAC 182-532-730 TAKE CHARGE program—Provider requirements. (1) A TAKE CHARGE provider must:

(a) Be a ((~~department-approved~~)) family planning provider ((~~as described in WAC 388-532-050~~)), which may include a registered nurse (RN), a licensed practical nurse (LPN), a trained and experienced health educator, a medical assistant, or a certified nursing assistant who assists a family planning provider;

(b) Meet the requirements in chapter 182-502 WAC;

(c) Provide only those services that are within the scope of their licenses;

(d) Sign and comply with the ((~~supplemental~~)) TAKE CHARGE agreement to participate in the TAKE CHARGE demonstration and research program according to the ((~~department's~~)) medicaid agency's TAKE CHARGE program guidelines;

(((~~e~~))) (e) Comply with the required general medicaid agency and TAKE CHARGE provider policies, procedures, and administrative practices as detailed in the agency's billing instructions;

(f) Participate in the ((~~department's~~)) medicaid agency's specialized training for the TAKE CHARGE demonstration and research program ((~~prior to~~)) before providing TAKE CHARGE services((~~.~~));

((~~Providers must~~)) (g) Document that each individual responsible for providing TAKE CHARGE services is trained on all aspects of the TAKE CHARGE program;

(((~~(d) Comply with the required general department and TAKE CHARGE provider policies, procedures, and administrative practices as detailed in the department's billing instructions and provide referral information to clients regarding available and affordable nonfamily planning primary care services;~~

(~~e~~))) (h) If requested by the ((~~department~~)) medicaid agency, participate in the research and evaluation component of the TAKE CHARGE demonstration and research program((~~.~~));

(((~~f~~))) (i) If requested by the client, forward the client's services card and ((~~TAKE CHARGE brochure~~)) any related information to the ((~~client~~)) client's preferred address within ((~~seven~~)) five working days of receipt ((~~unless otherwise requested in writing by the client~~));

(((~~g~~))) (j) Inform the client of his or her right to seek services from any TAKE CHARGE provider within the state; and

(((~~h~~))) (k) Refer the client to available and affordable nonfamily planning primary care services, as needed.

(2) ((~~Department~~)) Medicaid agency providers who are not TAKE CHARGE providers, (((~~e.g.,~~)) such as pharmacies, ((~~laboratories~~)) labs, and surgeons performing sterilization procedures) ((~~who are not TAKE CHARGE providers may furnish family planning ancillary TAKE CHARGE services, as defined in this chapter, to eligible TAKE CHARGE clients. The department reimburses for these services under the rules and fee schedules applicable to the specific services provided under the department's other programs~~)) may give family planning pharmacy services, family planning lab services, and sterilization services to TAKE CHARGE clients.

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

WAC 182-532-740 TAKE CHARGE program—Covered ((~~services~~)) yearly exams for women. ((~~The department covers the following TAKE CHARGE services for women:~~

~~(1) One session of application assistance per client, per year;~~

~~(2) Food and Drug Administration (FDA) approved prescription and nonprescription contraceptives as provided in chapter 388-530 WAC, Prescription drugs (outpatient);~~

~~(3) Over the counter (OTC) family planning drugs, devices, and drug-related supplies without a prescription when the department determines it necessary for client access and safety (as described in chapter 388-530 WAC, Prescription drugs (outpatient));~~

~~(4) One comprehensive family planning preventive medicine visit billable by a TAKE CHARGE provider only. Under a delayed pelvic protocol, the comprehensive family planning preventive medicine visit may be split into two visits, per client, per year. The comprehensive family planning preventive medicine visit must be:~~

~~(a) Provided by one or more of the following TAKE CHARGE trained providers:~~

~~(i) Physician or physician's assistant (PA);~~

~~(ii) An advanced registered nurse practitioner (ARNP); or~~

~~(iii) A registered nurse (RN), licensed practical nurse (LPN), a trained and experienced health educator, medical assistant, or certified nursing assistant when used for assisting and augmenting the above listed clinicians.~~

~~(b) Documented in the client's chart with detailed information that allows for a well-informed follow-up visit.~~

~~(5) Sterilization procedure that meets the requirements of WAC 388-531-1550, if the service is:~~

~~(i) Requested by the TAKE CHARGE client; and~~

~~(ii) Performed in an appropriate setting for the procedure.~~

~~(6) Screening and treatment for sexually transmitted diseases-infections (STD-I), including laboratory tests and procedures, only when the screening and treatment is:~~

~~(a) For chlamydia and gonorrhea as part of the comprehensive family planning preventive medicine visit for women thirteen to twenty-five years of age; or~~

~~(b) Performed in conjunction with an office visit that has a primary focus and diagnosis of family planning; and~~

~~(c) Medically necessary for the client to safely, effectively, and successfully use, or continue to use, his or her chosen contraceptive method.~~

~~(7) Education and supplies for FDA-approved contraceptives, natural family planning and abstinence.~~

~~(8) An office visit directly related to a family planning problem, when medically necessary.~~)) (1) The medicaid agency covers one of the following services per client per year, as medically necessary:

(a) A cervical, vaginal, and breast cancer screening exam; or

(b) A comprehensive prevention visit for family planning. (Under a delayed pelvic protocol, the comprehensive prevention visit for family planning may be split into two visits, per client, per year.)

(2) The cervical, vaginal and breast cancer screening exam must be:

(a) Provided following the guidelines of a nationally recognized protocol;

(b) Conducted at the time of an office visit with a primary focus and diagnosis of family planning; and

(c) Performed by a TAKE CHARGE provider.

(3) The comprehensive prevention visit for family planning:

(a) Must be provided by one or more TAKE CHARGE-trained providers. (See WAC 182-532-730.)

(b) Must include:

(i) A clinical breast examination and pelvic examination that follows the guidelines of a nationally recognized protocol; and

(ii) Client-centered counseling that incorporates risk factor reduction for unintended pregnancy and anticipatory guidance about the advantages and disadvantages of all contraceptive methods.

(c) May include:

(i) A pap smear according to current, nationally recognized clinical guidelines; and

(ii) For women ages thirteen through twenty-five, routine gonorrhea and chlamydia testing and treatment.

(d) Must be documented in the client's chart with detailed information that allows for a well-informed follow-up visit.

(e) Must be billed by a TAKE CHARGE provider only.

NEW SECTION

WAC 182-532-743 TAKE CHARGE program—Other covered services for women. Other TAKE CHARGE services covered for women may include all the following:

(1) An office visit directly related to a family planning problem, when medically necessary.

(2) Food and Drug Administration (FDA)-approved prescription and nonprescription contraceptive methods, as provided in chapter 182-530 WAC.

(3) Over-the-counter (OTC) family planning drugs, devices, and drug-related supplies, as described in chapter 182-530 WAC.

(4) Sterilization procedures that meet the requirements of WAC 182-531-1550 if requested by the client and performed in an appropriate setting for the procedures.

(5) Screening and treatment for sexually transmitted infections (STI), including lab tests and procedures, only when the screening and treatment are:

(a) For chlamydia and gonorrhea as part of the comprehensive prevention visit for family planning for women thirteen through twenty-five years of age; or

(b) Part of an office visit that has a primary focus of family planning and is medically necessary for the client's safe and effective use of her chosen contraceptive method.

(6) Education and supplies for FDA-approved contraceptives, natural family planning, and abstinence.

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

WAC 182-532-745 TAKE CHARGE program—Covered services for men. The ((~~department~~)) medicaid agency covers all the following TAKE CHARGE services for men:

(1) ((~~One session of application assistance per client, per year;~~

~~(2)~~)) Over-the-counter (OTC) ((~~contraceptives, drugs, and~~)) contraceptive supplies ((~~(~~)), as described in chapter ((~~388-530~~)) 182-530 WAC((~~, Prescription Drugs (Outpatient));~~

~~(3) Sterilization procedure that meets the requirements of WAC 388-531-1550, if the service is:~~

~~(a) Requested by the TAKE CHARGE client; and~~

~~(b) Performed in an appropriate setting for the procedure.~~

~~(4)~~)),

(2) Sterilization procedures that meet the requirements of WAC 182-531-1550 if requested by the client and performed in an appropriate setting for the procedures.

(3) Screening and treatment for sexually transmitted ((~~diseases~~))infections (((~~STD-I~~)) STI), including ((~~laboratory~~)) lab tests and procedures, only when the screening and treatment ((~~is~~)) are related to((~~,~~)) and medically necessary for((~~,~~)) a sterilization procedure.

(((~~(5)~~))) (4) Education and supplies for FDA-approved contraceptives, natural family planning, and abstinence.

(((~~(6)~~))) (5) One education and counseling session for risk reduction (ECRR) per client((~~,~~)) every twelve months for those male clients whose female partners are at moderate to high risk for unintended pregnancy. ECRR must be:

(a) Provided by one or more ((~~of the following~~)) TAKE CHARGE~~-~~ trained providers((~~:~~

~~(i) Physician or physician's assistant (PA);~~

~~(ii) An advanced registered nurse practitioner (ARNP); or~~

~~(iii) A registered nurse (RN), licensed practical nurse (LPN), a trained and experienced health educator, medical assistant, or certified nursing assistant when used for assisting and augmenting the clinicians listed in subsection (i) and (ii) of this section~~)) (see WAC 182-532-730); and

(b) Documented in the client's chart with detailed information that allows for a well-informed follow-up visit.

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

WAC 182-532-750 TAKE CHARGE program—Noncovered services. ((~~The department does not cover the following medical services under the TAKE CHARGE program:~~

~~(1) Abortions and other pregnancy-related services; and~~

~~(2) Any other medical services, unless those services are:~~)) (1) Medical services are not covered under the TAKE CHARGE program unless those services are:

(a) Performed in relation to a primary focus and diagnosis of family planning; and

(b) Medically necessary for ((~~the~~)) clients to safely((~~,~~)) and effectively((~~, and successfully~~)) use, or continue to use, ((~~his or her~~)) their chosen contraceptive methods.

(2) The medicaid agency does not cover inpatient services under the TAKE CHARGE program except for complications arising from covered family planning services. For approval of exceptions, providers of inpatient services must submit a report to the medicaid agency, detailing the circumstances and conditions that required inpatient services. (See WAC 182-501-0160.)

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

WAC 182-532-760 TAKE CHARGE program—Documentation requirements. In addition to the documentation requirements in WAC ((~~388-502-0020~~)) 182-502-0020, TAKE CHARGE providers must keep the following records:

(1) ((~~TAKE CHARGE application form(s);~~

~~(2)~~)) The signed supplemental TAKE CHARGE agreement to participate in the TAKE CHARGE program;

(((~~3~~))) (2) Documentation of the ((~~department's~~)) medicaid agency's specialized TAKE CHARGE training and/or in-house ((~~in-service~~)) TAKE CHARGE training for each individual responsible for providing TAKE CHARGE((~~.~~));

(((~~4~~))) (3) TAKE CHARGE application form(s), along with supporting documentation if provided;

(4) Chart notes ((~~that reflect~~)) reflecting that the primary focus and diagnosis of the visit was family planning;

(5) Contraceptive methods discussed with the client;

(6) Notes on any discussions of emergency contraception and needed prescription(s);

(7) The client's plan for the contraceptive method to be used, or the reason for no contraceptive method and plan;

(8) Documentation of the education, counseling and risk reduction (ECRR) service, if provided, with sufficient detail that allows for follow((~~-~~)) up;

(9) Documentation of referrals to or from other providers;

(10) A form signed by the client authorizing the release of information for referral purposes, as necessary;

(11) The client's written and signed consent requesting that his or her services card be sent to the TAKE CHARGE provider's office to protect confidentiality; and

(12) ((~~A copy of the client's picture identification;~~

~~(13) A copy of the documentation used to establish United States citizenship or legal permanent residency; and~~

~~(14)~~)) If applicable, a copy of the completed ((~~department~~)) medicaid agency-approved sterilization consent form (((~~DSHS 13-364 - available for download at http://www.dshs.wa.gov/msa/forms/eforms.html) (see WAC 388-531-1550)~~)). (See WAC 182-531-1550 for more details about sterilization and the consent form.)

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

WAC 182-532-780 TAKE CHARGE program—Reimbursement and payment limitations. (1) The ((~~department~~)) medicaid agency limits reimbursement under the TAKE CHARGE program to those services that:

(a) Have a primary focus and diagnosis of family planning as determined by a qualified licensed medical practitioner; and

(b) Are medically necessary for ((~~the~~)) clients to safely((~~,~~)) and effectively((~~, and successfully~~)) use, or continue to use, ((~~his or her~~)) their chosen contraceptive methods.

(2) The ((~~department~~)) medicaid agency reimburses TAKE CHARGE providers for covered TAKE CHARGE services ((~~according to~~)) using the ((~~department's~~)) agency's published ((~~TAKE CHARGE~~)) fee schedule.

(3) Providers without signed TAKE CHARGE agreements are reimbursed by the medicaid agency only for clinic visits that are related to sterilization or complications from a birth control method.

(4) Family planning pharmacy services, family planning lab services, and sterilization services are reimbursed by the medicaid agency under the rules and fee schedules applicable to these specific programs.

(5) The medicaid agency pays a dispensing fee only for contraceptive drugs that are purchased through the 340B program of the Public Health Service Act. (See chapter 182-530 WAC.)

(6) The ((~~department~~)) medicaid agency limits reimbursement for TAKE CHARGE research and evaluation activities to selected research sites.

(((~~4~~))) (7) Federally qualified health centers (FQHCs), rural health centers (RHCs), and Indian health providers who ((~~choose to become~~)) are TAKE CHARGE providers must bill the ((~~department~~)) medicaid agency for TAKE CHARGE services without regard to:

(a) Their special rates and fee schedules((. The department does not reimburse FQHCs, RHCs or Indian health providers under the encounter rate structure for TAKE CHARGE services.

(5))); or

(b) The encounter rate structure.

(8) The ((department)) medicaid agency requires TAKE CHARGE providers to meet the billing requirements of WAC ((388-502-0150 (billing time limits). In addition, all final billings and billing adjustments related to the TAKE CHARGE program must be completed no later than two years after the demonstration and research program terminates. The department will not accept new billings or billing adjustments that increase expenditures for the TAKE CHARGE program after the cut-off date.

(6) The department does not cover inpatient services under the TAKE CHARGE program. However, inpatient charges may be incurred as a result of complications arising directly from a covered TAKE CHARGE service. If this happens, providers of TAKE CHARGE related inpatient services that are not otherwise covered by third parties or other medical assistance programs must submit to the department a complete report of the circumstances and conditions that caused the need for inpatient services for the department to consider payment under WAC 388-501-0165)) 182-502-0150.

(((7) The department)) (9) Under WAC 182-501-0200, the medicaid agency requires a provider ((under WAC 388-501-0200)) to seek timely reimbursement from a third party when a client has available third-party resources. The exceptions to this requirement are described under WAC ((388-501-0200)) 182-501-0200 (2) and (3) and ((388-532-790)) 182-532-790.

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

WAC 182-532-790 TAKE CHARGE program—Good cause exemption from billing third party insurance. (((1) TAKE CHARGE applicants who are eighteen years of age or younger and depend on their parents' medical insurance, or individuals who are domestic violence victims who depend on their spouses or another's health insurance may request an exemption, due to "good cause," from the eligibility restrictions in WAC 388-532-720 (1)(f) and from the use of available third party family planning coverage. Under the TAKE CHARGE program, "good cause" means that use of the third party coverage would violate his or her confidentiality because the third party:

(a) Routinely or randomly sends verification of services to the third party subscriber and that subscriber is other than the applicant; and/or

(b) Requires the applicant to use a primary care provider who is likely to report the applicant's request for family planning services to the subscriber.

(2) If subsection (1)(a) or (1)(b) of this section applies, the applicant is eligible for TAKE CHARGE without regard to the available third party family planning coverage.)) (1) Under the TAKE CHARGE program, two groups of clients may request an exemption from the medicaid requirement to bill third-party insurance due to "good cause." The two groups are:

(a) TAKE CHARGE applicants who:

(i) Are eighteen years of age or younger;

(ii) Are covered under their parents' health insurance; and

(iii) Do not want their parents to know that they are seeking and/or receiving family planning services.

(b) Individuals who are domestic violence victims and are covered under the perpetrator's health insurance.

(2) "Good cause" means that the use of the third-party coverage would violate a client's confidentiality because the third party:

(a) Routinely sends verification of services to the third-party subscriber and that subscriber is someone other than the applicant; and/or

(b) Requires the applicant to use a primary care provider who is likely to report the applicant's request for family planning services to the subscriber.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 182-532-505	Family planning only program—Definitions.
WAC 182-532-710	TAKE CHARGE program—Definitions.

WSR 13-16-010
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION
[Filed July 25, 2013, 1:13 p.m., effective August 25, 2013]

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

Purpose: The purpose of the proposed new WAC rules is to establish procedures governing issuance of no trespass warning notices for Washington state ferries' (WSF) terminals, vessels and any other WSF operated facility. The proposed rules also specify the appeal process to contest such notices.

The new WAC rules will provide WSF with enforcement options to enhance the safety of WSF terminals, vessels and other WSF facilities, all to benefit WSF customers and employees.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.010.

Adopted under notice filed as WSR 13-12-069 on June 5, 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 4, Amended 0, Repealed 0.

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

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

Date Adopted: July 10, 2013.

Kathryn W. Taylor
Chief of Staff

NEW SECTION

WAC 468-300-800 Authority to issue no trespass warnings/definitions. The definitions used in chapters 47.56 and 47.60 RCW and chapter 468-300 WAC, shall apply to this section, as well as those additional definitions set forth herein.

(1) "WSF property" shall mean any property real or otherwise, owned or leased by the WSF and includes, but is not limited to, any property which comprises a WSF terminal including access thereto, to any WSF vessel, or other WSF operated facility.

(2) "Authorized officer" shall mean a member of the Washington state patrol (WSP), a law enforcement officer or agency of local jurisdiction, a ferry vessel captain, a port captain, or other designated WSF director or employee.

(3) "Good cause" means facts and circumstances which leads an authorized officer to believe that a person:

(a) Has violated, or through his or her actions or behavior, intends to violate any state, local, or federal regulation, law, or ordinance including, but not limited to, the city of Seattle pedestrian interference law and any law as set forth under Title 9A RCW;

(b) Has disrupted, or through his or her actions or behavior, intends to disrupt WSF operations;

(c) Has harassed, or through his or her actions or behavior, intends to harass or otherwise interfere with a WSF employee or passenger;

(d) Has injured himself, herself or others, or through his or her actions or behavior, intends to injure himself, herself or others, or otherwise takes actions which place persons or WSF property in peril;

(e) Has damaged, defaced, or destroyed WSF property, or through his or her actions or behavior, intends to damage, deface, or destroy WSF property.

NEW SECTION

WAC 468-300-806 No trespass warnings. (1) This chapter shall be enforced so as to emphasize voluntary compliance with all applicable laws, rules, regulations, statutes, and policies, and so that inadvertent and/or minor violations of all applicable laws, rules, regulations, statutes, and policies can be corrected without resort to the issuance of a no trespass warning notice. Therefore, prior to issuing a no trespass warning notice to an individual, an authorized officer may choose, in his or her discretion, to first issue a verbal warning and/or a "warning letter" to an individual who exhibits "unacceptable behavior" which does not rise to the level of criminal conduct and/or does not constitute a safety risk.

(2) An authorized officer may issue a no trespass warning notice, which shall be valid and enforceable for a period of sixty days from the date of its issuance, to any individual when he or she has good cause to issue such a no trespass warning notice, which shall conform to the requirements of subsection (4) of this section. Violation of any term of a no trespass warning notice shall constitute the crime of criminal trespass under chapter 9A.52 RCW.

(3) Should an individual:

(a) Violate the terms of the no trespass warning notice; or

(b) Receive two no trespass warning notices within a one-year period, then the individual shall be issued a third no trespass warning notice by an authorized officer, which shall be valid and enforceable for a period of one year from the date of the issuance of the third no trespass warning notice.

(4) A no trespass warning notice shall:

(a) Be in writing and signed by the individual authorized officer issuing it;

(b) Contain the date of issuance, the violation that the person is alleged to have committed, and a citation to the code, statute, or rule violated;

(c) Specify the places where the individual will be expelled from and the length during the period in which the no trespass warning notice is valid and enforceable;

(d) Set out the method for appealing the notice, which shall also include the address where the appeal should be sent;

(e) Prominently display a warning of the consequences for failure to comply with the notice and state that a violation of the terms of the notice will constitute criminal trespass under chapter 9A.52 RCW.

(5) The person being expelled need not be charged, tried, or convicted of any crime or be issued an infraction or have an infraction found committed in order for a no trespass warning notice to be issued or effective. The authorized officer need only establish that good cause existed to support the issuance of the no trespass warning notice.

NEW SECTION

WAC 468-300-811 Administrative appeal. (1) A person receiving a no trespass warning notice may file an appeal to have the notice rescinded.

(2) The appeal must be in writing, provide the appellant's current address, and shall be accompanied by a copy of the no trespass warning notice that is being appealed.

(3) The written notice of appeal must be sent to the WSF company security officer at the WSF mailing address specified on the following WSF web site: www.wsdot.wa.gov/ferries/infodesk/contact.htm. You may also contact WSF at 206-515-3400 for information concerning the WSF mailing address. The written notice must be postmarked no later than seven calendar days after the issuance of the no trespass warning notice.

(4) The terms of the no trespass warning notice shall remain in effect during the pendency of any administrative or judicial proceeding.

NEW SECTION

WAC 468-300-815 Administrative hearing. (1) The WSF company security officer or his or her designee (hereinafter "hearing official") shall:

(a) Notify the appellant of the hearing date, time, and location;

(b) Conduct a hearing within ten business days of receipt of the notice of appeal; and

(c) Issue a written ruling upholding, rescinding, or modifying the no trespass warning notice no later than five business days after the hearing. The written ruling shall conform to the requirements of the Washington Administrative Procedure Act, chapter 34.05 RCW.

(2) The hearing official shall consider a sworn report or a declaration under penalty of perjury as authorized by RCW 9A.72.085, written by the individual who issued the no trespass warning notice, without further evidentiary foundation. This evidence creates a rebuttable presumption that the violation occurred and the burden thereafter rests with the appellant to overcome the presumption.

(3) The hearing official shall consider the no trespass warning notice and may consider any written or oral sworn testimony of the appellant or witnesses, as well as pictorial or demonstrative evidence offered by the appellant that the hearing official considers relevant and trustworthy. The hearing official may consider information that would not be admissible under the evidence rules in a court of law.

(4) The hearing official may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer individual oaths to witnesses. The hearing official shall not issue a subpoena for the attendance of a witness at the request of the appellant unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The appellant shall be responsible for serving any subpoena issued at the appellant's request.

(5) If, after the hearing, the hearing official is persuaded on a "more probable than not" basis that the violation did occur, the no trespass warning notice shall be upheld. However, if the appellant can establish that he or she necessarily requires access to the WSF property from which he or she is expelled for purposes of commuting to and from work, school, or necessary medical treatment, the hearing officer shall:

(a) Modify the terms of the no trespass warning notice to allow for travel at specified times only insofar as to limit the specific hardship caused by the expulsion; and

(b) Fine the individual two hundred fifty dollars for the first offense and five hundred dollars for each offense thereafter.

If, however, the violation is not proven on a "more probable than not" basis, then the hearing official shall rescind the no trespass warning notice. If the hearing official rescinds a no trespass warning notice, the no trespass warning notice shall not be considered a prior no trespass warning notice for purposes of WAC 468-300-806(3).

(6) The decision of the hearing official is final. Any appeal of the hearing official's decision may be made in conformance with the Washington Administrative Procedure Act, chapter 34.05 RCW.

(7) No determination of facts made by the hearing official under this section shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

(8) In no event shall the hearing official be a person who is subordinate to the person who issued the no trespass warning notice.

WSR 13-16-011
PERMANENT RULES
PUGET SOUND CLEAN AIR AGENCY

[Filed July 25, 2013, 1:55 p.m., effective September 1, 2013]

Effective Date of Rule: September 1, 2013.

Purpose: The Puget Sound Clean Air Agency (agency) proposes two amendments to its existing rules implementing the Public Records Act, chapter 42.56 RCW. Consistent with RCW 42.56.520, the first proposed amendment is intended to allow the agency to close requests when a requester has not responded to a request for clarification. The second proposed amendment would allow the agency to charge a scanning fee of fifteen cents per page for requests seeking more than fifty scanned pages. (The first fifty scanned pages for all requests would be free.)

Citation of Existing Rules Affected by this Order: Amending Regulation I, Sections 14.04 and 14.07.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 13-13-087 on June 19, 2013.

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

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

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

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

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

Date Adopted: July 25, 2013.

Craig Kenworthy
Executive Director

AMENDATORY SECTION

REGULATION I, SECTION 14.04 PROCESSING OF PUBLIC RECORDS REQUESTS—GENERAL

(a) **Agency processes requests efficiently.** The public records officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

(b) **Acknowledging receipt of request.** Within 5 business days of receipt of a request, the public records officer will do one or more of the following:

(1) Provide copies of the requested public records to the requester, if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon;

(2) Provide an internet address and link on the Agency's website to the specific public records requested;

(3) Make the public records available for inspection or copying;

(4) Provide a reasonable estimate of when records will be available;

(5) If the request is unclear or does not sufficiently identify the requested public records, request clarification from the requester. Such clarification may be requested and provided by telephone. The public records officer may revise the estimate of when records will be available based upon a clarification; or

(6) Deny the request.

(c) **Failure to respond.** If the Agency does not respond in writing within 5 business days of receipt of the request for disclosure, the requester should consider contacting the public records officer to determine the reason for the failure to respond.

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

(e) **Inspection of public records.**

(1) Consistent with other demands, the Agency shall promptly provide space to a requester to inspect public records. No member of the public may remove a public record from the viewing area or disassemble or alter any public record. The requester shall indicate which public records they wish the Agency to copy.

(2) The requester must claim or review the assembled public records within 30 days of the Agency's notification that the public records are available for inspection or copying. The Agency will notify the requester in writing of this requirement and inform the requester that they should contact the Agency to make arrangements to claim or review the public records. If the requester or a representative of the requester fails to claim or review the public records within the 30-day period or make other arrangements, the Agency may close the request and re-file the assembled public records. Other public records requests may be processed ahead of a subsequent request by the same person for the same or almost identical public records, which can be processed as a new request.

(f) **Providing copies of public records.** After inspection is complete, the public records officer shall make the requested copies or arrange for copying.

(g) **Providing public records in installments.** When the request is for a large number of public records, the public records officer will provide access for inspection and copying in installments, if the officer reasonably determines that it would be practical to provide the records in that way. If, within 30 days, the requester fails to inspect the entire set of public records or one or more of the installments, the public records officer may stop searching for the remaining records and close the request.

(h) **When access to Agency website is unavailable to requester.** If a requester notifies the Agency that they cannot access an Agency public record through the Agency's website, the Agency will make a paper copy of the requested public record available to the requester.

(i) **Completion of inspection.** When an inspection of requested public records is complete and all requested copies are provided, the public records officer will indicate to the requester that the Agency has made all located, nonexempt public records available for inspection.

(j) **Closing withdrawn or abandoned request<u>s</u>.** When a requester withdraws a request, fails to fulfill his or her obligations to inspect the public records, <u>fails to clarify a request,</u> or fails to pay a deposit or final payment for requested copies, the public records officer will close the request and indicate to the requester that the Agency has closed the request.

(k) **Later discovered documents.** If, after the Agency has informed a requester that it has provided all available public records, the Agency becomes aware of additional responsive public records existing at the time of the request, it will promptly inform the requester of the additional public records and provide them on an expedited basis.

<u>AMENDATORY SECTION</u>

REGULATION I, SECTION 14.07 COSTS OF PROVIDING COPIES OF PUBLIC RECORDS

(a) **No fee for inspecting public records.** There is no fee for inspecting public records. There is no fee for the Agency's time spent locating records<u>;</u> ((~~or~~)) for preparing public records for inspection<u>,</u> ((~~or~~)) copying<u>, or scanning; or for e-mailing electronic public records to a requester</u>.

(b) **Costs for paper copies.**

(((~~1~~))) There is no fee for the first 50 paper copies made per request. For requests greater than 50 pages:

(<u>1</u>((~~A~~))) If paper copies are made at the Agency, a requester may obtain photocopies for $.15 per page;

(<u>2</u>((~~B~~))) If paper copies are made outside the Agency at a commercial copier, a requester may obtain copies at the actual cost charged by the commercial copier.

(((~~(2) Before beginning to make paper copies, the public records officer may require a deposit of up to 10% of the estimated costs of copying all the public records selected by the requester. The public records officer may also require the payment of the remainder of the copying costs before providing all the public records, or the payment of the costs of copy-~~

~~ing an installment before providing that installment. The Agency does not charge sales tax when it makes copies of public records.~~))

(c) **Costs for scanned ((~~electronic~~)) public records.** There is no fee for the first 50 pages scanned per request ((~~e-mailing electronic public records to a requester~~)). For requests greater than 50 pages:

(1) If records are scanned by the Agency, a requester may obtain scanned pages for $.15 per page;

(2) If the Agency uses a commercial copier to scan public records to respond to a request electronically, a requester may obtain the scanned public records at the actual scanning cost charged by the commercial copier.

(d) **Deposits**. Before beginning to make paper copies or scanning records, the public records officer may require a deposit of up to 10% of the estimated costs of copying or scanning the public records selected by the requester. The public records officer may also require the payment of the remainder of the copying or scanning costs before providing all the public records, or the payment of the costs of copying or scanning an installment before providing that installment. The Agency does not charge sales tax when it makes copies of or scans public records.

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

(f((~~e~~))) **Payment.** Payment may be made by cash, check, money order, or credit card to the Puget Sound Clean Air Agency.

WSR 13-16-018
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed July 26, 2013, 7:49 a.m., effective August 26, 2013]

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

Purpose: This order will extend suspension of fees in an effort to maintain a balanced budget for the architect licensing program. The current temporary suspension expires on July 1, 2013.

Citation of Existing Rules Affected by this Order: Amending WAC 308-12-205 Architect fees.

Statutory Authority for Adoption: RCW 18.220.040.

Other Authority: RCW 43.24.086.

Adopted under notice filed as WSR 13-11-064 on May 15, 2013.

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

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

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

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

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

Date Adopted: July 26, 2013.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-11-019, filed 5/9/11, effective 7/1/11)

WAC 308-12-205 Architect fees. (1) Suspension of fees. Effective July 1, ((~~2011~~)) 2013, the listed fees shown in subsection (2) of this section are suspended and replaced with the following:

Title of Fee	Fee
Individuals:	
Examination application	$50.00
Reciprocity application	250.00
Initial licensure	75.00
License renewal (2 years)	75.00
Late renewal penalty	25.00
Duplicate license	15.00
Business entities:	
Certificate of authorization	100.00
Certificate of authorization renewal	50.00

The fees set forth in this section shall revert back to the fee amounts shown in subsection (2) of this section on July 1, ((~~2013~~)) 2015.

(2) The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Examination application	$100.00
Reciprocity application	390.00
Initial licensure	99.00
License renewal (2 years)	99.00
Late renewal penalty	33.00
Duplicate license	15.00
Business entities:	
Certificate of authorization	278.00
Certificate of authorization renewal	139.00

WSR 13-16-034

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 29, 2013, 3:04 p.m., effective August 29, 2013]

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

Purpose: New WAC 246-809-730 Retired active license status, SHB [SSB] 6328 (chapter 58, Laws of 2012) requires the department of health to create a retired active status of license for licensed mental health counselors, licensed marriage and family therapists, licensed advanced social workers, and licensed independent clinical social workers. Establishing the credential may improve access to mental health care during emergent or intermittent circumstances.

Statutory Authority for Adoption: RCW 18.130.250, chapter 18.225 RCW, chapter 58, Laws of 2012.

Adopted under notice filed as WSR 13-07-023 on March 12, 2013.

Changes Other than Editing from Proposed to Adopted Version: Only minor editing changes were made.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 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: July 26, 2013.

John Wiesman, DrPH, MPH
Secretary

NEW SECTION

WAC 246-809-730 Retired active credential. (1) To obtain a retired active license a licensed counselor must comply with chapter 246-12 WAC, Part 5.

(2) A licensed counselor with a retired active license may practice no more than ninety days each year in Washington, or practice only in emergency circumstances such as earthquakes, floods, time of declared war or other states of emergency; and

(3) A licensed counselor with a retired active license must renew yearly on their birthday, and must report thirty-six hours of continuing education as required under WAC 246-809-630 every two years.

WSR 13-16-045

PERMANENT RULES

OFFICE OF INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-24—Filed July 31, 2013, 9:20 a.m., effective August 31, 2013]

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

Purpose: This rule amends WAC 284-43-330 by removing language permitting provider agreements filed with the commissioner to omit proprietary compensation information. The rule also changes time-frames for the office of the insurance commissioner to disapprove a provider agreement from fifteen working days to thirty calendar days.

Citation of Existing Rules Affected by this Order: Amending WAC 284-43-330.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, 48.46.030, 48.46.200, section 1, chapter 277, Laws of 2013.

Adopted under notice filed as WSR 13-12-081 on June 5, 2013.

A final cost-benefit analysis is available by contacting Donna Dorris, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7040, fax (360) 586-3109, e-mail rules coordinator@oic.wa.gov.

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

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

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

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

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

Date Adopted: July 29, 2013.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 98-21, filed 10/11/99, effective 11/11/99)

WAC 284-43-330 Participating provider—Filing and approval. (1) ((~~Beginning May 1, 1998,~~)) A health carrier ((~~shall~~)) must file with the commissioner ((~~fifteen working~~)) thirty calendar days prior to use sample contract forms proposed for use with its participating providers and facilities. ((~~A health carrier need not submit contract provisions governing payment rates, amounts, or similar proprietary information that would indicate provider or facility compensation.~~))

(2) A health carrier shall submit material changes to a sample contract form to the commissioner ((~~fifteen working~~)) thirty calendar days prior to use. Carriers shall indicate in the

filing whether any change affects a provision required by this chapter. All changes to contracts must be indicated through strike outs for deletions and underlines for new material. Alternatively, carriers may refile a sample contract that incorporates changes along with a copy of the contract addendum or amendment and any correspondence that will be sent to providers and facilities sufficient for a clear determination of contract changes. Changes not affecting a provision required by this chapter are deemed approved upon filing.

(3) If the commissioner takes no action within ((~~fifteen working~~)) thirty calendar days after submission of a sample contract or a material change to a sample contract form by a health carrier, the change or form is deemed approved except that the commissioner may extend the approval period an additional fifteen ((~~working~~)) calendar days upon giving notice before the expiration of the initial ((~~fifteen-day~~)) thirty-day period. Approval may be subsequently withdrawn for cause.

(4) The health carrier shall maintain provider and facility contracts at its principal place of business in the state, or the health carrier shall have access to all contracts and provide copies to facilitate regulatory review upon twenty days prior written notice from the commissioner.

WSR 13-16-051
PERMANENT RULES
PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed August 1, 2013, 8:01 a.m., effective September 1, 2013]

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

Purpose: Creates new section in chapter 181-01 WAC and amends WAC 181-01-001 and 181-01-002 in response to legislation permitting alternative assessments such as SAT and ACT test scores above the national average to meet admission requirements to preparation programs.

Citation of Existing Rules Affected by this Order: Amending x.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 13-11-150 on May 22, 2013.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 2, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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: July 31, 2013.

David Brenna
Legislative and
Policy Coordinator

AMENDATORY SECTION (Amending WSR 07-09-058, filed 4/12/07, effective 5/13/07)

WAC 181-01-001 WEST-B extension. Candidates who are prepared and/or certified out-of-state applying for a Washington state residency teaching certificate under WAC 181-79A-257 (1)(b) or 181-79A-260 have up to one calendar year from issuance of temporary permit to pass the WEST-B basic skills test or present evidence of passing an alternative assessment per WAC 181-01-0025, provided that they have completed all other requirements for residency certification other than passage of the WEST-B and are thus eligible for a temporary permit under WAC 181-79A-128.

AMENDATORY SECTION (Amending WSR 12-04-032, filed 1/26/12, effective 2/26/12)

WAC 181-01-002 WEST-B exemptions. (1) Candidates who are prepared and/or certified out-of-state applying for a Washington state residency teaching certificate under WAC 181-79A-257 (1)(b) or 181-79A-260, or out-of-state candidates applying to masters-degree level teacher preparation programs residing outside of the state of Washington at time of application, in lieu of passing the WEST-B, may present evidence of passing an alternative assessment per WAC 181-01-0025, or may provide official documentation of scores on the Praxis I ((~~of 177 for the reading subtest, 176 for the mathematics subtest and 174 for the writing subtest, or scores on the Praxis I CBT computer-administered test of 325 for the reading subtest, 321 for the mathematics subtest, and 321 for the writing subtest, or passing scores from~~)) or the California ((~~or Oregon on the CBEST~~)) basic educational skills test (*CBEST*®) or the *NES*® Essential Academic Skills test which meet the minimum passing scores adopted by the professional educator standards board.

(2) Candidates applying for a Washington state residency or professional teaching certificate under WAC 181-79A-257 (1)(b) who hold a certificate through the National Board for Professional Teaching Standards are exempt from the WEST-B requirement.

NEW SECTION

WAC 181-01-0025 WEST-B alternatives. Per RCW 28A.410.220 individuals seeking admission to a state approved educator preparation program may submit evidence of a score on an assessment deemed of equal rigor by the professional educator standards board, such as the SAT or ACT, in lieu of the WEST-B. Acceptable alternative assessments and scores shall be approved and posted by the board and be no lower than the national average for that assessment as set

by the professional educator standards board. This section also applies to out-of-state candidates.

WSR 13-16-056
PERMANENT RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 13-180—Filed August 1, 2013, 1:45 p.m., effective September 1, 2013]

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

Purpose: Amendments to WAC 232-28-297 for hunting cougar in the 2013-14 season clarify hunt-area boundaries and maintain consistency with existing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-297.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.15.245.

Adopted under notice filed as WSR 13-10-087 on May 1, 2013.

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

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

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

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

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

Date Adopted: June 21, 2013.

Miranda Wecker, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 12-70, filed 5/2/12, effective 6/2/12)

WAC 232-28-297 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations. (1) As used in this section and in the context of general cougar hunting seasons, "harvest guideline" means the estimated allowable harvest; the actual harvest may be less than or more than the harvest guideline.

(2) Season dates and harvest guidelines for each license year:

Hunt Area	Harvest Guideline	Early Hunting Season	Late Hunting Season	Legal Weapon
GMU 101	7-9	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 105	2	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 108, 111	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 113	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 117	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 121	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 124, 127, 130	7-9	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 133, 136, 139, 142, 248, 254, 260, 262, 266, 269, 272, 278, 284, 290, 330, 334, 371, 372, 373, 379, 381	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 149, 154, ((~~157,~~)) 162, 163	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 145, 166, 175, 178	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 169, 172, 181, 186	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 203	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 204	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 209, 215	4-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 218, 231	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 224	2-3	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 233, 239	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 242, 243	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 244, 246, 247	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon

Hunt Area	Harvest Guideline	Early Hunting Season	Late Hunting Season	Legal Weapon
GMUs 245, 250	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 249, 251	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 328, 329, 335	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 336, 340, 342, 346	5-7	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 352, 356, 360, 364, 368	5-7	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 382, 388	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 407	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 418, 426, 437	11-15	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 448, 450	9-13	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 454	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 460	5-7	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 466, 485, 490	2-3	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 501, 504, 506, 530	7-10	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 503, 505, 520, 550	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 510, 513	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 516	3-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs ((~~522,~~)) 524, 554, 556	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 560	5-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 564, 568	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 572	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 574, 578	3-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 601, 602, 603, 612	5-7	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 607, 615	4-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 618, 636, 638	4-5	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 621, 624, 627, 633	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 642, 648, 651	6-8	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 652, 666	None	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 653, 654	4-6	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMUs 658, 660, 663, 672, 673, 681, 684, 699	9-12	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon
GMU 667	3-4	Sept. 1 - Dec. 31	Jan. 1 - Mar. 31	Any Legal Weapon

(a) In hunt areas with a harvest guideline, the director may close the cougar late hunting season after January 1st in one or more GMUs if cougar harvest meets or exceeds the guideline.

(b) In hunt areas with a harvest guideline, starting January 1st, cougar hunters may hunt cougar from January 1st until the hunt area harvest guideline has been met and the director has closed the cougar late hunting season, or March 31st, whichever occurs first.

(3) Harvest guideline system:

(a) All cougar killed by licensed hunters during the early and late hunting seasons, and seasons authorized under WAC 232-12-243 shall be counted toward the harvest guideline.

(b) Individual problem cougar will continue to be killed on an as-needed basis utilizing depredation permits, landowner kill permits, and WDFW depredation authority regardless of harvest guidelines.

(c) It is each cougar hunter's responsibility to verify if the cougar late hunting season is open or closed in hunt areas with a harvest guideline. Cougar hunters can verify if the season is open or closed by calling the toll-free cougar hunting hotline or visiting the department's web site.

(4) Cougar hunting season requirements and special restrictions.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

(b) The statewide bag limit is one (1) cougar per license year; excluding removals authorized under WAC 232-12-243. It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

(c) The use of dogs to hunt cougar is prohibited; except by a commission authorized permit (WAC 232-12-243).

(d) Any person who takes a cougar must comply with the notification and sealing requirements in WAC 232-12-024.

(e) A special cougar permit is required to hunt cougar in GMU 485.

WSR 13-16-076
PERMANENT RULES
PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed August 6, 2013, 9:49 a.m., effective September 6, 2013]

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

Purpose: Amends WAC 181-78A-270 in response to the teacher/principal evaluation system enacted by the 2012 legislature.

Citation of Existing Rules Affected by this Order: Amending x.

Statutory Authority for Adoption: RCW 28A.410.210

Adopted under notice filed as WSR 13-13-036 on June 13, 2013.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

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

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

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

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

Date Adopted: May 16 [July 30], 2013.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-18-004, filed 8/23/12, effective 9/23/12)

WAC 181-78A-270 Approval standard—Knowledge and skills. Each preparation program must be in compliance with the program approval standards of WAC 181-78A-220(5):

(1) **TEACHER RESIDENCY CERTIFICATION.**

(a) **EFFECTIVE TEACHING.**

(i) Using multiple instructional strategies, including the principles of second language acquisition, to address student academic language ability levels and cultural and linguistic backgrounds;

(ii) Applying principles of differentiated instruction, including theories of language acquisition, stages of language, and academic language development, in the integration of subject matter across the content areas of reading, mathematical, scientific, and aesthetic reasoning;

(iii) Using standards-based assessment that is systematically analyzed using multiple formative, summative, and self-assessment strategies to monitor and improve instruction;

(iv) Implementing classroom/school centered instruction, including sheltered instruction that is connected to communities within the classroom and the school, and includes knowledge and skills for working with other;

(v) Planning and/or adapting standards-based curricula that are personalized to the diverse needs of each student;

(vi) Aligning instruction to the learning standards and outcomes so all students know the learning targets and their progress toward meeting them;

(vii) Planning and/or adapting curricula that are standards driven so students develop understanding and problem-solving expertise in the content area(s) using reading, written and oral communication, and technology;

(viii) Preparing students to be responsible citizens for an environmentally sustainable, globally interconnected, and diverse society;

(ix) Planning and/or adapting learner centered curricula that engage students in a variety of culturally responsive, developmentally, and age appropriate strategies;

(x) Using technology that is effectively integrated to create technologically proficient learners; and

(xi) Informing, involving, and collaborating with families/neighborhoods, and communities in each student's educational process, including using information about student cultural identity, achievement and performance.

(b) **PROFESSIONAL DEVELOPMENT.** Developing reflective, collaborative, professional growth-centered practices through regularly evaluating the effects of his/her teaching through feedback and reflection.

Teacher evaluation. After August 31, 2013, an approved preparation program for teachers shall require candidates for a residency certificate to demonstrate knowledge of teacher evaluation research and Washington's evaluation requirements. At a minimum, teacher preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington's evaluation requirements, criteria, four-tiered performance rating system, and the preferred instructional frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Use of student growth data and multiple measures of performance;

(v) Evaluation conferencing; and

(vi) Use of an online tool to review observation notes and submit materials to be included in evaluation.

(c) **TEACHING AS A PROFESSION.**

(i) Participating collaboratively and professionally in school activities and using appropriate and respectful verbal and written communication.

(ii) Demonstrating knowledge of professional, legal, and ethical responsibilities and policies.

(d) **PERFORMANCE ASSESSMENT.** An approved preparation program for teachers shall require that each candidate engage in an assessment process approved by the professional educator standards board. The assessment will verify that the candidate for a residency teacher certificate can meet the teacher standards in (a), (b) and (c) of this subsection and understands teacher impact on student learning. All candidates shall exit the residency certificate program with a draft professional growth plan oriented toward the expectations for the professional certificate.

(2) **PRINCIPAL AND PROGRAM ADMINISTRATOR.**

(a) Principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

Successful demonstration of standards.

(i) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by school/program and community stakeholders;

(ii) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading through advocating, nurturing, and sustaining district/school/program cultures and coherent instructional programs that are conducive to student learning and staff professional growth;

(iii) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(iv) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(v) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by acting with integrity, fairness, and in an ethical manner; and

(vi) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by understanding, responding to, and influencing the larger political, social, economic, legal and cultural context.

(b) Performance assessment. An approved preparation program for principals shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented toward the expectations for the professional certificate.

(c) Teacher and principal evaluation. After August 31, 2013, an approved preparation program for principals shall require candidates for a residency principal certificate to demonstrate knowledge of teacher evaluation research, Washington's evaluation requirements, and successfully complete opportunities to practice teacher evaluation skills. At a minimum, principal preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington teacher and principal evaluation criteria, four-tiered performance rating system, and the preferred instructional and leadership frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Classroom observation skills;

(v) Bias training;

(vi) Rater agreement on the four-tiered system;

(vii) Use of student growth data and multiple measures of performance;

(viii) Evaluation conferencing;

(ix) Development of classroom teacher and principal support plans resulting from an evaluation; and

(x) Use of an online tool to manage the collection of observation notes, teacher- and principal-submitted materials, and other information related to the conduct of the evaluation.

(3) **SUPERINTENDENT.** An approved preparation program for superintendents shall require the candidate to demonstrate in course work and the internship the following standards:

(a) A ((~~school administrator~~)) superintendent is ((~~an~~)) the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by ((~~school~~)) district and community stakeholders;

(b) A ((~~school administrator~~)) superintendent is ((~~an~~)) the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading through advocating, nurturing, and sustaining district((~~/school~~)) culture((~~s~~)) and coherent instructional programs that are conducive to student learning and staff professional growth;

(c) A ((~~school administrator~~)) superintendent is ((~~an~~)) the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by ensuring management of the organization, operations, and

resources for a safe, efficient, and effective learning environment;

(d) A ((~~school administrator~~)) superintendent is ((~~an~~)) the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(e) A ((~~school administrator~~)) superintendent is ((~~an~~)) the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by acting with integrity, fairness, and in an ethical manner; ((~~and~~))

(f) A ((~~school administrator~~)) superintendent is ((~~an~~)) the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context; and

(g) Principal evaluation. After August 31, 2013, an approved preparation program for superintendents shall require candidates for an initial superintendent certificate to demonstrate knowledge of principal evaluation research, Washington's evaluation requirements, and successfully complete opportunities to practice principal evaluation skills. At a minimum, superintendent preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington principal evaluation criteria, four-tiered performance rating system, and the preferred leadership frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Observation skills;

(v) Bias training;

(vi) Rater agreement on the four-tiered system;

(vii) Use of student growth data and multiple measures of performance;

(viii) Evaluation conferencing;

(ix) Development of principal support plans resulting from an evaluation; and

(x) Use of an online tool to manage the collection of observation notes, superintendent- and principal-submitted materials, and other information related to the conduct of the evaluation.

(4) **SCHOOL COUNSELOR.** School counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **School counseling program:** Certified school counselors develop, lead, and evaluate a data-driven school counseling program that is comprehensive, utilizes best practices, and advances the mission of the school.

(ii) **Student learning and assessments:** Certified school counselors use their knowledge of pedagogy, child development, individual differences, learning barriers, and Washington state learning requirements to support student learning. They work effectively with other educators to monitor and improve student success.

(iii) **Counseling theories and technique:** Certified school counselors use a variety of research-based counseling approaches to provide prevention, intervention, and responsive services to meet the academic, personal/social and career needs of all students.

(iv) **Equity, fairness, and diversity:** Certified school counselors understand cultural contexts in a multicultural society, demonstrate fairness, equity, and sensitivity to every student, and advocate for equitable access to instructional programs and activities.

(v) **School climate and collaboration:** Certified school counselors collaborate with colleagues, families, and community members to establish and foster a safe, inclusive, and nurturing learning environment for students, staff, and families.

(vi) **Professional identity and ethical practice:** Certified school counselors engage in continuous professional growth and development and advocate for appropriate school counselor identity and roles. They adhere to ethical practices and to the Washington state and federal policies, laws, and legislation relevant to school counseling.

(b) **Performance assessment.** An approved preparation program for school counselors shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented to the expectations for the professional certificate.

(5) **SCHOOL PSYCHOLOGIST.** School psychologist candidates will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **Data-based decision making and accountability:** Certified school psychologists have knowledge of varied models and methods of assessment as part of a systematic process of data-based decision making that permeates every aspect of professional practice.

(ii) **Consultation and collaboration:** Certified school psychologists have knowledge of behavioral, mental health, collaborative, and other consultation models and methods and of their application to individual and contextual situations; collaborate effectively with others in planning and decision-making processes at the individual, group, and system levels.

(iii) **Interventions and instructional support to develop academic skills:** Certified school psychologists have knowledge of the influence of biological, cultural, linguistic, and early life experiences on academic development and collaborate with others to access, implement, and evaluate services at universal, targeted, and intensive levels using a variety of culturally and developmentally appropriate assessments.

(iv) **Interventions and mental health services to develop social and life skills:** Certified school psychologists have knowledge of biological, cultural, developmental, and social influences on behavior and mental health; collaborate with others, to develop, implement, and evaluate services that support socialization, cultural competence, learning, and mental health for positive impact on student learning.

(v) **Schoolwide practices to promote learning:** Certified school psychologists have knowledge of general and special education, evidence-based practices, and equity pedagogy that responds to the needs of the learners; demonstrate skills to manage time effectively, respond to the learning needs of the individual students, and plan and measure positive impact on student learning.

(vi) **Prevention and responsive services:** Certified school psychologists have knowledge of principles of resilience and risk factors and demonstrate skills in multitiered delivery of services that respond to crisis and promote learning and mental health across cultures.

(vii) **School collaboration services:** Certified school psychologists have knowledge of family systems, including family strengths and influences on student development, learning, and behavior, and of methods to involve families in education and service delivery; facilitate family and school partnerships and interactions with community agencies for enhancement of academic and social-behavior outcomes for children.

(viii) **Diversity in development and learning:** Certified school psychologists have knowledge of the principles and research related to culture, linguistic development, context, individual and role differences; work collaboratively to provide professional services that respond to the diverse needs of individuals and families; advocate for social justice and equity pedagogy.

(ix) **Research and program evaluation:** Certified school psychologists have knowledge of research, statistics, and evaluation methods; evaluate research, translate research into practice, and understand research design and statistics in sufficient depth to plan and conduct investigations and program evaluations for improvement of services at individual, group, and systems levels.

(x) **Legal, ethical, and professional practice:** Certified school psychologists have knowledge of the history and foundations of their profession; of multiple service models and methods; of ethical, professional, and legal standards, including the Washington Administrative Code and federal and state accountability legislation; practice in ways that are consistent with applicable standards; engage in responsive ethical and professional decision-making; and apply professional work characteristics.

(xi) **Emerging and assistive technologies:** Certified school psychologists have knowledge of and access, implement, and evaluate technology relevant to their work and to the instructional needs of individuals with disabilities.

(b) **Performance assessment.** An approved preparation program for school psychologists shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented to the expectations for the professional certificate.

WSR 13-16-077
PERMANENT RULES
PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed August 6, 2013, 9:56 a.m., effective September 6, 2013]

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

Purpose: Amends WAC 181-85-075 in response to the teacher/principal evaluation system enacted by the 2012 legislature.

Citation of Existing Rules Affected by this Order: Amending x.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 13-13-035 on June 13, 2013.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2 [1], Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2 [1], Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2 [1], Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 30, 2013.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-17-012, filed 8/2/12, effective 9/2/12)

WAC 181-85-075 Continuing education requirement. Continuing education requirements are as follows:

(1) Each holder of a continuing certificate affected by this chapter shall be required to complete during a five-year period one hundred fifty continuing education credit hours, as defined in WAC 181-85-025 and 181-85-030, prior to the lapse date of the first issue of the continuing certificate and during each five-year period between subsequent lapse dates as calculated in WAC 181-85-100.

(2) Individuals holding a valid continuing certificate in subsection (1) of this section may choose to renew the certificate via annual professional growth plans developed since

the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207 for teachers, WAC 181-78A-540(1) for administrators, or WAC 181-78A-540(2) for educational staff associates. For educators holding multiple certificates in chapter 181-85 WAC or WAC 181-79A-251, a professional growth plan for teacher, administrator, or educational staff associate shall meet the requirement for all certificates held by an individual which is affected by this section. Each completed annual professional growth plan shall receive the equivalent of thirty continuing education credit hours.

Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

(3) Provided, That each holder of a continuing or a standard certificate affected by this chapter may present a copy of a valid certificate issued by the National Board for Professional Teaching Standards in lieu of the completion of the continuing education credit hours required by this chapter.

(4) Each holder of a continuing school psychologist certificate affected by this chapter may present a copy of a valid National Certified School Psychologist certificate issued by the National Association of School Psychologists in lieu of the completion of the continuing education credit hours required by this chapter.

WSR 13-16-081

PERMANENT RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed August 6, 2013, 10:05 a.m., effective September 6, 2013]

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

Purpose: Amends WAC 181-79A-251 in response to the teacher/principal evaluation system enacted by the 2012 legislature.

Citation of Existing Rules Affected by this Order: Amending x.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 13-13-043 on June 14, 2013.

Changes Other than Editing from Proposed to Adopted Version: Public hearing produced multiple clarifying language changes. Corrected previous drafting errors.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

Date Adopted: July 30, 2013.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 13-11-072, filed 5/16/13, effective 6/16/13)

WAC 181-79A-251 Residency and professional certification. Renewal and reinstatement.

(1) Residency certificate. Residency certificates shall be renewed under one of the following options:

(a) Teachers.

(i) Individuals who hold, or have held, residency certificates have the following options for renewal past the first three-year certificate:

(A) Candidates who have attempted and failed the professional certificate assessment are eligible for a two-year renewal;

(B) Candidates who have not been employed or employed less than full-time as a teacher during the dated, three-year residency certificate may receive a two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio or may permit their certificate to lapse until such time they register for the professional certificate assessment;

(C) Candidates whose three-year residency certificate has lapsed may receive a two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio for the professional certificate assessment;

(D) Individuals who complete a National Board Certification assessment but do not earn National Board Certification, may use that completed assessment to renew the residency certificate for two years.

(ii) A residency certificate expires after the first renewal if the candidate has not registered for and submitted a portfolio assessment prior to June 30th of the expiration year, to achieve the professional certificate, provided: When the first two-year renewal on residency certificates expires, teachers have two renewal options:

(A) Teachers who were employed but failed the professional certification assessment, may receive a second two-year renewal;

(B) Teachers who were unemployed or employed less than full-time during the first two-year renewal may permit their certificate to lapse and receive a second two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform

assessment portfolio for the professional certification assessment.

(C) An individual who completes a National Board Certification assessment but does not earn National Board Certification, may use that completed assessment to renew the residency certificate for two years in lieu of submitting an affidavit to the certification office confirming that they will register and submit the Washington uniform assessment portfolio as per this section, WAC 181-79A-251.

(iii) Teachers who hold expired residency certificates may be reinstated by having a district request, under WAC 181-79A-231, a transitional certification not less than five years following the final residency expiration: Provided, That the teacher registers and passes the professional certification assessment within two years.

(iv) Teachers that hold a dated residency certificate prior to September 2011 that have expiration dates past September 2011 are subject to the same renewal options as described in (a)(ii) and (iii) of this subsection.

(b) Principals/program administrators((~~.~~)) may renew their residency certificate in one of the following ways:

(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 181-78A-535 (2)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who ((~~do not qualify for enrollment in a professional certificate program under WAC 181-78A-535 (2)(a)~~)) are not in the role of principal or program administrator may have their residency certificates renewed for an additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education credit hours, directly related to the current performance-based leadership standards as defined in WAC 181-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(c) School counselors and school psychologists((~~.~~)) may renew their residency certificate in one of the following ways:

(i) Individuals who hold a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 181-78A-535(3) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, a residency certificate who ((~~do not qualify for admission to a professional certificate program under WAC 181-78A-535 (3)(a)~~)) are not in the role of school counselor or school psychologist may have their residency certificates renewed for an additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education hours, directly related to the current performance-based standards as defined in WAC 181-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(iii) School psychologists in the process of obtaining the NCSP may apply for a one-time two-year renewal with verification of NCSP submission.

(iv) School psychologists with residency certificates dated to expire June 30, 2013, 2014, or 2015 may apply until June 30, 2016, for a one-time two-year extension.

(2) Professional certificate.

(a) Teachers.

(i) A valid professional certificate may be renewed for additional five-year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC or by completing the professional growth plan as defined in WAC 181-79A-030. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours: Provided, that professional certificates issued under rules prior to September 1, 2014, retain the option of clock hours or professional growth plans for renewal. Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid in collaboration with the professional growth team as defined in WAC 181-79A-030 are required for renewal. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207. Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours. An expired professional certificate issued under rules in effect prior to September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to either (a)(i)(A) or (B) of this subsection: Provided, That both categories (a)(i)(A) and (B) of this subsection must be represented in the one hundred fifty continuing education credit hours required for renewal:

(A) One or more of the following three standards:

(I) Effective instruction.

(II) Professional contributions.

(III) Professional development.

(B) One of the salary criteria specified in WAC 392-121-262.

(ii) Individuals not ((~~employed~~)) in the role as a teacher in a public school or approved private school holding a professional teaching certificate may have their professional certificate renewed for a five-year period by the completion of:

(A) Fifteen quarter credits (ten semester credits) of college credit course work directly related to the current perfor-

mance-based leadership standards as defined in WAC 181-78A-540; or

(B) One hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-79A-207; or

(C) Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid in collaboration with the professional growth team as defined in WAC 181-79A-030 are required for renewal. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207. Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(iii) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(b) Principals/program administrators.

(i) A professional certificate may be renewed for additional five-year periods for individuals ((~~employed~~)) in the role as a principal, assistant principal or program administrator in a public school or approved private school by:

(A) Completion of four professional growth plans developed annually since the certificate was issued in collaboration with a minimum of three certificated colleagues that documents formalized learning opportunities and professional development activities that relate to the six standards and "career level" benchmarks defined in WAC 181-78A-540(1). Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(B) Documented evidence of results of the professional growth plan on student learning.

(ii) Individuals not ((~~employed~~)) in the role as a principal, assistant principal, or program administrator in a public school or approved private school may have their professional certificate renewed for a five-year period by the completion of:

(A) Fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 181-78A-540(1) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(1); or

(C) Completion of four professional growth plans developed annually since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(c) School counselors and school psychologists.

(i) For certificates issued under rules in effect prior to September 1, 2014, a valid professional certificate may be renewed for additional five-year periods by:

(A) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-270 (5), (7), or (9); or

(B) Completion of four professional growth plans that are developed annually since the certificate was issued in collaboration with a minimum of three certificated colleagues or supervisor, and that documents formalized learning opportunities and professional development activities that relate to the standards and career level benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours; or

(C) An expired professional certificate issued under rules in effect prior to September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application.

(ii) Beginning September 1, 2014, a valid professional certificate may be renewed for additional five-year periods for individuals ((~~employed~~)) in the role as a school counselor or school psychologist in a public school, approved private school, or in a state agency which provides educational services to students by completion of four professional growth plans developed annually since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(A) Individuals not ((~~employed~~)) in the role as a school counselor or school psychologist in a public school or approved private school may have their professional certificate renewed for an additional five-year period by:

(B) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 181-78A-540(2) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(C) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(2); or

(D) Completion of four annual professional growth plans developed since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours;

(E) An expired professional certificate issued under rules in effect after September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application.

(iii) Provided, That a school counselor professional certificate may be renewed based on the possession of a valid school counselor certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater; or

(iv) Provided, That a school psychologist professional certificate may be renewed based on the possession of a valid national certified school psychology certificate issued by the national association of school psychologists at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the national certified school psychology certificate, whichever is greater.

(d) Provided, any educator holding a professional certificate in (a), (b), or (c) of this subsection, which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans as required by (a)(ii)(C), (b)(ii)(A), and (c)(ii) of this subsection. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application. Provided, That this section is no longer in effect after June 30, 2020.

(e) For educators holding multiple certificates in (a), (b), or (c) of this subsection, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(f) The one time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

WSR 13-16-089
PERMANENT RULES
WASHINGTON STATE UNIVERSITY

[Filed August 6, 2013, 1:55 p.m., effective September 6, 2013]

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

Purpose: Updates to cross-references in WAC 504-04-010 to reflect the addition of references to WAC sections that did not exist at the time this section was last revised and the removal of references to WAC sections that no longer exist.

Citation of Existing Rules Affected by this Order: Amending WAC 504-04-010.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 13-11-095 on May 20, 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 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: August 6, 2013.

Ralph T. Jenks, Director
Procedures, Records, and Forms
University Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-02-034, filed 12/26/06, effective 1/26/07)

WAC 504-04-010 Matters subject to brief adjudication. The following proceedings are matters to be treated as brief adjudications pursuant to RCW 34.05.482 through 34.05.491:

(1) Student conduct proceedings. The procedural rules of chapter ((~~504-25~~)) 504-26 WAC apply to these proceedings.

(2) Appeals of residency determinations. If a hearing is required by law or constitutional right, appeals of residency determinations under RCW 28B.15.013 are brief adjudicative proceedings conducted by the office of admissions.

(3) Appeals of parking violations. Appeals of parking violations are brief adjudicatory proceedings conducted pursuant to applicable rules. See WAC 504-13-860, 504-14-860, 504-15-860, ((~~504-18-170,~~)) and 504-19-860.

(4) Hearings on student records. Hearings pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g are to be brief adjudicative proceedings conducted pursuant to the rules of chapter 504-21 WAC.

(5) Hearings on denial of financial aid. Any hearings required by state or federal law regarding granting, modification or denial of financial aid are brief adjudicative proceedings conducted by the office of scholarships and financial aid.

(6) Emergency withdrawal of students. Proceedings to disenroll students for medical or psychological reasons are brief adjudicative proceedings conducted by the office of student affairs.

(7) Discipline and termination of student employees. When required by law, hearings for the termination of or imposition of disciplinary measures on student employees shall be brief adjudicative proceedings.

WSR 13-16-102
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed August 7, 2013, 11:19 a.m., effective September 7, 2013]

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

Purpose: The DSHS community services division is amending rules under WAC 388-408-0035 to align Basic Food assistance unit rules with federal regulations regarding minor children not living with their parents.

This rule change is an effort to be responsive to advocate concerns about homeless youth being able to access SNAP benefits. Under current rules, a child living in the home of a nonparental adult who is not providing for them financially must be included in the adult's Basic Food assistance unit (AU) if they do not have adequate income. The change, adopting the less restrictive language of the C.F.R., is intended to allow a homeless youth to be considered a separate AU even if they have little or no income.

Citation of Existing Rules Affected by this Order: Amending WAC 388-408-0035.

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

Other Authority: 7 C.F.R. § 273.1.

Adopted under notice filed as WSR 13-12-075 on June 5, 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 1, 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 1, Repealed 0.

Date Adopted: July 31, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-13-047, filed 6/9/10, effective 8/1/10)

WAC 388-408-0035 Who is in my assistance unit for Basic Food? (1) For Basic Food, a person must be in your assistance unit (AU) if they live in the same home as you and:

(a) Regularly buy food or prepare meals with you; or

(b) You provide meals for them and they pay less than a reasonable amount for meals.

(2) If the following people live with you, they must be in your AU even if you do not usually buy or prepare food together:

(a) Your spouse;

(b) Your parents if you are under age twenty-two (even if you are married);

(c) Your children under age twenty-two;

(d) The parent of a child who must be in your AU;

(e) A child (other than a foster child) under age eighteen who doesn't live with their parent unless the child:

(i) Is emancipated; or

(ii) ((~~Gets a TANF grant in their own name; or~~

~~(iii)~~)) Is not financially dependent on an adult in the AU ((~~because they get and have control of income of at least the TANF payment standard under WAC 388-478-0020(2) before taxes or other withholdings~~)).

(3) If any of the people in subsections (1) or (2) already receive transitional food assistance under chapter 388-489 WAC, you can only receive benefits if they choose to reapply for Basic Food as described in WAC 388-489-0022.

(4) If you live in an institution where you may be eligible for Basic Food under WAC 388-408-0040, we decide who is in your AU as follows:

(a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your AU under subsection (2) of this rule; or

(b) If you apply for benefits on your own, we include you, anyone who must be in your AU under subsection (2) of this rule, and other residents you choose to apply with.

(5) Anyone who must be in your AU under subsection (1) or (2) is an ineligible AU member if they:

(a) Are disqualified for an intentional program violation (IPV) under WAC 388-446-0015;

(b) Do not meet ABAWD work requirements under WAC 388-444-0030.

(c) Do not meet work requirements under WAC 388-444-0055;

(d) Do not provide a Social Security number under WAC 388-476-0005;

(e) Do not meet the citizenship or alien status requirements under chapter 388-424 WAC;

(f) Are fleeing a felony charge or violating a condition of parole or probation under WAC 388-442-0010.

(6) If your AU has an ineligible member:

(a) We count the ineligible member's income as part of your AU's income under WAC 388-450-0140;

(b) We count all the ineligible members resources to your AU; and

(c) We do not use the ineligible member to determine your AU's size for the maximum income amount or allotment under WAC 388-478-0060.

(7) If the following people live in the same home as you, you can choose if we include them in your AU:

(a) A permanently disabled person who is age sixty or over and cannot make their own meals if the total income of everyone else in the home (not counting the elderly and disabled person's spouse) is not more than the one hundred sixty-five percent standard under WAC 388-478-0060;

(b) A boarder. If you do not include a boarder in your AU, the boarder cannot get Basic Food benefits in a separate AU;

(c) A person placed in your home for foster care. If you do not include this person in your AU, they cannot get Basic Food benefits in a separate AU;

(d) Roomers; or

(e) Live-in attendants even if they buy or prepare food with you.

(8) If someone in your AU moves out of your home for at least a full issuance month, they are not eligible for benefits as a part of your AU, unless you receive transitional food assistance.

(9) For transitional food assistance, your TFA AU includes the people who were in your Basic Food AU for the last month you received:

(a) Temporary assistance for needy families;

(b) State family assistance; or

(c) Tribal TANF benefits.

(10) If someone received Basic Food or food stamps in another AU or another state, they cannot receive benefits in your AU for the same period of time with one exception. If you already received Basic Food, food stamp, or transitional food assistance benefits:

(a) In another state, you are not eligible for Basic Food for the period of time covered by the benefits you received from the other state; or

(b) In another AU, you are not eligible for Basic Food in a different AU for the same period of time;

(c) In another AU, but you left the AU to live in a shelter for battered women and children under WAC 388-408-0045, you may be eligible to receive benefits in a separate AU.

(11) The following people who live in your home are not members of your AU. If they are eligible for Basic Food, they may be a separate AU:

(a) Someone who usually buys and prepares food separately from your AU if they are not required to be in your AU; or

(b) Someone who lives in a separate residence.

(12) A student who is ineligible for Basic Food under WAC 388-482-0005 is not a member of your AU.

WSR 13-16-105
PERMANENT RULES
COUNTY ROAD ADMINISTRATION BOARD

[Filed August 7, 2013, 11:59 a.m., effective September 7, 2013]

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

Purpose: WAC 136-15-045 RAP projects in the six-year program, housekeeping - clarify definition of program items.

WAC 136-100-020 Adoption of rules, housekeeping.

WAC 136-130-050 Supplemental rules in northeast region (NER), housekeeping.

WAC 136-161-060 RAP program cycle—Total project rating and priority array, housekeeping – make project eligibility and six-year program due date consistent.

WAC 136-170-030 Terms of CRAB/county contract, housekeeping – remove obsolete section.

WAC 136-180-040 Payment of vouchers, housekeeping – match current EFT methods payment.

WAC 136-300-010 Purpose and authority, housekeeping – cites the correct RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 136-15-045, 136-100-020, 136-130-050, 136-161-060, 136-170-030, 136-180-040, and 136-300-010.

Statutory Authority for Adoption: Chapter 36.78 RCW.

Adopted under notice filed as WSR 12-11-029 [13-11-029] on May 9, 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 7, 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: August 1, 2013.

Jay P. Weber
Executive Director

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-15-045 RAP projects in the six-year program. Each county's six-year transportation program ((~~in each even-numbered year~~)) shall include all projects for which the county ((~~may request~~)) is seeking RATA funds during the succeeding biennium. ((~~Project cost estimates for prospective RAP projects shall be considered preliminary and subject to revision until a project application is submitted.~~)) The six-year transportation program may include a general subprogram item of which RAP projects, although not

specifically listed, may be a part. A county may only include a proposed RAP project within a subprogram item if:

(1) The project(s) is not rehabilitation or reconstruction in scope;

(2) The specific listing of projects used for support of the general subprogram item was made available to the public at the time of six-year program adoption;

(3) The county provides the county road administration board with the specific project listing in writing, citing the subprogram that includes the specific project.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-100-020 Adoption of rules. The county road administration board shall adopt rules in accordance with the provisions of the statute for purposes of administering the RAP regarding the following:

(1) Apportionment of rural arterial trust account (RATA) funds to regions.

(2) RAP projects in the six-year program.

(3) Regional prioritization of RAP projects.

(4) Preparation of RAP budget and program.

(5) Eligibility for RATA funds.

(6) Allocation of RATA funds to approved RAP projects.

(7) CRAB/county contract.

(8) Processing of vouchers.

(9) Audit responsibilities.

(10) Functional classification.

(11) Design standards for RAP projects.

(12) Matching requirements.

(13) Joint county RAP/Rural ((~~UAB~~)) TIB projects.

(14) Emergent projects.

(15) Reports to the legislature.

(16) Other matters deemed necessary by the county road administration board.

AMENDATORY SECTION (Amending WSR 11-05-005, filed 2/3/11, effective 3/6/11)

WAC 136-130-050 Supplemental rules in northeast region (NER). Each county in the NER may submit projects requesting RATA funds not to exceed twenty-five percent of the forecasted NER biennial apportionment.

Bridge projects may be submitted requesting RATA funds under one of the following conditions:

(1) Bridges must be approved for federal bridge funding and RATA funds shall be used only as a match for such federal funding. Bridges will be ranked for RATA funding using the WSDOT priority list and may be added to the NER Category 1 priority array at any time during the biennium upon approval of the bridge for federal bridge funding.

(2) A stand-alone bridge project may be submitted as an ordinary reconstruction or 3R RAP project provided that its priority rating has been computed by the bridge rating method in the NER RAP rating procedures. Such projects shall not be considered for funding from the bridge reserve described above.

(3) ((~~A~~)) RAP ((~~project may~~)) projects that include ((~~a~~)) bridge ((~~when~~)) improvements where the cost of the bridge ((~~does~~)) improvements do not exceed twenty percent of the total project cost are not considered bridge projects as set out in this section.

AMENDATORY SECTION (Amending WSR 11-05-005, filed 2/3/11, effective 3/6/11)

WAC 136-161-060 RAP program cycle—Total project rating and priority array. County road administration board staff will review all final prospectuses and ensure that:

(1) All necessary information is included;

(2) The project is from the pool of preliminary prospectuses;

(3) The project is eligible for RATA funding;

(4) ((~~The project is on the current, adopted six-year transportation program;~~

~~(5)~~)) The project schedule indicates that preliminary engineering will begin not later than one year from the date of project approval by the county road administration board, and that the construction of the project will begin not later than six years from the date of project approval by the county road administration board; and

(((~~6~~))) (5) The total project priority rating is mathematically correct and the visual rating scores determined during the field review are included.

(((~~7~~))) (6) Existing and proposed roadway cross sections, project narrative, and preconstruction photos are attached.

After county road administration board staff review, all accepted final prospectuses within each region will be placed in a declining total project rating array. After review by the county road administration board at its next regular meeting, the priority array for each region will be provided to each county in the region. These arrays will be preliminary only and will be provided to the counties to assist them in their internal budgeting and programming. No notations as to whether a particular project will or will not be funded will be included. Projects not adopted in the six-year transportation program by December 31st of the submittal year will be dropped from the array of eligible projects and the revised array will be presented to the county road administration board at its next regularly scheduled meeting.

AMENDATORY SECTION (Amending WSR 11-05-005, filed 2/3/11, effective 3/6/11)

WAC 136-170-030 Terms of CRAB/county contract. (1) ((~~For projects for which RATA funds are allocated before July 1, 1995, the CRAB/county contract shall include, but not be limited to, the following provisions:~~

~~(a) The contract shall be valid and binding (and the county shall be entitled to receive RATA funds) only if such contract is signed and returned to the county road administration board within forty-five calendar days of its mailing by the county road administration board.~~

~~(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.~~

~~(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer.~~

~~(d) The county will notify the county road administration board when a construction contract has been awarded and/or when construction has commenced, and when the project has been completed.~~

~~(e) The county road administration board will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the county road administration board office, subject to the availability of RATA funds apportioned to the region or subject to a minimum regional balance determined by the CRABoard for the purposes of cash flow; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied.~~

~~(f) The county will reimburse the RATA in the event a project postaudit reveals ineligible expenditure of RATA funds.~~

~~(2) For projects for which RATA funds are allocated on or after July 1, 1995,~~)) The CRAB/county contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding, and the county shall be entitled to receive RATA funding in accordance with the vouchering/payment process as described in chapter 136-180 WAC, only if the contract is properly signed and returned to the county road administration board within forty-five calendar days of its mailing by the county road administration board.

(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer, and, if applicable, the phased construction plan submitted by the county engineer to the county road administration board.

(d) The county will notify the county road administration board:

(i) If a single construction contract is intended to fully complete the project, at the time of project advertisement, construction contract, and when the project has been completed. Should the small works roster process be utilized, then the initial notice must occur prior to initiating the contractor selection process.

(ii) If county forces are utilized to fully complete the project, at the time of project notice, as required in RCW 36.77.070, commencement of construction activities, and when the project has been completed.

(iii) If the project applies a phased construction methodology, at those times described in a phased construction plan, consistent with subsection ((~~(3)~~)) (2) of this section.

(e) The county road administration board will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the county road administration board office, subject to the availability of RATA funds apportioned to the region; or subject to a minimum regional balance determined by the CRABoard for the purposes of cash flow; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied. Counties are ineligible to receive RATA funded construction cost reimbursements prior to satisfaction of the initial project notice requirement described in subsection ((~~(2)~~)) (1)(d) of this section.

(f) The county will reimburse the RATA in the event a project postaudit reveals ineligible expenditures of RATA funds.

(g) The county may be required to reimburse the RATA in the event of early termination in accordance with the provisions of chapter 136-167 WAC.

(h) The county agrees to amend the contract in cases where:

(i) Additional RATA funds have been requested and approved under chapter 136-165 WAC;

(ii) Other relief from the original scope, design or project limits has been approved by the county road administration board under chapter 136-165 WAC; or

(iii) A project has been terminated without full RATA reimbursement under WAC 136-167-030(2).

(i) The county agrees to provide periodic project development progress reports as requested by the county road administration board.

((~~(3)~~)) (2) Counties may implement a phased construction methodology in the completion of RATA funded projects. A phased construction methodology is described as the process to implement multiple construction contracts through competitive bid and award, contracts awarded through exercise of the small works roster process, or construction by county forces, or a combination of two or more of these three methods, in order to complete a single RATA funded project. If a county elects to use phased construction methodology, construction of at least one of the project phases must commence by the lapsing date and all remaining phases must commence within two years of commencement of the first phase. In the event the county fails to meet either of these timelines, repayment of expended RATA funds for all phases of the project will be required unless waived by the county road administration board in keeping with the provisions of this section.

(a) In order to be considered phased construction, each phase must:

(i) Be distinct, independent, and nonoverlapping construction activities as to location and type of work;

(ii) Result in separate function and utility;

(iii) Be part of related and sequential construction activities that lead to overall project completion;

(iv) Separately and collectively comply with state laws as to procurement of contract work and use of county forces; and

(v) Not be implemented in a way that would otherwise be considered a split project, as described in WAC 136-170-060, without first obtaining approval as a split project.

(b) In order to satisfy notification requirement of subsection ((~~(2)~~)) (1)(d) of this section, a phased construction plan must be developed and submitted to the county road administration board at least fifteen calendar days prior to contract bid advertisement, beginning the selection process for a contractor through a small works roster process, or commence-

ment of construction by county forces, whichever occurs first. The phased construction plan must:

(i) Include a description of each construction phase, the contracting method to be employed or that county forces will be used;

(ii) Include an estimated cost and begin and end dates for each construction phase; and

(iii) Describe the relationship between construction phases and ultimate completion of the overall project.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-180-040 Payment of vouchers. Upon approval of each RAP project voucher by the chair of the county road administration board or his/her designee, it shall be transmitted to the state treasurer ((~~for preparation of the RATA warrant. The RATA warrant will be returned to the county road administration board and transmitted directly to each county submitting a voucher~~)).

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-300-010 Purpose and authority. RCW ((~~46.68.095(4)~~)) 46.68.090 (2)(i) provides that the county road administration board shall administer the county arterial preservation program (CAPP) and the county arterial preservation account (CAPA) established by this statute. This chapter describes the manner in which the county road administration board will implement the several provisions of the statute.