

WSR 13-17-001
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-184—Filed August 7, 2013, 1:02 p.m., effective August 12, 2013, 6:00 a.m.]

Effective Date of Rule: August 12, 2013, 6 a.m.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 34.05.380 (3)(c), the Washington department of fish and wildlife finds that an effective date earlier than the normal thirty-one day time period following the filing of this rule is needed to avoid imminent peril to the public welfare. In the agency's determination, there are significant direct and indirect economic impacts to Willapa Bay fishermen, their families, and that portion of the local economy supported through their activities, that would accrue if the contemplated fishery is not opened on August 12, 2013.

In support of this finding, the agency estimates that the ex-vessel value lost in delaying the start of the commercial fishery for thirty-one days following filing with the code reviser would be approximately \$182,215, or fully one-third the total ex-vessel value of the fishery. In addition to that direct economic loss, there would very likely be indirect, but nonetheless very real, economic losses to the local economy.

If days lost through a delay in starting the commercial fishery were redistributed via a reconfiguration of the September season using emergency rules or modifying the current proposed rules in conformity with RCW 34.05.240, a portion of the loss might be recovered, yielding a net direct loss of approximately \$78,650, or fourteen percent of the estimated ex-vessel value. Additional indirect losses would also remain. In addition, compression of the commercial fishery into early September would further result in unanticipated and unintended consequences for the recreational fishery and the economic benefits that the local economy is expected to receive from that fishery. These losses are not an acceptable alternative and would not fully address the imminent peril to public welfare.

For these reasons, an earlier effective date of August 12, 2013, is established as necessary by these findings.

Purpose: Amends rules for commercial salmon fishing in Willapa Bay. Includes WAC 220-40-021 Salmon—Willapa Bay summer fishery and 220-40-027 Salmon—Willapa Bay fall fishery.

Citation of Existing Rules Affected by this Order: Amending WAC 220-40-021 and 220-40-027.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 13-06-073 on March 6, 2013, and WSR 13-13-075 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 2, Repealed 0.

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

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

Date Adopted: August 6, 2013.

Philip Anderson
Director

AMENDATORY SECTION (Amending WSR 12-11-093, filed 5/18/12, effective 6/18/12)

WAC 220-40-021 Willapa Bay salmon—Summer fishery. From July 5 through August 15, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods:

(1) Gillnet gear may be used to fish for coho salmon, white sturgeon, and adipose fin-clipped hatchery Chinook salmon:

Time:	Areas:
6:00 ((p.m.)) a.m. August 12 through ((11:59)) 6:00 p.m. August 15, ((2012)) 2013.	((2M,)) <u>Area 2N, Area 2R, Area 2T, and Area 2U</u>
<u>6:00 a.m. August 12 through</u>	<u>Area 2M</u>
<u>6:00 p.m. August 13, 2013</u>	

Gear:

(2) Gillnet gear restrictions - All areas:

(a) Drift gillnet gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

~~((Nets with a mesh size different from that being actively fished must be properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.~~

~~Only one net may be fished at a time; other nets must be properly stored.))~~

It is unlawful to use a gillnet to fish for salmon or white sturgeon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or in transit through Willapa Bay, provided the net is properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

(b) Mesh size must not exceed nine inches.

Other:

(3) Recovery boxes and soak times:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U. Each box must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at or within 39-1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(b) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(c) All wild (unmarked) Chinook, chum, nonlegal sturgeon, and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or an operating recovery box when fishing in Willapa Bay Salmon Management Catch Reporting Areas (SMCRA) 2M, 2N, 2R, 2T, and 2U.

(d) Any steelhead or salmon that is required to be released and is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay. The recovery box must meet the requirements in (a) of this subsection.

(e) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(~~((12))~~) (14), reports must be made by 10:00 a.m. the day following landing.

(5) Retention of any species other than coho salmon, white sturgeon with a fork length measure of not less than 43 inches and not more than 54 inches, and hatchery Chinook marked by a healed scar at the site of the adipose fin, is prohibited.

(6) Report ALL encounters of wild (unmarked) Chinook, green sturgeon, and steelhead (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) White sturgeon, when lying on their side, are measured from the tip of the nose to the fork of the tail. This measurement is referred to as the fork length. All white sturgeon to be retained must have a fork-length measure of no less than 43 inches and no more than 54 inches.

(8) Do NOT remove tags from white sturgeon that are not allowed to be retained. For white sturgeon that can be retained, please submit tags to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563. For white sturgeon not of a legal size and all green sturgeon, obtain available information from tags without removing the tags.

(9) It is unlawful to fish with gillnet gear in Areas (~~(2K)~~) 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in his or her possession a department-issued certification card.

(10) Fishers must take department observers if requested by department staff when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on August 8, (~~(2012)~~) 2013.

AMENDATORY SECTION (Amending WSR 12-11-093, filed 5/18/12, effective 6/18/12)

WAC 220-40-027 Salmon—Willapa Bay fall fishery. From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods:

(1) Gillnet gear may be used to fish for coho salmon, white sturgeon, and adipose fin-clipped hatchery Chinook:

Time:	Area:
((12:00 a.m.)) <u>6:00 p.m.</u> August ((16)) <u>19</u> through 6:00 ((a.m.)) <u>p.m.</u> August ((16, 2012)) <u>20, 2013;</u>	((Area 2M, Area)) <u>2N,</u> ((Area)) <u>2R, ((Area 2T),</u> and ((Area)) <u>2U</u>
6:00 p.m. August 21 through 6:00 ((a.m.)) <u>p.m.</u> August 22, ((2012)) <u>2013;</u>	((Area 2U))
6:00 p.m. August 26 through 6:00 a.m. August 27, ((2012)) <u>2013;</u>	((Area 2N, Area 2R, and Area 2U))
AND	
6:00 p.m. August 28 through 6:00 a.m. August 29, ((2012)) <u>2013;</u>	
6:00 p.m. ((August 30)) <u>September 3</u> through 6:00 a.m. ((August 31, 2012)) <u>September 4, 2013;</u>	((Area)) <u>2M, 2N, 2R,</u> and ((Area)) <u>2U</u>

Time: Area:

6:00 p.m. September ~~((4))~~ 5 through 6:00 a.m. September ~~((5, 2012))~~ 6, 2013;
~~((AND~~
 6:00 p.m. September ~~6~~ through 6:00 a.m. September ~~7, 2012;))~~
 6:00 p.m. September 9 through 6:00 ~~((a.m.))~~ p.m. September 10, ~~((2012))~~ 2013;
 AND
 6:00 p.m. September 12 through 6:00 ~~((a.m.))~~ p.m. September 13, ~~((2012))~~ 2013;
~~((6:00 p.m. September 19 through 6:00 p.m. September 20, 2012;~~
 AND
 6:00 p.m. September ~~26~~ through 6:00 p.m. September ~~27, 2012))~~
 6:00 p.m. September 15 through 6:00 p.m. October ~~((13, 2012))~~ 12, 2013;
~~((AND))~~
6:00 p.m. September 15 through 5:59 a.m. September 22, 2013;
6:01 p.m. September 22 through 5:59 a.m. September 29, 2013;
6:01 p.m. September 29 through 5:59 a.m. October 6, 2013;
 AND
6:01 p.m. October 6 through 6:00 p.m. October 12, 2013;
 12:00 p.m. November 6 through 12:00 p.m. November ~~((30, 2012))~~ 20, 2013.

~~((Area)) 2N, ((Area)) 2R, and ((Area)) 2U~~
~~((Area)) 2M, ((Area)) 2N, ((Area)) 2R, ((Area) 2T, east of a line projected from the eastern most upland at Toke Point (approximately 46° 42' 26" N, 123° 57' 58" W) to Goose Point (approximately 46° 38' 12" N, 123° 57' 31" W) then to the eastern boundary at Range Marker "B" (located at 46° 42' 34" N, 123° 51' 18" W);)) and ((Area)) 2U~~
~~Area 2K~~
~~2U~~
~~2M, 2N, 2R, 2T, and 2U~~

Gear:

(2) Gillnet gear restrictions - All areas:

(a) Drift gillnet gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

~~((Nets with a mesh size different from that being actively fished must be properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.~~

~~Only one net may be fished at a time; other nets must be properly stored.)~~

It is unlawful to use a gillnet to fish for salmon and/or white sturgeon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or ~~((in))~~ transiting through Willapa Bay, provided the net is properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

(b) From August ~~((16))~~ 19 through September 13, ~~((2012))~~ 2013: Mesh size must not exceed nine-inch maximum mesh.

(c) From September 15 through ~~((October 31, 2012))~~ September 22, 2013: Mesh size must not exceed six ~~((and one-half))~~ inch maximum mesh.

(d) From September 23 through October 12, 2013: Mesh size must not exceed six and one-half inch maximum mesh.

(e) From November 6 through November ~~((30, 2012))~~ 20, 2013: ~~((Mesh size must be nine-inch minimum mesh, except that from 6:00 p.m. November 11 through 6:00 p.m. November 19, 2012 (coho directed);))~~ There are two alternatives for mesh size:

- (i) Use six and one-half inch maximum mesh; or
- (ii) Use nine-inch minimum mesh.

Only one net of either six and one-half inch or nine-inch configuration, not exceeding fifteen hundred feet, may be used when in the act of fishing.

Other:

(3) Recovery boxes and soak time:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas ~~((2K;))~~ 2M, 2N, 2R, 2T, and 2U from August ~~((16))~~ 19 through October ~~((31, 2012))~~ 12, 2013. Each box must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at or within 39-1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the

recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(b) From August ~~((+6)) 19~~ through October ~~((31, 2012)) 12, 2013~~, soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(c) From August ~~((+6)) 19~~ through October ~~((31, 2012)) 12, 2013~~, all chum, nonlegal sturgeon, all steelhead, and wild (unmarked) Chinook must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing in Willapa Bay Areas ~~((2K-)) 2M, 2N, 2R, 2T, and 2U~~.

From November 6 through November ~~((30, 2012)) 20, 2013~~, all chum, all nonlegal sturgeon, and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U.

(d) Any steelhead or salmon required to be released and is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay. The recovery box must meet the requirements in (a) of this subsection.

(e) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240~~((+2)) (14)~~, reports must be made by 10:00 a.m. the day following landing.

(5) Retention of any species other than coho salmon, white sturgeon with fork length measure not less than 43 inches and not more than 54 inches, and hatchery Chinook marked by a healed scar at the site of the adipose fin is prohibited.

(6) Report ALL encounters of green sturgeon, steelhead, and wild (unmarked) Chinook (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) White sturgeon, when lying on their side, are measured from the tip of the nose to the fork of the tail. This measurement is referred to as the fork length. All white sturgeon to be retained must have a fork length measure of no less than 43 inches and no more than 54 inches.

(8) Do NOT remove tags from white sturgeon that are not allowed to be retained. For white sturgeon that can be retained, please submit tags to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563. For white sturgeon not of a legal size and all green sturgeon, obtain available information from tags without removing tags.

(9) It is unlawful to fish with gillnet gear in Areas ~~((2K-)) 2M, 2N, 2R, 2T, and 2U~~ unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession a department-issued certification card.

(10) Fishers must take department observers if requested by department staff when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on August ~~((+5; 2012)) 13, 2013~~.

WSR 13-17-002

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed August 7, 2013, 1:37 p.m., effective September 7, 2013]

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

Purpose: The amendments will update education requirements for all classification levels and the roles of supervisory appraisers and appraiser trainees to comply with the real property appraiser qualification criteria changes required by the appraiser qualifications board. These rule changes also implement housekeeping changes recommended by the real estate appraiser commission.

Amendments to rules are needed to ensure the agency is in compliance with Title XI of the Financial Institutions, Reform, Recovery and Enforcement Act (FIRREA) as amended by the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act.

Statutory Authority for Adoption: RCW 18.140.030 (1) and (15).

Adopted under notice filed as WSR 13-13-037 on June 14, 2013.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-125-025(2) moved the words "within five years" to appear after "completion." WAC 308-125-030(4) corrects the word "candidate" to "applicant."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, Repealed 0; Federal Rules or Standards: New 0, Amended 6, 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 11, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, 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 11, Repealed 0.

Date Adopted: August 7, 2013.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-06-069, filed 2/28/06, effective 4/1/06)

WAC 308-125-020 Application process to take examination. (1) Any person desiring to take an examination for licensure or certification as a state-licensed or state-certified residential real estate appraiser, or as a state-certified general real estate appraiser, must submit a completed examination application with supporting documents and appropriate fee to the department of licensing, business and professions division, at its official address. After the qualifications for the examination have been verified by the department, the applicant shall submit the preapproved examination application, the request for examination and the appropriate fee to the testing service approved by the director.

(2) At the time of filing with the department, an application for a state license or certification, the applicant shall possess the requisite hours of verifiable real estate appraisal experience. Experience shall be acquired within the requisite time. Qualifying experience shall consist of significant professional appraisal assistance under the supervision of a certified appraiser within the boundaries of the state of Washington except as referenced in WAC ((308-125-...) 308-125-095.

(3) An application and fee shall be valid for six months from receipt by the department. An applicant may correct any discrepancies in the application other than experience during this six-month period. After six months, if the applicant has not met the prerequisites to sit for the licensure or certification examination, the applicant must submit a new application with the appropriate fee.

(4) Dishonored checks will be considered as an incomplete application.

(5) An applicant shall forfeit all examination fees for any examination or examinations for which the applicant has applied and does not take for any reason, other than through the fault or mistake of the department of licensing or the approved testing agency.

AMENDATORY SECTION (Amending WSR 08-17-016, filed 8/8/08, effective 9/8/08)

WAC 308-125-025 Application process to register as a real estate appraiser trainee. (1) Anyone who is not a licensed or certified appraiser or a registered appraiser trainee cannot provide assistance that includes analytical work and exercising discernment or discretion that leads to an appraisal conclusion.

(2) As a prerequisite to registration as a registered appraiser trainee, the applicant shall present evidence satisfactory to the director of successful completion within five years of the date of application of the following appraiser qualifications board modules of qualifying core curriculum of approved qualifying education (~~(modules)~~):

- (a) Basic appraisal principles, thirty hours.
- (b) Basic appraisal procedures, thirty hours.
- (c) The National USPAP course or equivalent fifteen hours.

(d) Effective January 1, 2015, a course that, at a minimum, complies with the specifications for course content

established by the appraiser qualifications board that is oriented toward the expectations for the applicant.

(3) Application for registration as a trainee from persons who have had either a real estate license or real estate appraiser license suspended or revoked shall not be accepted by the department until after the time period of the suspension or revocation has expired.

(4) An applicant for registration as a trainee shall present a completed registration form together with the appropriate fee and copies of core curriculum course completion certificates to the director prior to issuance of the approved trainee registration certificate.

(5) Registration as a trainee may be denied for unprofessional conduct as provided in RCW 18.235.130.

AMENDATORY SECTION (Amending WSR 10-09-025, filed 4/13/10, effective 5/14/10)

WAC 308-125-030 Examination prerequisite general classification. The general real estate appraiser classification applies to the appraisal of all types of real property.

(1) As a prerequisite to taking the examination for certification as a state-certified general real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than (~~one hundred eighty classroom hours of qualifying education as approved by the director. Each applicant must successfully complete a thirty classroom hour course in the basic principles of real estate appraising and a fifteen classroom hour course in the Uniform Standards of Professional Appraisal Practice as part of the one hundred eighty classroom hours of course work. Provided, That effective November 1, 2007, the required number of classroom hours is~~) three hundred hours in the following core modules:

- (a) Basic appraisal principles, thirty hours.
- (b) Basic appraisal procedures, thirty hours.
- (c) The National USPAP course or equivalent, fifteen hours.
- (d) General appraiser market analysis and highest and best use, thirty hours.
- (e) Statistics, modeling and finance, fifteen hours.
- (f) General appraiser sales comparison approach, thirty hours.
- (g) General appraiser site valuation and cost approach, thirty hours.
- (h) General appraiser income approach, sixty hours.
- (i) General appraiser report writing and case studies, thirty hours.
- (j) Appraisal subject matter electives, thirty hours.

(2) Credit towards qualifying education requirements may be obtained via the completion of a degree program in real estate from an accredited degree-granting college or university provided the college or university has had its curriculum reviewed and approved by the appraiser qualifications board.

(3) An original certification as a state-certified general real estate appraiser shall not be issued to any person who does not possess three thousand hours of appraisal experience obtained continuously over a period of not less than thirty

months in Washington or in another state having comparable certification requirements.

~~((3))~~ (4) To fulfill the experience requirement, ~~((a candidate))~~ an applicant must have at least one thousand five hundred hours of nonresidential appraisal experience.

~~((4))~~ (5) Effective January 1, ~~((2008))~~ 2015, applicants for the certified general license must possess a bachelor's degree or higher in any field of study. Through December 31, 2014, applicants for the certified general license must possess a bachelor's degree or higher in any field of study or, in lieu of the required degree, thirty semester credit hours covering the following subject matter courses:

- (a) English composition;
- (b) Principles of economics (micro and macro);
- (c) Finance;
- (d) Algebra, geometry or, higher mathematics;
- (e) Statistics;
- (f) Introduction to computers: Word processing/spread-sheets;
- (g) Business or real estate law; and
- (h) Two elective courses in accounting, geography, agricultural economics, business management, or real estate; as approved by the appraiser qualifications board and the director, in addition to the required qualifying core curriculum requirements.

AMENDATORY SECTION (Amending WSR 06-06-069, filed 2/28/06, effective 4/1/06)

WAC 308-125-040 Examination prerequisite state-certified residential classification. The state-certified residential real estate appraiser classification applies to appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value less than two hundred fifty thousand dollars.

(1) As a prerequisite to taking the examination for certification as a state-certified residential real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than ~~((one hundred twenty classroom hours of qualifying education as approved by the director. Each applicant must successfully complete a thirty classroom hour course in the basic principles of real estate appraising and a fifteen classroom hour course in the Uniform Standards of Professional Appraisal Practice as part of the one hundred twenty classroom hours of course work: Provided, That effective January 1, 2007, the required number of classroom hours is))~~ two hundred hours in the following core modules:

- (a) Basic appraisal principles, thirty hours.
- (b) Basic appraisal procedures, thirty hours.
- (c) The National USPAP course or equivalent, fifteen hours.
- (d) Residential market analysis and highest and best use, fifteen hours.
- (e) Residential appraiser site valuation and cost approach, fifteen hours.
- (f) Residential sales comparison and income approaches, thirty hours.

(g) Residential appraiser report writing and case studies, fifteen hours.

(h) Statistics, modeling and finance, fifteen hours.

(i) Advanced residential applications and case studies, fifteen hours.

(j) Appraisal subject matter electives, twenty hours.

(2) Credit towards qualifying education requirements may be obtained via the completion of a degree program in real estate from an accredited degree-granting college or university provided the college or university has had its curriculum reviewed and approved by the appraiser qualifications board.

(3) An original certification as a state-certified residential real estate appraiser shall not be issued to any person who does not possess two thousand five hundred hours of appraisal experience obtained continuously over a period of not less than twenty-four months in Washington or in another state having comparable certification requirements.

~~((3))~~ (4) Effective January 1, ~~((2008))~~ 2015, applicants for the certified residential appraiser license must possess a bachelor's degree or higher in any field of study. Through December 31, 2014, certified residential real estate appraiser applicants must possess an ((associate's)) associate degree or higher in any field of study or, in lieu of the required degree, twenty-one semester credit hours covering the following subject matter courses:

- (a) English composition;
- (b) Principles of economics (micro or macro);
- (c) Finance;
- (d) Algebra, geometry or, higher mathematics;
- (e) Statistics;
- (f) Introduction to computers: Word processing/spread-sheets; and
- (g) Business or real estate law;

as approved by the appraiser qualifications board and the director, in addition to the required core curriculum.

AMENDATORY SECTION (Amending WSR 06-06-069, filed 2/28/06, effective 4/1/06)

WAC 308-125-045 Examination prerequisite state-licensed classification. The state-licensed real estate appraiser classification applies to appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units having a transaction value less than two hundred fifty thousand dollars and nonresidential property having a transaction value less than two hundred fifty thousand dollars.

(1) As a prerequisite to taking the examination for certification as a state-licensed real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than ~~((ninety classroom hours of courses in qualifying education as approved by the director. Each applicant must successfully complete a thirty classroom hour course in the basic principles of real estate appraising and a fifteen classroom hour course in the Uniform Standards of Professional Appraisal Practice as part of the seventy-five classroom hours of course work: Provided, That effective January 1, 2007, the required number of class-~~

~~room hours is~~) one hundred fifty hours in the following core modules:

- (a) Basic appraisal principles, thirty hours.
- (b) Basic appraisal procedures, thirty hours.
- (c) The National USPAP course or equivalent, fifteen hours.
- (d) Residential market analysis and highest and best use, fifteen hours.
- (e) Residential appraiser site valuation and cost approach, fifteen hours.
- (f) Residential sales comparison and income approaches, thirty hours.
- (g) Residential appraiser report writing and case studies, fifteen hours.

(2) Credit toward qualifying education requirements may be obtained via the completion of a degree program in real estate from an accredited degree-granting college or university provided the college or university has had its curriculum reviewed and approved by the appraiser qualifications board.

(3) An original certification as a state-licensed real estate appraiser shall not be issued to any person who does not possess two thousand hours of appraisal experience obtained continuously over a period of not less than twenty-four months in Washington or in another state having comparable certification requirements.

(4) Effective January 1, 2015, applicants for the state-licensed real estate appraiser license must possess an associate degree or thirty semester hours of college-level education from an accredited college, junior college, community college, or university.

AMENDATORY SECTION (Amending WSR 11-19-103, filed 9/21/11, effective 10/22/11)

WAC 308-125-050 Educational courses—Preexamination. (1) To be accepted under WAC 308-125-030(1), 308-125-040(1), and 308-125-045(1), courses must:

- (a) Be a minimum of fifteen classroom hours in length;
- (b) Include an examination;
- (c) Be directly related to real estate appraising; and
- (d) Be approved by the director as identified in the appraiser program's publication *Approved Courses, Real Estate Appraisers*; or
- (e) Be approved by the appraiser qualifications board and approved by the director.

(2) The following limitations may apply to course work submitted to the department for approval:

- (a) Distance education may be acceptable to meet classroom hour requirements only if each course meets the following conditions:
 - (i) The course provides interaction. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor;
 - (ii) An individual successfully completes a closed-book written, proctored examination administered at a location by an official approved by the college or university; and
 - (iii) Content and course delivery mechanism approvals are obtained from the appraisal qualifications board or an accredited college, community college, or university that

offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States Secretary of Education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board and approved by the director.

(b) An applicant shall not receive "dual credit" for courses that have the same or very similar content and are deemed comparable by the department, even if an applicant completes the courses through different course providers.

(3) Copies of official transcript of college records or certificates of course completion will be considered as satisfactory evidence for education requirements.

(4) Preexamination review seminars or examination preparation seminars will not be approved for clock hour credit.

(5) An application shall be submitted for approval not less than ninety days preceding the course start date. Course approval expiration shall be three years from the date of approval, except for the Uniform Standards of Professional Appraisal Practice courses or seminars having a definite date.

(6) All courses approved by the appraiser qualifications board will continue to be accepted by the department as approved courses until the expiration date.

(7) Appraisal course providers who have received the appraiser qualifications board's course approval are not required to submit course material or content materials to the department for approval. The course provider shall submit a secondary provider course content approval application to the department.

AMENDATORY SECTION (Amending WSR 06-06-069, filed 2/28/06, effective 4/1/06)

WAC 308-125-070 Experience requirements. (1) A minimum of two years (twenty-four months) full-time experience within five years of application is required for the state licensed and certified residential appraiser. Certified general applicants must accumulate three thousand hours within a minimum of thirty months and a maximum of seven years. However, no more than one thousand five hundred hours may be credited in any consecutive twelve months for any of the licensing categories.

(2) Any work product claimed for experience credit dated January 1, 1990, and later shall conform to the Uniform Standards of Professional Appraisal Practice in effect at the time the appraisal is completed.

- (a) Reports shall be in writing.
- (b) An appraisal work file must be available to the director to substantiate work performed.

(3) A registered trainee may gain experience under the supervision of no more than six supervisory appraisers during his/her trainee period.

(4) The department may request appraiser work files to verify, confirm, or compare entries made on the experience log. Failure to provide work files to the department upon its request may disqualify the reports as qualifying experience.

~~((4))~~ (5) An applicant for certification or license shall certify, under penalty of perjury, the completion of the required experience.

~~((5))~~ (6) Appraisal work qualifying for appraisal experience includes, but is not limited to, the following: Fee and staff appraisal, ad valorem tax appraisal, appraisal review, appraisal analysis, appraisal consulting, highest and best use analysis, feasibility analysis/study.

~~((6))~~ (7) The department may require a supervisory appraiser to certify, under penalty of perjury, the applicant's work experience.

~~((7))~~ (8) The department may request written reports or work files to verify an applicant's experience.

AMENDATORY SECTION (Amending WSR 02-10-022, filed 4/23/02, effective 5/24/02)

WAC 308-125-085 Temporary practice. (1) A real estate appraiser from another state who is licensed or certified by another state ~~((may))~~ shall apply for registration to receive temporary licensing or certification for a single assignment in Washington by paying a fee ~~((-providing a license history,))~~ and filing an application with the department on a form provided by the department. An applicant may be required to provide a statement from the state in which the person is licensed or certified establishing licensure or certification.

(2) Licensing and certification privileges granted under the provisions of this section shall expire six months from issuance. Licensing or certification shall not be renewed. However, an applicant may receive an extension of a temporary practice permit to complete ~~((an))~~ the assignment, provided that a written request is received by the department prior to the expiration date, stating the reason for the extension.

(3) Persons granted temporary licensing or certification privileges under this section shall not advertise or otherwise hold themselves out as being licensed or certified by the state of Washington.

(4) Persons granted temporary licensure or certification are subject to all provisions under this chapter. ~~((A))~~ Each temporary permit issued under this section allows an appraiser to perform an independent appraisal service~~((s))~~ required by a contract for appraisal services submitted to the department with the application for temporary permit.

(5) An appraiser may obtain a maximum of three temporary practice permits in a calendar year.

AMENDATORY SECTION (Amending WSR 10-09-024, filed 4/13/10, effective 5/14/10)

WAC 308-125-090 Continuing education required.

(1) As a prerequisite to renewal of certification ~~((or))~~, licensure, or registration, the holder of a certificate ~~((or))~~, license, or registration shall present evidence satisfactory to the director of successful completion of the continuing education requirements of this section.

(2) The continuing education requirements for renewal of certification ~~((or))~~, licensure, or registration shall be the completion by the applicant of twenty-eight hours of instruction in courses or seminars which have received the approval of the director. Courses must be completed within the term of

certification ~~((or))~~, licensure, or registration immediately preceding renewal. An applicant shall not receive credit in consecutive renewals for courses that have the same or very similar content and are deemed comparable by the department. The holder of a certificate ~~((or))~~, license, or registration will present evidence of successful completion of the seven-hour National USPAP update course or its equivalent.

(3) In order for courses or seminars to be accepted under subsection (2) of this section, the course or seminar must be a minimum of two hours in length and be directly related to real estate appraising. However, a maximum of one-half of the continuing education hours required for renewal can be in two-hour seminars or courses.

(4) An examination is not required for courses or seminars taken for continuing education classroom hours.

(5) Up to one-half of the requirement under subsection (2) of this section may be met by participation other than as a student in educational process and programs approved by the director including teaching, program development, and authorship of textbooks and other written instructional materials. A licensee or certificate holder may receive continuing education credit for teaching an approved real estate appraisal course. Once a licensee or certificate holder has received credit for teaching an approved real estate appraiser course, the credential holder shall not receive credit for teaching that course or any substantially similar course on any subsequent occasion, with the exception of the Uniform Standards of Professional Appraisal Practice, USPAP, 7-hour update.

(6) Courses or seminars taken to satisfy the continuing education requirement for real estate appraisers, should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitrations, dispute resolution.
- (c) Business courses related to practice of real estate appraisal and consulting.
- (d) Construction estimating.
- (e) Ethics and standards of professional practice, USPAP.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing, brokerage, timesharing.
- (h) Property development, partial interests.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate financing and investment.
- (k) Real estate law, easements and legal interests.
- (l) Real estate litigation, damages and condemnation.
- (m) Real estate related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) Appraisal and consulting report writing.
- (q) Green buildings.
- (r) Seller concessions.
- (s) Developing opinions of real property value in appraisals that also include personal property and/or business value.

(t) Such other presentations approved by the director.

(7) The director may approve continuing education credit for attendance at one real estate appraiser commission meeting of no more than seven hours.

(8) The director may defer completion of continuing education for ~~((licensees or))~~ the holder of a certificate ~~((holders)), license, or registration~~ returning from military service active duty and place the registration, license, or certificate in an active status for a period of ninety days pending completion of education. If the ~~((licensee or certificate))~~ holder of a certificate, license, or registration fails to comply with the continuing education requirement within said ninety days, the registration, license, or certificate will revert to an expired status.

(9) A licensee or certificate holder may receive continuing education credit for teaching an approved real estate appraisal course. One hour of education credit for each hour of teaching an approved real estate appraisal course shall be given. Once a licensee or certificate holder has received credit for teaching an approved real estate appraisal course, the credential holder shall not receive credit for teaching that course or any substantially similar course on any subsequent occasion.

AMENDATORY SECTION (Amending WSR 08-17-016, filed 8/8/08, effective 9/8/08)

WAC 308-125-095 Responsibilities of the appraiser supervisor. (1) A certified real estate appraiser licensed by the state of Washington may supervise trainees in accordance with the following provisions:

(a) The certified real estate appraiser is in good standing and not subject to any disciplinary action which affects their legal eligibility to engage in appraisal practice within the three years preceding registration to become a supervisory appraiser.

(b) Effective January 1, 2015, the certified real estate appraiser shall have been certified for a minimum of three years prior to becoming a supervisory appraiser.

(c) Effective January 1, 2015, the certified real estate appraiser shall have completed a course that, at a minimum, complies with the specification for course content established by the appraiser qualifications board. This course must be completed prior to supervising a registered appraiser trainee.

(d) Not more than three real estate appraiser trainees may be supervised in accordance with the appraiser qualifications board standards unless written authorization by the department is granted to exceed that number of trainees at any one time.

~~((b))~~ (e) Supervision of trainees in the process of appraising real property shall occur within the boundaries of the state of Washington and comply with jurisdictional and established agreements with other states. If a trainee is supervised by a certified appraiser who is licensed in both the state of Washington and with another state or has a temporary license in another state; and the trainee is registered as a trainee in that other state by either temporary permit, license, or registration, then the appraisal assignments shall qualify as work experience on the experience log.

~~((e))~~ (f) Authorization to exceed supervision of three trainees may be granted by the director upon approval of a written request and under the provisions of subsection (2) of this section.

~~((d))~~ (g) A registered real estate appraiser trainee may assist in the completion of an appraisal report, including determination of an opinion of value and may sign the appraisal report, provided that he/she is actively and personally supervised by a state-certified real estate appraiser, and provided that the appraisal report is reviewed and signed by the state-certified real estate appraiser; and provided the state-certified appraiser accepts total responsibility for the appraisal report.

~~((e))~~ (h) The certified appraiser shall:

(i) Personally inspect with the trainee, at a minimum, the interior of twenty-five subject properties, or until the supervisory appraiser considers the trainee competent.

(ii) Personally review and verify each appraisal report prepared by the trainee as entered on the trainee experience log as qualifying work experience prior to the log being submitted to the department by the supervised trainee. The trainee shall be entitled to obtain copies of the appraisal reports in which the trainee provided appraisal assistance.

(iii) Personally review and verify each appraisal report prepared by a state licensed or certified residential appraiser as entered on the qualifying work experience log prior to the log being submitted to the department by the licensee. The state licensed or certified residential appraiser shall be entitled to obtain copies of the appraisal reports in which the state licensed and certified residential appraiser provided appraisal assistance.

(iv) Comply with all USPAP requirements.

(v) Maintain a separate "properties inspected with trainee" log for each supervised trainee. This log must be made available to the department upon request and is to be submitted with trainee's application for license or certification.

(vi) Register with the department as a supervisory appraiser and include the names of the registered real estate appraiser trainees being supervised. Registration must be five business days prior to the start of supervision. The supervisory appraiser shall notify the department when they are no longer a supervisory appraiser of a trainee, with such notice including the name, address, and registration number of the registered trainee.

(2) Authorization may be granted by the director to a certified appraiser to exceed the number of trainees allowed to be supervised providing:

(a) The certified appraiser has more than five years certified experience.

(b) The certified appraiser shall make a written application to the department requesting to supervise not more than three trainees with less than one year experience; and three trainees with more than one year experience; and five trainees with greater than two years experience. The total number of supervised trainees shall not exceed eight for all experience levels at any one time.

(c) The certified appraiser shall prepare and maintain trainee progress reports and make them available to the department until such time as the trainee becomes certified or licensed or after two years has lapsed since supervising the trainee.

(d) The certified appraiser shall provide to the department a mentoring plan for consideration prior to the department authorizing supervision of more than three trainees.

AMENDATORY SECTION (Amending WSR 93-17-020, filed 8/10/93, effective 9/10/93)

WAC 308-125-140 Passing exam score. ((A)) The minimum scaled score ((of seventy is)) required to pass the real estate appraiser examination is established by the appraiser qualifications board.

WSR 13-17-008
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-185—Filed August 7, 2013, 4:50 p.m., effective September 7, 2013]

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

Purpose: Amends WAC 220-56-105 River mouth definitions, based on recommendations by the North of Falcon subgroup of the Pacific Fisheries Management Council. The definitions are based on boundary changes proposed during the North of Falcon process. North of Falcon rules protect species of fish listed as endangered while supporting commercial and recreational salmon fishing.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-105.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 13-06-073 on March 6, 2013, and WSR 13-13-075 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 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: August 7, 2013.

Joe Stohr
for Philip Anderson
Director

AMENDATORY SECTION (Amending Order 12-190, filed 8/23/12, effective 9/23/12)

WAC 220-56-105 River mouth definitions. When pertaining to angling, unless otherwise defined, any reference to the mouths of rivers or streams includes those waters of any river or stream, including sloughs and tributaries, upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" means those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

- Abernathy Creek - Highway 4 Bridge.
- Bear River - Highway 101 Bridge.
- Bone River - Highway 101 Bridge.
- California Creek - Drayton Harbor Road Bridge.
- Chambers Creek - Burlington Northern Railroad Bridge.
- Chehalis River - Highway 101 Bridge in Aberdeen.
- Chelan River - Railroad Bridge.
- Cispus River - Posted markers at the Lewis County P.U.D. kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus rivers.
- Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.
- Dakota Creek - A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.
- Deschutes River - A line projected across the river 400 feet below the lower Tumwater Falls fish ladder.
- Drano Lake - Highway 14 Bridge.
- Duwamish River - First Avenue South Bridge.
- Elk River - Highway 105 Bridge.
- Entiat River - Highway 97 Bridge.
- Hawk Creek (Lincoln County) - Falls at the Hawk Creek campground.
- Hoquiam River - Highway 101 Bridge.
- Humptulips River - Mouth of Jessie Slough.
- Johns River - Highway 105 Bridge.
- Kennedy Creek - An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.
- Kettle River - Barstow Bridge.
- Lake Washington Ship Canal - A line 400 feet west of the fish ladder at the Chittenden Locks.
- Lewis River - A straight line running from a fishing boundary marker or from the outermost upland at the north shore of the Lewis River mouth, southerly across the Lewis River to a fishing boundary marker near the south shore.

McLane Creek - A line 100 feet upstream of and parallel to the southernmost Highway 101 Bridge.

Methow River - Highway 97 Bridge.

Naselle River - Highway 101 Bridge.

North Nemah River - Highway 101 Bridge.

Niawiakum River - Highway 101 Bridge.

Nisqually River - At the upstream end of Alder Lake, the mouth of the Nisqually River is the Highway 7 Bridge at Elbe.

North River - Highway 105 Bridge.

Palix River - Highway 101 Bridge.

Puyallup River - 11th Street Bridge.

Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - 68th Avenue NE Bridge.

Skagit River - A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.

Skamokawa Creek - Highway 4 Bridge.

Skookum Creek - A line 400 yards below the old railroad bridge.

Snohomish River - Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River - Lynn Point 117 degrees true to the opposite shore.

Spokane River - State Route 25 Bridge.

Tahuya River - North Shore Rd. Bridge.

Wallace River - The furthest downstream railroad bridge.

Washougal River - A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

Whatcom Creek - A line projected approximately 14 degrees true from the flashing light at the southwesterly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.

Little White Salmon River - At boundary markers on river bank downstream from the Little White Salmon National Fish Hatchery.

Willapa River - City of South Bend boat launch.

Wind River - Boundary line markers at mouth.

Yakima River - Highway 240 Bridge.

WSR 13-17-017
PERMANENT RULES
HEALTH CARE AUTHORITY
 (Medicaid Program)

[Filed August 9, 2013, 4:30 p.m., effective September 9, 2013]

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

Purpose: The health care authority (the agency) is amending WAC 182-550-5450 to ensure the agency's trauma supplemental payment method in SFY 2013 is consistent with the approved medicaid state plan amendment.

Citation of Existing Rules Affected by this Order: Amending WAC 182-550-5450.

Statutory Authority for Adoption: RCW 41.05.021.

Adopted under notice filed as WSR 13-14-094 on July 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 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: August 8, 2013.

Kevin M. Sullivan
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-14-041, filed 6/27/12, effective 7/28/12)

WAC 182-550-5450 Supplemental distributions to approved trauma service centers. (1) The trauma care fund (TCF) is an amount appropriated to the medicaid agency each state fiscal year (SFY), at the legislature's sole discretion, for the purpose of supplementing the agency's payments to eligible trauma service centers for providing qualified trauma services to medicaid clients. ~~((Claims for trauma care provided to medicaid clients enrolled in the agency's managed care programs are eligible for supplemental distributions from the TCF effective with dates of service on and after July 1, 2012.))~~

(2) The agency makes supplemental distributions from the TCF to qualified hospitals, subject to the provisions in this section and subject to legislative action.

(3) To qualify for supplemental distributions from the TCF, a hospital must:

(a) Be designated or recognized by the department of health (DOH) as an approved Level I, Level II, or Level III adult or pediatric trauma service center;

(b) Meet the provider requirements in this section and other applicable rules;

(c) Meet the billing requirements in this section and other applicable rules;

(d) Submit all information the agency requires to monitor the program; and

(e) Comply with DOH's Trauma Registry reporting requirements.

(4) Supplemental distributions from the TCF are:

(a) Allocated into five payment pools. Timing of payments is described in subsection (5) of this section. Distributions from the payment pools to the individual hospitals are determined by first summing the agency's qualifying payments to each eligible hospital since the beginning of the service year and expressing this amount as a percentage of the agency's total payments to all eligible hospitals for qualifying services provided during the service year-to-date. For TCF purposes, service year is defined as the SFY. Each hospital's qualifying payment percentage for the service year-to-date is multiplied by the available amount for the service year-to-date, and then the agency subtracts what has been allocated to each hospital for the service year-to-date to determine the portion of the current payment pool to be paid to each qualifying hospital. Eligible hospitals and qualifying payments are described in (a)(i) through (iii) of this subsection. Qualifying payments are the agency's payments to:

(i) Level I, Level II, and Level III trauma service centers for qualified medicaid trauma cases since the beginning of the service year. The agency determines the countable payment for trauma care provided to medicaid clients based on date of service, not date of payment;

(ii) The Level I, Level II, and Level III hospitals for trauma cases transferred to these facilities since the beginning of the service year. A Level I, Level II, or Level III hospital that receives a transferred trauma case from any lower level hospital is eligible for the enhanced payment, regardless of the client's injury severity score (ISS); and

(iii) Level II and Level III hospitals for qualified trauma cases (those that meet or exceed the ISS criteria in (b) of this subsection) transferred by these hospitals since the beginning of the service year to a trauma service center with a higher designation level.

(b) Paid only for a medicaid trauma case that meets:

(i) The ISS of thirteen or greater for an adult trauma patient (a client age fifteen or older);

(ii) The ISS of nine or greater for a pediatric trauma patient (a client younger than age fifteen); or

(iii) The conditions of (c) of this subsection.

(c) Made to hospitals, as follows, for a trauma case that is transferred:

(i) A hospital that receives the transferred trauma case qualifies for payment regardless of the ISS if the hospital is designated or recognized by DOH as an approved Level I, Level II, or Level III adult or pediatric trauma service center;

(ii) A hospital that transfers the trauma case qualifies for payment only if:

(A) It is designated or recognized by DOH as an approved Level II or Level III adult or pediatric trauma service center; and

(B) The ISS requirements in (b)(i) or (ii) of this subsection are met.

(ii) A hospital that DOH designates or recognizes as an approved Level IV or Level V trauma service center does not qualify for supplemental distributions for trauma cases that are transferred in or transferred out, even when the transferred cases meet the ISS criteria in (b) of this subsection.

(d) Not funded by disproportionate share hospital (DSH) funds; and

(e) Not distributed by the agency to:

(i) Trauma service centers designated or recognized as Level IV or Level V;

(ii) Critical access hospitals (CAHs), except when the CAH is also a Level III trauma service center; or

(iii) Any facility for follow-up services related to the qualifying trauma incident but provided to the client after the client has been discharged from the initial hospitalization for the qualifying injury.

(5) Distributions for an SFY are paid as follows:

(a) The first supplemental distribution from the TCF is made three to six months after the SFY begins;

(b) Subsequent distributions are made approximately every two to four months after the first distribution is made, except as described in (c) of this subsection;

(c) The final distribution from the TCF for an SFY is:

(i) Made one year after the end of the SFY;

(ii) Limited to the remaining balance of the agency's TCF appropriation for that SFY; and

(iii) Distributed based on each eligible hospital's percentage share of the total payments made by the agency to all designated trauma service centers for qualified trauma services provided during the relevant SFY.

(6) For purposes of the supplemental distributions from the TCF, all of the following apply:

(a) The agency considers a provider's request for a trauma claim adjustment only if the adjustment request is received by the agency within three hundred sixty-five calendar days from the date of the initial trauma service. At its discretion, and with sufficient public notice, the agency may adjust the deadline for submission and/or adjustment of trauma claims in response to budgetary program needs;

(b) Except as provided in (a) of this subsection, the deadline for making adjustments to a trauma claim is the same as the deadline for submitting the initial claim to the agency as specified in WAC 182-502-0150(3). See WAC 182-502-0150 (11) and (12) for other time limits applicable to TCF claims;

(c) All claims and claim adjustments are subject to federal and state audit and review requirements; and

(d) The total amount of supplemental distributions from the TCF disbursed to eligible hospitals by the agency in any SFY cannot exceed the amount appropriated by the legislature for that SFY. The agency has the authority to take whatever actions necessary to ensure the department stays within the TCF appropriation.

WSR 13-17-018
PERMANENT RULES
GAMBLING COMMISSION

[Order 690—Filed August 9, 2013, 7:51 a.m., effective September 9, 2013]

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

Purpose: The adopted rule change:

- Clarifies for all applicants and licensees those persons who are required to submit fingerprints to us and undergo a national criminal history background check;
- Outlines which applicants and licensees are not required to submit fingerprints and undergo a national criminal history background check;
- Outlines persons subject to the national criminal history background check taking into consideration the nature, character, size and scope of the gambling activities; and
- Adds language to clarify we may fingerprint substantial interest holders when we have information they may not be qualified for licensure or to participate in a gambling activity.

Citation of Existing Rules Affected by this Order:
 Amending WAC 230-03-060.

Statutory Authority for Adoption: RCW 9.46.070(7).

Adopted under notice filed as WSR 13-11-035 on May 10, 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 8, 2013.

Susan Newer
 Rules Coordinator

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

WAC 230-03-060 Fingerprinting ((of applicants)).
 ((Applicants or persons holding a substantial interest may undergo a national criminal history background check, using fingerprints for the following licenses:

(1) Amusement games for commercial use: Class E and above; and

(2) Card games: Class E, Class F and house-banked card rooms; and

~~(3) Punch boards/pull tabs for commercial stimulant: Class F and above; and~~

~~(4) Manufacturers: Class B and above; and~~

~~(5) Distributors: Class B and above; and~~

~~(6) Gambling service suppliers; and~~

~~(7) Representatives for distributors, manufacturers, gambling service suppliers, and linked bingo prize providers; and~~

~~(8) Managers of commercial gambling operations; and~~

~~(9) Public card room employees; and~~

~~(10) Linked bingo prize providers.))~~ (1) The following persons must submit fingerprints and undergo a national criminal history background check:

(a) Substantial interest holders of commercial businesses and charitable or nonprofit organizations who live or have lived out of the state in the last ten years; and

(b) Card room employees, commercial and nonprofit gambling managers, and manufacturer, distributor, service supplier, and linked bingo prize provider representatives; and

(c) Any other substantial interest holder when we have information they may not be qualified for licensure or to participate in a gambling activity; and

(2) Applicants or licensees for the following activities do not need to submit fingerprints: Recreational gaming activities, agricultural fair permits, and Class A commercial amusement games.

WSR 13-17-024
PERMANENT RULES
HORSE RACING COMMISSION

[Filed August 12, 2013, 8:36 a.m., effective September 12, 2013]

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

Purpose: Adopts language into the WACs to address the 123racing pick (n) wager pools.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 13-12-063 on June 4, 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 1, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 1, 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 9, 2013.

Douglas L. Moore
 Executive Secretary

NEW SECTION**WAC 260-48-945 123racing pick (n) wager pools.** (1)

The 123racing pick (n) wager is a separate multileg parimutuel pool wager established by the association on a designated number of races. The gross pool consists of the total amount wagered for the multiple race bet. Winning wagers are determined by the highest points totals earned after all legs of the wager have been completed, based on cumulative mythical win, place, and show wager (an across the board wager), on one betting interest per wagering race. It is not a parlay and has no connection with or relation to other pools conducted by the association other than the utilization of live race payouts as a means of calculating players' fantasy points.

Example:

- (a) Horse A finishes first and pays \$6.00 for the win, \$5.60 for show, and \$2.20 for place. The total points accumulated are $6.00 + 5.60 + 2.20$ for a total of 13.80 points.
- (b) Horse B finishes second and pays \$15.60 for the place, and \$4.80 for show. The total points accumulated are $15.60 + 4.80$ for a total of 20.40 points.
- (c) Horse C finishes third and pays \$2.10 for the show. The total points accumulated are 2.10.

(2) A valid 123racing pick (n) wager ticket shall be evidence of a binding contract between the holder of the ticket and the association, and shall constitute an acceptance of 123racing pick (n) wager provisions and rules contained in this section.

(3) A 123racing pick (n) wager may be given a distinctive name by the association conducting the meeting, subject to the commission or executive secretaries approval, and existing licenses, copyrights, and/or patents.

(4) 123racing pick (n) wagers shall be conducted as follows:

(a) One wager requires a predetermined unit stake to be wagered into the gross pool and the selection of one betting interest per wagering race.

(b) "n" represents the number of races that complete the wager and will vary as determined by the host racing association, but shall include no less than four races.

(c) Each leg of the 123racing pick (n) wager consists of a mythical win, place, and show wager on one betting interest per race of the same unit stake as wagered into the gross pool. For example if the unit stake for the 123racing pick (n) is \$2, each leg of the 123racing pick (n) wager consists of a mythical \$2 win, place, and show wager (a \$2 across the board wager) on one betting interest per race. An individual may place any number of separate 123racing pick (n) wagers into a pool.

(d) If a ticket has multiple selections in the same race, only the selection with the highest total points will be accumulated towards the 123racing pick (n) wager.

(e) Official program numbers must be used for all wagers. All players are responsible for ensuring each wager is placed correctly.

(f) Live race payouts are used to calculate players' point totals.

(g) Each player's points will be reflected in their cumulative points total at the end of each race.

(h) Following a race being declared "official," the actual parimutuel pool payout for the mythical across the board wager will be translated to points and added to a player's cumulative points total.

(i) Of the bettors, the player(s) with the highest points total after the last leg is/are the "winner(s)."

(j) The net parimutuel pool is distributed to the bettors scoring the highest scores of all players in the pool by a predetermined method in accordance with subsection (12) of this section.

(5) A selection on a coupled entry or field is considered a selection on the remaining part of the coupled entry or field as determined by the rules of the live corresponding race.

(6) If a selection in any race designates a betting interest that was scratched, excused, or determined by the stewards to be a nonstarter in the race, the selection will be on the actual post-time favorite, as evidenced by total amounts wagered in the win pool at the host association for the contest at the close of wagering on that race. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number.

(7) Points for dead heats will be determined by the payouts of the live corresponding race.

(8) The takeout and its distribution for the 123racing pick (n) wager shall be set and approved by the host regulatory commission, but shall include the distribution of the negotiated proprietary fee.

(9) All tickets shall be refunded if all races comprising the 123racing pick (n) wager are canceled or declared as no contest. The entire pool shall be refunded if less than four races are completed and if four or more races are completed the net pool shall be distributed pursuant to subsection (11) of this section.

(10) After wagering closes on the first race comprising the 123racing pick (n) wager, the pool shall be deemed closed and no entry ticket shall be sold, exchanged, or canceled. No person shall be determined to hold a winning 123racing pick (n) wager ticket until the last designated race has been declared official.

(11) In accordance with the following provisions, the association shall distribute the net pool to the holders of valid tickets that correctly selected the combination of first, second, and/or third place finishers that generated the highest point totals through the designated races/rounds comprising the 123racing pick (n) wager as follows:

(a) 123racing pick (n) with second and third minor pools with predetermined percentages: The major share of the net amount in the 123racing pick (n) parimutuel pool subject to distribution among winning ticket holders shall be distributed to the holder of the parimutuel ticket with the wager that has the highest points total after all races have been completed. The second minor share of the 123racing pick (n) pool shall be distributed to the holder of the parimutuel ticket with the wager that has the second highest point total after all races have been completed, and the third minor share shall be distributed to the holder of the parimutuel ticket with the wager

that has the third highest point total after all races have been completed.

(b) If there are two parimutuel wagers that equal the highest point total after all races have been completed, the major and second minor shares of the net amount in the parimutuel pool subject to distribution shall be distributed to those ticket holders. The third minor share of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed to the holders of parimutuel tickets with wagers which have the third highest point total after all races have been completed.

(c) If there are three or more parimutuel wagers that equal the highest points total after all races have been completed, one hundred percent of the net amount in the parimutuel pool subject to distribution shall be distributed to those ticket holders.

(d) If one parimutuel ticket wager scores the highest points total, and two or more parimutuel ticket wagers equal the second highest point total after all races have been completed, the major share of the net amount in the parimutuel pool subject to distribution shall be distributed to the highest scoring ticket holder, and the second and third minor shares of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed to the holders of parimutuel tickets which have the second highest points totals after all races have been completed.

(e) If one parimutuel ticket wager scores the highest points total, one parimutuel ticket wager scores the second highest points total, and two or more parimutuel ticket wagers score the third highest points total after all races have been completed, then the major share of the net amount in the parimutuel pool subject to distribution shall be distributed to the highest scoring ticket holder, the second minor share of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed to the second highest scoring ticket holder, and the third minor share of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed to the holders of parimutuel tickets which have the third highest points total.

Examples: The wagers with the highest total accumulated points after all 123racing pick (n) wager races are completed will share in the net pool eligible for distribution among winning ticket holders as follows:

Payout Example

Sample Payouts

Total wagers:	10,000
Wager denomination:	\$2.00
Pot size:	\$20,000.00
Parimutuel payout:	\$16,060.00 (assumes 19.7% "take-out")

**Finishing Leaderboard Position Payout
Share % of Net Pool**

Major pool share		
1st	\$9,636.00	60.00%

Secondary minor pool share		
2nd	\$4,818.00	30.00%
Third minor pool share		
3rd	\$1,606.00	10.00%
Total Payout	\$16,060.00	100.00%

(f) With the written approval of the commission, the association may contribute to the net amount of the 123racing pick (n) wager parimutuel pool subject to distribution.

(12) Should circumstances occur which are not addressed by these rules, questions arising thereby shall be resolved in accordance with general parimutuel practice. Decisions regarding distribution of the 123racing pick (n) pool made by the stewards shall be final.

(13) In the event that no points are awarded to any tickets, the net pool for that day will carry over to the next race day as part of the total net pool.

**WSR 13-17-036
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed August 12, 2013, 4:47 p.m., effective September 12, 2013]

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

Purpose: HB 2304 (2012) transferred authority for the low-level radioactive waste (LLRW) site use permit program from the department of ecology (ecology) to the department of health. The rules adopt ecology's LLRW rules without material change and replace the classification ratio for fee calculation with the actual fee amounts based on the current base fee of \$424. This change does not increase or decrease the fee amount.

Citation of Existing Rules Affected by this Order: Amending WAC 246-249-010 and 246-249-020.

Statutory Authority for Adoption: RCW 70.98.085.

Other Authority: RCW 70.98.050 and 70.98.085.

Adopted under notice filed as WSR 13-11-097 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 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 1, Amended 2, Repealed 0.

Date Adopted: August 9, 2013.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 11-03-020, filed 1/7/11, effective 2/7/11)

WAC 246-249-010 Definitions, abbreviations, and acronyms. ~~((As used in this chapter, the following definitions apply:))~~ The definitions, abbreviations, and acronyms in this section and in WAC 246-220-010 apply throughout this chapter unless the context clearly indicates otherwise.

(1)~~(a)~~ **"Broker"** means a person who performs one or more of the following functions for a radioactive waste generator:

~~((a))~~ (i) Arranges for transportation of the radioactive waste;

~~((b))~~ (ii) Collects ~~(and)~~ or consolidates shipments of radioactive waste (waste collector);

~~((c))~~ (iii) Processes radioactive waste in some manner ~~(, not including carriers whose sole function is to transport radioactive waste)~~ (waste processor);

(iv) Packages radioactive waste for disposal (wastepacker).

~~(b)~~ Does not mean a carrier whose sole function is to transport radioactive waste.

(2) ~~("By-product material" means:~~

~~(a) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;~~

~~(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute by-product material within this definition;~~

~~(c)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or~~

~~(ii) Any material that:~~

~~(A) Has been made radioactive by use of a particle accelerator; and~~

~~(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and~~

~~(d) Any discrete source of naturally occurring radioactive material, other than source material, that:~~

~~(i) The Nuclear Regulatory Commission, in consultation with the administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and~~

~~(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.~~

~~(3))~~ **"Chelating agent"** means amine polycarboxylic acids ~~((e.g.)),~~ such as EDTA~~(s))~~ and DTPA~~(t))~~; hydroxycarboxylic acids~~(s))~~; and polycarboxylic acids ~~((e.g.)),~~ such as citric acid, carbonic acid, and glucinic acid).

~~((4))~~ (3) **"Chemical description"** means a description of the principal chemical characteristics of a radioactive waste.

~~((5))~~ (4) **"Computer-readable medium"** means the regulatory agency's computer can transfer the information from the medium into its memory.

~~((6))~~ (5) **"Consignee"** means the designated receiver of the shipment of radioactive waste.

~~((7))~~ (6) **"Decontamination facility"** means a facility operating under a commission or agreement state license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse, or other waste management objectives, and, for purposes of this section, is not considered to be a consignee for radioactive waste shipments.

~~((8))~~ (7) **"Disposal container"** means a container principally used to confine radioactive waste during disposal operations at a land disposal facility (also see "high integrity container"). Note that for some shipments, the disposal container may be the transport package.

~~((9))~~ (8) **"DOT"** means the United States Department of Transportation.

(9) **"EPA"** means the United States Environmental Protection Agency.

(10) **"EPA identification number"** means the number assigned by the EPA administrator under 40 C.F.R. Part 263.

~~((10))~~ (11) **"Generator"** means any ~~((entity))~~ person including a licensee operating under a commission or agreement state license who:

(a) Is a waste generator as defined in this part; or

(b) Is the entity or licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (e.g., waste generated as a result of decontamination or recycle activities).

~~((11))~~ (12) **"High integrity container ~~((HIC))~~"** means a container commonly designed to meet the structural stability requirements of this chapter, and to meet department of transportation Type A package requirements.

~~((12))~~ (13) **"Land disposal facility"** means the land, buildings, and equipment which are intended to be used for the disposal of radioactive wastes. For the purposes of this chapter, a land disposal facility does not include a geologic repository.

~~((13))~~ (14) **"Motor vehicle"** means any vehicle, truck, tractor, semi-trailer, or trailer (or any permitted combination of these), driven by mechanical power and used upon the highways to carry property.

~~((14))~~ (15) **"Motor common carrier"** means a person holding itself out to the general public to provide motor vehicle transportation for compensation over regular or irregular routes, or both.

~~((15))~~ (16) **"Motor contract carrier"** means a person other than a common carrier providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons.

~~((16))~~ (17) **"Motor private carrier"** means a person, other than a motor carrier, transporting property by motor vehicle when the person is the owner, lessee, or bailee of the property being transported; and the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

~~((17))~~ (18) **"Motor carrier"** means a motor common carrier and a motor contract carrier.

~~((18))~~ (19) **"NARM (naturally occurring and accelerator produced material(~~(NARM)~~)"** means any radioactive material of natural or accelerator origin; but does not include by-product, source or special nuclear material. Diffuse NARM is low activity NARM that has less than 2 nCi/g of 226-Ra.

~~((19))~~ (20) **"NRC Forms 540, 540A, 541, 541A, 542, and 542A"** are official NRC Forms referenced in this section. Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information. Upon agreement between the shipper and consignee, NRC Forms 541 (and 541A) and NRC Forms 542 (and 542A) may be completed, transmitted, and stored in electronic media. The electronic media must have the capability for producing legible, accurate, and complete records in the format of the uniform manifest.

~~((20))~~ (21) **"Nuclear utility"** means any operating or inactive nuclear utility.

(22) **"Package"** means the assembly of components necessary to ensure compliance with the packaging requirements of DOT regulations, together with its radioactive contents, as presented for transport.

~~((21))~~ (23) **"Physical description"** means the items on NRC Form 541 that describe a radioactive waste.

~~((22))~~ **"Radioactive waste"** means either or both low-level radioactive waste and naturally occurring and accelerator produced radioactive material.

~~((23))~~ (24) **"Residual waste"** means radioactive waste resulting from processing or decontamination activities that cannot be easily separated into distinct batches attributable to specific waste generators. This waste is attributable to the processor or decontamination facility, as applicable.

~~((24))~~ (25) **"Rollover volume"** means the difference, in a calendar year, between the volume of NARM disposed at the disposal site and the site volume limit (~~(set forth)~~) established under WAC 246-249-080(4).

~~((25))~~ (26) **"Shipper"** means the licensed entity (~~(~~(+e-)~~)~~) including, but not limited to, the waste generator, waste collector, or waste processor(~~(s)~~), who offers radioactive waste for transportation, typically consigning this type of waste to a licensed waste collector, waste processor, or land disposal facility operator.

~~((26))~~ (27) **"Shipment"** means the total radioactive waste material transported in one motor vehicle.

~~((27))~~ (28) **"Shipping paper"** means NRC Form 540 and, if required, NRC Form 540A which includes the information required by DOT in 49 C.F.R. Part 172.

~~((28))~~ (29) **"Transuranic waste"** means material contaminated with elements that have an atomic number greater than 92.

~~((29))~~ (30) **"Uniform Low-Level Radioactive Waste Manifest or uniform manifest"** means the combination of NRC Forms 540, 541, and, if necessary, 542, and their respective continuation sheets as needed, or equivalent.

~~((30))~~ **"Waste"** means those low-level radioactive wastes containing source, special nuclear, or by product material that are acceptable for disposal in a land disposal

facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in WAC 246-249-010 ~~(2)(b), (c), and (d).)~~

(31) **"Waste collector"** means an entity, operating under a commission or agreement state license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.

(32) **"Waste description"** means the physical, chemical and radiological description of a radioactive waste as called for on NRC Form 541.

(33) **"Waste generator"** means an entity, operating under a commission or agreement state license, who:

(a) Possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use; and

(b) Transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal.

(c) A licensee performing processing or decontamination services may be a "waste generator" if the transfer of radioactive waste from its facility is defined as "residual waste."

(34) **"Waste processor"** means an entity, operating under a commission or agreement state license, whose principal purpose is to process, repack, or otherwise treat radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

(35) **"Waste type"** means a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description; or a waste sorbed on or solidified or stabilized in a specifically defined media).

AMENDATORY SECTION (Amending WSR 95-13-094, filed 6/21/95, effective 7/22/95)

WAC 246-249-020 Site use permit. (1) Each generator and each broker of radioactive waste shall:

(a) Possess ~~(a)~~ an active valid, and unencumbered site use permit prior to the shipment of such waste to, or the disposal of such waste at any commercial disposal facility in the state of Washington ~~(and shall have complied with the permit requirements of the department of ecology).~~

~~((2))~~ Suspension or revocation of permit.

~~(a)~~ The failure of one or more packages in a shipment of waste to be in compliance with one or more of the requirements of the license issued to the commercial low-level radioactive waste disposal site operator, Title 246 WAC, the United States Nuclear Regulatory Commission, the United States Department of Transportation, or conditions of the disposal site operator's radioactive materials license may cause the suspension of the site use permit of the responsible generator and/or broker.

(b) The site use permit of a generator and/or broker may be suspended or revoked if any other licensed commercial

low-level radioactive waste disposal site in the United States has refused to accept waste from that generator or broker.

~~(e) A suspended site use permit may be reinstated provided:~~

~~(i) The generator and/or broker submits a quality assurance procedure designed to correct previous problems and to achieve and maintain compliance with all applicable requirements; and~~

~~(ii) A point of origin inspection by the state of Washington, of the generator's and/or broker's waste management activities, indicates compliance with all applicable requirements and regulations.~~

~~(3) Brokered shipments.~~

~~(a) It is the broker's responsibility to assure that)~~

~~(b) Renew the site use permit annually to maintain the permit in active status.~~

~~(2) If a generator or broker does not renew the permit:~~

~~(a) The department shall place the permit in inactive status; and~~

~~(b) The generator or broker shall pay a reinstatement fee in addition to the annual site use permit fee as required in WAC 246-254-165.~~

~~(3) Each generator and each broker of radioactive waste shall:~~

~~(a) Pay the site use permit fees required in WAC 246-254-165;~~

~~(b) Submit a completed application for a site use permit to the department on a form provided by the department;~~

~~(c) Ensure that each application is signed by the individual broker or generator or by an individual authorized to sign on behalf of the entity generating or brokering the waste; and~~

~~(d) Submit the application for site use permit renewal a minimum of four weeks prior to the expiration date of the permit.~~

~~(4) Number of permits required by each generator.~~

~~(a) Generators who own multiple facilities may apply for one site use permit provided:~~

~~(i) All facilities are within the same state; and~~

~~(ii) The generator has identified a single contact person who is responsible for responding to the department on matters pertaining to waste shipments for all of the facilities.~~

~~(b) Generators who own multiple facilities shall apply for separate site use permits for each facility when:~~

~~(i) The facilities are located in different states; or~~

~~(ii) The generator has identified different contact persons for each facility who are responsible for responding to the department on matters pertaining to waste shipments.~~

~~(c) When a facility both generates and brokers waste, each generator and broker shall possess separate generator and broker site use permits.~~

~~(5) Each broker shall:~~

~~(a) Ensure a generator of waste has ((a)) an active, valid, and unencumbered site use permit prior to shipment of waste for disposal((-));~~

~~(b) ((A broker,)) Ensure the waste will arrive at the disposal facility prior to the expiration date of the generator's site use permit;~~

~~(c) Ensure all radioactive waste contained within a shipment accepted for disposal at any commercial radioactive waste disposal facility in the state of Washington is traceable~~

to the original generators and states, regardless of whether the waste is shipped directly from the point of generation to the disposal facility or shipped through a licensed service facility, such as a facility for recycling, processing, compacting, incinerating, collecting, or brokering waste; and

(d) As consignor, assumes co-responsibility with a generator for all aspects of that generator's waste until it can be documented to the department's satisfaction that the broker's sphere of responsibility was limited.

(6) Any generator or broker shipping waste for disposal at the commercial low-level radioactive waste disposal site that was originally generated in the Rocky Mountain compact region shall attach to the shipping manifest and provide to the disposal site operator a copy of the letter granting approval to export waste from the Rocky Mountain compact region.

(7) Suspension or revocation of permit.

(a) The department may suspend the site use permit of the responsible generator, or broker, or both the generator and broker if one or more packages in a shipment of waste does not meet one or more of the requirements of the license issued to the commercial low-level radioactive waste disposal site operator, Title 246 WAC, NRC regulations, DOT regulations, or the conditions of the disposal site operator's radioactive materials license.

(b) The site use permit of a generator or broker may be suspended or revoked if any other licensed commercial low-level radioactive waste disposal site in the United States has refused to accept waste from that generator or broker.

(c) A suspended site use permit may be reinstated provided:

(i) The generator or broker whose permit has been suspended submits a quality assurance procedure designed to correct previous problem sand to achieve and maintain compliance with all applicable requirements; and

(ii) A point-of-origin inspection by the state of Washington of the waste management activities of the generator or broker whose permit has been suspended, indicated compliance with all applicable requirements and regulations.

(8) Additional generator and broker requirements. Permittees shall provide additional information as requested by the department for the safe management of radioactive waste in the state of Washington.

NEW SECTION

WAC 246-254-165 Low-level radioactive waste site use permit fees for generator or broker. (1) The following fees apply to a generator as defined in WAC 246-249-010:

(a) A generator with an active site use permit, other than a nuclear utility, shall pay an annual site use permit fee based on the total annual volume (cubic feet) of waste disposed during the previous calendar year. The fees by volume of waste are in Table 1 of this section.

(b) A new generator, other than a nuclear utility, shall pay an annual site use permit fee based on the estimated volume (cubic feet) of waste requiring disposal during the first calendar year. The fees by volume of waste are in Table 1 of this section.

(i) If a new generator's waste deposits exceed the generator's estimated volume, the department shall suspend the site

use permit until the generator pays the additional fee amount corresponding to the actual volume of waste disposed.

(ii) If a new generator's waste deposits are less than the generator's estimated volume, consistent with WAC 246-08-560, the department shall refund the fee amount paid in excess of the required fee amount.

(c) A nuclear utility shall pay an annual site use permit fee of forty-two thousand four hundred dollars.

(d) A generator, other than a nuclear utility, who fails to renew an annual site use permit shall pay an annual site use permit fee based on the volume of waste disposed during the most recent calendar year in which waste was disposed and shall pay a reinstatement fee of one thousand dollars.

(e) A nuclear utility that fails to maintain annual renewal of the site use permit shall pay an annual site use permit fee of forty-two thousand four hundred dollars and shall pay a reinstatement fee of one thousand dollars.

Table 1: Fees by Volume of Waste

Classification	Fee
< 50 cubic feet	\$424
≥ 50 < 500 cubic feet	\$848
≥ 500 < 1000 cubic feet	\$2,120
≥ 1000 < 2500 cubic feet	\$4,240
≥ 2500 cubic feet	\$14,840

(2) The following fees apply to a broker as defined in WAC 246-249-010:

(a) A broker shall pay an annual site use permit fee of one thousand dollars.

(b) A broker who fails to maintain annual renewal of the site use permit shall pay an annual site use permit fee of one thousand dollars and shall pay a reinstatement fee of one thousand dollars.

**WSR 13-17-037
PERMANENT RULES
PARKS AND RECREATION
COMMISSION**

[Filed August 13, 2013, 8:02 a.m., effective September 13, 2013]

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

Purpose: State parks staff has reviewed the commission rules in consideration of changes to current business practices. The agency has proposed changes to selected sections of chapter 352-32 WAC to delegate to the director authority to adjust within a range the maximum length of stay for recreational camping during high use seasons, to authorize temporary closures of parks/park areas for the protection of natural/cultural resources or public safety, to eliminate reciprocity with other states in regard to sno-park permits, to clarify dates sno-park permit is valid and to eliminate one section to simplify the rules. The agency also proposed the addition of a new section to chapter 352-37 WAC allowing temporary closures of portions of the seashore conservation area for the protection of natural/cultural resources or public safety.

Citation of Existing Rules Affected by this Order: Repealing WAC 352-32-265; and amending WAC 352-32-030, 352-32-050, 352-32-260, and 352-32-270.

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.035.

Adopted under notice filed as WSR 13-14-027 on June 25, 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 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 1.

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

Date Adopted: August 8, 2013.

Valeria Evans
Management Analyst

AMENDATORY SECTION (Amending WSR 12-22-031 [13-15-020], filed 10/31/12 [7/8/13], effective 12/1/12 [8/8/13])

WAC 352-32-030 Camping. (1) Camping facilities of the state parks within the Washington state parks and recreation commission system are designed and administered specifically to provide recreational opportunities for park visitors. Use of park facilities for purposes which are of a nonrecreational nature, such as long-term residency at park facilities, obstructs opportunities for recreational use, and is inconsistent with the purposes for which those facilities were designed.

No person or camping party may use any state park facility for residence purposes, as defined (WAC 352-32-010).

(2) No person shall camp in any state park area except in areas specifically designated and/or marked for that purpose or as directed by a ranger.

(3) Occupants shall vacate camping facilities by removing their personal property therefrom no later than 1:00 p.m., if the applicable camping fee has not been paid or if the time limit for occupancy of the campsite has expired or the site is reserved by another party. Remaining in a campsite beyond the established checkout time shall subject the occupant to the payment of an additional camping fee.

(4) Use of utility campsites by tent campers shall be subject to payment of the utility campsite fee except when otherwise specified by a ranger.

(5) A campsite is considered occupied when it is being used for purposes of camping by a person or persons who have paid the camping fee within the applicable time limits or when it has been reserved through the appropriate procedures of the reservation system. No person shall take or attempt to

take possession of a campsite when it is being occupied by another party, or when informed by a ranger that such site is occupied, or when the site is posted with a "reserved" sign or when the campsite has an incoming reservation. In the case of a reserved site, a person holding a valid reservation for that specific site may occupy it according to the rules relating to the reservation system for that park. In order to afford the public the greatest possible use of the state park system on a fair and equal basis, campsites in those parks not on the state park reservation system will be available on a first-come, first-serve basis. No person shall hold or attempt to hold campsite(s), for another camping party for present or future camping dates, except as prescribed for multiple campsites. Any site occupied by a camping party must be actively utilized for camping purposes.

(6) One person may register for one or more sites within a multiple campsite by paying the multiple campsite fee and providing the required information regarding the occupants of the other sites. An individual may register and hold a multiple campsite for occupancy on the same day by other camping parties. Multiple campsites in designated reservation parks may be reserved under the reservation system.

(7) In order to afford the general public the greatest possible use of the state park system, on a fair and equal basis, and to prevent residential use, continuous occupancy of facilities by the same camping party shall be limited. April 1 through September 30: The maximum length of stay during this period shall be established annually for each park by the director or designee and shall be no less than ten and no more than fourteen nights. Campers may stay ~~((ten))~~ the established maximum consecutive nights in one park, after which the camping party must vacate the park for three consecutive nights ~~((April 1 through September 30, not to exceed thirty days in a forty-day time period; provided that at the discretion of the park ranger the maximum stay may be extended to fourteen consecutive nights if the campground is not fully occupied))~~. October 1 through March 31: The maximum length of stay is twenty nights. Campers may stay twenty consecutive nights in one park, after which the camping party must vacate the park for three consecutive nights, ~~((October 1 through March 31))~~ not to exceed forty days in a sixty-day time period. ~~((This))~~ These limitations shall not apply to those individuals who meet the qualifications of WAC 352-32-280 and 352-32-285.

(8) A maximum of eight people shall be permitted at a campsite overnight, unless otherwise authorized by a ranger. The number of vehicles occupying a campsite shall be limited to one car and one recreational vehicle: Provided, That one additional vehicle without built-in sleeping accommodations may occupy a designated campsite when in the judgment of a ranger the constructed facilities so warrant. The number of tents allowed at each campsite shall be limited to the number that will fit on the developed tent pad or designated area as determined by a ranger.

(9) Persons traveling by bicycles, motor bikes or other similar modes of transportation and utilizing campsites shall be limited to eight persons per site, provided no more than four motorcycles may occupy a campsite.

(10) Water trail camping sites are for the exclusive use of persons traveling by human and wind powered beachable

vessels as their primary mode of transportation to the areas. Such camping areas are subject to the campsite capacity limitations as otherwise set forth in this section. Exceptions for emergencies may be approved by the ranger on an individual basis. Water trail site fees, as published by state parks, must be paid at the time the site is occupied.

(11) Overnight stays (bivouac) on technical rock climbing routes will be allowed as outlined in the park's site specific climbing management plan. All litter and human waste must be contained and disposed of properly.

(12) Emergency camping areas may be used only when all designated campsites are full and at the park ranger's discretion. Persons using emergency areas must pay the applicable campsite fee and must vacate the site when directed by the park ranger.

(13) Designated overflow camping areas may be used only when all designated campsites in a park are full and the demand for camping in the geographic area around the park appears to exceed available facilities. Persons using overflow camping areas must pay the applicable campsite fee.

(14) Overnight camping will be allowed in approved areas within designated sno-parks in Washington state parks, when posted, provided the appropriate required sno-park permit is displayed.

(15) Any violation of this section is an infraction under chapter 7.84 RCW.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending WSR 07-03-121 [13-15-020], filed 1/22/07 [7/8/13], effective 2/22/07 [8/8/13])

WAC 352-32-045 Reservations for use of designated group facilities. (1) All designated group facilities shall be reservable by groups as defined in WAC 352-32-010.

(2) All designated group facilities shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas. Groups making reservations shall be charged the applicable fee for a minimum of 20 people.

(3) Use of designated group facilities may be by reservation. Requests made at parks, not on central reservation system, for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) Submittal of the group use permit request and payment in full of appropriate fees are required for the use of these facilities. Fees must be paid by credit card, certified check or money order. Fees are published by state parks. Refunds will be made only to those groups which cancel their reservations thirty or more days before the effective date of the reservations.

(5) For overnight group use, parking will be in the provided, defined areas. If additional parking is required, it may

be available in the park's extra vehicle parking facility following the payment of the appropriate extra vehicle parking fee.

(6) The organization or delegated group leader making the reservation is responsible for any damages or extra cleaning that occurs as a result of the use of the facility(ies) beyond normal care and wear.

(7) Facility reservations for parks not on the central reservation system are made at the park and will be accepted ~~((for the calendar year, on or after the first working day in January of that calendar year))~~ nine months in advance. Reservations shall be made by a person of the age of majority, who must be in attendance during the group's activities. Reservations at the parks will be accepted in writing, in person, or by phone at the discretion of the park manager. In person and phone reservation requests shall only be accepted at the park during normal park operation hours. All reservation requests will be processed in order of arrival. Group facility areas not reserved are available on a first-come, first-serve basis.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending WSR 00-13-070 [13-15-020], filed 6/16/00 [7/8/13], effective 7/17/00 [8/8/13])

WAC 352-32-080 Swimming. (1) Swimming areas in state park areas are marked with buoys, log booms, or other markers, clearly designating the boundaries of such areas.

(2) Any person swimming outside the boundaries of a designated swimming area, or in any area not designated for swimming, or in any area, whether designated for swimming or not, where no lifeguard is present, shall do so at his or her own risk.

(3) All persons using any designated swimming area shall obey all posted beach rules and/or the instructions of lifeguards, rangers, or other state parks employees.

Children twelve years of age or younger, must be accompanied by a responsible adult while using the swim area.

(4) No person shall swim in any designated watercraft launching area.

(5) No person shall give or transmit a false signal or false alarm of drowning in any manner.

(6) Use of ~~((inflated mattresses,))~~ rubber rafts, rubber boats, inner tubes, or other large floating objects, exceeding three feet in width are prohibited in designated swimming areas except U.S. Coast Guard approved life jackets, ~~((# state park areas))~~ small children's floatation devices or toys and one-person inflatable mattresses for the purpose of buoyancy while swimming or playing in any designated swimming area ~~((is prohibited))~~ are allowed. Concessionaires are not permitted to rent or sell ~~((such))~~ prohibited floating devices within state parks without written approval of the ~~((commission))~~ director or designee.

(7) Any violation of this section is an infraction under chapter 7.84 RCW.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending WSR 08/24/006 [13-15-020], filed 11/20/08 [7/8/13], effective 12/21/08 [8/8/13])

WAC 352-32-210 Consumption of alcohol in state park areas. (1) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages in any state park or state park area is prohibited except in the following designated areas and under the following circumstances in those state parks or state park areas not posted by the director or designee as closed to alcohol pursuant to subsection (4) of this section:

(a) In designated campsites or in other overnight accommodations, by registered occupants or their guests; provided ELC users obtain written permission through state parks application process;

(b) In designated picnic areas, which shall include those sites within state park areas where picnic tables, benches, fireplaces, and/or outdoor kitchens are available, even though not signed as designated picnic areas and public meeting rooms;

(c) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager; and

(d) In any building, facility or park area operated and maintained under a concession agreement, wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(2) ~~((Opening,))~~ Possessing alcoholic beverage in an open container, or consuming any alcoholic beverages is prohibited at the following locations:

(a) Dash Point State Park;

(b) Saltwater State Park;

(c) Sacajawea State Park;

(d) Flaming Geyser State Park;

Except in the following designated areas and under the following circumstances:

(i) In designated campsites, or in other overnight accommodations by registered occupants or their guests.

(ii) In any building, facility or park area operated and maintained under a concession agreement wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(iii) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager.

(3) The director or designee may, for a specified period or periods of time, close any state park or state park area to alcohol if the director or designee concludes that an alcohol closure is necessary for the protection of the health, safety and welfare of the public, park visitors or staff, or park resources. The director or designee shall consider factors including but not limited to the effect or potential effect of alcohol on public and employee safety, park appearance, atmosphere, and noise levels, conflicts with other park uses or users, the demand for law enforcement, and the demand on agency staff. Prior to closing any park or park area to alcohol, the director or designee shall hold a public hearing in the general area of the park or park area to be closed to alcohol. Prior notice of the meeting shall be published in a newspaper of general circulation in the area. In the event the director or designee determines that an immediate alcohol closure is necessary to protect against an imminent and substantial threat to the health, safety and welfare of the public, park visitors or staff, or park resources, the director or designee may take emergency action to close a park or park area to alcohol without first complying with the publication and hearing requirements of this subsection. Such emergency closure may be effective for only so long as ~~((is necessary for the director or designee to comply with the publication and hearing requirements of this subsection))~~ the imminent and substantial threat exists.

(4) The director or designee shall ensure that any park or park area closed to alcohol pursuant to subsection (3) of this section is conspicuously posted as such at the entrance to said park or park area. Additionally, the director or designee shall maintain for public distribution a current list of all parks and park areas closed to alcohol pursuant to subsection (3) of this section.

(5) Dispensing alcoholic beverages from containers larger than two gallons is prohibited in state park areas except when authorized in writing and in advance by the park manager.

(6) The provisions of this rule shall not apply to any part of the Seashore Conservation Area, as designated and established by RCW 79A.05.605.

(7) Opening, consuming, or storing alcoholic beverages in Fort Simcoe State Park and Squaxin Island State Park is prohibited.

(8) Any violation of this section is an infraction under chapter 7.84 RCW.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending WSR 07-03-121 [13-15-020], filed 1/22/07 [7/8/13], effective 2/22/07 [8/8/13])

WAC 352-32-237 Geocache. (1) In order to place a cache on state parks' property, an individual or organization must obtain a geocache placement permit from state parks. Any cache located on state parks' property that does not have a permit on file is subject to removal from its location, and after notification of the owner (if known) and Washington State Geocache Association (WSGA), may be disposed of within ten days.

(2) ~~((The geocache owner must check the geocache at least every ninety days unless an extension is approved by the park manager not to exceed one hundred eighty days. Proof of the check will be by e-mail, letter, or personal communication by the owner with the park manager or designee, and the owner's entry in the cache log book indicating the date of inspection.~~

~~((3)))~~ The following items shall not be placed in the geocache: Food items; illegal substances; medications; personal hygiene products; pornographic materials; inappropriate, offensive, or hazardous materials or weapons of any type. Log books are required for each cache and are to be provided by the owner of the cache.

~~((4)))~~ (3) Any violation of this section is an infraction under chapter 7.84 RCW.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending Order 27 [WSR 13-15-020], filed 9/23/76 [7/8/13])

WAC 352-32-240 Nondiscrimination certification. (1) This is to certify that the Washington state parks and recreation commission is an equal opportunity employer, and that no person in the United States is denied the benefits of full and equal enjoyment of the right of employment or any goods, services, facilities, privileges, advantages, and accommodations of, or on any property administered by the Washington state parks and recreation commission ~~((because of race, creed, color, age, sex, national origin, or physical disability))~~.

(2) The provisions of this certification shall apply to all contractors, lessees, licensees, and concessionaires operating under any legal instrument issued by the Washington state parks and recreation commission, as well as areas operated by the Washington state parks and recreation commission itself.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending WSR 04-01-067 [13-15-020], filed 12/12/03 [7/8/13], effective 1/12/04 [8/8/13])

WAC 352-32-310 Penalties. Any violation designated in this chapter as a civil infraction (~~shall constitute a misdemeanor until the violation is included in a civil infraction monetary schedule adopted by rule by the state supreme court~~) pursuant to chapter 7.84 RCW, will be treated as infractions regardless of whether they appear in the IRLJ 6.2 penalty schedule, except that a violation of ((WAC 352-32-220, 352-32-260, and 352-32-265 shall at all times constitute a civil infraction, and)) WAC 352-32-120 shall at all times be a gross misdemeanor.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending WSR 00-13-070, filed 6/16/00, effective 7/17/00)

WAC 352-32-050 Park periods. (1) The director or designee shall establish for each state park area, according to existing conditions, times, and periods when it will be open or closed to the public. Such times and periods shall be posted at the entrance to the state park area affected and at the park office. No person shall enter or be present in a state park area after the posted closing time except:

- (a) Currently registered campers who are camping in a designated campsite or camping area;
- (b) Guests of a currently registered camper who may enter and remain until 10:00 p.m.;
- (c) Guests of a state park employee;
- (d) Technical rock climbers who bivouac on vertical climbing routes not otherwise closed to public use.

(2) The director or designee may, for a specified period or periods of time, close any state park area to public access if the director or designee concludes that such a closure is necessary for the protection of the health, safety and welfare of the public, park visitors or staff, or park resources.

(3) Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

WAC 352-32-260 Sno-park ((permit)) display. Only those vehicles properly displaying a valid winter recreational area parking permit issued by the state of Washington (~~or by another state or nation which honors a Washington state winter recreational area parking permit~~) shall park in designated winter recreational parking areas: ~~((Provided, That Washington licensed vehicles shall be required to display a Washington state winter recreational area parking permit.))~~ Permits shall be displayed near the lower left corner and on the inside

of the windshield of the vehicle when the vehicle is parked in a designated winter recreational parking area. Those vehicles in violation of this rule shall be subject to the application of RCW 46.61.587. Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 97-21-133, filed 10/21/97, effective 1/1/98)

WAC 352-32-270 Sno-park permit—Fees. Fees for the winter recreational area parking permits will be established by the commission and shall be published by state parks. These permits include:

(1) Seasonal permit - ~~((Commences October 1 and expires May 1))~~ Valid December 1st through April 30th of the winter season for which it is issued.

(2) One day permit - ~~((Commences on))~~ Valid for the date identified on the permit in the space provided ~~((and expires on that same date))~~.

(3) Special groomed trail permit - The director may designate certain sno-parks as requiring a special groomed trail permit. In making this designation the director may consider the following factors:

The facilities and services available;

The demand for facilities and services; user days; and

Such other considerations as the director deems appropriate.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 352-32-265 Sno-park permit—Display.

NEW SECTION

WAC 352-37-325 Seashore conservation area closures. The director or designee may, for a specified period or periods of time, close any portion of the seashore conservation area to public access if the director or designee concludes that such a closure is necessary for the protection of the health, safety and welfare of the public, park visitors or staff, or park resources.

WSR 13-17-040

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 13, 2013, 9:37 a.m., effective September 13, 2013]

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

Purpose: Chapter 246-224 WAC, during the 2011 legislative session, SHB 2017 (chapter 298, Laws of 2011) transferred the master license service program from the department of licensing to the department of revenue. For consistency with the statute, references to the department of licensing were changed to the department of revenue for the master license service program, and name, address, and URL references in chapter 246-224 WAC were updated.

Citation of Existing Rules Affected by this Order:
Amending WAC 246-224-0010, 246-224-0050, 246-224-0070, 246-224-0080, and 246-224-0090.

Statutory Authority for Adoption: RCW 70.98.050.

Other Authority: RCW 70.98.080 and chapter 19.02 RCW.

Adopted under notice filed as WSR 13-11-019 on May 7, 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 5, 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 5, Repealed 0.

Date Adopted: August 9, 2013.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 08-09-079, filed 4/16/08, effective 5/17/08)

WAC 246-224-0010 Definitions. (1) "Agent" means a person, company, or dealer; which assembles, installs, repairs, sells, or leases X-ray machines.

(2) "Application" means, for the purpose of this chapter, the ~~((master))~~ business license application or business license renewal application and appropriate addenda used by the ~~((master license service))~~ BLS of the department of ~~((licensing (DOL)))~~ revenue.

(3) "BLS" means the department of revenue's business licensing service.

(4) "Department" means the department of health.

~~((DOL means the department of licensing-))~~

(5) "Facility" means all buildings, structures, and operations on one contiguous site or identified by one physical location address designation at which one or more radiation machines are installed, manufactured, tested, or used.

(6) "FDA" means the United States Food and Drug Administration.

~~((MLS means the department of licensing's master license service-))~~

(7) "Radiation" means, for the purposes of this chapter, ionizing radiation, including X-ray, electron beam, and other machine produced particulate radiation.

(8) "Radiation machine" means, for purposes of this chapter, a device that, when operated, produces X-ray or electron radiation, in a prescribed manner, with defined characteristics, techniques, or parameters. It does not include devices with radioactive material as the only source of radiation.

(9) "Registrant" means the owner or controller of the radiation machine who is responsible for the safe operation of the radiation machine.

(10) "Registration" means providing required information and continuing contact with the department by any person possessing a radiation machine in accordance with regulations adopted by the department.

(11) "Storage" means the status of a radiation machine that is approved by the department as being unable to produce radiation without substantial effort at set-up, reassembly, or reinstallation. For facilities with a radiation control authority, ~~((e.g.,))~~ for example radiation safety office) a locking or disabling procedure may serve to provide this status.

AMENDATORY SECTION (Amending WSR 08-09-079, filed 4/16/08, effective 5/17/08)

WAC 246-224-0050 When and how do I register? (1) You must register with the department through submission of a ~~((master))~~ business license application and appropriate addendum used by ~~((MLS))~~ BLS no later than fifteen calendar days of initial use unless shielding plans review is required.

(2) Facilities requiring shielding plan review must register with ~~((DOL))~~ BLS and submit plans to the department for review prior to construction or installation of radiation machines according to WAC 246-225-030, General requirements—Plan review.

(3) Registration is valid for one year from the department approval date, or any other date as may be determined through partnership with ~~((MLS))~~ BLS.

(4) Pay applicable registration fees according to WAC 246-254-053, Radiation machine facility registration fees.

(5) Submit registration information and applicable fees to ~~((MLS))~~ BLS in accordance with their instructions.

Note: For ~~((DOL))~~ BLS information, visit the following web site:
~~((http://www.dol.wa.gov/business/xray.htm-))~~
www.bls.dor.wa.gov

AMENDATORY SECTION (Amending WSR 08-09-079, filed 4/16/08, effective 5/17/08)

WAC 246-224-0070 When and how do I report changes to my registration? (1) You must notify ~~((DOL))~~ BLS within thirty days of any change to your registration information.

(2) Submit registration changes to:

Department of ~~((Licensing))~~ Revenue
~~((Master License))~~ Business Licensing Service
P.O. Box ~~((49034))~~ 9034
Olympia, WA ~~((98504))~~ 98507-9034
~~((360-664-1400 or fax 360-570-7875))~~
Phone: 800-451-7985
Fax: 360-705-6699
E-mail: BLS@dor.wa.gov

Note: For office of radiation protection information, visit the following web site:
~~((http://www.doh.wa.gov/ehp/rp/Default.htm-))~~
www.doh.wa.gov

For ~~((department of licensing))~~ BLS information, visit the following web site:
~~((http://www.dol.wa.gov/business/xray.htm))~~
www.bls.dor.wa.gov

AMENDATORY SECTION (Amending WSR 08-09-079, filed 4/16/08, effective 5/17/08)

WAC 246-224-0080 When and how do I renew my registration? (1) You will receive registration renewal notices from ~~((DOL))~~ BLS.

(2) You must submit renewal information and the applicable fees to ~~((DOL))~~ the department of revenue as specified by ~~((MLS))~~ BLS.

(3) If you do not receive a renewal notice, contact ~~((DOL))~~ BLS.

AMENDATORY SECTION (Amending WSR 08-09-079, filed 4/16/08, effective 5/17/08)

WAC 246-224-0090 What are my obligations if I close my facility or get rid of a machine? (1) You must notify the department or ~~((DOL))~~ BLS of the machine status within thirty days of closure or removal.

(2) If the machine is disposed of or transferred within Washington state, you must provide the department the following:

- (a) The name and contact information of the recipient;
- (b) The address of the recipient; and
- (c) The date of the disposal or transfer.

(3) If the machine is to be placed in storage and retained, contact the department for approval.

WSR 13-17-047
PERMANENT RULES
HEALTH CARE AUTHORITY
(Medicaid Program)

[Filed August 13, 2013, 4:14 p.m., effective October 1, 2013]

Effective Date of Rule: October 1, 2013.

Purpose: The agency is revising these rules to afford more discretion in determining provider eligibility for participation as a medicaid provider, as set forth in these WAC provisions. These rules also include minor housekeeping updates.

Citation of Existing Rules Affected by this Order: Amending WAC 182-502-0012, 182-502-0050, 182-502-0060, and 182-502-0270.

Statutory Authority for Adoption: RCW 41.05.021.

Adopted under notice filed as WSR 13-14-053 on June 27, 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 4, Repealed 0.

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

Date Adopted: August 13, 2013.

Kevin M. Sullivan
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-03-068, filed 1/14/13, effective 2/14/13)

WAC 182-502-0012 When the medicaid agency does not enroll. (1) The medicaid agency does not enroll a health care professional, health care entity, supplier or contractor of service for reasons which include, but are not limited to, the following:

(a) The agency determines that:

(i) There is a quality of care issue with significant risk factors that may endanger client health and/or safety (see WAC 182-502-0030 (1)(a)); or

(ii) There are risk factors that affect the credibility, honesty, or veracity of the health care practitioner (see WAC 182-502-0030 (1)(b)).

(b) The health care professional, health care entity, supplier or contractor of service:

(i) Is excluded from participation in medicare, medicaid or any other federally funded health care program;

(ii) Has a current formal or informal pending disciplinary action, statement of charges, or the equivalent from any state or federal professional disciplinary body at the time of initial application;

(iii) ~~((Has been disciplined based on allegation of sexual misconduct or admitted to sexual misconduct;~~

~~((iv)))~~ Has a suspended, terminated, revoked, or surrendered professional license as defined under chapter 18.130 RCW;

~~((v)))~~ ~~((iv))~~ Has a restricted, suspended, terminated, revoked, or surrendered professional license in any state;

~~((vi)))~~ ~~((v))~~ Is noncompliant with the department of health's or other state health care agency's stipulation of informal disposition, agreed order, final order, or similar licensure restriction;

~~((vii)))~~ ~~((vi))~~ Is suspended or terminated by any agency within the state of Washington that arranges for the provision of health care;

~~((viii)))~~ ~~((vii))~~ Fails a background check, including a fingerprint-based criminal background check, performed by the agency. See WAC 182-502-0014 and 182-502-0016;

~~((ix)))~~ ~~((viii))~~ Does not have sufficient liability insurance according to WAC 182-502-0016 for the scope of practice; or

~~((x)))~~ ~~((ix))~~ Fails to meet the requirements of a site visit, as required by 42 C.F.R. 455.432.

(2) The agency may not pay for any health care service, drug, supply or equipment prescribed or ordered by a health care professional, health care entity, supplier or contractor of

service whose application for a core provider agreement (CPA) has been denied or terminated.

(3) The agency may not pay for any health care service, drug, supply, or equipment prescribed or ordered by a health care professional, health care entity, supplier or contractor of service who does not have a current CPA with the agency when the agency determines there is a potential danger to a client's health and/or safety.

(4) Nothing in this chapter precludes the agency from entering into other forms of written agreements with a health care professional, health care entity, supplier or contractor of service.

(5) If the agency denies an enrollment application, the applicant does not have any dispute rights within the agency.

(6) Under 42 C.F.R. 455.470, the agency:

(a) Will impose a temporary moratorium on enrollment when directed by CMS; or

(b) May initiate and impose a temporary moratorium on enrollment when approved by CMS.

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

WAC 182-502-0050 Provider dispute of ~~((a department))~~ an agency action. The process described in this section applies only when ~~((department))~~ agency rules allow a provider to dispute ~~((a department))~~ an agency decision under this section.

(1) In order for the ~~((department))~~ agency to review a decision previously made by the ~~((department))~~ agency, a provider must submit the request to review the decision:

(a) Within twenty-eight calendar days of the date on the ~~((department's))~~ agency's decision notice;

(b) To the address listed in the decision notice; and

(c) In a manner that provides proof of receipt.

(2) A provider's dispute request must:

(a) Be in writing;

(b) Specify the ~~((department))~~ agency decision that the provider is disputing;

(c) State the basis for disputing the ~~((department's))~~ agency's decision; and

(d) Include documentation to support the provider's position.

(3) The ~~((department))~~ agency may request additional information or documentation. The provider must submit the additional information or documentation to the ~~((department))~~ agency within twenty-eight calendar days of the date on the ~~((department's))~~ agency's request.

(4) The ~~((department))~~ agency closes the dispute without issuing a decision and with no right to further review under subsection (6) of this section when the provider:

(a) Fails to comply with any requirement of subsections (2), (3), and (4) of this section;

(b) Fails to cooperate with, or unduly delays, the dispute process; or

(c) Withdraws the dispute request in writing.

(5) The ~~((department))~~ agency will send the provider a written notice of dispute closure or written dispute decision.

(6) The provider may request the ~~((deputy assistant secretary of the medicaid purchasing administration (MPA)))~~

director of the health care authority or designee to review the written dispute decision according to the process in WAC ~~((388-502-0270))~~ 182-502-0270.

(7) This section does not apply to disputes regarding overpayment. For disputes regarding overpayment, see WAC ~~((388-502-0230))~~ 182-502-0230.

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

WAC 182-502-0060 Reapplying for participation. (1) Providers who are denied enrollment or removed from participation are not eligible to reapply for participation with the ~~((department))~~ agency for five years from the date of denial or termination.

~~(2) ((Providers who are denied enrollment or removed from participation due to sexual misconduct as defined in chapter 246-16 WAC or in profession specific rules of the department of health (DOH) are not eligible to be enrolled for participation with the department.~~

~~(3))~~ Providers who are denied enrollment or removed from participation more than once are not eligible to reapply for participation with the ~~((department))~~ agency.

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

WAC 182-502-0270 Review of ~~((department's))~~ agency's provider dispute decision. (1) This section applies only when ~~((department))~~ agency rules allow review of ~~((a department))~~ an agency dispute decision under this section. The ~~((deputy assistant secretary of the health and recovery services administration (HRSA)))~~ director of the health care authority or designee conducts the review.

(2) Providers and former providers may request a review of ~~((a department))~~ an agency dispute decision. The request must be in writing and sent to: ~~((HRSA))~~ Health Care Authority, Attn: ((Deputy Assistant Secretary)) Appeals Administrator, P.O. Box 45504, Olympia, WA 98504-5504. The ~~((department))~~ agency must receive the written dispute review request within twenty-eight calendar days of the date on the ~~((department's))~~ agency's written dispute decision.

(3) When the ~~((department))~~ agency receives a timely dispute review request, the ~~((deputy))~~ director or designee may schedule a dispute review conference. "Dispute review conference" means an informal conference for the purpose of resolving disagreements between the ~~((department))~~ agency and a provider or former provider who is dissatisfied with ~~((a department))~~ an agency decision. The dispute review conference is not governed by the Administrative Procedure Act, chapter 34.05 RCW. If the ~~((deputy))~~ director or designee chooses to schedule a dispute review conference, the ~~((deputy))~~ director or designee will conduct the conference within ninety calendar days of the dispute review request unless the ~~((deputy))~~ director or designee and the party requesting review agree to an extension.

(4) The ~~((deputy))~~ director or designee will issue a dispute review decision to the provider or former provider requesting review within thirty calendar days of receiving the dispute review request or within thirty calendar days of the

dispute review conference, whichever is later, unless both parties agree to an extension.

(5) The ~~((deputy))~~ director review is the final level of ~~((department))~~ agency review for disputes to which this section applies.

WSR 13-17-048
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed August 13, 2013, 4:25 p.m., effective October 1, 2013]

Effective Date of Rule: October 1, 2013.

Purpose: The department amended this rule to increase the business license application handling fee from \$15.00 to \$19.00 and the license renewal handling fee from \$9.00 to \$11.00.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-10101 Business licensing service—Total fee payable—Handling of fees.

Statutory Authority for Adoption: 2013 3ESSB 4034 [5034], SHB 2017, chapter 298, Laws of 2011, RCW 19.02.-030 and 19.02.075.

Adopted under notice filed as WSR 13-14-120 on July 3, 2013.

A final cost-benefit analysis is available by contacting Marilou Rickert, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 534-1582, e-mail marilour@dor.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 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 13, 2013.

Alan R. Lynn
 Assistant Director

AMENDATORY SECTION (Amending WSR 12-04-060, filed 1/30/12, effective 3/1/12)

WAC 458-20-10101 Business licensing service—Total fee payable—Handling of fees. (1) Introduction. Chapter 298, Laws of 2011, transferred responsibility for the master license service program (MLS) from the department of licensing to the department of revenue, effective July 1, 2011. This program is now referred to as the business licensing service (BLS).

Information about BLS is available online at <http://business.wa.gov/BLS>. If you are seeking in-person assistance, you may want to visit:

6500 Linderson Way S.W., Suite 102
 Tumwater, WA 98501
 8 a.m. to 5 p.m., Monday - Friday
 (except state holidays or temporary layoff days)

The department of licensing continues to issue, renew, and regulate professional licenses, see <http://dol.wa.gov/business/>.

(2) **What fee do I need to pay when applying for or renewing a license?** The fee payable will be the total amount of all individual license fees, late filing fees, other penalty fees, and handling fees, and may include additional fees charged to cover credit or debit card processing. Licensing fees vary depending on the license for which you are applying. Refer to <http://bls.dor.wa.gov/specialty/licenses.aspx> for information about licenses and license fee amounts.

(3) **What does the department do with these fees?** The department will distribute the fees received for individual licenses issued or renewed to the appropriate agencies on an established schedule.

(4) **When do I get my business license?** The business license will not be issued until the full amount of the total fee payable is collected. When the fee payment received is less than the total fee payable, the department will bill the applicant for the balance.

(5) **Can I get a refund?** The business license application and renewal handling fees collected under RCW 19.02.075 are not refundable. When a license is denied or when an applicant withdraws an application, a refund of any other refundable portion of the total payment will be made in accordance with the applicable licensing laws.

(6) **What are the handling fees?** The business license application handling fee amounts are:

Type of handling fee:	Fee amount:
Business license application filing	\$(15.00) <u>19.00</u>
License renewal application filing	\$(9.00) <u>11.00</u>

WSR 13-17-049
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-27—Filed August 14, 2013, 8:07 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: RCW 48.15.040 requires that any unauthorized (surplus line) insurance for an insured whose home state is Washington must be procured through a licensed surplus line broker. This rule makes clear that this requirement must be followed and the practice of "courtesy" filing is not permitted.

Statutory Authority for Adoption: RCW 48.02.060 and 48.15.015.

Adopted under notice filed as WSR 13-13-074 on June 19, 2013.

Changes Other than Editing from Proposed to Adopted Version: The title of the new rule section was changed from "courtesy filing prohibited" to "procurement of insurance from an unauthorized insurer by an unlicensed person prohibited."

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

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

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

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

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

Date Adopted: August 14, 2013.

Mike Kreidler
Insurance Commissioner

NEW SECTION

WAC 284-15-015 Procurement of insurance from an unauthorized insurer by an unlicensed person prohibited.

(1) "Procured" as used in chapter 48.15 RCW and chapter 284-15 WAC means the act or acts necessary to obtain insurance coverage.

(2) A surplus line broker licensed under chapter 48.15 RCW must not assist a person in complying with the requirements of RCW 48.15.040 if the person:

(a) Is not licensed under chapter 48.15 RCW;

(b) Obtains insurance coverage from an unauthorized insurer; and

(c) Fails to procure the insurance coverage through a surplus line broker licensed under chapter 48.15 RCW.

This subsection applies without limitation to the services of a courtesy filer.

**WSR 13-17-083
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 13-186—Filed August 19, 2013, 12:05 p.m., effective September 19, 2013]

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

Purpose: Amend migratory waterfowl seasons and regulations to provide recreational activity and resource conservation.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-436.

Statutory Authority for Adoption: RCW 77.12.047, 77.12.240, 77.32.070.

Adopted under notice filed as WSR 13-13-084 on June 19, 2013.

Changes Other than Editing from Proposed to Adopted Version:

- Duck Season: There were no restricted bag limits or restricted season length for scaup proposed in the original CR-102 filing. The recommended adjustment reduces the scaup daily bag limit from 7 to 3 per day and reduces the season length by three weeks, from 107 to 86 days. These changes are required by United States Fish and Wildlife Service (USFWS) based on the results of recent breeding population survey information and the scaup harvest strategy.
- Duck Season: The canvasback daily limit was originally proposed for 1 per day. The recommended adjustment increases the canvasback daily bag limit to 2 per day, based on the results of recent breeding population survey information and the canvasback harvest strategy.
- Coot (Mudhen) Possession Limits: Possession limits for coot was increased to 75 from 25. The daily bag limit remained at 25.
- Possession Limits: In the CR-102 filing, possession limits for most migratory bird seasons were proposed for two times the daily bag limit. For those seasons, possession limits have been increased to three times the daily bag limit, except for the two day youth hunt, which remained the same. Possession limits for other migratory species remain unchanged. Possession limit changes reflect new regulation options provided in July by USFWS. For scaup, a possession limit of 9 has been added for the regular season to be consistent with possession limits for other duck species (3X daily bag).
- Snow Goose Harvest Record Card: Wording for the harvest record card requirement was changed from "purchase" to "possess," to conform to language for other migratory bird harvest record cards and assist enforcement.
- Dusky Canada Goose Area Harvest Quotas: Higher dusky area harvest quotas for the regular and late seasons were proposed in the CR-102, in anticipation of continued improvement of the dusky breeding population index in 2013. Quotas were returned to past levels because the USFWS breeding population survey was not completed in 2013 due to aircraft and weather problems.
- Goose Management Area 2A/2B Hunting Authorization Requirements: Original wording in the CR-102 did not indicate that hunters were required to possess a valid 2013-14 migratory bird hunting authorization for Goose Management Area 2A/2B and daily goose harvest record card when hunting geese in Goose Management Areas 2A and 2B. The

word "valid" was inserted before "2013-14" to clarify season requirements and assist enforcement.

- Special Late Goose Season for Goose Management Area 2A: Wording for the special migratory bird hunting authorization and harvest record card was changed from "2013-14 hunting authorization for Goose Management Area 2A/2B and daily goose harvest record card" to "special 2013-14 migratory bird hunting authorization for Goose Management Area 2A/2B and daily goose harvest record card." These changes clarify the licensing requirements for this season, repeating the same language from the regular season.
- Goose Management Area 4 Season Dates: The Veteran's Day holiday (November 11) was inadvertently excluded from the list of season dates for Goose Management Area 4. The holiday was added to the list of season dates because it is a traditional goose hunting day for this management area.
- Mandatory Reporting for Migratory Bird Harvest Record Cards: Original wording in the CR-102 required receipt of migratory bird harvest reports by the reporting deadlines. The wording "for receipt" has been deleted to allow Washington department of fish and wildlife to accept mandatory reports with postmarks on or before the reporting dates, to conform to other species' mandatory reporting requirements.

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: August 2, 2013.

Miranda Wecker, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 12-18-001, filed 8/22/12, effective 9/22/12)

WAC 232-28-436 ((2012-13)) 2013-2014 Migratory waterfowl seasons and regulations.

DUCKS

Statewide: Oct. ((13-17, 2012)) 12-16, 2013 and Oct. ((20, 2012)) 19, 2013 - Jan. ((27, 2013)) 26, 2014; except scaup season closed Oct. 12 - Nov. 1, 2013.

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. ((22-23, 2012)) 21-22, 2013.

Daily Bag Limit: 7 ducks, to include not more than 2 hen mallard, 2 pintail, 3 scaup, 1 canvasback, and 2 redhead statewide; and to include not more than 1 harlequin, 2 scoter, 2 long-tailed duck, and 2 goldeneye in Western Washington.

Possession Limit for Regular Season: ((14)) 21 ducks, to include not more than ((4)) 6 hen mallard, ((4)) 6 pintail, ((2)) 9 scaup, 3 canvasback, and ((4)) 6 redhead statewide; and to include not more than 1 harlequin, ((4)) 6 scoter, ((4)) 6 long-tailed duck, and ((4)) 6 goldeneye in Western Washington.

Possession Limit for Youth Hunting Weekend: 14 ducks, to include not more than 4 hen mallard, 4 pintail, 6 scaup, 2 canvasback, and 4 redhead statewide; and to include not more than 1 harlequin, 4 scoter, 4 long-tailed duck, and 4 goldeneye in Western Washington.

Season Limit: 1 harlequin in Western Washington.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT SEA DUCKS

Hunters must possess a special ((2012-))2013-2014 hunting authorization and harvest record card for sea ducks when hunting harlequin, scoter, long-tailed duck, and goldeneye in Western Washington. Hunters who did not possess a ((2011-12)) 2012-13 sea duck harvest record card must submit an application form to Washington state department of fish and wildlife (WDFW). Immediately after taking a sea duck into possession, hunters must record in ink the information required on the harvest record card.

COOT (Mudhen)

Same areas, dates (including youth hunting weekend), and shooting hours as the general duck season.

Daily Bag Limit: 25 coots.

Possession Limit: ((25)) 75 coots.

SNIPE

Same areas, dates (except youth hunting weekend), and shooting hours as the general duck season.

Daily Bag Limit: 8 snipe.

Possession Limit: ((16)) 24 snipe.

GEESE (except Brant)

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. ((22-23, 2012)) 21-22, 2013, statewide except Western Washington Goose Management Areas 2A and 2B.

Daily Bag Limit: 4 Canada geese.

Possession Limit: 8 Canada geese.

Western Washington Goose Seasons

Goose Management Area 1: Island, Skagit, Snohomish counties. Oct. (~~(13, 2012)~~) 12, 2013 - Jan. (~~(27, 2013)~~) 26, 2014 for snow, Ross', and blue geese. Oct. (~~(13-25, 2012)~~) 12-24, 2013 and Nov. (~~(3, 2012)~~) 2, 2013 - Jan. (~~(27, 2013)~~) 26, 2014 for other geese (except brant).

Daily Bag Limit: 4 geese.

Possession Limit: (~~(8)~~) 12 geese.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT SNOW GEESE

Hunters must (~~(purchase)~~) possess a special (~~(2012-13)~~) 2013-14 migratory bird hunting authorization and harvest record card for snow geese when hunting snow, Ross', and blue geese in Goose Management Area 1. Hunters who did not possess a (~~(2011-12)~~) 2012-13 snow goose harvest record card must submit an application form to WDFW. Immediately after taking a snow, Ross', or blue goose into possession, hunters must record in ink the information required on the harvest record card.

SNOW GOOSE QUALITY HUNTING PROGRAM IN GOOSE MANAGEMENT AREA 1

All hunters must obey posted signs regarding access restrictions. Quality hunt units are not available for commercial uses.

SKAGIT COUNTY SPECIAL RESTRICTIONS

It is unlawful to discharge a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County or to discharge a firearm for the purpose of hunting snow geese within 100 feet of any paved public road in other areas of Skagit County.

While hunting snow geese, if a hunter is convicted of (a) trespass; (b) shooting from, across, or along the maintained part of any public highway; (c) discharging a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County or discharging a firearm within 100 feet of any paved public road for the purpose of hunting snow geese in other areas of Skagit County; or (d) exceeding the daily bag limit for geese, authorization will be invalidated for the remainder of the current snow goose season and an authorization will not be issued for the subsequent snow goose season.

Goose Management Area 2A

Cowlitz and Wahkiakum counties, and that part of Clark County north of the Washougal River: Open in all areas except Ridgefield NWR from 8:00 a.m. to 4:00 p.m., Saturdays, Sundays, and Wednesdays only, Nov. (~~(10-25, 2012)~~) 9 - Dec. 1, 2013 and Dec. (~~(5, 2012)~~) 11, 2013 - Jan. (~~(27, 2013)~~) 26, 2014, except closed Dec. 25, 2013 and Jan. 1, 2014. Ridgefield NWR open from 8:00 a.m. to 4:00 p.m., Tuesdays, Thursdays, and Saturdays only, Nov. (~~(10-24, 2012)~~) 9-30, 2013 and Dec. (~~(6, 2012)~~) 12, 2013 - Jan. (~~(26, 2013)~~) 25, 2014, except closed Nov. (~~(22, 2012, Dec. 25, 2012, and Jan. 1, 2013)~~) 28, 2013.

Bag Limits for Goose Management Area 2A:

Daily Bag Limit: 4 geese, to include not more than 1 dusky Canada goose and 3 cackling geese.

Possession Limit: (~~(8)~~) 12 geese, to include not more than 1 dusky Canada goose and (~~(6)~~) 9 cackling geese.

Season Limit: 1 dusky Canada goose.

Goose Management Area 2B

Pacific County: Open from 8:00 a.m. to 4:00 p.m., Saturdays and Wednesdays only, Oct. (~~(13-24, 2012)~~) 12-23, 2013 and Nov. (~~(3, 2012)~~) 2, 2013 - Jan. (~~(19, 2013)~~) 18, 2014.

Bag Limits for Goose Management Area 2B:

Daily Bag Limit: 4 geese, to include not more than 1 dusky Canada goose, 3 cackling geese, and 1 Aleutian goose.

Possession Limit: (~~(8)~~) 12 geese, to include not more than 1 dusky Canada goose, (~~(6)~~) 9 cackling geese, and (~~(2)~~) 3 Aleutian geese.

Season Limit: 1 dusky Canada goose.

Special Provisions for Goose Management Areas 2A and 2B:

A dusky Canada goose is defined as a dark-breasted (as shown in the Munsell color chart 10 YR, 5 or less) Canada goose with a culmen (bill) length of 40-50 mm. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.

The goose season for Goose Management Areas 2A and 2B will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 40 geese. The fish and wildlife commission has authorized the director to implement emergency area closures in accordance with the following quotas: A total of 40 dusks, to be distributed 5 for Zone 1 (Ridgefield NWR); 5 for Zone 2 (Cowlitz County south of the Kalama River); 15 for Zone 3 (Clark County except Ridgefield NWR); 7 for Zone 4 (Cowlitz County north of the Kalama River and Wahkiakum County); and 8 for Zone 5 (Pacific County). Quotas may be shifted to other zones during the season to optimize use of the statewide quota and minimize depredation.

Hunters must possess a valid special (~~(2012-13)~~) 2013-14 migratory bird hunting authorization for Goose Management Area 2A/2B and daily goose harvest record card when hunting geese in Goose Management Areas 2A and 2B. New hunters and those who did not maintain a valid (~~(2011-12)~~) 2012-13 authorization must review goose identification training materials and score a minimum of 80% on a goose identification test to receive authorization. Hunters who fail a test must wait 28 days before retesting, and will not be issued a reciprocal authorization until that time.

Immediately after taking any goose into possession, hunters must record in ink the information required on the harvest record card. Hunters must go directly to the nearest check station and have geese tagged when leaving a hunt site, before 6:00 p.m. All geese shall be presented intact and fully feathered at the check station. If a hunter takes the season bag limit

of 1 dusky Canada goose or does not comply with requirements listed above regarding checking of birds and recording harvest on the harvest record card, authorization will be invalidated and the hunter will not be able to hunt geese in Goose Management Areas 2A and 2B for the remainder of the season and the special late goose season. It is unlawful to fail to comply with all provisions listed above for Goose Management Areas 2A and 2B.

Special Late Goose Season for Goose Management Area 2A:

Open to WDFW master hunter program graduates and youth hunters (15 years of age or under, who are accompanied by a master hunter) possessing a valid ~~((2012-13 southwest Washington goose))~~ special 2013-14 migratory bird hunting authorization for Goose Management Area 2A/2B and daily goose harvest record card, in areas with goose damage in Goose Management Area 2A on the following days, from 7:00 a.m. to 4:00 p.m.: Saturdays and Wednesdays only, Feb. ~~((2))~~ 1 - Mar. ~~((6, 2013))~~ 5, 2014.

Daily Bag Limit: 4 geese, to include not more than 1 dusky Canada goose and 3 cackling geese.

Possession Limit: ~~((8))~~ 12 geese, to include not more than 1 dusky Canada goose and ~~((6))~~ 9 cackling geese.

Season Limit: 1 dusky Canada goose.

A dusky Canada goose is defined as a dark-breasted Canada goose (as shown in the Munsell color chart 10 YR, 5 or less) with a culmen (bill) length of 40-50 mm. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.

Hunters qualifying for the season will be placed on a list for participation in this hunt. WDFW will assist landowners with contacting qualified hunters to participate in damage control hunts on specific lands incurring goose damage. Participation in this hunt will depend on the level of damage experienced by landowners. The special late goose season will be closed by emergency action if the harvest of dusky Canada geese exceeds 45 for the regular and late seasons. All provisions listed above for Goose Management Area 2A regarding authorization, harvest reporting, and checking requirements also apply to the special late season; except hunters must confirm their participation at least 24 hours in advance by calling the goose hunting hotline (listed on hunting authorization), and hunters must check out by 5:00 p.m. on each hunt day regardless of success. It is unlawful to fail to comply with all provisions listed above for the special late season in Goose Management Area 2A.

Goose Management Area 3

Includes all parts of Western Washington not included in Goose Management Areas 1, 2A, and 2B: Oct. ~~((13-25, 2012))~~ 12-24, 2013 and Nov. ~~((3, 2012))~~ 2, 2013 - Jan. ~~((27, 2013))~~ 26, 2014.

Daily Bag Limit: 4 geese.

Possession Limit: ~~((8))~~ 12 geese.

Eastern Washington Goose Seasons

Goose Management Area 4

Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla counties: Saturdays, Sundays, and Wednesdays only during Oct. ~~((13, 2012))~~ 12, 2013 - Jan. ~~((20, 2013))~~ 19, 2014; Nov. ~~((22 and 23, 2012))~~ 11, 28 and 29, 2013; Dec. ~~((25))~~ 26, 27, ((28)) 30, and 31, ((2012)) 2013; ((Jan. 1, 2013,)) and every day Jan. ~~((21-27, 2013))~~ 20-26, 2014.

Goose Management Area 5

Includes all parts of Eastern Washington not included in Goose Management Area 4: Oct. ~~((13-15, 2012))~~ 12-14, 2013, every day from Oct. ~~((20, 2012))~~ 19, 2013 - Jan. ~~((27, 2013))~~ 26, 2014.

Bag Limits for all Eastern Washington Goose Management Areas:

Daily Bag Limit: 4 geese.

Possession Limit: ~~((8))~~ 12 geese.

BRANT

Open in Skagit County only on the following dates: Jan. ~~((12, 13, 16, 19, 20, 23, 26, and 27, 2013))~~ 11, 12, 15, 18, 19, 22, 25, and 26, 2014.

If the ~~((2012-13))~~ 2013-14 pre-season brant population in Skagit County is below 6,000 (as determined by the ~~((early January))~~ midwinter waterfowl survey), the brant season in Skagit County will be canceled.

Open in Pacific County only on the following dates: Jan. ~~((5, 6, 8, 10, 12, 13, 15, 17, 19, and 20, 2013))~~ 4, 5, 7, 9, 11, 12, 14, 16, 18, and 19, 2014.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT BRANT

Hunters must possess a special ~~((2012-13))~~ 2013-14 migratory bird hunting authorization and harvest record card for brant when hunting brant. Hunters who did not possess a ~~((2011-12))~~ 2012-13 brant harvest record card must submit an application form to WDFW. Immediately after taking a brant into possession, hunters must record in ink the information required on the harvest record card.

Bag Limits for Skagit and Pacific counties:

Daily Bag Limit: 2 brant.

Possession Limit: ~~((4))~~ 6 brant.

SWANS

Season closed statewide.

MANDATORY REPORTING FOR MIGRATORY BIRD HARVEST RECORD CARDS

Hunters must report ~~((2012-13))~~ 2013-14 harvest information from band-tailed pigeon harvest record cards to WDFW ~~((for receipt))~~ by Sept. 30, ~~((2012))~~ 2013, and harvest information from brant, sea duck, and snow goose harvest record cards to WDFW ~~((for receipt))~~ by Feb. 15, ~~((2013))~~ 2014. Every person issued a migratory bird hunting authorization and harvest

record card must return the entire card to WDFW or report the card information at the designated internet site listed on the harvest record card. Any hunter failing to report by the deadline will be in noncompliance of reporting requirements. Hunters who have not reported hunting activity by the reporting deadline for any harvest record card acquired in ~~((2012-13))~~ 2013-14 will be required to pay a \$10 administrative fee before any new ~~((2013-14))~~ 2014-15 migratory bird authorization and harvest record card will be issued. A hunter may only be penalized a maximum of \$10 during a license year.

FALCONRY SEASONS

DUCKS, COOTS, AND SNIPE (Falconry)

(Bag limits include geese and mourning doves.)

Oct. ~~((13-17, 2012))~~ 12-16, 2013 and Oct. ~~((20, 2012))~~ 19, 2013 - Jan. ~~((27, 2013))~~ 26, 2014 statewide.

Daily Bag Limit: 3, straight or mixed bag with geese and mourning doves during established seasons.

Possession Limit: ~~((6))~~ 2, straight or mixed bag with geese and mourning doves during established seasons.

GEESE (Falconry)

(Bag limits include ducks, coot, snipe, and mourning doves.)

Goose Management Area 1: Oct. ~~((13, 2012))~~ 12, 2013 - Jan. ~~((27, 2013))~~ 26, 2014 for snow, Ross', or blue geese. Oct. ~~((13-25, 2012))~~ 12-24, 2013 and Nov. ~~((3, 2012))~~ 2, 2013 - Jan. ~~((27, 2013))~~ 26, 2014 for other geese.

Goose Management Area 2A: Saturdays, Sundays, and Wednesdays only, Nov. ~~((10-25, 2012))~~ 9-24, 2013 and Dec. ~~((5, 2012))~~ 4, 2013 - Jan. ~~((27, 2013))~~ 26, 2014.

Goose Management Area 2B: Saturdays and Wednesdays only, Oct. ~~((13-24, 2012))~~ 12-23, 2013 and Nov. ~~((3, 2012))~~ 2, 2013 - Jan. ~~((19, 2013))~~ 18, 2014.

Goose Management Areas 3, 4, and 5: Oct. ~~((13-14, 2012))~~ 12-13, 2013 and Nov. ~~((3, 2012))~~ 2, 2013 - Jan. ~~((27, 2013))~~ 26, 2014.

Daily Bag Limit for All Areas: 3 geese (except brant), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.

Possession Limit for All Areas: ~~((6))~~ 2 geese (except brant), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.

Accountancy Act, the board's rules and policies, variances between Washington state law and the American Institute of Certified Public Accountants (AICPA) code of conduct, and case study scenarios demonstrating how to comply with the ethics requirements. The remaining forty percent of the course content, presentation time, and commentary may cover AICPA or other professionally based ethics. (2) To specify the process and associated penalties for license renewal applicants that self-report CPE deficiencies during renewal.

After considering comments and testimony at hearing on the rule-making proposal in January 2013, the board determined it is necessary to ensure that authors of the required four hours of board approved CPE in ethics and regulation present and discuss content that is specific to Washington state ethics as it pertains to certified public accountants (CPAs) yet allow credentialed persons to obtain ethics CPE that is related to the individual's required workplace competencies. The board revised the proposal accordingly.

The board by policy has set the requirements for CPAs who fail to timely complete the required CPE to renew their credential without lapse. The proposal moves the requirements from policy to rule.

Other changes in the proposal are for clarity. The board is not proposing to change the basic CPE requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 4-30-134 What are the CPE requirements for individuals?

Statutory Authority for Adoption: RCW 18.04.055 (7), (14), 18.04.215(5).

Adopted under notice filed as WSR 13-11-121 on May 21, 2013.

Changes Other than Editing from Proposed to Adopted Version: Changed proposed language in subsection (4)(b) as follows:

1. Eliminated the language "receives a peer review grade of 'fail' or 'pass with comments,' or."
2. Changed "rejected[]" to "dropped."
3. Changed "rejection" to "drop."

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 23, 2013.

Richard C. Sweeney, CPA
Executive Director

WSR 13-17-094

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed August 20, 2013, 3:07 p.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: WAC 4-30-134: (1) To require at least sixty percent of the required ethics continuing professional education (CPE) course content, presentation time, and commentary to specifically include information on the Public

AMENDATORY SECTION (Amending WSR 11-07-070, filed 3/22/11, effective 4/22/11)

WAC 4-30-134 What are the continuing professional education (CPE) requirements for individuals? (1) ~~((The following CPE is required for))~~ Qualifying continuing professional education (CPE) must:

(a) Contribute to the professional competency in the individual's area(s) of professional practice or relative to the individual's current work place job functions;

(b) Maintain knowledge of current ethical and other regulatory requirements; and

(c) Be completed by individuals during ~~((the three calendar year period prior to renewal))~~ any board specified CPE reporting period. A CPE reporting period is a calendar year time period beginning in the calendar year a credential is first issued by this board and ending on December 31st of the subsequent third calendar year; for example, if your license was issued any time during calendar year one (2013), the CPE reporting period ends on December 31st of calendar year three (2015).

(2) General CPE requirements for renewal of valid credentials:

(a) ~~((An individual licensed to practice in this state))~~ A licensee must complete a total of 120 CPE hours, including 4 CPE credit hours in ~~((an approved Washington))~~ ethics ~~((and regulations course))~~ meeting the requirements of subsection ~~((3))~~ (6) of this section. The total 120 CPE hours requirement is limited to no more than 24 CPE credit hours in non-technical subject areas. ~~((All qualifying CPE hours must be taken after the date your initial CPA license was issued;))~~

(b) A CPA-Inactive certificate holder or a resident nonlicensee firm owner must complete 4 CPE credit hours in ethics meeting the requirements of subsection ~~((3))~~ (6) of this section~~((and)).~~

(c) Individuals ~~((holding))~~ eligible to exercise practice privileges are exempt from the CPE requirements of this section.

~~((2)) CPE requirements for renewal of a license that was issued less than three years before the end of a CPA-Inactive certificate renewal cycle:~~ When you convert your status from a CPA-Inactive certificate holder to a licensee, your CPE reporting period ~~((the three calendar year period prior to renewal))~~ and renewal cycle will remain the same. The CPE requirements for renewal are as follows:

~~((a)) (3) Exceptions to the general CPE requirements:~~ CPE requirements for the initial CPE renewal period **after conversion of a CPA-Inactive certificate to a Washington state license:**

(a) If your license was issued during the first calendar year of your CPE reporting period, you must have completed 80 CPE credit hours which is limited to 16 CPE credit hours in nontechnical subject areas and must include 4 CPE credit hours in ethics meeting the requirements of subsection ~~((3))~~ (6) of this section prior to December 31st of the calendar year following the calendar year in which your license was initially issued.

(b) If your license was issued during the second calendar year of your CPE reporting period, you must have completed 40 CPE credit hours which is limited to 8 CPE credit hours in nontechnical subject areas and must include 4 CPE credit

hours in ethics meeting the requirements of subsection ~~((3))~~ (6) of this section.

(c) If your license was issued during the third calendar year of your CPE reporting period, you must have completed 4 CPE credit hours in ethics meeting the requirements of subsection ~~((3))~~ (6) of this section.

~~((3)) (4) For the following circumstances, you must have completed the requirements of subsection (2)(a) of this section within the thirty-six-month period immediately preceding the date an application is submitted to the board; however, the 4 CPE hours in ethics meeting the requirements of subsection (6) of this section must be completed within the six-month period immediately preceding the date your application and the CPE documentation is submitted to the board:~~

(a) You are applying to reactivate a license out of retirement; or

(b) You are a CPA-Inactive certificate holder applying for a license; or

(c) You want to return to your previously held status as a licensee; or

(d) You are applying for reinstatement of a lapsed, suspended, or revoked license.

(5) For the following circumstances, you must have completed the 4 CPE hours in ethics meeting the requirements of subsection (6) of this section within the six-month period immediately preceding the date your application and the CPE documentation is submitted to the board:

(a) You are applying to reactivate a CPA-Inactive certificate out of retirement; or

(b) You are applying to reinstate a lapsed, suspended, or revoked CPA-Inactive certificate, or registration as a resident nonlicensee firm owner.

~~((6) CPE in ethics and regulation~~((s applicable to practice in Washington state))~~~~

(a) During each CPE reporting period **after initial licensing** all individuals licensed in this state, ~~((individual CPA-Inactive certificate holders in this state, and))~~ including nonresident and individuals from foreign countries who received initial Washington state licenses by reciprocity, CPA-Inactive certificate holders, and individuals initially recognized as resident nonlicensee firm owners are required to complete 4 qualifying CPE credit hours in approved ethics and regulations ~~((with specific application to the practice of public accounting))~~ in Washington state. ~~((In order to be approved by the board;))~~

(b) The content of the course must be specific to the laws and rules applicable to the regulatory framework in Washington state including the administrative requirements for an individual's initial and continued use of restricted titles in this state.

(c) All CPE ~~((sponsor or instructor))~~ authors must submit ~~((documentation associated with the ethics and regulations CPE))~~ course materials for this course to the executive director of the board for approval ~~((and the sponsor or instructor must obtain written approval from the board))~~ prior to delivery of the content for credit.

(d) The ethics and regulations ~~((CPE))~~ course materials must cover all of the following topics, and ~~((the ethics and regulations CPE))~~ instructors of approved courses must substantially address these topics in their presentations:

~~((a) Chapter 18.04 RCW and Title 4 WAC. The CPE must include)) (i) General level information on the AICPA Code of Conduct.~~

~~(ii) General level information on the Public Accountancy Act, the board's rules, policies, including recent or pending changes therein, and the rule-making process.~~

~~((b)) (iii) Emphasis must be placed on key differences between Washington state law (chapter 18.04 RCW), this board's rules (Title 4 WAC), and the AICPA Code of Conduct.~~

~~(iv) Detailed information on the following:~~

~~(A) WAC 4-30-026 How can I contact the board?~~

~~((e)) (B) WAC 4-30-032 Do I need to notify the board if I change my address?~~

~~((d)) (C) WAC 4-30-034 Must I respond to inquiries from the board?~~

~~((e)) (D) WAC 4-30-040 through ((4-30-048)) 4-30-058 Ethics and prohibited practices((-The CPE must include detailed information on each rule and all)), including related board policies, if any.~~

~~((f)) (E) WAC ((4-30-103)) 4-30-130 Series—Continuing competency((-The CPE must include detailed information on each rule and all)), including related board policies, if any.~~

~~((g)) (F) WAC 4-30-142 What are the bases for the board to impose discipline?~~

~~((h) AICPA Code of Conduct. The CPE must include general level information on the AICPA Code of Conduct.~~

~~(i) Variances or key differences between Washington state law (chapter 18.04 RCW), this board's rules (Title 4 WAC) and the AICPA Code of Conduct.~~

~~(j)) (G) Other topics or information as defined by board policy.~~

~~**((4) CPE requirements to renew a license or CPA-Inactive certificate out of retirement:**~~

~~(a) In order to renew a license out of retirement, you must meet the CPE requirements of subsection (1)(a) of this section within the thirty-six month period immediately preceding the date the renewal application is submitted to the board; however, the four CPE hours in ethics meeting the requirements of subsection (3) of this section must be completed within the six-month period immediately preceding the date your renewal application is submitted to the board.~~

~~(b) In order to renew a CPA-Inactive certificate out of retirement, you must meet the CPE requirements of subsection (1)(b) of this section within the six-month period immediately preceding the date your renewal application is submitted to the board.~~

~~**(5) CPE requirements for a CPA-Inactive certificate holder to either qualify to apply for a license or return to their previously held status as a licensee:** If you hold a valid CPA-Inactive certificate and you wish to apply for a license or you want to return to your previously held status as a licensee, you must meet the CPE requirements of subsection (1)(a) of this section within the thirty-six month period immediately preceding the date your application is submitted to the board.~~

~~**(6) Reinstatement of a lapsed, suspended, or revoked license, certificate, or registration as resident nonlicensee firm owner:**~~

~~(a) If you seek to reinstate a lapsed, suspended, or revoked license, you must satisfy the requirements of subsection (1)(a) of this section within the thirty-six month period immediately preceding the date the application for reinstatement is submitted to the board; however, the four CPE hours in ethics meeting the requirements of subsection (3) of this section must be completed within the six-month period immediately preceding the date your application for reinstatement is submitted to the board.~~

~~(b) If you seek to reinstate a lapsed, suspended, or revoked CPA-Inactive certificate, or registration as a resident nonlicensee firm owner, you must satisfy the requirements of subsection (1)(b) of this section within the six-month period immediately preceding the date your application for reinstatement is submitted to the board.~~

~~**(7) Reciprocity:** If you are applying for an initial Washington state CPA license under the reciprocity provisions of the act, you must satisfy the requirements in subsection (1)(a) of this section, after you were licensed as a CPA and within the thirty-six month period immediately preceding the date your application is submitted to the board. For purposes of initial licensure, you do not need to satisfy the ethics requirements of subsection (1)(a) of this section. Thereafter, in order to renew your Washington state license, you must comply with all the renewal requirements in subsection (1)(a) of this section.~~

~~**(8)) (e) The course must also include case study scenarios demonstrating how to comply with the relevant provisions of the AICPA Code of Conduct and the board's statutory or regulatory framework when faced with ethical situations that might occur when offering or performing a specific type of professional service in the practice of public accounting or as a professionally regulated person not in the practice of public accounting.**~~

~~(f) At least sixty percent of the course material content, presentation time, and commentary must include general level information on the Public Accountancy Act, the board's rules and policies, including recent or pending changes thereto, variances of key differences between Washington state law (chapter 18.04 RCW), the board's rules (Title 4 WAC), and the AICPA Code of Conduct, and scenarios demonstrating the different compliance outcomes that might result because the board's rules prevail when the board's rules vary from the AICPA Code of Professional Conduct and/or related official AICPA interpretations.~~

~~**(7) CPE extension requests:**~~

~~(a) In order to renew your license, CPA-Inactive certificate, or registration as a resident nonlicensee firm owner, you must complete the required CPE by ((the end of the CPE reporting period)) December 31st of the calendar year preceding the calendar year of your renewal unless you can demonstrate your failure to meet the CPE requirements was due to reasonable cause.~~

~~(b) The board may provide limited extensions to the CPE requirements for reasons of individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment. You must request such an extension in writing by ((the end of the CPE reporting period)) December 31st of the calendar year preceding the calendar year of your renewal. The request must include justification for the~~

request and identify the specific CPE you plan to obtain to correct your CPE deficiency.

(c) A form useful for this purpose is available from the board's web site or will be provided to you upon request.

(8) Self-reported deficiencies:

(a) If you fail to file a timely request for extension but you self-report a CPE deficiency to the board during the renewal period January 1st through June 30th of the renewal year, you will be permitted to continue to use the restricted title during the renewal period provided you:

(i) Submit to the board, in writing, the specific CPE plan to obtain to correct the CPE deficiency on or before June 30th of the renewal year;

(ii) Timely complete the CPE sufficient to correct the deficiency;

(iii) Timely submit certificates of completion for the subject CPE taken to the board; and

(iv) Pay the fee for reinstatement of a lapsed credential on or before June 30th of the renewal year.

(b) CPE deficiencies taken by June 30th of the renewal year under this subsection will be carried back to the reporting period ending on December 31st of the preceding calendar year and be subject to CPE audit in the next renewal period to ensure that inadvertent double counting does not occur.

WSR 13-17-110
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
(Student Transportation)

[Filed August 21, 2013, 10:33 a.m., effective September 21, 2013]

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

Purpose: To define the alternative funding systems as required in RCW 28A.160.191, and provided the superintendent of public instruction shall ensure that the allocation formula results in adequate appropriation for low enrollment districts, no high districts, districts involved in cooperative transportation agreements, and cooperative special transportation services operated by educational service districts. If necessary, the superintendent shall develop a separate process to adjust the allocation of the districts.

Citation of Existing Rules Affected by this Order: Amending WAC 392-141-310, 392-141-320, 392-141-350, 392-141-360, 392-141-370, 392-141-380, and 392-141-410.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 13-13-031 on June 13, 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 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 7, 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 15, 2013.

Randy Dorn
State Superintendent

AMENDATORY SECTION (Amending WSR 11-15-007, filed 7/7/11, effective 8/7/11)

WAC 392-141-310 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Superintendent" means the superintendent of public instruction.

(2) "District" means either a school district or an educational service district.

(3) The definition of "school" includes learning centers or other agencies where educational services are provided.

(4) "Eligible student" means any student served by a district transportation program either by bus, district car, or individual arrangements meeting one or more of the following criteria:

(a) A student whose route stop is outside the walk area of the student's enrollment school site; or

(b) A student whose disability is defined by RCW 28A.155.020 and who is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from school.

Districts determine which students are provided with transportation services; however, only eligible students qualify for funding under the operations allocation.

(5) "To and from transportation" means all transportation between route stops and schools both before and after the school day. To and from transportation includes transportation between home and school and transportation between schools, commonly referred to as shuttles. Transportation not authorized for state allocations under this definition includes, but is not limited to, transportation for students participating in nonacademic extended day programs, field trips, and extracurricular activities.

(6) "Home to school transportation" means all student transportation between route stops and schools both before and after the school day. Home to school transportation does not include transportation between schools.

(7) "Basic program transportation" means students transported between home and school for their basic education. Basic program transportation includes those students who qualify under RCW 28A.155.020 for special services and are capable of protecting his or her own welfare while traveling to or from school and those students who are enrolled in gifted or bilingual programs or homeless students that do not require specialized transportation. Also included in basic program transportation is transportation required to comply with the school choice provisions of the Elementary Secondary Education Act.

(8) "Special program transportation" means home to school transportation for one of the following specialized programs:

(a) Special education programs provided for by chapter 28A.155 RCW and where transportation as a related service is included on the student's individual education plan or where transportation is required under the provisions of Section 504 of the Rehabilitation Act of 1973; or

(b) Students who require special transportation to a bilingual program in a centralized location; or

(c) Students who require special transportation to a gifted program in a centralized location; or

(d) Students who require special transportation to their school of origin as required by the provisions of the McKinney-Vento Homeless Assistance Act; or

(e) Students who require special transportation to a district operated head start, district operated early childhood education assistance program, or other district operated early education program.

(9) "Kindergarten route" means a school bus providing home to school transportation for basic education kindergarten students operated between the beginning and end of the school day.

(10) "Private party contract" means the provision of home to school transportation service using a private provider (not in a school bus). Private party contracts shall require criminal background checks of drivers and other adults with unsupervised access to students and assurances that any students transported be provided with child safety restraint systems that are age and weight appropriate. Vehicles used must meet school bus specifications established in chapter 392-143 WAC if they have a manufacturer's design capacity of greater than ten passengers, including the driver. However, a vehicle manufactured to meet the federal specifications of a multifunction school activity bus may be used.

(11) "In lieu transportation" means a contract to provide home to school transportation with a parent, guardian or adult student, including transportation on rural roads to access a school bus stop.

(12) "Count period" is the three consecutive school day window used for establishing the reported student count on home to school routes.

(13) The school year is divided into three "report periods," as follows: September - October, November - January, and February - April. These report periods are also referred to respectively as the fall, winter and spring reports. The count period must not fall within five school days of the end of the report period.

(14) "Combined student count" is the total number of basic program or special program eligible student riders reported during each report period. The combined student counts for the determination of funding consist ~~(s)~~ of the prorated basic program and special program student counts from the prior year's spring report and the current year's fall and winter reports. The prior school year's fall, winter and spring student counts are used for the determination of the efficiency rating. The combined student counts ~~((s))~~ are prorated based on the number of months in the respective report period. ~~((For the 2011-12 school year, the fall 2011 report~~

~~values will be used to provide values for the spring 2011 report.))~~

(15) "Average distance to school" means the average of the distances from each school bus stop measured by the shortest road path to the assigned student's school of enrollment.

(16) "Prorated average distance" is calculated by taking the average distance to school weighted by the number of months in the corresponding report period. The prorated average distance used in calculating district allocation consists of the prorated average distance from the prior year's spring report and the current year's fall and winter reports. The prior school year's fall, winter and spring average distances are used for the determination of the efficiency rating. ~~((The average distance is prorated based on the number of months in the respective report period.))~~

(17) "Prorated number of destinations" is calculated by taking the number of learning centers a school district provides with home-to-school transportation service weighted by the number of months in the corresponding report period. The prorated number of destinations used in calculating district allocation consists of the prorated number of destinations from the prior year's spring report and the current year's fall and winter reports. The prior school year's fall, winter, and spring number of destinations are used for the determination of the efficiency rating.

(18) "Land area" is the area of the school district in square miles, excluding water and public lands, as determined by the superintendent. For educational service districts, the land area value will be determined by the superintendent from the contiguous area provided with transportation service.

~~((18))~~ (19) "Roadway miles" refers to the number of public roadway miles within the land area of the school district, as determined by the superintendent. For educational service districts, the roadway mile value will be determined by the superintendent from the roadway miles within the contiguous area provided with transportation service.

~~((19))~~ (20) "Walk area" is defined as the area around a school where the shortest safe walking route to school is less than one mile.

~~((20))~~ (21) "District car route" means home to school transportation where a district motor pool vehicle (not a school bus) is used to transport an eligible student or students. Any regularly scheduled home to school transportation in a district car is required to be driven by an authorized school bus driver.

~~((21))~~ (22) "District car allocation" is calculated by multiplying the total annual district car route mileage by the rate of reimbursement per mile that is authorized for state employees for the use of private motor vehicles in connection with state business in effect on September 1st of each year.

~~((22))~~ (23) A "low ridership district" is defined as a district with an annual student count less than two hundred eighteen students.

(24) A "nonhigh" district is defined as a district meeting the eligibility requirements for a nonhigh district as established by the superintendent of public instruction's school apportionment and financial services section.

(25) A "transportation cooperative" is defined as two or more districts sharing transportation operations administrative functions. An interdistrict agreement for the provision of maintenance services on school buses does not constitute a transportation cooperative for the purposes of this chapter, regardless if the agreement qualifies as a transportation cooperative under the provisions of chapter 392-346 WAC, unless shared operations administrative functions are also included in the interdistrict agreement. A transportation cooperative has the option of reporting as a single entity.

(26) "Alternate funding system" means an additional funding system as provided in RCW 28A.160.191, defined by OSPI to adjust the allocation for low enrollment school districts, nonhigh school districts, school districts participating in interdistrict transportation cooperatives, and educational service districts operating special transportation services.

~~((23))~~ (27) "Expected allocation" means the initial amount of funding resulting from the regression analysis calculation.

~~((24))~~ (28) "Adjusted allocation" means the expected allocation plus any alternate funding system, calendar, or legislative adjustments.

~~((25))~~ (29) "Actual allocation" means the lesser of the previous year's actual reported transportation expenditures including adjustments by the legislature or the adjusted allocation.

~~((26))~~ (30) "Efficiency evaluation" refers to the statistical evaluation of efficiency of a district's transportation operation using linear programming of the data required by the funding formula and the number of buses used on home-to-school routes. Each district is separately compared to an individualized statistical model of a district having similar site characteristics. The efficiency evaluation is expressed as a percentage efficiency rating.

(31) A school district's "transportation funding percentage" is calculated by dividing the district's actual allocation by the district's approved to-and-from transportation expenditures.

(32) The "state median percent funded" is determined by calculating each school district's transportation funding percentage and taking the median value by sorting the total number of reporting districts in descending order and selecting the middle value. If there is an even number of districts, the bottom value in the top half shall be used.

AMENDATORY SECTION (Amending WSR 11-15-007, filed 7/7/11, effective 8/7/11)

WAC 392-141-320 District reporting requirements.

(1) Reports shall be submitted by each district to the superintendent ~~(prior to)~~ no later than the last business day in October, the first business day in February, and the first business day in May. These reports shall reflect to the extent practical the planned student transportation program for the entire report period and which is in operation during the ridership count period. The superintendent shall have the authority to make modifications or adjustments in accordance with the intent of RCW 28A.160.150. Each district shall submit the

data required on a timely basis as a condition to the continuing receipt of student transportation allocations.

(2) In each report period, districts shall report such operational data and descriptions, as required by the superintendent to determine the operations allocation for each district, including:

- (a) School bus route information;
- (b) Student count information; and
- (c) An update to the estimated total car mileage for the current school year.

(3) For the fall report, districts shall report to the superintendent as required:

(a) An annual school bus mileage report including the total to and from school bus miles for the previous school year, and other categories as requested;

(b) An annual report of each type of fuel purchased for student transportation service for the previous school year, including quantity and cost; and

(c) An annual report as required by RCW 28A.300.540 of the number of students transported to their school of origin as required by the McKinney-Vento Homeless Assistance Act for the previous school year, and the total mileage and additional cost of such transportation. These costs may include, but are not limited to:

(i) Transportation service that serves only student(s) under McKinney-Vento. Districts ~~(shall)~~ may determine costs based upon route mileage and an average per mile cost for operation of the bus or vehicle. Driver time may be taken from actual driver costs records if such records are maintained, or may be determined using an average driver costs factor.

(ii) Incremental revisions in route at the start or end of a route to accommodate McKinney-Vento transportation, if separately identified, may be included based upon route mileage and an average per mile cost for operation of the bus or vehicle.

(iii) Costs for public transportation or other contracted services for transporting McKinney-Vento student(s).

(iv) Nondriver transportation staff positions whose job duties are predominately overseeing or routing services to McKinney-Vento students. If the position duties encompass other non-McKinney-Vento areas, then only the costs directly related to McKinney-Vento transportation shall be included and such costs shall be determined using federal time and effort reporting procedures.

No indirect or allocated costs may be included in this reporting.

AMENDATORY SECTION (Amending WSR 11-15-007, filed 7/7/11, effective 8/7/11)

WAC 392-141-350 Authorization and limitation on district payments for individual and in lieu transportation arrangements. Districts may commit to individual transportation or in lieu arrangements subject to approval by the educational service district superintendent or his or her designee. The following arrangements and limitations apply:

(1) A district shall contract with the custodial parent, parents, guardian(s), person(s) in loco parentis, or adult stu-

dent(s) to pay the lesser of the following in lieu of transportation by the district:

(a) Mileage and tolls for home to school transportation (in whole or part) for not more than two necessary round trips per school day, unless additional trips are required due to the provisions of the student's individualized education program; or

(b) Mileage and tolls for home to school transportation for not more than five round trips per school year, plus room and board.

(2) The in lieu of transportation mileage, tolls and board and room rates of reimbursement which a district is hereby authorized to pay shall be computed as follows:

(a) Mileage reimbursement shall be computed by multiplying the actual road distance from home to school (or other location specified in the contract) with any type of transportation vehicle that is operated for the purpose of carrying one or more students by the maximum rate of reimbursement per mile that is authorized by law for state employees for the use of private motor vehicles in connection with state business;

(b) Toll reimbursement shall be computed by adding the actual fees paid as a condition to the passage of a transportation vehicle and its student passengers or its operator, or both, across a bridge or upon a ferry, and similar fees imposed as a condition to the passage, ingress, or egress of such vehicle and its student passengers or its operator, or both, while traveling to and from school; and

(c) Board and room reimbursement shall be computed at the rates established by the department of social and health services (inclusive of the basic rates and, in the case of disabled students, the additional amounts for students with special needs, but exclusive of any rates or amounts for clothing and supplies).

AMENDATORY SECTION (Amending WSR 11-15-007, filed 7/7/11, effective 8/7/11)

WAC 392-141-360 Operation allocation computation. (1) The operation allocation shall be calculated using the following factors:

(a) The combined student count of basic program students;

(b) The combined student count of special program students;

(c) The district's prorated average distance;

(d) The district's total land area;

(e) ~~(The district's total number of roadway miles;~~

~~(f)) The district's prorated number of destinations ((served by home to school routes;~~

~~(g) The district's number of kindergarten routes operated during ten consecutive school days that include the count period and are all within the report period; and~~

~~(h))~~;

(f) If the school district is a nonhigh district, the answer to the following question: Does the district provide transportation service for the high school students residing in the district?

(g) Any other district data element as described by the superintendent in the annual operations bulletin. In order for

a data element to be included, it must be found to be statistically significant for two consecutive school years.

For each district, an expected allocation is determined using the coefficients resulting from a regression analysis of (a) through ~~((h))~~ (g) of this subsection, evaluated statewide against the prior school year's total to and from transportation expenditures. If a data element is determined not to be statistically significant, it shall not be included in the calculation of the allocation. ~~((For the 2011-12 school year, the coefficients will be calculated based on the fall 2011 report and the 2010-11 school year transportation expenditures. In the 2012-13 school year and thereafter,))~~ The coefficients will be determined using the prior school year fall, winter, and spring reports and prior school year expenditures.

(2) For the calculation of the regression analysis coefficients, the allowable transportation expenditures for each district shall be ~~((reduced by the total amount of transportation employee compensation costs in excess of the rate provided in the Omnibus Appropriations Act, including base salary or hourly wage rate, fringe benefit rates, and applicable health care rates))~~ adjusted as required by the legislature.

(3) The adjusted allocation is the result of modifying the expected allocation by:

(a) Adding any district car mileage reimbursement; and

(b) Adding any adjustment resulting from the alternate funding systems identified in WAC 392-141-380; and

(c) Making any deduction resulting from an alternate school year calendar approved by the state board of education under the provisions of RCW 28A.305.141((-)); and

(d) Making any adjustment as required by the legislature.

(4) Each district's actual allocation for student transportation operations is the lesser of the prior school year's total allowable student transportation expenditures adjusted as required by the legislature or the adjusted allocation. School districts contracting for student transportation operations shall have any payments in lieu of depreciation under the provisions of WAC 392-142-245 deducted from the district's allowable transportation expenditures.

(5) The funding assumption for the transportation operation allocation is that kindergarten through twelfth grade (K-12, or whatever grades are enrolled in district schools) school transportation services are provided by the district five days per week, to and from school, before and after the regular school day and operating one hundred eighty days per school year. K-12 service being provided on any other basis is subject to corresponding proration of the operation allocation.

AMENDATORY SECTION (Amending WSR 11-15-007, filed 7/7/11, effective 8/7/11)

WAC 392-141-370 Transition and hold harmless provisions. (1) ~~((For the 2011-12 through the 2013-14 school years,))~~ Until the allocation process described in WAC 392-141-360 is fully funded by the legislature, the transition process will prorate each district's transportation allocation to the extent funds are available based on the difference between the district's prior year's allocation and the district's allocation determined through the process described in WAC 392-141-360.

(2) ~~((For the 2011-12 through the 2013-14 school years))~~
During the transition, each school district shall receive the lesser of the previous school year's student transportation operations allocation as adjusted by the legislature or the total of allowable transportation expenditures identified on the previous school year's final expenditure report plus district indirect expenses calculated using the federal restricted indirect rate calculated in the district annual financial report and any legislative adjustments.

AMENDATORY SECTION (Amending WSR 11-15-007, filed 7/7/11, effective 8/7/11)

WAC 392-141-380 Alternate funding systems for low enrollment districts, nonhigh districts, districts participating in interdistrict transportation cooperatives, and educational service districts operating special transportation services. After the transition period described in WAC 392-141-370, the superintendent shall adjust the amount of the transportation operation allocation for low ~~((enrollment))~~ ridership, nonhigh, districts in interdistrict transportation cooperatives, and educational service districts operating special transportation services in the following manner:

(1) ~~The ((allocation calculated under WAC 392-141-360 is compared with the prior year's total approved transportation expenditures for each))~~ school ((district)) district's prior school year's transportation funding percentage is compared to the state median percent funded;

(2) ~~((The average percentage increase for all districts above the previous year's allocation is calculated))~~ If the district's prior year transportation funding percentage is greater than the state median percent funded no adjustment is made; and

(3) ~~((The district's allocation shall be either the calculated allocation or the previous year's allocation increased by the average determined in subsection (2) of this section, whichever is greater, but not more than the prior year's transportation expenditures.~~

~~No later than the first business day of July of each year, the superintendent will notify school districts of the adjustment process to be used in the coming school year.)~~ If the district's prior year transportation funding percentage is less than the state median percent funded, the allocation shall be adjusted by the difference between the state median percent funded and the district's prior year transportation funding percentage.

AMENDATORY SECTION (Amending WSR 11-15-007, filed 7/7/11, effective 8/7/11)

WAC 392-141-410 Recovery of transportation funds. The superintendent of public instruction shall recover (take back) state pupil transportation allocations that are not expended for the allowable student transportation program costs under the accounting guidance provided by the superintendent. The amount of the recovery shall be calculated as follows:

(1) Determine the district's state allocation for student transportation operations for the school year.

(2) Determine the district's allowable student transportation costs as follows:

(a) Sum the following amounts:

(i) The district's direct expenditures for general fund program 99 pupil transportation, and for educational service district student transportation operations expenditures in program 70 transportation excluding expenditures associated with the regional coordinator and bus driver training grants;

(ii) Allowable indirect charges equal to the expenditures as calculated pursuant to (a)(i) of this subsection times the ~~((federal restricted indirect))~~ state recovery rate as calculated in the district annual financial report;

(b) Subtract the district's revenues for the school year for revenue account 7199 (transportation revenues from other districts).

(3) If the allowable program costs are less than the state allocation, OSPI shall recover the difference.

Funds transferred into the transportation vehicle fund shall not be included as allowable transportation program costs for recovery calculations.

WSR 13-17-123

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 21, 2013, 11:48 a.m., effective September 21, 2013]

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

Purpose: The community services division is amending WAC 388-444-0030 Do I have to work to be eligible for Basic Food benefits if I am an able-bodied adult without dependents (ABAWD)?, to extend the current ABAWD time limit for benefits from October 1, 2013, to September 30, 2014.

Washington state applied for a statewide waiver of the supplemental nutrition assistance program (SNAP) ABAWD time-limits and work requirements through at least September 30, 2014, through the USDA Food and Nutrition Service (FNS). On August 2, 2013, the USDA FNS notified Washington state that it is one of forty-two states that met criteria for extended unemployment benefits as determined by the United States Department of Labor's Unemployment Insurance Service. As a result, FNS has approved a statewide waiver of the SNAP ABAWD time-limits and work requirements through at least September 30, 2014. This rule filing is needed to reflect the new expiration date in state code. The current ABAWD waiver is due to expire September 30, 2013.

Citation of Existing Rules Affected by this Order: Amending WAC 388-444-0030.

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. § 273.24.

Adopted under notice filed as WSR 13-14-102 on July 2, 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: August 14, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-16-025, filed 7/25/12, effective 8/25/12)

WAC 388-444-0030 Do I have to work to be eligible for Basic Food benefits if I am an able-bodied adult without dependents (ABAWD)? (1) An able-bodied adult without dependents (ABAWD) is a person who:

- (a) Is physically and mentally able to work;
- (b) Is age eighteen through forty-nine; and
- (c) Has no child in the household.

(2) If you are an ABAWD, you must participate in employment and training activities under subsection (4) unless you are exempt from ABAWD requirements under WAC 388-444-0035.

(3) Nonexempt ABAWDs who fail to participate may continue to receive food assistance until September 30, ~~(2013)~~ 2014.

(4) Beginning October 1, ~~((2013))~~ 2014, an ABAWD is not eligible to receive food assistance for more than three full months in a thirty-six month period, except as provided in WAC 388-444-0035, unless that person:

- (a) Is exempt from ABAWD requirements under WAC 388-444-0035;
- (b) Works at least twenty hours a week averaged monthly;
- (c) Participates in on the job training (OJT), which may include paid work and classroom training time, for at least twenty hours a week;
- (d) Participates in an unpaid work program as provided in WAC 388-444-0040; or
- (e) Participates in and meets the requirements of one of the following work programs:
 - (i) The Job Training Partnership Act (JTPA);
 - (ii) Section 236 of the Trade Act of 1974; or
 - (iii) A state-approved employment and training program.

WSR 13-17-125
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed August 21, 2013, 11:53 a.m., effective October 1, 2013]

Effective Date of Rule: October 1, 2013.

Purpose: The department is amending chapter 388-106 WAC, Long-term care services, specifically the New Freedom directed services, in order to make program revisions.

Citation of Existing Rules Affected by this Order: Amending WAC 388-106-0040, 388-106-0050, 388-106-1315, 388-106-1400, 388-106-1405, 388-106-1410, 388-106-1415, 388-106-1420, 388-106-1422, 388-106-1425, 388-106-1430, 388-106-1445, 388-106-1450, 388-106-1455, 388-106-1460, 388-106-1465, 388-106-1475, and 388-106-1480.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 13-13-083 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 1, Amended 18, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 18, Repealed 0.

Date Adopted: August 14, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-0040 Who can provide long-term care services? The following types of providers can provide long-term care services:

(1) Individual providers (IPs), who provide services to clients in their own home. IPs must meet the requirements outlined in WAC 388-71-0500 through 388-71-05909.

(2) Home care agencies, who provide services to clients in their own home. Home care agencies must be licensed under chapter 70.127 RCW and chapter 246-336 WAC and contracted with area agency on aging.

(3) Residential providers, which include licensed adult family homes and boarding homes, who contract with the department to provide assisted living, adult residential care, and enhanced adult residential care services (which may also include specialized dementia care).

(4) Providers who have contracted with the department to perform other services.

(5) In the case of New Freedom consumer directed services (NFCDS), additional providers meeting NFCDS HCBS waiver requirements contracting with a department approved provider of fiscal management services.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-106-0050 What is an assessment? (1) An assessment is an in-person interview in your home or your place of residence that is conducted by the department to inventory and evaluate your ability to care for yourself. The department will assess you at least annually or more often when there are significant changes to your ability to care for yourself.

(2) Between assessments, the department may modify your current assessment without an in-person interview in your home or place of residence. The reasons that the department may modify your current assessment without conducting an in-person interview in your home or place of residence include but are not limited to the following:

(a) Errors made by department staff in coding the information from your in-person interview;

(b) New information requested by department staff at the time of your assessment and received after completion of the in-person interview (e.g. medical diagnosis);

(c) Changes in the level of informal support available to you; or

(d) Clarification of the coding selected.

(3) When the department modifies your current assessment, it will notify you using a Planned Action Notice of the modification regardless of whether the modification results in a change to your benefits. You will also receive a new service summary ((~~and assessment details~~)).

AMENDATORY SECTION (Amending WSR 07-01-046, filed 12/14/06, effective 1/14/07)

WAC 388-106-1315 Do I have a right to an administrative hearing if my total in-home personal care hours or New Freedom budget approved as an exception to rule are reduced or terminated or if my increased residential payment rate approved as an exception to rule is reduced or terminated? Notwithstanding WAC 388-440-0001(3), you have a right to an administrative hearing regarding the department's exception to rule decision if:

(1) You receive services in your own home, and:

(a) The total number of in-home personal care hours you are currently receiving includes in-home personal care hours approved as an exception to rule in addition to the number of in-home care hours determined to be available to you by CARE; and

(b) The total number of in-home personal care hours or New Freedom budget you are currently receiving is reduced because of a reduction or termination in the number of in-home personal care hours approved as an exception to rule.

(2) You receive services in a residential facility, and:

(a) You currently have an increased residential payment rate approved as an exception to rule; and

(b) Your increased residential payment rate that was approved as an exception to rule is reduced or terminated.

AMENDATORY SECTION (Amending WSR 10-08-074, filed 4/6/10, effective 5/7/10)

WAC 388-106-1400 What services may I receive under New Freedom consumer directed services (NFCDS)? (1) In order for services, supports, and/or items to be purchased under New Freedom, they must:

(a) Be for your sole benefit;

(b) Be at a reasonable cost;

(c) Meet your identified needs and outcomes in the CARE assessment and address your health, safety, and welfare; and

(d) Be documented on your New Freedom spending plan defined in WAC 388-106-0010. The spending plan, which is established with the Care Consultant, documents how you will spend your service budget dollars.

(2) Your consultant may require a physician or other licensed professional, such as an occupational or physical therapist to recommend a specific purchase in writing. This recommendation is needed to ensure the service, support and/or item will increase, maintain, or delay decline of functional abilities, and to ensure the purchase supports your health and welfare.

(3) Medicare or medicaid state plan benefits must be used prior to using New Freedom funds if the goods or services are covered under these programs.

(4) You may use your individual budget to purchase services, supports, and/or items that fall into the following service categories:

(a) **Personal assistance services**, defined as supports involving the labor of another person to assist you to carry out activities you are unable to perform independently. Services may be provided in your home or in the community and may include:

(i) Direct personal care services defined as assistance with activities of daily living, as defined in WAC 388-106-0010(3). These must be provided by a qualified individual provider or AAA-contracted homecare agency;

(ii) Delegated nursing tasks, per WAC 246-841-405 and 388-71-05830. Providers of direct personal care services may be delegated by a registered nurse to provide nurse delegated tasks according to RCW 18.79.260 and WAC 246-840-910 through 246-840-970;

(iii) ~~((Homemaking, or assistance with instrumental activities of daily living (essential shopping, housework and meal preparation);~~

~~((iv)))~~ Other tasks or assistance with activities that support independent functioning, and are necessary due to your functional disability;

~~((v)))~~ (iv) Personal assistance with transportation((-) or assistance with instrumental activities of daily living (essential shopping, housework, and meal preparation).

(b) **Treatment and health maintenance**, defined as treatments or activities that are beyond the scope of the medicaid state plan that are necessary to promote your health and ability to live independently in the community and:

(i) Are provided for the purpose of preventing further deterioration of your level of functioning, or improving or maintaining your current level of functioning; and

(ii) Are performed or provided by people with specialized skill, registration, certification or licenses as required by state law.

(c) **Individual directed goods, services and supports**, defined as services, equipment or supplies not otherwise provided through this waiver or through the medicaid state plan; and

(i) Will allow you to function more independently; or

(ii) Increase your safety and welfare; or

(iii) Allow you to perceive, control, or communicate with your environment; or

(iv) Assist you to transition from an institutional setting to your home. Transition services may include safety deposits, utility set-up fees or deposits, health and safety assurances such as pest eradication, allergen control or one-time cleaning prior to occupancy, moving fees, furniture, essential furnishings and basic items essential for basic living outside the institution. Transition services do not include rent, recreational or diverting items such as TV, cable or VCR/DVDs.

(d) **Environmental or vehicle modifications**, defined as alterations to your residence or vehicle that are necessary to accommodate your disability and promote your functional independence, health, safety, and/or welfare.

(i) Environmental modifications cannot be adaptations or improvements that are of general utility or merely add to the total square footage of the home.

(ii) Vehicles subject to modification must be owned by you or a member of your family who resides with you; must be in good working condition, licensed, and insured according to Washington state law; and be cost effective when compared to available alternative transportation.

(e) **Training and educational supports**, defined as supports beyond the scope of medicaid state plan services that are necessary to promote your health and ability to live and participate in the community and maintains, slows decline, or improves functioning and adaptive skills. Examples include:

(i) Training or education on your health issues, or personal skill development;

(ii) Training or education to paid or unpaid caregivers related to your needs.

(5) You may receive comprehensive adult dental services as defined in WAC 388-106-0300(15) through December 31, 2013. The cost of the dental services will not be deducted from your individual budget.

AMENDATORY SECTION (Amending WSR 10-08-074, filed 4/6/10, effective 5/7/10)

WAC 388-106-1405 What services are not covered under New Freedom consumer directed services (NFCDS)? Services, supports and/or items that cannot be purchased within New Freedom budgets, including, but not limited to:

(1) Services, supports and/or items covered by the state plan, medicare, or other programs or services.

(2) Any fees related to health or long-term care incurred by you, including co-pays, waiver cost of care (participation), or insurance.

(3) Home modifications that merely add square footage to your home.

(4) Vacation expenses other than the direct cost of provision of personal care services while on vacation (but you may not use New Freedom funds to pay travel expenses for your provider).

(5) Rent or room and board.

(6) Tobacco or alcohol products;

(7) Lottery tickets.

(8) Entertainment-related items such as televisions, cable, ~~(or)~~ DVD players, stereos, radios, computers and other electronics, nonadaptive in nature.

(9) Vehicle purchases, maintenance or upgrades that do not include maintenance to modifications related to disability.

(10) Tickets and related costs to attend sporting or other recreational events.

(11) ~~((Routine))~~ Standard household supplies, furnishings, equipment, and maintenance, ~~((basic food, clothing-))~~ such as cleaning supplies, beds/mattresses, chairs, vacuum cleaners, outside window cleaning, and major household appliances, such as washing machines or refrigerators (unless purchased while transitioning from an institution to home).

(12) Pets, therapy animals and their related costs (including food and veterinary services).

(13) Postage outside of shipping costs related to approved spending plan items.

(14) 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 182-500-0070.

(15) Gym equipment or exercise equipment over one hundred dollars per year.

(16) Monthly service fees for utilities.

(17) Warranties (for equipment, furnishings or installations).

(18) Cosmetic services and treatments (i.e. manicures, pedicures, hair services, face lifts, etc).

(19) Basic groceries, clothing and footwear.

(20) Travel-related expenses.

(21) Any item previously purchased through medicaid funding that is within the health care authority replacement period.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1410 Am I eligible for New Freedom consumer directed services (NFCDS)-funded services?

You are eligible for NFCDS-funded services if you reside in your own home and meet all of the following criteria. The department must assess your needs using CARE and determine that:

(1) You are in NFCDS HCBS waiver specified target groups of:

(a) Eighteen or older and blind or have a physical disability; or

(b) Sixty-five or older; and

(C) You reside in a county where New Freedom is offered.

(2) You meet financial eligibility requirements described in WAC 182-513-1315. This means the department will assess your finances, determine if your income and resources fall within the limits, and determine the amount you may be required to contribute, if any, toward the cost of your care as described in WAC ~~((388-515-1505))~~ 182-515-1505; and

(3) You:

(a) Are not eligible for medicaid personal care services (MPC); or

(b) Are eligible for MPC services, but the department determines that the amount, duration, or scope of your needs is beyond what MPC can provide; and

(4) Your CARE assessment shows you need the level of care provided in a nursing facility as defined in WAC 388-106-0355; and

(5) You live in your own home, or will be living in your own home by the time NFCDS start.

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

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1415 When do New Freedom consumer directed services (NFCDS) start? ~~((Your eligibility for NFCDS begins the date the department authorizes services.))~~ Your New Freedom services begin the date personal care provider(s) are authorized to begin providing services or the spending plan is approved.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1420 How do I remain eligible for New Freedom consumer directed services (NFCDS)? (1) In order to remain eligible for NFCDS, you must be in need of services in accordance with WAC 388-106-1410, as determined through a CARE assessment and continue to meet the financial eligibility requirements in WAC 182-513-1315.

(a) The CARE assessment must be performed at least annually or more often when there are significant changes in your functional or financial circumstances.

(b) Your continued financial eligibility is reviewed annually.

(2) When eligibility statutes, regulations, and/or rules for NFCDS change, irrespective of whether your functional or financial circumstances have changed, if you do not meet the changed eligibility requirements, the department will terminate your NFCDS services.

AMENDATORY SECTION (Amending WSR 10-08-074, filed 4/6/10, effective 5/7/10)

WAC 388-106-1422 What happens to my New Freedom service dollar budget if I am temporarily hospital-

ized, placed in a nursing facility or intermediate care facilities for the mentally retarded (ICF/MR)? If you are admitted to a hospital, nursing home or ICF/MR, you cannot access or accumulate funds to your New Freedom service budget during your stay.

If you are institutionalized for forty-five days or less and you intend to return to New Freedom when discharged, your service budget will be temporarily suspended. Upon discharge home, your service budget will be reinstated if you are still eligible for New Freedom services.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1425 How do I pay for New Freedom consumer directed services (NFCDS)? (1) Depending on your income ~~((and resources))~~, you may be required to pay participation toward the cost of your care, as described in WAC ~~((388-515-1505))~~ 182-515-1505. If you have nonexempt income that exceeds the cost of NFCDS services, you may keep the difference. Since you are receiving services in your own home, you are allowed to keep some of your income for a maintenance allowance.

(2) You are responsible to pay for any required cost of care on a monthly basis before the department pays for any goods or services and before any budget monies are accrued in or moved to savings.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1430 Can I be employed and receive New Freedom consumer directed services (NFCDS)? You can be employed and receive NFCDS, if eligible, per WAC ~~((388-515-1505))~~ 182-515-1505.

AMENDATORY SECTION (Amending WSR 10-08-074, filed 4/6/10, effective 5/7/10)

WAC 388-106-1445 How is the amount of the individual budget determined? The department will calculate your individual budget amount after you are assigned a ~~((classification))~~ number of monthly hours resulting from completion of the comprehensive assessment reporting and evaluation tool, CARE. The calculation will be based on ~~((=~~

~~((a)))~~ the ((hourly)) average wage, including a mileage allowance, as determined by the collective bargaining agreement for individual provider personal care paid by the department multiplied by the number of ~~((hours))~~ units generated by the assessment, multiplied by a factor of ~~((.95))~~ .93, plus an amount equal to the average per participant expenditures for nonpersonal care supports purchased in the COPEs waiver. ~~((The average will be recalculated in July of each year.))~~

~~((b))~~ If you select a home care agency, an adjustment will be made for each hour of personal care identified in the NFSP for an amount equal to the difference between the published individual provider rate and home care agency rate.))

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

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1450 Is the individual budget intended to fully meet all of my needs? The program provides funds in an amount proportionate to the amount of resources you would receive through COPEs, and gives you flexibility to self-direct the purchase of goods and services to ~~((meet))~~ address your long-term care needs. The degree to which the budget meets your needs depends on the supports you identify and prioritize in your spending plan. Depending on your decisions, after your budget is exhausted, some of your needs may be unmet, or you may find other resources to address them.

AMENDATORY SECTION (Amending WSR 10-08-074, filed 4/6/10, effective 5/7/10)

WAC 388-106-1455 What happens to ~~((unused)) individual budget funds ~~((from my individual budget)) when I don't use them?~~~~ (1) ~~((Unused funds, up to three thousand dollars, may be held in reserve for future purchases documented in the NFSP.))~~ The balance of individual budget funds that were not allocated for purchase of personal care may be used to purchase other goods and services in accordance with the approved New Freedom spending plan or saved for future purchase as described in (2) below.

~~((2))~~ ~~((Reserves in excess of))~~ Up to three thousand five hundred dollars may be ~~((maintained))~~ held in savings for ~~((planned))~~ future purchases ~~((with approval from the department))~~ documented in the New Freedom spending plan.

~~((2))~~ ~~Unused funds, up to five hundred dollars, may be held in reserve for future purchases not yet identified as planned purchases in their NFSP.))~~

(3) Reserves in excess of three thousand five hundred dollars may only be maintained for exceptional, planned purchases with pre-approval from the department.

(4) Unused funds will revert back to the department under the following circumstances:

(a) You have savings funds ~~((over five hundred dollars)) in excess of three thousand five hundred dollars~~ that are not identified for ~~((planned))~~ exceptional, pre-approved purchases in your ~~((NFSP))~~ spending plan;

(b) You dis-enroll from New Freedom;

(c) You lose eligibility for New Freedom;

(d) You are hospitalized and/or placed in a nursing home or ICM/FR for over forty-five days; or

(e) You have ~~((reserved funds in excess of three thousand dollars held in reserve for future purchases not approved by the department))~~ personal care funds not used in the month for which you allocated them.

NEW SECTION

WAC 388-106-1458 How do I create and use my spending plan? (1) You create your spending plan with the assistance of the Care Consultant using the New Freedom self-assessment and the CARE assessment.

(2) The spending plan must be approved by both you and the Care Consultant.

(3) You and your Care Consultant must identify how many personal care service units you intend to purchase prior to the month you plan to use them (service month). The value of those units is deducted from your New Freedom budget. The rest of funds can be used for other covered goods and services or saved.

(a) Once a service month begins, the number of personal care units may not be altered during that month.

(b) The maximum number of personal care units that can be purchased from the monthly budget is calculated from the individual budget as described in WAC 388-106-1445, divided by the individual provider average wage including mileage.

(c) Prior to the service month, you may elect to use savings funds to buy additional personal care.

(d) You can choose to have your personal care provided by an individual provider (IP) or a home care agency. Each unit will be deducted from your New Freedom budget at the average IP wage rate including mileage.

(e) The balance of your individual New Freedom budget will be available in your NFSP to save or purchase other goods and services up to the limit described in WAC 388-106-1455(2).

(f) If you have a change of condition or situation and your New Freedom budget increases due to a new assessment or Exception to Rule, you may purchase additional personal care from an IP or home care agency mid-month at the average IP rate, including mileage during the month your budget changed.

(g) You may assign your pre-determined personal care units to a different provider during the month of service.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1460 When can my New Freedom spending plan (NFSP) be denied? Your NFSP may be denied when the plan you develop includes noncovered items from WAC 388-106-1405 and/or does not:

(a) Include only services in the New Freedom service definition found in WAC 388-106-1400;

(b) Address your needs as it relates to performance of activities of daily living and instrumental activities of daily living;

(c) Include strategies and steps to address known critical risks;

(d) Identify ~~((the))~~ a reasonable payment rate; or

(e) Adequately describe the service.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1465 Who can deny my New Freedom spending plan (NFSP)? Your plan can be denied by your New Freedom consultant, who assists NFCDS participants to develop and use a New Freedom spending plan to:

(a) ~~((Meet))~~ Address identified personal care, health and safety needs;

(b) ~~((Address health and safety needs;~~

~~((e)))~~ Develop options to meet those needs;

- ((~~e~~)) (c) Make informed decisions about their individual budget; and
 ((~~e~~)) (d) Obtain identified supports and services.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1475 How do I end enrollment in New Freedom consumer directed services (NFCDS)? (1) You may choose to voluntarily end your enrollment from NFCDS without cause at any time. To do so, you must give notice to the department. If you give notice:

(a) Before the fifteenth of the month, the department will end your enrollment at the end of the month; or

(b) After the fifteenth, the department will end your enrollment the end of the following month.

(2) Your enrollment may also end involuntarily if you:

(a) Move out of the designated service area or are out of the service area for more than thirty consecutive days, unless you have documented the purpose of the longer absence in the NFSP; or

(b) Do not meet the terms for consumer direction of services outlined in the NFCDS enrollment agreement when:

(i) Even with help from a representative, you are unable to develop a NFSP or self-direct services or manage your individual budget or NFSP;

(ii) Any one factor or several factors of such a magnitude jeopardize the health, welfare, and safety of you and others, requiring termination of services under WAC 388-106-0047;

(iii) You become financially ineligible for medicaid services; ((~~e~~))

(iv) You no longer meet the nursing facility level of care requirement as defined in WAC 388-106-0355; or

(v) You misuse program funds and services as determined by the department.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-1480 What are my hearing rights to appeal New Freedom consumer directed services (NFCDS) assessment and eligibility actions? You have a right to a hearing under WAC 388-106-1300 through ((~~388-106-1310~~)) 388-106-1315, and under chapter ((~~388-02~~)) 182-526 WAC.

WSR 13-17-126

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed August 21, 2013, 11:55 a.m., effective September 21, 2013]

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

Purpose: To change the time frames:

- An alleged perpetrator of child abuse and/or neglect has to request CPS review a founded CPS finding of child abuse and neglect (from twenty days to thirty days) and;

- By which the review is to be completed (from sixty days to thirty days).

The changes in these time frames will provide consistency with current RCW and children's administration policy.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-085(2) and 388-15-093(3).

Statutory Authority for Adoption: RCW 26.44.125 (2) and (4).

Adopted under notice filed as WSR 13-13-077 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 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: August 14, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-15-098 and 02-17-045, filed 7/16/02 and 8/14/02, effective 2/10/03)

WAC 388-15-085 How does an alleged perpetrator challenge a founded CPS finding? (1) In order to challenge a founded CPS finding, the alleged perpetrator must make a written request for CPS to review the founded CPS finding of child abuse or neglect. The CPS finding notice must provide the information regarding all steps necessary to request a review.

(2) The request must be provided to the same CPS office that sent the CPS finding notice within ((~~twenty~~)) thirty calendar days from the date the alleged perpetrator receives the CPS finding notice (RCW 26.44.125).

AMENDATORY SECTION (Amending WSR 02-15-098 and 02-17-045, filed 7/16/02 and 8/14/02, effective 2/10/03)

WAC 388-15-093 What happens after the alleged perpetrator requests CPS to review the founded CPS finding of child abuse or neglect? (1) CPS management level staff or their designees who were not involved in the decision making process will review the founded CPS finding of child abuse or neglect. The management staff will consider the following information:

(a) CPS records;

(b) CPS summary reports; and

(c) Any written information the alleged perpetrator may have submitted regarding the founded CPS finding of abuse and/or neglect.

(2) Management staff may also meet with the CPS social worker and/or CPS supervisor to discuss the investigation/finding. After review of all this information, management staff decides if the founded CPS finding is correct or if it should be changed.

(3) Management staff must complete their review of the founded CPS finding within ~~((sixty))~~ thirty calendar days from the date CPS received the written request for review.