

WSR 19-09-040
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed April 11, 2019, 3:28 p.m., effective May 12, 2019]

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

Purpose:

- Clarify and update the construction permitting (new source review) program regulations to reduce regulatory burden and focus on permitting projects where our permits provide significant air quality benefit (NWCAA Sections 300-305).
- Modify the registration program to improve transparency and equity (NWCAA Sections 320-321).
- Remove the ambient air quality standards from the regulation in favor of the state rule that already applies state-wide (NWCAA Sections 400-428).
- Clarify and update the sulfur dioxide requirements (monitoring, etc.) at certain sources to include only those requirements that add air quality benefit in the current conditions (NWCAA Section 460).
- Modify a few definitions to clarify applicability and to match the state rule (NWCAA Section 200).
- Update the adoption-by-reference date to allow us to implement the most recent version of the referenced state and federal rules (NWCAA Section 104).

Citation of Rules Affected by this Order: Repealing Sections 301, 401, 402, 403, 410, 420, 422, 424, 426, and 428 of the Regulation of NWCAA; and amending Sections 104, 200, 300, 303, 305, 320, 321, 400, and 460 of the Regulation of NWCAA.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 19-02-040 on December 26, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 11, 2019.

Mark Buford
Executive Director

AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of the following state rules that are in effect as of December 26, 2018 (~~June 21, 2018~~) are hereby adopted by reference and made part of the Regulation of the NWCAA: chapter 173-400 WAC, (except - -025, -030, -035, -036, -040 (1) & (7), -045, -075, -099, -100, -101, -102, -103, -104, -105(7), -110, -114, -115, -116, -171, -930), chapter 173-401 WAC, chapter 173-407 WAC, chapter 173-420 WAC, chapter 173-425 WAC, chapter 173-430 WAC, chapter 173-433 WAC, chapter 173-434 WAC, chapter 173-435 WAC, chapter 173-441 WAC, chapter 173-442 WAC, chapter 173-450 WAC, chapter 173-460 WAC, chapter 173-476 WAC, chapter 173-480 WAC, chapter 173-481 WAC, chapter 173-485 WAC, chapter 173-491 WAC. The requirements of the NWCAA Regulation apply in addition to the state-wide regulations adopted and enforced under this paragraph.

104.2 All provisions of the following federal rules that are in effect as of December 26, 2018 (~~June 21, 2018~~) are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X, Y, Z, AA, AAa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, XXX, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, OOOOa, QQQQ, and Appendix A - I; 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, O, P, V, Y, BB, FF; 40 CFR Part 62 (Approval and Promulgation of State Plans for Designated Facilities and Pollutants) Subpart LLL; 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, LLLL, MMMM, NNNN, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, YYYY, ZZZZ, BBBB, CCCC, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, MMMM, NNNN, QQQQ, SSSS, TTTT, VVVV, WWWW, XXXXX, ZZZZ, AAAAAA, DDDDD, EEEEE, and HHHHHH; and 40 CFR Parts 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

PASSED: July 8, 1970 AMENDED: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May

14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 9, 2012, March 14, 2013, September 11, 2014, August 13, 2015, August 11, 2016, September 13, 2018, April 11, 2019

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

...

ALLOWABLE EMISSIONS - The emission rate of a stationary source calculated using the maximum rated capacity of the stationary source (unless the stationary source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) The applicable standards as in 40 CFR Part 60, 61, 62, or 63;

(B) Any applicable SIP emissions limitation including those with a future compliance date; or

(C) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

...

FEDERALLY ENFORCEABLE - All limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61, 62, and 63, requirements within the Washington SIP, requirements within any permit established under 40 CFR 52.21 or order of approval under a SIP-approved new source review regulation, or any voluntary limits on emissions pursuant to WAC 173-400-091.

...

LOWEST ACHIEVABLE EMISSION RATE (LAER) - For any stationary source, the more stringent emissions rate based on the following:

(A) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed new or modified stationary source demonstrates that such limitations are not achieved in practice; or

(B) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source.

In no event shall the application of this term allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable New Source Performance Standards.

...

ORDER - Any order issued by the NWCAA pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, 70.94.154, and 70.94.141 (3), and includes, where used in the generic sense, the terms order, compliance order, order of approval, and regulatory order.

...

SOURCE - All of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more con-

tiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. ~~((Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.))~~

...

PASSED: January 8, 1969 AMENDED: October 31, 1969, September 3, 1971, June 14, 1972, July 11, 1973, February 14, 1973, January 9, 1974, October 13, 1982, November 14, 1984, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, November 17, 2011, March 14, 2013, August 13, 2015, August 11, 2016, September 13, 2018, April 11, 2019

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

~~((300.1 A Notice of Construction and/or PSD permit application must be filed by the owner or operator and an Order of Approval and/or PSD permit issued by the NWCAA, or other designated permitting agency, prior to the establishment of any new source, except for:~~

~~a) Those stationary sources exempt under NWCAA 300.4 (categorical) or NWCAA 300.5 (emission thresholds); and~~

~~b) Relocation of any temporary source operating in accordance with NWCAA Section 301.~~

For purposes of this section "establishment" shall mean to "begin actual construction", as that term is defined in NWCAA Section 200, and "new source" shall include any "modification" to an existing "stationary source", as those terms are defined in NWCAA Section 200.

300.2 Regardless of any other subsection of this section, a Notice of Construction or PSD permit application must be filed and an order of approval or PSD permit issued by the NWCAA prior to establishment of any of the following new sources:

a) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except Subpart AAA (Wood stoves) and such provisions of Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines;

b) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for asbestos demolition and renovation projects subject to 40 CFR 61.145;

c) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines;

d) Any project that qualifies as a new major stationary source, or a major modification;

e) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.

300.3 New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing stationary source or modified and the air contaminants whose emissions would increase as a result of the modification; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-113, as applicable.

300.4 Emission unit and activity exemptions.

Except as provided in NWCAA 300.1 and 300.2 of this section, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a Notice of Construction application:

a) Maintenance/construction:

- 1) Cleaning and sweeping of streets and paved surfaces;
- 2) Concrete application, and installation;
- 3) Dredging wet spoils handling and placement;
- 4) Paving application and maintenance, excluding asphalt plants;
- 5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house-keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

6) Plumbing installation, plumbing protective coating application and maintenance activities;

7) Roofing application;

8) Insulation application and maintenance, excluding products for resale;

9) Janitorial services and consumer use of janitorial products.

b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks therefore it is recommended that the owner or operator contact the NWCAA to determine the exemption status of storage tanks prior to their installation.

1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

4) Process and white water storage tanks;

5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

6) Operation, loading and unloading of storage tanks, less than or equal to 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing

toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21°C;

7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

e) A project with combined aggregate heat input capacity from combustion units, less than or equal to any of the following:

1) Less than or equal to 500,000 Btu/hr coal with less than or equal to 0.5% sulfur or other fuels with less than or equal to 0.5% sulfur;

2) Less than or equal to 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

3) Less than or equal to 400,000 Btu/hr wood waste or paper;

4) Less than 1,000,000 Btu/hr kerosene, #1, or #2 fuel oil and with less than or equal to 0.05% sulfur;

5) Less than or equal to 10,000,000 Btu/hr natural gas, propane, or LPG.

Note: the heat input capacity of each combustion unit shall be based on the higher heating value of fuel to be used.

d) Material handling:

1) Continuous digester chip feeders;

2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture;

3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%;

4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

e) Water treatment:

1) Septic sewer systems, not including active wastewater treatment facilities;

2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

3) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

4) Process water filtration system and demineralizer vents;

5) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

6) Demineralizer tanks;

7) Alum tanks;

8) Clean water condensate tanks.

f) Environmental chambers and laboratory equipment:

1) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;

2) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

- ~~3) Installation or modification of a single laboratory fume hood;~~
- ~~4) Laboratory calibration and maintenance equipment;~~
- ~~g) Monitoring/quality assurance/testing;~~
- ~~1) Equipment and instrumentation used for quality control/assurance or inspection purpose;~~
- ~~2) Hydraulic and hydrostatic testing equipment;~~
- ~~3) Sample gathering, preparation and management;~~
- ~~4) Vents from continuous emission monitors and other analyzers:~~
 - ~~h) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent.~~
 - ~~i) Emergency Stationary Compression Ignition (CI) Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance and operating less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary CI/ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.~~
 - ~~j) Miscellaneous:~~
 - ~~1) Single family residences and duplexes;~~
 - ~~2) Plastic pipe welding;~~
 - ~~3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;~~
 - ~~4) Comfort air conditioning;~~
 - ~~5) Flares used to indicate danger to the public;~~
 - ~~6) Natural and forced air vents and stacks for bathroom/toilet activities;~~
 - ~~7) Personal care activities;~~
 - ~~8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;~~
 - ~~9) Tobacco smoking rooms and areas;~~
 - ~~10) Noncommercial smokehouses;~~
 - ~~11) Blacksmith forges for single forges;~~
 - ~~12) Vehicle maintenance activities, not including vehicle surface coating;~~
 - ~~13) Vehicle or equipment washing (see e) of this subsection for threshold for boilers);~~
 - ~~14) Wax application;~~
 - ~~15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;~~
 - ~~16) Ozone generators and ozonation equipment;~~
 - ~~17) Solar simulators;~~
 - ~~18) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;~~
 - ~~19) Electrical circuit breakers, transformers, or switching equipment installation or operation;~~
 - ~~20) Pulse capacitors;~~

- ~~21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;~~
 - ~~22) Fire suppression equipment;~~
 - ~~23) Recovery boiler blow-down tank;~~
 - ~~24) Screw press vents;~~
 - ~~25) Drop hammers or hydraulic presses for forging or metal working;~~
 - ~~26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;~~
 - ~~27) Kraft lime mud storage tanks and process vessels;~~
 - ~~28) Lime grits washers, filters and handling;~~
 - ~~29) Lime mud filtrate tanks;~~
 - ~~30) Lime mud water;~~
 - ~~31) Stock cleaning and pressurized pulp washing down process of the brown stock washer;~~
 - ~~32) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;~~
 - ~~33) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;~~
 - ~~34) Surface coating, aqueous solution or suspension containing less than or equal to 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;~~
 - ~~35) Cleaning and stripping activities and equipment using solutions having less than or equal to 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;~~
 - ~~36) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.~~
 - ~~37) Gasoline dispensing facilities subject to chapter 173-491 WAC are exempt from toxic air pollutant analysis pursuant to chapter 173-460 WAC.~~
- ~~300.5 Exemptions Based on Emissions Thresholds~~
- ~~a) Except as provided in NWCAA 300.1 and 300.2 of this section and in this subsection:~~
 - ~~1) A new emissions unit that has an uncontrolled potential to emit below each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.~~
 - ~~2) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.~~
 - ~~b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with the NWCAA thirty (30) days prior to beginning actual construction on the project. If the NWCAA determines that the project will have more than a de Minimus impact on air quality as defined in 300.5 d), the NWCAA shall require the filing of a Notice of Construction or PSD permit application. The NWCAA may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below. In accordance with NWCAA 324.2, a filing and NOC applicability determination fee shall~~

apply when the NWCAA issues a written determination that a project is exempt for new source review.

e) The owner or operator may begin actual construction on the project thirty-one (31) days after the NWCAA receives the project summary, unless the NWCAA notifies the owner or operator within thirty (30) days that the proposed new source requires a Notice of Construction or PSD permit application.

d) Exemption threshold table:

POLLUTANT THRESHOLD LEVEL (ton per year)

1) Total Suspended Particulates: 1.25

2) PM₁₀: 0.75

3) PM_{2.5}: 0.5

4) Sulfur Oxides: 2.0

5) Nitrogen Oxides: 2.0

6) Volatile Organic Compounds: total 2.0

7) Carbon Monoxide: 5.0

8) Lead: 0.005

9) Ozone Depleting Substances: total 1.0 (in effect on July 1, 2000)

10) Toxic Air Pollutants: as specified in chapter 173-460 WAC.

(e) Greenhouse gas emissions are exempt from new source review under this section except to the extent required under WAC 173-400-720, prevention of significant deterioration. The owner or operator of a source or emissions unit may request that NWCAA impose emission limits and/or operation limitations for greenhouse gas in any new source review Order of Approval.

300.6 The Control Officer may require that a new source, that would otherwise be exempt under this section, submit a Notice of Construction application and be granted approval as specified in this section. This discretionary determination shall be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the proponent shall submit to the Control Officer, appropriate information as necessary to make this determination.

300.7 Notice of Construction – Submittal Requirements
Each Notice of Construction application shall:

a) be submitted on forms provided by the NWCAA;

b) be accompanied by the appropriate fee specified in NWCAA 324.2;

e) be accompanied by a completed State Environmental Policy Act (SEPA) checklist consistent with NWCAA 155; and

d) include a "top-down" BACT analysis, as defined at the time of submittal, except where the Federal Clean Air Act requires LAER; and

e) An applicant filing a Notice of Construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, shall send a copy of the application to the responsible federal land manager.

300.8 Notice of Construction – Completeness Determination:

a) Within thirty (30) days after receiving a Notice of Construction or PSD permit application, the NWCAA shall either notify the applicant in writing that the application is

complete or notify the applicant in writing of additional information necessary to complete the application.

b) For a project subject to the Special protection requirements for federal Class I areas in WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3).

e) For a project subject to PSD review under WAC 173-400-720 through 750, a completeness determination includes a determination that the application provides all information required to conduct the PSD review.

300.9 Notice of Construction – Final Determination

a) Within sixty (60) days of receipt of a complete Notice of Construction or PSD permit application, the NWCAA shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 on a proposed decision, followed as promptly as possible by a final decision.

b) A person seeking approval to construct or modify a stationary source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction or PSD permit application required by this section. A Notice of Construction or PSD permit application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD permit application under WAC 173-400-720 through 750, a notice of nonattainment area construction application for a major modification in a nonattainment area, or a Notice of Construction application for a major stationary source in a nonattainment area must also comply with WAC 173-400-171.

e) Every final determination on a Notice of Construction or PSD permit application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

d) If the new source is a major stationary source or the change is a major modification, the application shall be processed in accordance with the applicable sections of WAC 173-400-112, 113, 117 and 171. The permitting agency shall:

1) Submit any control technology determination included in a final Order of Approval or PSD permit to the RACT/BACT/LAER clearinghouse maintained by EPA; and

2) Send a copy of the final Order of Approval or PSD permit to EPA.

300.10 Order of Approval – Appeals

An Order of Approval or PSD permit, any conditions contained in an Order of Approval or PSD permit, or the denial of a Notice of Construction or PSD permit application may be appealed to the Pollution Control Hearings Board as provided in chapter 43.21B RCW. The NWCAA shall promptly mail copies of each order approving or denying a Notice of Construction or PSD permit application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the Pollution Control Hearings Board.

300.11 Order of Approval—Time Limitations:

An Order of Approval or PSD permit becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. An extension for a project operating under a PSD permit must also comply with public notice requirements in WAC 173-400-171. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement date.

300.12 Order of Approval—Change of Conditions:

a) The owner or operator may request, at any time, a change in conditions of an Order of Approval or PSD permit and the NWCAA may approve the request provided the NWCAA finds that:

- 1) The change in conditions will not cause the stationary source to exceed an emissions standard;
- 2) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
- 3) The change will not adversely impact the ability of Ecology or the NWCAA to determine compliance with an emissions standard;
- 4) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and
- 5) The revised order meets the requirements of this section and WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-720 through 750, as applicable.

b) Actions taken under this subsection are subject to the public involvement provisions of NWCAA Section 305 or WAC 173-400-171 as applicable.

e) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a Notice of Construction application, that application must be acted upon using the timelines found in NWCAA 300.8 and NWCAA 300.9 and the fee schedule found in NWCAA 324.

300.13 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source:

a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

b) For projects not otherwise reviewable under NWCAA Section 300, the NWCAA may:

- 1) Require that the owner or operator employ RACT for the affected emission unit;
- 2) Prescribe reasonable operation and maintenance conditions for the control equipment; and
- 3) Prescribe other requirements as authorized by chapter 70.94 RCW.

e) Within thirty (30) days of receipt of a Notice of Construction application under this section the NWCAA shall either notify the applicant in writing that the application is

complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty (30) days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

d) Construction shall not "commence," as defined in NWCAA Section 200, on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within thirty (30) days of receipt of a complete Notice of Construction application.

e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

300.15 Order of Approval—Requirements to Comply

It shall be unlawful for an owner or operator of a source or emission unit to not abide by the operating and reporting conditions in the Order of Approval.)

300.1(A) A Notice of Construction (NOC) application must be filed by the owner or operator and an Order of Approval must be issued by the NWCAA, prior to beginning actual construction of any new source or making any modification, except for any of the following:

- (1) Emissions units that are categorically exempt under NWCAA 300.3.
- (2) Emissions units that are exempt under NWCAA 300.4.
- (3) Any temporary sources operating under NWCAA 300.17.

(4) Any emissions unit covered under a General Order of Approval and operating in accordance with NWCAA 300.16.

(B) New source review of a modification is limited to the emissions unit or units proposed to be added to or modified at an existing stationary source and the air contaminants whose emissions would increase above the emission thresholds in NWCAA 300.4 as a result of the modification.

(C) New source review is required for an increase in a plant-wide cap or an emissions-unit-specific emission limit.

(D) The Control Officer may require that a new source or modification, that would otherwise be exempt under this section, submit a Notice of Construction application and be issued an Order of Approval as specified in this section. The Control Officer may also require that individual pollutant emission increases that would otherwise be exempt under this section be included in the Order of Approval review. This discretionary determination will be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical

effects on property. Upon request, the proponent shall submit to the Control Officer appropriate information as necessary to make this determination.

300.2 In lieu of this section, any new major stationary source or major modification located in an attainment or unclassifiable area as defined in WAC 173-400-030 shall be processed in accordance with the requirements of WAC 173-400-113 and WAC 173-400-700 through 173-400-750, as applicable, for the pollutant for which the project is major. Additionally, any new major stationary source or major modification located in a nonattainment area as defined in WAC 173-400-030 shall be processed in accordance with the requirements of WAC 173-400-112 and WAC 173-400-800 through 173-400-860, as applicable, for the pollutant and for precursors of the pollutant for which the area is in nonattainment.

300.3 Categorical Exemptions from New Source Review

Construction of a new emissions unit that falls within one of the categories listed in NWCAA 300.3 is exempt from new source review. Modification of any emissions unit listed in NWCAA 300.3 is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The owner or operator shall keep sufficient records to document the exemption under this subsection.

(A) Maintenance/construction:

- (1) Cleaning and sweeping of streets and paved surfaces
- (2) Concrete application, and installation
- (3) Dredging wet spoils handling and placement
- (4) Paving application and maintenance, excluding asphalt plants
- (5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, architectural or maintenance coatings to stationary structures, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.)
- (6) Plumbing installation, plumbing protective coating application and maintenance activities
- (7) Roofing application and maintenance
- (8) Insulation application and maintenance, excluding products for resale
- (9) Janitorial services and consumer use of janitorial products

(B) Storage tanks:

- (1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils
- (2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation
- (3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions
- (4) Process and white water storage tanks
- (5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity
- (6) Operation, loading, and unloading of storage tanks less than or equal to 1,100 gallon capacity, with lids or other appropriate closure, that store materials that do not contain Toxic Air Pollutants, as defined in chapter 173-460 WAC, or that have a maximum vapor pressure of 550 mm mercury at 21° C

(7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons

(8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids with no VOC content

(C) New or modified fuel burning equipment with a heat input capacity (higher heating value) less than all of the following:

(1) 500,000 Btu/hr coal or other solid fuels with less than or equal to 0.5% sulfur

(2) 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610

(3) 400,000 Btu/hr wood

(4) 1,000,000 Btu/hr gasoline, kerosene, #1 or #2 fuel oil and with less than or equal to 0.05% sulfur

(5) 10,000,000 Btu/hr natural gas, propane, or LPG. This includes combustion units that have natural gas as a primary fuel source and ultra-low sulfur diesel (less than 15 ppm by weight sulfur) as a secondary fuel source that is combusted only during testing or periods of natural gas curtailment beyond the control of the source.

(D) Material handling:

(1) Continuous digester chip feeders

(2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture

(3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%

(4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon capacity with lids or other appropriate closure. The high boiling point organic material shall not have an atmospheric boiling point of less than 150°C or a vapor pressure more than 5 mm mercury at 21°C.

(E) Water treatment:

(1) Septic sewer systems, not including active wastewater treatment facilities

(2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease

(3) De-aeration (oxygen scavenging) of water where Toxic Air Pollutants as defined in chapter 173-460 WAC are not emitted

(4) Process water filtration system and demineralizer vents

(5) Sewer manholes, junction boxes, sumps, and lift stations associated with wastewater treatment systems

(6) Demineralizer tanks

(7) Alum tanks

(8) Clean water condensate tanks

(F) Laboratory testing and quality assurance/control testing equipment, including fume hoods, used exclusively for chemical and physical analysis, teaching, or experimentation, used specifically in achieving the purpose of the analysis, test, or teaching activity. Non-production bench scale research equipment is also included.

(G) Monitoring/quality assurance/testing:

(1) Equipment and instrumentation used for quality control/assurance or inspection purpose

(2) Hydraulic and hydrostatic testing equipment

(3) Sample gathering, preparation, and management

(4) Vents from continuous emission monitors and other analyzers

(H) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent

(I) Emergency Stationary Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance, and operates in these capacities for less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

(J) Miscellaneous:

(1) Single-family residences and duplexes

(2) Plastic pipe welding

(3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting

(4) Comfort air conditioning

(5) Flares used to indicate danger to the public

(6) Natural and forced air vents and stacks for bathroom/toilet activities

(7) Personal care activities

(8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires

(9) Tobacco smoking rooms and areas

(10) Noncommercial smokehouses

(11) Blacksmith forges for single forges

(12) Vehicle maintenance activities, not including vehicle surface coating

(13) Vehicle or equipment washing

(14) Wax application

(15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment

(16) Ozone generators and ozonation equipment

(17) Solar simulators

(18) Ultraviolet curing processes, to the extent that Toxic Air Pollutant gases as defined in chapter 173-460 WAC are not emitted

(19) Electrical circuit breakers, transformers, or switching equipment installation or operation

(20) Pulse capacitors

(21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives, excluding pneumatic conveying

(22) Fire suppression equipment

(23) Recovery boiler blow-down tank

(24) Screw press vents

(25) Drop hammers or hydraulic presses for forging or metal working

(26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight

(27) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities

(28) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm mercury at 21°C not emitting Toxic Air Pollutants as defined in chapter 173-460 WAC

(29) Surface coating and dip coating operations using materials containing less than or equal to 1% by weight VOC and 1% by weight Toxic Air Pollutants as defined in chapter 173-460 WAC

(30) Cleaning and stripping activities and equipment using solutions containing less than or equal to 1% by weight VOC and 1% by weight Toxic Air Pollutants as defined in chapter 173-460 WAC. Acid solutions used on metallic substances are not exempt

(31) Gasoline dispensing facilities subject to chapter 173-491 WAC are exempt from Toxic Air Pollutant analysis pursuant to chapter 173-460 WAC

300.4 Emissions Threshold Exemptions from New Source Review

(A) Construction of a new emissions unit that has an uncontrolled potential to emit emission rate below all of the threshold levels listed in the table contained in NWCAA 300.4(D) is exempt from new source review.

(B) A modification to an existing emissions unit that increases the unit's actual emissions by less than all of the threshold levels listed in the table contained in NWCAA 300.4(D) is exempt from new source review.

(C) Greenhouse gas emissions are exempt from new source review under this section except to the extent required under WAC 173-400-720, Prevention of Significant Deterioration. The owner or operator of a source or emissions unit may request that the NWCAA issue an Order to impose emission limits and/or operation limitations for greenhouse gas emissions.

(D) Exemption threshold levels:

POLLUTANT THRESHOLD LEVEL (ton per year)

(1) Total Suspended Particulates: 1.25

(2) PM-10: 0.75

(3) PM-2.5: 0.5

(4) Sulfur Dioxide: 2.0

(5) Nitrogen Oxides: 2.0

(6) Volatile Organic Compounds, total: 2.0

(7) Carbon Monoxide: 5.0

(8) Lead: 0.005

(9) Ozone Depleting Substances, total: 1.0

(10) Toxic Air Pollutants: The small quantity emission rate (SQER) specified for each TAP in WAC 173-460-150

300.7 Notice of Construction - Submittal Requirements

Each Notice of Construction application shall be submitted on forms provided by the NWCAA and be accompanied by the appropriate new source review fee specified in NWCAA 324.2.

300.8 Notice of Construction - Completeness Determination.

(A) Within 30 days after receiving a Notice of Construction application, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of the additional information necessary to complete the application.

(B) A complete application contains all the information necessary for processing the application. At a minimum, the application shall include information on the nature and amounts of emissions to be emitted by the proposed new source or increased as part of a modification, as well as the location, design, construction, and operation of the new source as needed to enable the NWCAA to determine that the construction or modification will meet the applicable requirements. Designating an application complete for purposes of permit processing does not preclude the NWCAA from requesting or accepting additional information.

(C) An application is not complete until the State Environmental Policy Act (SEPA) has been addressed under chapter 197-11 WAC and NWCAA Section 155.

(D) An application is not complete until the new source review fee specified in NWCAA 324.2 has been paid.

300.9 Notice of Construction - Final Determination

(A) Within 60 days after receipt of a complete Notice of Construction application, the NWCAA shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 as applicable on a preliminary decision, followed as promptly as practicable by a final decision.

(B) An Order of Approval cannot be issued for the Notice of Construction application until the following criteria are met for those proposed emissions units and pollutants that triggered new source review, as applicable:

(1) Comply with all applicable New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), National Emission Standards for Hazardous Air Pollutants for source categories (NESHAP), emission standards adopted under chapter 70.94 RCW and all applicable NWCAA emission standards.

(2) Employ Best Available Control Technology (BACT).

(3) Allowable emissions will not cause or contribute to a violation of any ambient air quality standard. In addition, if located in a nonattainment area, allowable emissions will not violate the requirements for reasonable further progress established by the State Implementation Plan (SIP). If NWCAA has reason to be concerned that the construction or modification would cause or contribute to a violation of a NAAQS, NWCAA may require modeling using the guideline models and procedures of Appendix W of 40 CFR Part 51 as referenced in NWCAA 104.2. Written approval from the EPA must be obtained for any modification to or substitution for a guideline model.

(4) Comply with the applicable requirements of NWCAA Section 305.

(5) Comply with the applicable requirements of WAC 173-400-200 and 173-400-205.

(6) All fees required under NWCAA 324.2 have been paid.

(C) In addition to the requirements of NWCAA 300.9 (B), an Order of Approval cannot be issued until the new

project meets the Toxic Air Pollutant requirements of WAC 173-400-110 (2)(d).

(D) A person seeking approval to construct a new source or modification that requires an operating permit may elect to integrate review of the operating permit application or amendment required under chapter 173-401 WAC and the Notice of Construction application required by this section. A Notice of Construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC and must comply with NWCAA Section 305.

(E) Every final determination on a Notice of Construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

300.10 Order of Approval - Appeals

(A) The issuance of an Order of Approval, any conditions contained in an Order of Approval, or the denial of a Notice of Construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW.

(B) The NWCAA shall promptly mail copies of each Order approving or denying a Notice of Construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

300.11 Order of Approval - Time Limitations

(A) An Order of Approval becomes invalid if the owner or operator has not begun actual construction within 18 months of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the approval period upon a satisfactory showing that an extension is justified. A written request for an extension shall include an updated BACT analysis submitted prior to the expiration of the current approval period. No single extension of time shall be longer than 18 months. The cumulative period between initial permit issuance and the end of any approved time extensions shall not exceed 54 months.

(B) This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must begin actual construction within 18 months of the approved commencement date.

300.12 Order of Approval - Revision

(A) The owner or operator may request a revision to an Order of Approval and the NWCAA may approve the request provided that the revision:

(1) Will not cause the source to exceed an emissions standard set by regulation or rule;

(2) Will not result in an exceedance of any ambient air quality standard;

(3) Will not adversely impact the ability to determine compliance with an emissions standard;

(4) Will continue to require Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER), and Toxic Air Pollutant Best Available Control Technology (T-BACT), as applicable, for each new source or modification approved by the original Order of Approval

(BACT and T-BACT as defined at the time of original approval); and

(5) Will meet the requirements of NWCAA 300.7 through 300.13 and NWCAA Section 305, as applicable.

(B) A revision under NWCAA 300.12 only addresses projects where the emissions increase from each emissions unit qualifies as exempt under NWCAA 300.4.

(C) Each Order of Approval revision request shall be submitted and will be processed as a Notice of Construction application. The application shall be submitted with the appropriate new source review fee specified in NWCAA 324.2.

300.13 Order of Approval - Requirements to Comply
Owners and operators of a source or emissions unit shall:

(A) Comply with the conditions in the Order of Approval or General Order of Approval, as applicable.

(B) Install and operate in accordance with the information submitted in the Notice of Construction application or application for coverage under a General Order of Approval.

300.14 Notice of Construction Application Inapplicability Determination

An owner or operator may submit a written request to the NWCAA to obtain a written determination that a project is exempt from new source review under NWCAA 300.1 or from replacement or substantial alteration of control technology under NWCAA 300.25. The request shall include a summary of the project, a narrative describing why the project should be exempt from applicability, and the appropriate fee in accordance with NWCAA 324.2.

Within 30 days after receiving a request under this subsection, the NWCAA shall either provide the written determination of inapplicability, notify the applicant in writing that the project requires an Order of Approval, or notify the applicant in writing of the additional information necessary to complete the request.

300.16 General Order of Approval

In lieu of filing a Notice of Construction application under NWCAA 300.7, the owner or operator of a qualifying emissions unit may apply for coverage under a General Order of Approval issued under this section.

(A) The NWCAA may issue a General Order of Approval applicable to a specific source type or emissions unit. A General Order of Approval shall identify criteria by which a source or emissions unit may qualify for coverage under the General Order of Approval and shall include terms and conditions under which the owner or operator agrees to install and/or operate the covered source or emissions unit.

(1) These terms and conditions shall include as appropriate:

(a) Emissions limitations and/or control requirements based on Best Available Control Technology (BACT) and/or BACT for Toxic Air Pollutants (T-BACT):

(b) Operational restrictions, such as:

(i) Criteria related to the physical size of the source or emissions unit(s) covered;

(ii) Criteria related to raw materials and fuels used;

(iii) Criteria related to allowed or prohibited locations;

and

(iv) Other similar criteria as determined by the NWCAA;

(c) Monitoring, reporting, and recordkeeping requirements to ensure compliance with the applicable emission limits and/or control requirements;

(d) Initial and periodic emission testing requirements;

(e) Compliance with WAC 173-400-112, NWCAA 300.9(B), and 300.9(C), as applicable;

(f) Compliance with 40 CFR Parts 60, 61, 62, and 63; emission standards adopted under chapter 70.94 RCW; and all applicable NWCAA emission standards; and

(g) The application and approval process to obtain coverage under the specific General Order of Approval.

(2) The original issuance and any revisions to a General Order of Approval must comply with NWCAA Section 305, as applicable.

(3) The NWCAA may review and revise a General Order of Approval at any time. Revisions to General Orders of Approval shall only take effect prospectively.

(B) Application for coverage under a General Order of Approval.

(1) In lieu of applying for an individual Order of Approval under NWCAA 300.7, an owner or operator of a source or emissions unit may apply for and receive coverage from the NWCAA under a General Order of Approval if:

(a) The owner or operator of the source or emissions unit applies for coverage under a General Order of Approval in accordance with NWCAA 300.16 and any conditions of the specific General Order of Approval related to application for and the granting of coverage;

(b) The source or emissions unit meets all the applicability qualifications listed in the requested General Order of Approval;

(c) The requested source or emissions unit is not part of a new major stationary source or major modification subject to the requirements of WAC 173-400-113 (3) and (4), WAC 173-400-700 through 173-400-750, or 173-400-800 through 173-400-860; and

(d) The requested source or emissions unit does not trigger applicability of the Air Operating Permit program under NWCAA Section 322, or trigger a required modification of an existing Air Operating Permit.

(2) Owners or operators of sources or emissions units applying for coverage under a General Order of Approval shall do so using the forms provided by the NWCAA and include the application fee as specified in NWCAA 324.2. The application must include all information necessary to determine qualification for, and to assure compliance with, a General Order of Approval.

(3) An application is incomplete until the NWCAA has received all required fees.

(4) The owner or operator of the proposed source or emissions unit that qualifies for coverage under a General Order of Approval shall not begin actual construction of the proposed source or emissions unit until written confirmation of coverage from the NWCAA has been received in accordance with the procedures established in NWCAA 300.16(C).

(C) Each General Order of Approval shall include a section on how an applicant is to request coverage and how the NWCAA will grant coverage.

(1) Within 30 days after receipt of an application for coverage under a General Order of Approval, the NWCAA shall either provide written confirmation of coverage under the General Order of Approval or notify the applicant in writing that the application is incomplete, inaccurate, or does not qualify for coverage under the General Order of Approval. If an application is incomplete, the NWCAA shall notify the applicant of the information needed to complete the application. If an application does not qualify for coverage under the General Order of Approval, the NWCAA shall notify the applicant of the reasons why the application does not qualify. Coverage under a General Order of Approval is effective as of the date of issuance of the written confirmation of coverage under the General Order.

(2) Failure of an owner or operator to obtain written confirmation of coverage under NWCAA 300.16 prior to beginning actual construction is considered failure to obtain an Order of Approval pursuant to NWCAA 300.1.

(D) An owner or operator who has received confirmation of coverage under a specific General Order of Approval may later request to be excluded from coverage under that General Order of Approval by applying to the NWCAA for an individual Order of Approval under NWCAA 300.7 or for coverage under another General Order of Approval. If the NWCAA issues an individual Order of Approval or confirms coverage under a different General Order of Approval, coverage under the original General Order of Approval is automatically terminated, effective on the effective date of the individual Order of Approval or confirmation of coverage under the new General Order of Approval.

(E) The Control Officer may require that a new source or modification, that would otherwise be covered under a General Order of Approval, submit a Notice of Construction application and be issued an individual Order of Approval under NWCAA 300.7 through 300.13. This discretionary determination shall be based on the nature of air pollution emissions from the source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the owner or operator shall submit to the Control Officer, appropriate information as necessary to make this determination.

300.17 Temporary Sources

(A) This section applies to temporary sources that do not qualify for exemption under NWCAA 300.3 or 300.4.

(B) Temporary sources shall submit a Notice of Construction application and an Order of Approval must be issued by the NWCAA in accordance with NWCAA 300.7 through 300.13 prior to beginning operation within the NWCAA jurisdiction except as provided under NWCAA 300.17(E).

(C) If a temporary source is locating in a nonattainment area within the NWCAA jurisdiction and if the source emits the pollutants or pollutant precursors for which the area is classified as nonattainment, the source must obtain an Order of Approval from the NWCAA regardless of the exemption in NWCAA 300.17(E).

(D) If a temporary source is a major stationary source then it must also comply with WAC 173-400-700 through 173-400-750 as applicable.

(E) Except as provided in 300.17 (C) and (D), temporary sources are allowed to operate within the NWCAA jurisdiction without obtaining an Order of Approval from the NWCAA provided that:

(1) A permitting authority in Washington State issued a Notice of Construction Order of Approval for the temporary source after July 1, 2010 identifying the emissions unit as a "portable" or "temporary" source.

(2) Operation within the NWCAA jurisdiction under this provision is limited to a single 12 consecutive month period commencing with initial startup within the NWCAA jurisdiction. For operation within the NWCAA jurisdiction after this initial 12 consecutive month period, the owner or operator must obtain an Order of Approval from the NWCAA in accordance with NWCAA 300.17(B).

(F) The owner or operator shall notify the NWCAA of the intent to relocate into or within the NWCAA jurisdiction at least 15 calendar days prior to beginning operation at a different location. Notification is not required for relocation within the same major source. The notification shall include a copy of the applicable temporary source Order of Approval and estimated start and end dates at the new location. The owner or operator shall keep a record of the date of initial startup within the NWCAA jurisdiction along with durations and locations of operation.

(G) The first time the owner or operator locates the temporary source within the NWCAA jurisdiction, the initial relocation notice shall include the appropriate annual registered source fee specified in NWCAA 324.1. The owner or operator shall pay an annual registered source fee for each calendar year during which the temporary source operates within the NWCAA jurisdiction.

(H) The owner or operator shall submit the emission inventory required under NWCAA Section 150 to the NWCAA if the temporary source operated in the NWCAA jurisdiction during the preceding calendar year. The data must be sufficient in detail to enable the NWCAA to determine the emissions within its jurisdiction and the yearly aggregate.

(I) To change the conditions in an Order of Approval issued by a permitting authority other than the NWCAA while operating in the NWCAA jurisdiction, the owner or operator must obtain an Order of Approval from the NWCAA in accordance with NWCAA 300.7 through 300.13.

(J) Prior to modifying a temporary source while operating within the NWCAA jurisdiction under a non-NWCAA Order of Approval, the owner or operator must obtain an Order of Approval from the NWCAA in accordance with NWCAA 300.7 through 300.13.

(K) The NWCAA has authority to enforce the conditions of the Order of Approval that authorizes the temporary source operation, regardless of which permitting authority issued the Order of Approval. The owner or operator shall operate the temporary source in compliance with the conditions set forth in the Order of Approval and any other applicable requirements. Any reports required by the Order of Approval shall be submitted to the NWCAA.

(L) Temporary sources relying upon an Order of Approval issued by a permitting authority other than the

NWCAA may be required to obtain an Order of Approval from the NWCAA in accordance with NWCAA 300.17(B) at the discretion of the Control Officer based on the source type, emission quantity, or suitability of the non-NWCAA Order of Approval requirements.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, July 11, 1973, August 9, 1978, October 12, 1989, February 14, 1990, April 14, 1993, November 12, 1998, November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 13, 2015, April 11, 2019

REPEALER

NWCAA Section 301 (Temporary Sources) is being repealed.

AMENDATORY SECTION

SECTION 303 - WORK DONE WITHOUT AN APPROVAL

~~((Where work))~~ When actual construction has begun on a new source or modification for which a ((^u)) Notice of Construction ((and Application for Approval^u)) is required ((is commenced or performed prior to making application and receiving approval)) and a final Order of Approval has not been issued, the Control Officer or designee may conduct an investigation as part of the Notice of Construction application review. In such a case, an investigation fee, in addition to the fees of ((Section)) NWCAA 324.2, ((shall)) may be assessed in an amount ((equal)) up to 3 times the fees of ((Section)) NWCAA 324.2. Payment of the fees does not relieve any person from the requirement to comply with any air regulation nor from any penalties for failure to comply.

~~((Passed:))~~ PASSED: January 8, 1969 AMENDED: February 14, 1973, August 9, 1978, November 12, 1998, April 11, 2019

AMENDATORY SECTION

SECTION 305 - PUBLIC INVOLVEMENT

305.1 Internet Notice

(A) A notice shall be published on the NWCAA website for each Notice of Construction (NOC) application received by the NWCAA ((;)) under NWCAA 300.7 and ((for)) each ((proposed)) revision request to an Order of Approval ((to Construct (OAC) for which there is no associated NOC application)) received under NWCAA 300.12. The internet notice shall remain on the NWCAA website for a minimum of 15 consecutive days and shall include the following information:

- (1) name and location of the affected facility,
- (2) brief description of the proposed action, and
- (3) a statement that a public comment period may be requested within 15 days of the initial date of the internet posting.

(B) Requests for a public comment period ((shall)) must be submitted in writing via letter, fax, or email and received by the NWCAA ((via letter, facsimile, or electronic mail within 15 days of)) during the ((initial date of the)) 15-day internet ((posting)) notice period. A public ((notice and)) comment period shall be provided in accordance with ((this

~~Section;))~~ NWCAA 305.3 for any NOC application or proposed ((OAC)) Order of Approval revision that receives such a request. Any NOC application or proposed ((OAC)) Order of Approval revision for which a public comment period is not requested may be processed without further public involvement at the end of the 15-day request period except as provided in NWCAA 305.2.

305.2 Actions ((Requiring)) Subject to a Mandatory Public ((Notice and)) Comment Period

(A) The NWCAA shall provide public notice and a public comment period in accordance with NWCAA 305.3 ((through 305.8 of this Section)), before approving or denying any of the following types of applications or other actions:

(1) ((Any use)) Use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 ((;)) as referenced in ((effect on July 1, 2005)) NWCAA 104.2 as part of review under NWCAA Section 300 ((of this Regulation)).

(2) ((Any order)) An Order to determine Reasonably Available Control Technology (RACT) pursuant to NWCAA 309.4 (B), (C), (D), or (E). ((;))

(3) ((Any order)) An Order to establish a compliance schedule or a variance. ((;))

(4) ((Any order)) An Order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and ((sixty five)) 65 meters, by means of a fluid model or a field study, for the purposes of establishing an emission limit. ((limitation;))

(5) ((Any order)) An Order to authorize an emissions bubble pursuant to WAC 173-400-120. ((;))

(6) ((Any regulatory order)) A Regulatory Order to establish or debit ((of)) emission reduction credits (ERC) issued under WAC 173-400-136. ((;))

(7) ((Any order)) An Order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit. ((;))

(8) ((Any)) An extension of the deadline to begin actual construction of a ((^u)) major stationary source ((^u)) or ((^u)) major modification ((^u)) in a nonattainment area. ((;))

(9) The original issuance and any revisions to a ((general)) General Order of Approval issued under ((WAC 173-400-560;)) NWCAA 300.16.

(10) ((Any)) An Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest. ((;))

(11) ((Any)) A Notice of Construction application or proposed Order of Approval ((to Construct)) revision that receives a request for a public comment period ((in accordance with)) under NWCAA 305.1 ((of this Section)).

(12) ((Any)) A Notice of Construction application ((or proposed Order of Approval to Construct revision)) that would result in ((a significant)) an emissions increase ((defined)) as follows: ((;))

Air Pollutant	((Potential to Emit)) Emission Rate in Tons per Year
Carbon Monoxide (CO)	100((-#))

Air Pollutant	((Potential to Emit)) Emission Rate in Tons per Year
Volatile Organic Compounds (VOC)	40 ((-0))
Sulfur Dioxide (SO ₂)	40 ((-0))
Nitrogen Oxides (NO _x)	40 ((-0))
Particulate Matter (PM)	25 ((-0))
Fine Particulate Matter (PM ₁₀)	15 ((-0))
Fine Particulate Matter (PM _{2.5})	10
Lead	0.6
Fluorides	3 ((-0))
Sulfuric Acid Mist (H ₂ SO ₄)	7 ((-0))
Hydrogen Sulfide (H ₂ S)	10 ((-0))
Total Reduced Sulfur (including H ₂ S)	10 ((-0))
<u>Reduced Sulfur Compounds (including H₂S)</u>	10

(13) An increase in emissions of a Toxic Air Pollutant with impacts greater than the Acceptable Source Impact Level (ASIL) for that Toxic Air Pollutant as regulated under chapter 173-460 WAC.

(14) A Notice of Construction Order of Approval with a second tier component as regulated under chapter 173-460 WAC.

(B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be processed in accordance with the Air Operating Permit program procedures and deadlines set forth in ~~((WAC))~~ chapter 173-401 WAC.

305.3 Public Comment Period

(A) ~~((If required, a public comment period shall be initiated through publication of a legal notice in a local newspaper.))~~ Public comment period notice for the actions listed under NWCAA 305.2 shall be posted on the NWCAA website for the duration of the public comment period. The NWCAA may supplement this method of notification by advertising in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community. The public comment period shall be initiated only after the NWCAA has made a preliminary determination. ~~((The))~~ In the case of a permit action, the cost of providing ~~((legal notice))~~ all noticing shall be borne by the applicant. ~~((Public notice of any NOC application requiring a public comment period shall include the following:))~~

(B) The public comment period shall extend at least 30 days following the date the public notice is first published. If a public hearing is held, the public comment period shall extend at least through the hearing date and thereafter for such period as specified in the notice of public hearing.

~~((A))~~ (C) The NOC application and any written preliminary determination by the NWCAA shall be available ~~((on the NWCAA's internet))~~ for the duration of the public comment period on the NWCAA website, excluding any confi-

dential information as provided in NWCAA Section 114 ~~((of this Regulation)).~~ In addition, the NOC application and any written determination ~~((shall))~~ may be made available for public inspection in at least one location near the proposed project. The NWCAA's written preliminary determination shall include the conclusions, determinations and pertinent supporting information from the NWCAA's analysis of the effect of the proposed project on air quality.

~~((B) Publication of a legal notice in a newspaper of general circulation in the area of the proposed project which provides each of the following:))~~

~~((+))~~ (D) The public comment period notice shall include:

(1) Date the notice is posted;

~~((+))~~ (2) Name, location, and a brief description of the project;

(3) A description of the air contaminant emissions including the type of pollutants and quantity of emissions that would increase under the proposal;

~~((2))~~ (4) Location of documents made available for public inspection;

~~((3))~~ The deadline for submitting written comments;

(4) A statement that any person, interested governmental agency, group, or the applicant may request a public hearing;

(5) Start date and end date of the public comment period;

~~((5))~~ (6) A statement that a public hearing may be held if the NWCAA determines ~~((within a 30-day period))~~ that significant public interest exists; and

~~((6))~~ The date of the close of the public comment period in the event of a public hearing;

(7) The name, telephone number, and email address of a person at the NWCAA whom interested persons may contact for additional information.

~~((C))~~ (E) The NWCAA shall distribute a copy of the notice for all actions subject to a mandatory public comment period under NWCAA 305.2, except for NWCAA 305.2 (13) and (14). ~~((Notice))~~ to the US Environmental Protection Agency Region 10 Regional Administrator.

~~((305.4 Extent of Comment Period))~~

The public comment period shall be the 30-day period following the date the public notice is first published, unless a public hearing is held. If a public hearing is held, the public comment period shall extend through the hearing date and thereafter for such period, as specified in the notice of public hearing.

305.5 Public Hearings

(A) Any person, interested governmental entity, group or the applicant, may request a public hearing ~~((within))~~ during the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The NWCAA may, in its discretion, hold a public hearing if it determines that significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the NWCAA deems reasonable. ~~((The NWCAA shall provide at least 30 days prior notice of any hearing.))~~

(B) At least 30 days prior to the hearing, the NWCAA shall provide notice of the hearing as follows:

(1) Post the public hearing notice on the NWCAA website as directed by NWCAA 305.3(A). The NWCAA may supplement the web posting by advertising in a newspaper of general circulation in the area of the proposed source or action, or by other methods appropriate to notify the local community. In the case of a permit action, the cost of providing all noticing shall be borne by the applicant.

(2) The hearing legal notice shall include the date, time, and location of the hearing along with the information in NWCAA 305.3(D).

(3) Distribute via email or written letter the notice of public hearing to any person who submitted written comments on the application or requested a public hearing and, in the case of a permit action, to the applicant.

(C) The public hearing notice requirements may be addressed as part of the public comment period notice requirements under NWCAA 305.3.

305.6 Consideration of Public Comments

~~((The))~~ The NWCAA shall not issue a final decision ((on any NOC application or OAC revision shall be made)) until ((the)) the public comment ((periods have)) period has ended and any comments received during the public comment period have been considered.

305.7 ~~((Other Requirements of Law~~

~~Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section (e.g., SEPA). This subsection does not apply to an application for a "major modification" or an application from a "major stationary source".)~~

~~((305.8))~~ Public Information

~~All information ((provided to the public in accordance with this Section)), except information protected from disclosure under any applicable law((s)) including, but not limited to, NWCAA Section 114 and RCW 70.94.205, ((shall be)) is available for public inspection at the NWCAA. This includes copies of Notice((s)) of Construction applications, ((orders)) Orders, and ((modifications)) applications to modify Orders.~~

PASSED: July 14, 2005 AMENDED: November 8, 2007, June 9, 2011, November 17, 2011, April 11, 2019

AMENDATORY SECTION

SECTION 320 - REGISTRATION PROGRAM

~~((320.1 Program Authority, Applicability and Purpose. As authorized by RCW 70.94.151, the Board, by this Regulation, classifies air contaminant sources which may cause or contribute to air pollution. This classification is made according to levels and types of emissions and other characteristics that cause or contribute to air pollution. The Board requires both registration and reporting for these classes of air contaminant sources. The classifications are made for the entire area of jurisdiction of the NWCAA and are made with special reference to effects on health, economic and social factors, and physical effects on property. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.~~

~~320.2 Registration and Reporting. Any person operating or responsible for the operation of an air contaminant source for which registration and reporting are required, shall register the source with the NWCAA. The owner or operator shall make reports to the NWCAA containing information as may be required by the NWCAA concerning location, size, and height of contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.~~

~~320.3 Annual Registration Fees. An annual registration fee shall be paid by all registered sources. The Board has determined the fee for each class of air contaminant source to be as shown in Section 324.1. The amount of fees collected shall not exceed the costs of administering this registration program, which shall be defined as:~~

- ~~a) initial registration and annual or other periodic reports from the source owner or operator providing the information directly related to air pollution registration;~~
- ~~b) on-site inspections necessary to verify compliance with registration requirements;~~
- ~~c) data storage and retrieval systems necessary for support of the registration program;~~
- ~~d) emission inventory reports and emission reduction credits computed from information provided by sources pursuant to the requirements of the registration program;~~
- ~~e) staff review, including engineering analysis for accuracy and completeness, of information provided by sources pursuant to the requirements of the registration program;~~
- ~~f) clerical and other office support provided in direct furtherance of the registration program; and~~
- ~~g) administrative support provided in directly carrying out the registration program.~~

~~320.4 Any registered source which does not pay the annual registration fee by the end of the registration period shall be considered a new source and shall submit a "Notice of Construction and Application for Approval" and receive approval from the Board prior to resumption of operation or re-entry into the jurisdiction of the NWCAA.~~

~~320.5 Registration Required~~

~~320.5.1 Source classification list. The following source categories shall register with the NWCAA:~~

- ~~a) abrasive blasting operations;~~
- ~~b) aerosol can-filling facilities;~~
- ~~c) agricultural chemical facilities engaged in the manufacturing of liquid or dry fertilizers or pesticides;~~
- ~~d) agricultural drying and dehydrating operations;~~
- ~~e) alumina processing;~~
- ~~f) ammonium sulfate manufacturing plants;~~
- ~~g) any source category subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart S (Primary Aluminum Reduction Plants), Subpart BB (Kraft Pulp Mills), or Subpart AAA (Standards of Performance for New Residential Wood Heaters);~~
- ~~h) any source category subject to a federal standard under Section 112 of the Federal Clean Air Act (FCAA) other than 40 CFR Part 61 Subpart M;~~
- ~~i) any source that has elected to opt-out of the operating permit program by limiting its potential to emit (synthetic minor) or is required to report periodically to demonstrate~~

nonapplicability to EPA requirements under Sections 111 or 112 of the FCAA;

j) any source that has equipment or control equipment, with an approved Notice of Construction from the NWCAA;

k) any source, stationary source or emission unit with significant emissions;

l) any source or emission unit from which emissions exceed the threshold levels for toxic air pollutants as specified in Chapter 173-401-531 WAC;

m) asphalt and asphalt products production facilities, not including asphalt laying equipment;

n) automobile and light-duty truck surface coating operations;

o) baker's yeast manufacturing;

p) brick and clay manufacturing plants, including tiles and ceramics;

q) casting facilities and foundries, ferrous and nonferrous;

r) cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growth season;

s) chemical manufacturing plants;

t) coal preparation plants;

u) coffee roasting facilities;

v) composting operations, including commercial, industrial and municipal, but exempting residential and agricultural composting activities;

w) concrete product manufacturers and ready mix and premix concrete plants;

x) crematoria or animal carcass incinerators;

y) dry cleaning plants;

z) ethylene dichloride, polyvinyl chloride, or vinyl chloride plants;

aa) explosives production;

bb) flexible polyurethane foam production;

cc) flexible vinyl and urethane coating and printing operations;

dd) gasoline stations (>200,000 gallons per year) and bulk gasoline plants (>200,000 gallons per year);

ee) gecoat, polyester, resin, or vinyl ester coating manufacturing operations at commercial or industrial facilities;

ff) glass manufacturing plants;

gg) grain, seed, animal feed, legume, and flour processing operations and handling facilities;

hh) graphic art systems;

ii) hay cubers and pelletizers;

jj) hazardous waste treatment and disposal facilities;

kk) hospitals, specialty and general medical surgical;

ll) ink manufacturers;

mm) insulation fiber manufacturers;

nn) lead-acid battery manufacturing plants;

oo) lime manufacturing plants;

pp) materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;

qq) meat packing plants;

rr) metal plating and anodizing operations;

ss) metallic and nonmetallic mineral processing plants, including rock crushing plants, and sand and gravel operations;

tt) mills: such as lumber, plywood, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;

uu) mills: wood products (cabinet works, casket works, furniture, wood byproducts);

vv) mineral wool production;

ww) mineralogical processing plants;

xx) municipal waste combustors;

yy) natural gas transmission and distribution (SIC 4953);

zz) nitric acid plants;

bbb) other metallurgical processing plants;

ccc) paper manufacturers;

ddd) petroleum refineries;

eee) pharmaceuticals production;

fff) plastics and fiberglass product fabrication facilities;

ggg) pneumatic materials conveying operations and industrial housekeeping vacuuming systems that exhaust more than 1000 acfm to the atmosphere;

hhh) portland cement plants;

iii) primary copper smelters, lead smelters, magnesium refining and zinc smelters, but excluding primary aluminum plants;

jjj) refuse systems including: incinerators, dumps and landfills (active and inactive, including covers, gas collection systems or flares);

kkk) rendering plants;

lll) salvage operations (scrap metal, junk);

mmm) semiconductor manufacturing;

nnn) shipbuilding and ship repair (surface coating);

ooo) soil and groundwater remediation projects;

ppp) soil vapor extraction (active), thermal soil desorption, or groundwater air stripping remediation projects;

qqq) sulfuric acid plants;

rrr) surface coating manufacturers;

sss) surface coating operations including: metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates, excluding surface coating by use of aqueous solution or suspension;

ttt) synthetic fiber production facilities;

uuu) tire recapping facilities;

vvv) utilities (combination of electrical and gas, and other utility services (SIC 4931, 4932, 4939);

www) vegetable oil production;

xxx) wastewater treatment plants;

yyy) wood treatment; and

zzz) any source, including any listed above, that has been determined through review by the Control Officer to warrant registration, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

320.5.2 Equipment classification list. The owner or operator of the following equipment shall register with the NWCAA:

a) all natural gas only fired boilers above 10 million Btu per hour input;

b) chemical concentration evaporators;

e) ~~degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;~~

d) ~~flares utilized to combust any gaseous material;~~

e) ~~fuel burning equipment with a heat input of more than one million Btu per hour, except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;~~

f) ~~ovens, burn-out or heat treat;~~

g) ~~stationary internal combustion engines and turbines rated at five hundred horsepower or more;~~

h) ~~storage tanks, reservoirs, or containers:~~

1) ~~with a rated capacity greater than 6,000 gallons storing volatile organic liquids, other than petroleum liquids, having a true vapor pressure equal to or greater than 1.5 psia.~~

2) ~~With a rated capacity greater than 40,000 gallons storing petroleum liquids having a true vapor pressure equal to or greater than 1.5 psia.~~

i) ~~vapor collection systems within commercial or industrial facilities;~~

j) ~~waste oil burners above 0.5 million Btu heat output; and~~

k) ~~woodwaste incinerators;))~~

320.1 Program Authority, Applicability and Purpose. As authorized by RCW 70.94.151, the Board, by the NWCAA Regulation, requires registration and reporting for specified classes of stationary air contaminant sources (including temporary sources) which may cause or contribute to air pollution. This classification is made according to levels and types of emissions and other characteristics that cause or contribute to air pollution with special reference to effects on health, economic and social factors, and physical effects on property. The purpose of the registration program is to develop and maintain a current and accurate record of stationary air contaminant sources (including temporary sources) within the NWCAA jurisdiction. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

320.2 Registration and Reporting. The owner or operator of a stationary air contaminant source (including temporary sources) for which registration and reporting are required, shall register the source with the NWCAA. The owner or operator shall make reports to the NWCAA containing information as may be required by the NWCAA concerning location, size, and height of air contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

320.3 Annual Registration Fees. Registered sources shall pay an annual registration fee. The Board has determined the fee for registered sources as specified in Section 324.1. The amount of fees collected shall not exceed the costs of implementing this registration program. Implementing the registration program includes, but is not limited to:

(A) Review of registered source emission reports and other periodic reports and conducting related compilation and reporting activities;

(B) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a registered source is complying with permit, Order, or regulatory requirements, as applicable, including determination of registration applicability;

(C) The share attributable to registered sources of the development and maintenance of emissions inventories;

(D) The share attributable to registered sources for data storage and retrieval systems necessary for support of the registration program;

(E) Registered source fee determinations, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(F) The share attributable to registered sources for administration of the program including costs of clerical support, supervision, and management; tracking of time, revenues and expenditures; accounting activities; required fiscal audits and reporting activities; enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement.

320.4 Any registered source that does not pay the applicable annual registration fee by the deadline shall be considered a new source and shall submit a Notice of Construction application and receive an Order of Approval prior to resumption of operation.

320.5 Registration Required

(A) Source categories. Except as provided in NWCAA Section 321, the owner or operator of a source that falls into at least one of the following source categories shall register with the NWCAA:

Any source subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61 other than Subpart M (National Emission Standard for Asbestos).

Any source subject to 40 CFR Part 62.

Any affected source subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories (NESHAP) under 40 CFR Part 63.

Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability of EPA requirements under 40 CFR Part 63.

Any source that is subject to an Order of Approval or has been confirmed to be covered by a General Order of Approval by the NWCAA.

Any source with a facility-wide uncontrolled potential to emit emission rate of one or more pollutants equal to or greater than the registered source exemption emission rates as specified in WAC 173-400-102(5) or the Small Quantity Emission Rates (SQER) for Toxic Air Pollutants as specified in chapter 173-460 WAC.

(B) Source types. Except as provided in NWCAA Section 321, the owner or operator of a source that falls into at least one of the following source types shall register with the NWCAA:

Abrasive blasting operations.

Agricultural chemical facilities engaged in the manufacturing of liquid or dry fertilizers or pesticides including, but not limited to, ammonium sulfate.

Agricultural drying and dehydrating operations.

Asphalt and asphalt products production facilities, not including asphalt laying equipment.

Casting facilities and foundries, ferrous and nonferrous.

Coffee roasting facilities.

Commercial smoke houses.

Composite fabrication and repair facilities including fiberglass boat building and repair, and miscellaneous parts fabrication.

Composting operations (commercial, industrial, and municipal).

Concrete product manufacturers and ready mix and pre-mix concrete plants.

Flexible vinyl and urethane coating and printing operations.

Gasoline dispensing facilities and bulk gasoline plants.

Glass manufacturing plants.

Grain, seed, animal feed, legume, and flour processing operations and handling facilities.

Graphic art systems including, but not limited to, lithographic and screen printing operations.

Material handling and transfer facilities that emit fine particulate to the atmosphere, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems.

Metal plating and anodizing operations.

Metallic and nonmetallic mineral processing plants, including rock crushing plants and sand and gravel operations.

Perchloroethylene dry cleaners.

Soil and groundwater remediation projects including soil vapor extraction (active), thermal soil desorption, or groundwater air stripping operations.

Surface coating operations, including coating of motor vehicles, mobile equipment, boats, ships, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates.

Wastewater treatment plants.

Welding and metal cutting operations.

Wood products mills, including lumber, plywood, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, cabinet works, casket works, furniture, wood byproducts, or any combination thereof.

(C) Equipment classification list. Except as provided in NWCAA Section 321, the owner or operator of the following equipment shall register with the NWCAA:

Any affected source subject to a New Source Performance Standard (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters).

Chemical concentration evaporators.

Crematoria or animal carcass incinerators.

Degreasers of the cold or vapor type where the solvent for which contains more than 5 percent halogenated compounds or Toxic Air Pollutants.

Ethylene oxide (ETO) sterilizers.

Fuel burning equipment (except natural gas only) with a heat input of more than 1 million Btu per hour, except comfort heating, air conditioning systems, or ventilation systems

not designed to remove contaminants generated by or released from equipment.

Fuel burning equipment that fires only natural gas with a heat input of more than 10 million Btu per hour.

Gas collection systems with flares or other combustion devices.

Gas or odor control equipment having a rated capacity greater than or equal to 200 cfm including, but not limited to:

- (1) Activated carbon adsorption
- (2) Barometric condenser
- (3) Biofilter
- (4) Catalytic oxidizer
- (5) Chemical oxidation
- (6) Dry sorbent injection
- (7) Non-selective catalytic reduction (NSCR)
- (8) Refrigerated condenser
- (9) Selective catalytic reduction (SCR)
- (10) Selective non-catalytic reduction (SNCR)
- (11) Wet scrubber

Incinerators:

Ovens, burn-out or heat-treat.

Particulate control equipment having a rated capacity greater than or equal to 2,000 cfm including, but not limited to:

- (1) Baghouse
- (2) Cyclone
- (3) Demister
- (4) Electrostatic precipitator (ESP), dry or wet
- (5) High efficiency particulate air (HEPA) filter
- (6) High velocity air filter
- (7) Mat or panel filter
- (8) Mist eliminator
- (9) Multiclones
- (10) Rotoclone
- (11) Screen
- (12) Venturi scrubber
- (13) Water curtain

Stationary internal combustion engines and turbines rated at 500 horsepower or more.

Storage tanks, reservoirs, or containers with:

(1) a rated capacity greater than 6,000 gallons storing volatile organic liquids, other than petroleum liquids, having a true vapor pressure equal to or greater than 1.5 psia or

(2) a rated capacity greater than 40,000 gallons storing petroleum liquids having a true vapor pressure equal to or greater than 1.5 psia.

Waste oil burners rated at greater than 0.5 million Btu per hour.

(D) The Control Officer may require that any source or equipment, that would otherwise be exempt, be registered as specified in this section. This discretionary determination will be based on the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

PASSED: ((November 12, 1998)) January 8, 1969
AMENDED: February 14, 1973, August 9, 1978, February 8, 1996, November 12, 1998, November 12, 1999, July 14, 2005, June 9, 2011, April 11, 2019

AMENDATORY SECTION

SECTION 321 - EXEMPTIONS FROM REGISTRATION

321.1 Exclusion or exemption from registration does not absolve the owner((, lessee,)) or ((his registered agent)) operator from complying with all other requirements of the NWCAA Regulation ((of the NWCAA. Exemption from registration does not apply to any control facility or device required to be installed in order to meet the emission and/or ambient standards of this Regulation)).

321.2 The following stationary sources of air ((pollution)) contaminants are exempt from registration:

~~((321.1 Motor vehicles.~~

321.2 Non road engines (as defined in Section 216 of the FCAA).

321.3 Non road vehicles (as defined in Section 216 of the FCAA.)

((321.4)) Sources that require an ((air operating permit per Chapter 173-401 WAC)) Air Operating Permit pursuant to NWCAA Section 322.

Residential and agricultural composting activities.

321.((5))3 The Control Officer may exempt ((sources having)) any source or equipment, including any listed in NWCAA Section 320, from registration. This discretionary determination will be based on the amount and nature of air contaminants produced, or the potential to ((emit (uncontrolled) criteria air pollutants)) contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

~~((a) 5 tons per year of carbon monoxide (CO);~~

~~b) 2 tons per year of nitrogen oxides (NO_x);~~

~~c) 2 tons per year of sulfur dioxide (SO₂);~~

~~d) 1.25 tons per year of particulate matter (PM);~~

~~e) 0.75 tons per year of fine particulate matter (PM₁₀);~~

~~f) 2 tons per year of volatile organic compounds (VOC's);~~

~~g) 0.005 tons per year of lead.~~

321.6 The Control Officer may exempt sources that do not emit measurable amounts of Class A or Class B toxic air pollutants specified in Chapter 173-460-150 WAC and Chapter 173-460-160 WAC.)

321.4 An exemption from new source review under NWCAA Section 300 is not explicitly an exemption from registration under NWCAA Section 320.

PASSED: ~~((November 12, 1998))~~ January 8, 1969
 AMENDED: February 14, 1973, August 8, 1978, March 13, 1997, November 12, 1998, June 9, 2011, November 17, 2011, April 11, 2019

AMENDATORY SECTION

SECTION 400 - AMBIENT AIR QUALITY STANDARDS - FORWARD

400.1 In the interest of the people within the jurisdiction of the NWCAA, it is the objective of the NWCAA to obtain and maintain the cleanest air possible, consistent with the highest and best practicable control technology.

400.2 In the areas where existing concentrations of air contaminants are below the ~~((lower than))~~ concentrations allowed by the standards enumerated in chapter 173-476 WAC as referenced in NWCAA 104.1 ~~((below))~~, degradation

of the atmosphere should be minimized. The highest and best practicable control technology should be applied to all sources unless it is specifically determined that lesser technology is justified. Ambient air standards are set at levels which, according to latest knowledge, will not cause damage to health, plants or animals or degrade materials.

PASSED: February 14, 1973 AMENDED: April 11, 2019

REPEALER

The following sections are being repealed:

SECTION 401 - SUSPENDED PARTICULATE STANDARDS (PM₁₀)

SECTION 402 - PARTICULATE FALLOUT STANDARDS

SECTION 403 - PARTICULATE STANDARDS (PM_{2.5})

SECTION 410 - SULFUR OXIDE STANDARDS

SECTION 420 - CARBON MONOXIDE STANDARDS

SECTION 422 - NITROGEN OXIDE STANDARDS

SECTION 424 - OZONE STANDARD

SECTION 426 - HYDROCARBONS

SECTION 428 - HAZARDOUS AIR POLLUTANTS

AMENDATORY SECTION

SECTION 460 - AMBIENT MONITORING OF SULFUR DIOXIDE ((WEIGHT/HEAT RATE STANDARD EMISSION OF SULFUR COMPOUNDS))

~~((All sources with an aggregate heat input capacity greater than five hundred million Btu per hour (500 MMBtu/hr) are subject to the following:))~~

460.1 NWCAA Section 460 shall apply to all petroleum refineries. ((Emission of sulfur compounds, calculated as a calendar month average of sulfur dioxide, shall not exceed one and one-half pounds per million Btu of heat input per hour (1.5 lbs SO₂/MMBtu, calendar month average of hourly values).))

460.2 Owners or operators of subject sources shall install, calibrate, maintain, and operate monitoring equipment as follows: ((Sources subject to Section 460 shall submit an ambient monitoring proposal and monitoring schedule for sulfur dioxide within one hundred and eighty (180) days of start-up. Each proposal shall include:))

~~((460.21))~~ (A) At least one continuous recording meteorological station equipped to record wind speed and direction ((and located and operated as in accordance with Appendix A of this Regulation)).

~~((460.22))~~ (B) At least one sulfur dioxide ambient station. ((The sulfur content and quantity of all materials, gaseous or liquid, fed to any boilers, furnaces, heaters, flares or any other facility capable of generating heat, resulting in emissions to the atmosphere. The sulfur content shall be expressed in percent by weight of sulfur in each fuel type and shall contain an explanation of how each was determined.

460.23 The method for monitoring the sulfur content and quantity of fuel burned at each emission unit capable of emitting sulfur to the atmosphere in quantities in excess of one hundred (100) pounds/day of sulfur compounds calculated as

~~sulfur dioxide. All emission units capable of emitting less than one hundred (100) pounds/day of sulfur compounds, calculated as sulfur dioxide may be monitored collectively as a single emission.)~~

~~460.3((24)) The monitoring equipment required to be installed under NWCAA 460.2 ((proposal)) shall comply with the provisions of NWCAA Section 367 ((and Appendix A of this Regulation.))~~

~~((460.3 The total emissions of all sources located in that portion of Sections 2, 3, 4, 5, 9, Township 34 North and Sections 21, 27, 28, 29, 32, 33, 34, 35, in Township 35 North, Range 2 East, Willamette Meridian, all in Skagit County Washington, and commonly known as March Point heavy industrial area, shall not exceed seven thousand (7,000) pounds/hour of sulfur compounds, calculated as sulfur dioxide.~~

~~When the Control Officer reasonably believes that there exists a substantial likelihood that this total is likely to be exceeded, he or she shall establish additional temporary restrictions on any or all sources of sulfur compounds in said area to maintain a total emission of less than seven thousand (7,000) pounds/hour. The restrictions shall remain in force only so long as the total emission will exceed 7,000 pounds/hour.)~~

PASSED: November 11, 1971 AMENDED: February 14, 1973, January 9, 1974, August 9, 1978, February 8, 1996, July 14, 2005, April 11, 2019

WSR 19-11-007

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed May 2, 2019, 1:54 p.m., effective June 1, 2019]

Effective Date of Rule: June 1, 2019.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: This rule making is a result of the passage of SSB 6437 (2018), effective May 1, 2019.

Purpose: Chapter 308-61 WAC, Unauthorized and abandoned vehicles, this adopted language establishes guidelines and procedures under chapter 308-61 WAC to guide the proper administration and disbursement of funds from the abandoned recreational vehicle program.

Citation of Rules Affected by this Order: Amending chapter 308-61 WAC.

Statutory Authority for Adoption: RCW 46.55.190, 46.53.010.

Adopted under notice filed as WSR 19-08-080 on April 2, 2019.

Changes Other than Editing from Proposed to Adopted Version: The changes in this adopted version from the proposed version are from feedback that we received from the industry partners, we determined that we should adjust the reimbursement amounts and language in the proposed rule to allow for maximum coverage from the available program funds. Additionally, we made a technical correction after receiving feedback from one of our agency partners.

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 5, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 5, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 2, 2019.

Damon Monroe
Rules Coordinator

NEW SECTION

WAC 308-61-195 Abandoned recreational vehicle—Criteria and required information. (1) **What costs will be reimbursed?** Vehicles will be reimbursed for qualified towing, transporting, storing, dismantling, and disposal costs commencing May 1, 2019, and after. Activities prior to May 1, 2019, are not reimbursable.

(2) **What are the criteria for an abandoned recreational vehicle to be eligible for reimbursement?** The vehicle must:

- (a) Be impounded from public property;
- (b) Be abandoned pursuant to chapter 46.55 RCW;
- (c) Have the last known registered owner be unknown after a reasonable effort compliant with RCW 46.55.100;
- (d) Have received no bids at auction; or
- (e) Be declared an abandoned junk vehicle by a law enforcement officer.

(3) **What vehicle information must be provided to the department upon request for reimbursement?** All required information, if known, as listed on the department-approved form, to include at a minimum:

- (a) Vehicle identification number (VIN);
- (b) Model year;
- (c) Make;
- (d) Model;
- (e) Body style;
- (f) Length;
- (g) Vehicle type;
- (h) Plate number; and
- (i) Plate state.

NEW SECTION

WAC 308-61-197 Abandoned recreational vehicle—Application and review. (1) **What is the application process?**

(a) All vehicles must first be handled through the abandoned vehicle process with an abandoned vehicle report (AVR) submitted to the department, or through the junk vehicle affidavit process.

(b) The requestor asking for reimbursement must be one of the following businesses and be licensed at time of the activity in which requesting reimbursement:

(i) A registered tow truck operator (RTTO), as defined by RCW 46.55.010(7);

(ii) A vehicle wrecker, as defined by RCW 46.80.010(5);

(iii) A scrap processor, as defined by RCW 46.79.010(2);

(iv) A scrap metal business, as defined by RCW 19.290.010(10).

(c) Each business must complete their process before making application for reimbursement for that vehicle:

(i) An RTTO's process is considered complete when the vehicle is moved to a licensed vehicle wrecker or scrap processor for disposal. A written record of delivery to a licensed dismantler or authorized disposal site will also be required with the abandoned recreational vehicle application. A copy of that report shall be maintained in the RTTO's vehicle transaction file.

(ii) A vehicle wrecker, scrap processor, or scrap metal business's process is considered complete when the vehicle has been dismantled and/or destroyed in a way that no major component remains useable as the original vehicle. It shall be included on the wrecker monthly report as a destroyed vehicle and a certificate of fact (available on the department's web site) stating that the vehicle has been properly and completely destroyed in such manner as to not be usable as a vehicle, again.

(d) A request must be submitted on a form prescribed by the department and include a copy of the original AVR, junk title affidavit or title or wrecker/salvage processor monthly report and complete supporting documentation including written record of transport to a licensed dismantler or disposal site and all receipts verifying all costs requested for reimbursement.

(e) The RTTO, vehicle wrecker, scrap processor, or scrap metal business must submit their request for reimbursement by the end of the subsequent month following the activity.

(2) What is the review process?

(a) All requests will be reviewed and processed in the order received.

(b) The application and all required supporting documentation will be reviewed for the vehicle's eligibility and completeness.

(c) Once all qualifying criteria are met, a notation will be made on the record for that vehicle or a new record will be created for the vehicle.

(d) All vehicles reviewed will be grouped by each individual business submitting the request and in the order received in order to process one monthly payment.

(e) A vehicle summary and totals will be calculated and a disbursement will be ordered by the fifth business day of the following month.

(f) Incomplete applications will be returned to the business and will be eligible for reconsideration based on the new date of submission.

(3) Can I appeal an application that has been denied reimbursement?

(a) Yes. If an abandoned recreational vehicle has been denied for reimbursement by the department, the business shall be notified by the department in writing what information is required to complete the application for reimbursement or the reasons why the vehicle failed to meet the required criteria. The vehicle may be resubmitted with any required information for additional review.

(b) If the appeal has been reviewed and the vehicle is found to meet all requirements for reimbursement, the vehicle will be processed in the current month and order the appeal was received. Disbursements will be made by the fifth business day of the following month.

NEW SECTION

WAC 308-61-203 Abandoned recreational vehicle—Reimbursements. (1) When will the reimbursement happen? The abandoned RV program manager will process all reimbursement by the fifth business day of the month following the month that the reimbursement was received on vehicles that have met all criteria for eligibility.

(2) How/when will I get notified of the reimbursement?

(a) No confirmation of receipt for an application for reimbursement will be sent on any vehicle.

(b) If a qualified business is receiving a reimbursement for any vehicles that have been submitted, the business will receive one payment for the total of any qualified disbursements processed during the prior month along with a letter of confirmation for the vehicles included in that reimbursement.

(c) If a vehicle is not eligible for reimbursement, the department shall notify the business of the determination in writing.

(3) What if funds for reimbursements are unavailable? The reimbursements are dependent upon sufficient funding within the abandoned recreational vehicle account. If sufficient funds are not currently available when an otherwise eligible request is received, the department will hold the request in the order it was received. The department shall notify the requestor in writing that the request is being held. When funding within the abandoned recreational vehicle account is sufficient for disbursement the department will process requests being held for that business in the order they were received.

NEW SECTION

WAC 308-61-207 Abandoned recreational vehicle—Turning over collections to the department. What if funds are received through collection efforts after receiving reimbursement from the department? Any funds received by the registered tow truck operator, wrecker, vehicle scrap, or scrap metal business as a result of collection activities shall be turned over to the department for any vehicles the business received reimbursements for.

NEW SECTION

**WAC 308-61-215 Abandoned recreational vehicle—
Rates and caps. At what rate will reimbursements be for?**

(1) The costs will be reimbursed at a standardized scheduled rate:

Item	Standard Rate	Cap
Towing and Transport (Increment Per Hour - Maximum Three Hours Total for Identified Class)		
Class A Tow Vehicle (including - D and E)	\$105.00/hr.	\$315.00
Class B Tow Vehicle	\$120.00/hr.	\$360.00
Class C Tow Vehicle (including - B2 and S1)	\$175.00/hr.	\$525.00
Storage (Increment Per Day - Maximum 10 Days Total)		
Standard Storage	\$35.00/day	\$350.00
Dismantling and Disposal (Increment Per Foot - Maximum per Identified Vehicle Category)		
Motor Homes (Up to 35')	\$70.00/ft.	\$2,450.00
Travel Trailers (Up to 25')	\$70.00/ft.	\$1,750.00
Campers (Up to 15')	\$70.00/ft.	\$1,050.00

(2) Standard rates apply to:

(a) Hourly increment of towing and transport by tow vehicle class (i.e., a class 'B' tow vehicle used for two hours is two hundred forty dollars; a class 'C' tow vehicle used for four hours is capped at five hundred twenty dollars).

(b) Days of storage incurred (i.e., a vehicle stored for eight days is two hundred eighty dollars; a vehicle stored for twenty-five days is capped at three hundred fifty dollars).

(c) Classification of abandoned recreational vehicle dismantled and disposed up to the cap for that item (i.e., dismantling and disposal of a twenty-seven foot motor home is one thousand eight hundred ninety dollars; dismantling and disposal of a thirty foot travel trailer is capped at one thousand seven hundred fifty dollars).

(d) Total length of the recreational vehicle shall be determined by measuring the vehicle type as follows:

(i) Motor homes: Measured in feet of total length from the front bumper to the rear bumper, excluding attached storage boxes or trailer or tow hitches.

(ii) Travel trailers: Measured in feet of total length from the front of the box to the rear bumper, excluding the front trailer tongue, attached storage boxes or any additional trailer or tow hitches from rear bumper. Fifth-wheel trailers may include the front-cap.

(iii) Campers: Measured in feet of total length from the front of the cab-over box to the rear of the box, excluding any attached storage boxes or other accessories.

**WSR 19-11-012
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket TP-180402, General Order R-596—Filed May 3, 2019, 10:22 a.m., effective June 3, 2019]

In the matter of amending chapter 480-07 WAC and adopting chapter 480-160 WAC, relating to marine pilotage rate-setting authority.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 19-07-077, filed with the code reviser on March 20, 2019. The commission has authority to take this action pursuant to RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900.

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

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

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

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order, including appendices, as its concise explanatory statement. This order provides a complete but concise explanation of the agency's actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order amends and adopts the following sections of the Washington Administrative Code: Amending WAC 480-07-140 General requirements for submitting documents to the commission, 480-07-500 General rate proceedings—Statement of policy, 480-07-505 General rate proceedings—Definition—Tariff suspension, 480-07-540 General rate proceedings—Burden of proof and 480-07-700 Alternative dispute resolution; and adopting WAC 480-07-525 General rate proceedings—Marine pilotage services in Puget Sound, 480-160-001 Purpose of chapter, 480-160-005 Application, 480-160-010 Resolving disputes about the meaning of these rules, 480-160-020 Definitions, 480-160-030 Change of address, telephone number, or email, 480-160-040 Exemptions from rules in chapter 480-160 WAC, 480-160-050 Records retention, 480-160-060 Reporting requirements, 480-160-070 Commission compliance policy, 480-160-080 Fees, 480-160-090 Pilots must charge only approved rates, 480-160-100 Tariffs and rates—General, 480-160-110 Tariffs—Changes must be identified, 480-160-120 Changing commission-published tariff—Puget Sound pilotage district, 480-160-130 Changing commission-published tariffs—Grays Harbor pilotage dis-

tract, 480-160-140 Tariffs—Approval, 480-160-150 Tariffs—Suspension by the commission, and 480-160-160 Complaints—Rates and charges.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on August 8, 2018, at WSR 18-17-051. The statement advised interested persons that the commission was considering entering a rule making to implement SSB 6519, chapter 107, Laws of 2018, enacted during the 2018 legislative session and effective on July 1, 2019. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by providing notice to the commission's list of transportation attorneys and known stakeholders involved in marine pilotage rate-setting. Pursuant to the notice, the commission received comments on the subject of the proposed rule making on September 14 and October 3, 2018, from Pacific Merchant Shipping Association (PMSA), Holland America Group, and Puget Sound Pilots (PSP).

8 MEETINGS OR WORKSHOPS; ORAL COMMENTS: The commission held a workshop to discuss draft rules on October 19, 2019.

9 ADDITIONAL COMMENTS: The commission circulated revised draft rules following the workshop and received additional written comments from PSP and PMSA on January 31 and February 1, 2019, respectively.

10 SMALL BUSINESS ECONOMIC IMPACT ANALYSIS: The rules the commission proposes to adopt establish a process for setting rates, terms, and conditions for pilotage services that is comparable to the general rate-making process the commission has long used for utilities and other transportation companies the commission regulates. On January 18, 2019, the commission mailed a notice to all stakeholders interested in the rule making, providing a copy of the draft rules and an opportunity to respond to a small business economic impact statement (SBEIS) questionnaire. The notice requested that entities affected by the proposed rules provide information about possible cost impacts of the rules with specific information for each rule that the entity identified as causing an impact. The commission did not receive any information in response to the questionnaire.

11 Based on the information available to the commission, the proposed rules merely implement the statute and extend existing commission procedures to marine pilotage services as required by the legislature. The draft rules will impose no costs beyond those already imposed by statute or that apply to the other industries the commission regulates. Accordingly, because the proposed rules will not impose more-than-minor costs on marine pilots or shippers, the commission concludes that no SBEIS is required.

12 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on March 20, 2019, at WSR 19-07-077. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 19-07-077 at 9:30 a.m., Wednesday, April 24, 2019, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested

persons the opportunity to submit written comments to the commission.

13 WRITTEN COMMENTS: PMSA filed comments in response to the CR-102 on April 19, 2019. A summary of these comments and the commission's responses are contained in Appendix A, shown below, and made part of, this order.

14 RULE-MAKING HEARING: The commission considered the proposed rules for adoption at a rule-making hearing on Wednesday, April 24, 2019, before Chairman David W. Danner, Commissioner Ann E. Rendahl, and Commissioner Jay M. Balasbas. The commission heard oral comments from Jason Lewis, representing commission staff (staff), and representatives of PSP and PMSA, all in support of the proposed rules.

15 SUGGESTIONS FOR CHANGE THAT ARE REJECTED/ACCEPTED: Written comments were supportive of the proposed rules but suggested a few clarifying revisions. The suggested changes and the commission's reason for rejecting or accepting them are included in Appendix A. In addition, the commission has made a few nonsubstantive revisions to the proposed rules to enhance clarity and correct typographical or grammatical errors.

16 The commission appreciates staff's work to develop proposed rules and coordinate with stakeholders to implement the statute expeditiously. The commission gratefully acknowledges the assistance of the board of pilotage commissioners and the cooperation and comments of PMSA and PSP, all of which facilitated the rule-making process and were instrumental in enabling the commission to promulgate the rules we adopt today. We look forward to working with these entities in the future.

17 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102 at WSR 19-07-077 with the changes described below.

18 CHANGES FROM PROPOSAL: The commission adopts the proposal with the following changes from the text noticed at WSR 19-07-07 [19-07-077]:

1. WAC 480-07-500(5), delete "or pilotage service provider."

2. WAC 480-07-505 (1)(e), insert "filed by a person with a substantial interest" after "Any petition" and "a" before "marine."

3. WAC 480-07-505 (4)(e), substitute "rate changes designed to recover only the costs to comply with government actions that directly impact the costs to provide regulated pilotage services" for "to recover changes in state, local or federal taxes or fees applicable to pilotage services."

4. WAC 480-07-505(5), delete "or pilotage service provider."

5. WAC 480-07-505(6), delete "or pilotage service provider."

6. WAC 480-07-525(3), substitute "cover" for "transmittal" and "WAC 480-07-140" for "WAC 480-07-141."

7. WAC 480-07-700(3), insert "for pilotage rates" before "must allow."

8. WAC 480-160-020, insert "an" before "arrangement" and substitute "produces" for "produce."

9. WAC 480-160-030, insert "the provider's" before "physical."

10. WAC 480-160-070(3), delete "district" after "pilotage."

11. WAC 480-160-090, insert "in a" before "different."

19 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE

DATE: After reviewing the entire record, the commission determines that the WAC sections listed above should be amended and adopted to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 19, Amended 5, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

ORDER

20 THE COMMISSION ORDERS:

21 The commission amends chapter 480-07 WAC and adopts chapter 480-160 WAC to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

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

DATED at Olympia, Washington, May 3, 2019.

Washington Utilities and Transportation Commission

David W. Danner, Chairman
Ann E. Rendahl, Commissioner
Jay M. Balasbas, Commissioner

**Appendix A
(Comment Summary Matrix)**

WAC Section	PMSA	Staff Response
WAC 480-07-500 (5) and (6)	Requests clarification on the inclusion of the phrase "or pilotage service provider" in these subsections, contending that staff previously agreed that it could cause confusion in rate proceedings but did not delete the language.	Staff agrees and proposes to delete this phrase from these subsections.
WAC 480-07-505 (1)(e)	Recommends adding "filed by a person with a substantial interest" after "Any petition" to be consistent with the statutory authority that any person with a substantial interest has a right to petition for a rate-making proceeding.	Staff agrees and proposes to add this phrase to this subsection.
WAC 480-07-505 (4)(c)	Requests that the phrase "automatic periodic or annual" be deleted to make clear that the allowance for prior commission approved automatic adjustments applies generally and not just to those adjustments that are time-based.	Staff disagrees. The intent of this subsection is to allow the same opportunity for an automatic adjustment mechanism that exists in other industries, and the meaning of this language is well-accepted and understood.
WAC 480-07-505 (4)(e)	Recommends deleting the exemption from general rate proceedings for filings "to recover changes in state, local or federal taxes or fees applicable to pilotage services." PMSA believes that the language is "overly vague, broad, and fraught with potential unintended impacts, especially given a lack of understanding of the taxes implicated by this exemption and the tax treatment of relationships between PSP and individual pilot licensees."	Staff agrees that the language should be clarified and proposes to substitute language comparable to the language used for other industries, i.e., "rate changes designed to recover only the costs to comply with government actions that directly impact the costs to provide regulated pilotage services."

Appendix B

AMENDATORY SECTION (Amending WSR 17-06-051, filed 2/28/17, effective 3/31/17)

WAC 480-07-140 General requirements for submit-

ting documents to the commission. (1) General.

(a) *Informal submissions.* Informal submissions are oral or written comments or communications directed to the commission that do not seek, or respond to, formal commission action, are not required by statute or commission rule, and generally are not filed in a docket. Informal submissions

include, but are not limited to, consumer complaints other than complaints requesting commencement of an adjudicative proceeding, and public comments made on matters the commission considers at an open public meeting or in an adjudication when submitted by persons who are not, and do not seek to be, parties to that adjudication. A person may make informal submissions by using the comment form available on the commission's web site or by contacting the commission records center or consumer protection section by telephone, letter, or email at the contact information listed in WAC 480-07-125.

(b) *Formal filings.* Formal filings are written submissions that seek or respond to formal commission action or are required by statute or commission rule and that the commission may file in a docket. Unless otherwise provided in this chapter, all documents submitted to the commission for formal filing, including documents that contain confidential information, must be submitted electronically to the commission records center in conformance with this rule. The commission will not accept a document for formal filing unless the commission receives that document in electronic form.

(2) **Where to send written communications.** Persons should send written communications to the commission using the contact information contained in WAC 480-07-125 or on the commission's web site. Correspondence directed to the commission should be addressed to the commission secretary.

(3) **Cover letters.** Persons submitting documents to the commission for formal filing must include a cover letter with the submission unless the sole document submitted is a letter or the document is one page in length and includes the information identified in subsection (4) of this section.

(4) **Requirements.** The following requirements enable the commission to identify submissions and to facilitate prompt delivery of communications to commission personnel.

(a) *Identification of sender.* All persons who communicate with the commission should provide their full name, mailing address, telephone number, and email address to assist the commission in responding. Persons who communicate with the commission on behalf of a business, organization, or other entity must state their name and title or position, and the name of the entity on whose behalf they are sending the communication. All submissions on behalf of a company the commission regulates must identify the company using the exact name of the company in the commission's records. The commission's web site includes a list of all such companies by the names in the commission's records. The commission may reject or require resubmission of any submission that does not comply with this requirement.

(b) *Identification of permit, license, or certificate.* Any person or entity holding a commission-issued permit, license, or certificate must identify the permit, license, or certificate number (if any), including the exact name under which the authority is held, when communicating with the commission concerning the permit, license, or certificate.

(c) *Identification of proceeding.* Persons who communicate with the commission concerning a formal commission proceeding (e.g., rule-making or adjudication) must identify

the proceeding to the best of their ability, including the docket number and name of the proceeding.

(d) *Identification of documents.* All documents submitted to the commission must be named in conformance with subsection (6)(b) of this section.

(5) **Electronic submission of documents.** The commission accepts only electronic versions of documents for formal filing. Unless required in a specific rule or order, the commission does not require a paper copy of the document.

(a) *Electronic submission via web portal.* Documents submitted electronically must be submitted using the commission's records center web portal except as provided in this rule.

(i) How to use the web portal. To use the web portal to submit documents for filing, persons should navigate to, and follow the instructions on, the web portal at the address specified in WAC 480-07-125.

(ii) Official commission receipt. The commission officially receives a document submitted through the web portal on the date and at the time registered by the portal; provided that documents the commission receives after 5:00 p.m. are not considered officially received or filed until the next business day. The web portal will send an automated notification to the person submitting the document when the commission has received the document.

(iii) Insufficient capacity. If a submission exceeds the size limitations of the commission's web portal for a single submission, the person may submit the documents in multiple web portal submissions, via one or more emails as provided in subsection (6)(c) of this section, or on a disc or other commonly used electronic storage medium delivered by mail or hand delivery. The commission includes on its web site the current size limitation of submissions on the web portal and instructions for making multiple web portal submissions.

(b) *Electronic submission via email.* If a person is unable to use the web portal to submit documents for filing, the commission will accept a submission via email. The commission may also accept correspondence or comments directed to the commission in the form of an email. An email transmitting documents must explain the reason the documents are not being submitted via the web portal and must comply with the following requirements:

(i) Where to send electronic documents. Emails and emailed submissions for filing must be directed to the commission's records center at the email address specified in WAC 480-07-125. Courtesy or informational copies may be sent to other email addresses for individual commission personnel. The commission will receive for filing only email submissions sent to the records center.

(ii) When deemed received. An email and any transmitted documents are deemed received only when the email and the entire document or set of documents successfully reach the commission's records center electronic mailbox. Emails or documents wholly or partly received by email in the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day.

(iii) Insufficient capacity. If a submission exceeds the size limitations of the commission's email system for a single message, the person may submit the documents in multiple messages as provided in subsection (6)(c) of this section or

on a disc or other commonly used electronic storage medium delivered via mail or hand delivery. The commission includes on its web site the current size limitation of a single email.

(c) *Electronic submission by mail or hand delivery.* A person may submit for filing electronic copies of documents on a disc or other commonly used electronic storage medium by mail or hand delivery (e.g., courier delivery service) to the commission's business address. The commission deems it has received an electronic document submitted by mail or hand delivery when the commission's records center physically receives it. Documents delivered to the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day.

(d) *Additional requirements.* The following additional requirements apply when submitting documents in the circumstances identified below.

Submissions in these dockets or types of documents:	Must comply with these rules and:
Rule-making dockets	Part II of this chapter
Adjudicative dockets	Part III of this chapter, plus any requirements in the specific adjudication
Utility tariffs and contracts	Chapter 480-80 WAC and WAC 480-07-141
Transportation tariffs and time schedules	WAC 480-07-141; and
(a) For auto transportation companies	(a) Chapter 480-30 WAC;
(b) For commercial ferry companies	(b) Chapters 480-51 and 480-149 WAC;
(c) For solid waste collection companies	(c) Chapter 480-70 WAC
<u>(d) For marine pilotage services</u>	<u>(d) Chapter 480-160 WAC</u>
For public records requests	Chapters 42.56 RCW and 480-04 WAC

(6) **Electronic file format requirements.** Electronic versions of all documents filed with the commission must conform to the following file format requirements.

(a) *Acceptable format.*

(i) All documents other than spreadsheets as described in (a)(ii) of this subsection and email correspondence or comments must be filed in searchable .pdf (adobe acrobat or comparable software) format and to the extent feasible should be saved or otherwise converted directly from the native format in which the document was created. Parties that cannot create .pdf files directly from the document in its native format must provide a copy of the document converted to .pdf via scanning or other available technology. Scanned documents must be searchable unless readily available software does not support searchable scanned documents.

(ii) Any document in the form of a spreadsheet that displays results of calculations based on formulas must be filed in its native Excel format ((~~(.xls,)) .xlsx((~~-xlsx~~))) or the~~

updated version of, or successor to, that software program. The commission will accept spreadsheets created using a different software program only if the commission has a license to use that program and personnel who know how to use it. Spreadsheets must include all formulas and may not include locked, password protected, or hidden cells or tabs, or any other restrictions that impair or hamper the commission's ability to review or modify the data in those cells.

(iii) Correspondence or comments in the form of an email must conform to generally accepted conventions for email communications.

(b) *File naming conventions.* Documents must be named in a way that describes the contents. Each document a person submits must be labeled with the docket number of the proceeding (except in the case of original submissions), any confidentiality designation, the name of the document, the name of the person or party on whose behalf the document is submitted, the last name of any witness sponsoring the document, and the date the document is submitted. The prefix to the docket number (e.g., UE-, TG-, etc.) may be omitted, and words may be abbreviated as necessary in the file name of an electronic document if the full name is too long. The cover letter accompanying the submission must list all of the documents included in the submission using the same identifying information. The commission maintains a sample list of acceptable file names and abbreviations on its web site.

(c) *Acceptable organization.* Except as provided in WAC 480-07-160 ((~~(4)(d)(vii))~~) when submitting documents that include information designated as confidential, highly confidential, or exempt, all files required to meet a single deadline must be submitted at the same time and in the same message, if possible, or on the same disc or commonly used electronic storage medium. A person may submit files in more than one submission or message when submitting those files via the commission's web portal or via email as authorized in subsection (5)(a)(iii) and (b)(iii) of this section if the total size of the submission exceeds the size constraints of the commission's web portal or email system for a single submission. If the documents are submitted in multiple email messages, each email message must prominently identify which one it is in the sequence of messages and, to the extent possible, the total number of messages used (e.g., "Message 2 of 4"). The first and final messages in the sequence must be identified as such. The first message also must explain the reason for the multiple messages and must include the cover letter and any required certificate of service. All such messages must be submitted as close to simultaneously as practicable.

AMENDATORY SECTION (Amending WSR 18-18-041, filed 8/29/18, effective 9/29/18)

WAC 480-07-500 General rate proceedings—Statement of policy. (1) **Scope of this subpart.** This subpart explains the special requirements for certain filings to change rates charged by electric, natural gas, pipeline, telecommunications, and water companies, low-level radioactive waste sites, solid waste collection companies, and commercial ferries, and marine pilotage services.

(2) **Inconsistencies with subpart A requirements.** If there is any inconsistency between the requirements in subpart B of these rules and those in subpart A, the requirements in subpart B control.

(3) **Purpose of special rules.** The special requirements in subpart B are designed to standardize presentations, clarify issues, and speed and simplify processing of general rate proceedings.

(4) **Failure to comply.** The commission, pursuant to WAC 480-07-141, may reject, or require the company to revise, any filing to initiate a general rate proceeding that does not conform to the requirements of subpart B of these rules. The commission will provide a written statement of its reasons if it rejects a filing. The company may revise or refile a filing that remedies the noncompliance the commission has identified and otherwise fully complies with the rules consistent with the requirements in WAC 480-07-141(2), which governs the date on which the commission considers a filing to have been made.

(5) **Less than statutory notice.** The commission may grant requests to alter tariffs on less than statutory notice for good cause shown, in accordance with RCW 80.28.060 or 81.28.050. A company that seeks to implement general rate proceeding tariff changes on less than statutory notice must include with its filing a complete explanation of the reasons that support such treatment.

AMENDATORY SECTION (Amending WSR 18-18-041, filed 8/29/18, effective 9/29/18)

WAC 480-07-505 General rate proceedings—Definition—Tariff suspension. (1) **Filings that initiate general rate proceedings.** Except as otherwise provided in this rule or RCW 80.04.130 (2)(a) (governing rate decreases for telecommunications companies), the commission will initiate a general rate proceeding in response to a filing by any public service company identified in WAC 480-07-500 requesting to change its rates if that filing meets any of the following criteria:

(a) The rates a company requests would alter its gross annual revenue from activities the commission regulates by three percent or more.

(b) Tariffs would be restructured such that the gross revenue provided by any customer class would increase by three percent or more.

(c) The company requests a change in its authorized rate of return on common equity or a change in its capital structure.

(d) The company is a solid waste collection company regulated under chapter 81.77 RCW.

(e) Any petition filed by a person with a substantial interest to change the rates, charges, or rules of a marine pilotage services tariff.

(2) **Filings under Title 80 RCW that will not initiate general rate proceedings.** The commission generally will not initiate general rate proceedings in response to the following filings, even though the revenue the company requests may vary by three percent or more from the company's current gross annual revenue from Washington regulated operations:

(a) Periodic rate adjustments the commission has generally authorized for electric and natural gas companies (e.g., power cost adjustments, purchased gas cost adjustments, or decoupling adjustments);

(b) Emergency or other rate increases a company requests on short notice as a result of disasters, adverse weather, or other causes beyond the company's control that unexpectedly and substantially increase a public service company's expenses; or

(c) Rate changes designed to recover only the costs a company incurs to comply with government actions that directly impact the company's costs to provide regulated service (e.g., changes to tax laws or local fees) or to comply with federal or state rules concerning the level of rates for telecommunications companies.

(3) **Filings under chapter 81.77 RCW that will not initiate general rate proceedings.** The commission generally will not initiate general rate proceedings in response to the following filings by solid waste collection companies regulated under chapter 81.77 RCW even though the request may meet one or more criteria identifying general rate proceedings:

(a) Filings by companies:

(i) That provide specialized hauling services restricted to certain specific waste products that are limited to specific customers; or

(ii) That provide only on-call or nonscheduled service (i.e., Class C companies, as defined in WAC 480-70-041).

(b) Filings seeking only to pass through a change in fees unilaterally established and imposed by governmental or unaffiliated private entities, including disposal, recycling, yard waste, or processing fees, or to pass through changes to fees charged by affiliated entities if the public service company demonstrates that the total cost of transfer, transport, and fees at the affiliate's facilities is equal to or lower than other reasonable and currently available alternatives;

(c) Filings for rate changes designed to recover only the costs a company incurs to comply with government actions that directly impact the company's costs to provide regulated service (e.g., changes to state or local fees, charges, or taxes directly related to the collection or disposal of solid waste);

(d) Filings implementing new solid waste collection programs; or

(e) Filings for periodic rate adjustments through a cost adjustment mechanism the commission has generally authorized for solid waste collection companies (e.g., fuel or recycling commodity adjustments).

(4) **Filings under chapter 81.116 RCW that will not initiate general rate proceedings.** The following filings are not considered general rate proceedings for pilotage services regulated under chapter 81.116 RCW:

(a) Filings by a countywide port district located in part or in whole within the Grays Harbor pilotage district, as defined by RCW 88.16.050 that meets the filing requirements in RCW 53.08.390;

(b) Filings to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035;

(c) Filings to reflect any automatic periodic or annual adjustment to pilotage rates previously established and approved by the commission in a general rate proceeding;

(d) Any filing to collect by a countywide port district the cost of the commission for setting tariff rates; and

(e) Any filing to collect tariff surcharges authorized by the legislature or rate changes designed to recover only the costs to comply with government actions that directly impact the costs to provide regulated pilotage services.

(5) Commission discretion. The commission retains discretion to determine whether to initiate a general rate proceeding in response to any filing described in this section or to convert any rate proceeding to a general rate proceeding, following notice and an opportunity to comment, if the commission finds that such action is consistent with the public interest. The commission may require that any filing or proposal by a public service company to change rates for any customer class, or to restructure rates, be subject to the procedures and protections in subpart B of these rules.

~~((5))~~ **(6) Suspension of tariffs.** The commission may take action at a regularly scheduled open public meeting to suspend the tariff sheets included in any filing that seeks to change rates. A company may waive its right to commission consideration of the filing at an open meeting and request immediate suspension of the tariffs, either in the cover letter accompanying the filing or in a subsequent document. If commission staff confirms that the filing is complete and complies with the applicable rules in subpart B of these rules, the commission may enter a complaint and order suspending the tariffs without further process. The company and statutory parties may engage in discovery pursuant to WAC 480-07-400 through 480-07-415 after the commission issues a notice of prehearing conference prior to the commission entering a prehearing conference order.

NEW SECTION

WAC 480-07-525 General rate proceedings—Marine pilotage services in Puget Sound. General rate proceeding filings for marine pilotage services must include the information described in this section. The commission may reject a filing that fails to meet these minimum requirements, without prejudice to a petitioner's right to refile its request in conformance with this section.

(1) Testimony and exhibits. When the filing is suspended and a hearing scheduled the petitioner must file with the commission one paper copy and an electronic copy for all testimony and exhibits that the petitioner intends to present as its direct case. The electronic copy of all filed material must be in the format identified in WAC 480-07-140(6). The commission may require the petitioner to file additional paper copies if the commission suspends and conducts a hearing on the filing.

(2) Proposed tariff. Proposed tariff sheets must be filed in electronic form supplemented by one paper copy. The proposed tariff sheets should be in legislative format (i.e., with strike-through to indicate the material to be deleted or replaced and underlining to indicate the material to be inserted) consistent with the requirements in WAC 480-160-110 through 480-160-140, as well as copies of any tariff

sheets that are referenced in the new or amended tariff sheets. The electronic copy must be submitted in the format identified in WAC 480-07-140(6).

(3) Cover letter. A cover letter prepared in compliance with the provisions of WAC 480-07-140.

(4) Work papers. One paper and one electronic copy of all supporting work papers for the test period, which is the most recent twelve-month period for which financial data are available. The electronic copy must be submitted in the format identified in WAC 480-07-140(6). Work papers reflecting the test year must include:

(a) Schedule of fixed or long-term assets.

(b) Computation of revenue requirement for the rate effective year.

(c) An accrual basis income statement and balance sheet.

(d) An income statement with restating actual and pro forma adjustments, including all supporting calculations and documentation for all adjustments. The filing must identify dollar values and underlying reasons for each restating actual and pro forma adjustment.

(e) A calculation of the revenue impact of the proposed tariff revisions.

(f) An income statement listing all revenue and expense accounts by month.

(g) If nonregulated revenue represents more than ten percent of total test period revenue, a detailed separation of all revenue and expenses between regulated and nonregulated operations.

(h) A detailed list of all nonregulated operations, including the rates charged for the services rendered. Copies of all contracts must be provided on request.

(i) Schedule reconciling, within five percent, rates and charges:

(i) Earned during the test year to actual reported revenues; and

(ii) Expected to be earned during the rate year to computed revenue requirement.

(j) At the time the petitioner makes its general rate case filing, the petitioner must provide to commission staff one paper and one electronic copy of all supporting work papers of each witness in a format as described in this subsection. When the filing is suspended and a hearing scheduled, if the testimony, exhibits, or work papers refer to a document including, but not limited to, a report, study, analysis, survey, article or decision, that document must be included as a work paper unless it is a reported court or agency decision, in which case the reporter citation must be provided in the testimony. If a referenced document is voluminous, it need not be provided, but the petitioner must identify clearly the materials that are omitted and their content. Omitted materials must be provided or made available if requested by the commission.

(k) Organization. Work papers must be plainly identified and well organized, and must include an index and tabs. All work papers must be cross referenced and include a description of the cross referencing methodology.

(l) Electronic documents. Parties must provide all electronic files supporting their witnesses' work papers. The electronic files must be fully functional and include all formulas and linked spreadsheet files. Electronic files that support the

exhibits and work papers must be provided using logical file paths, as necessary, by witness, and using identifying file names.

(m) Projected changes in vessel assignments and a detailed portrayal of vessel assignments for the previous twelve months along with the associated tariff and fees charged to vessel operators for pilotage services as required in chapter 480-160 WAC.

(n) The number of pilots licensed in the pilotage district. At a minimum, work papers must provide the board of pilotage commissioners' determination pursuant to WAC 363-116-065(2).

(o) The known increases or decreases in state fees and taxes.

(p) Normalized annual costs of any major capital investment or other recurring expenses.

(q) Revenues generated by tariff and fees for the test period, and any restating or pro forma adjustments based on available projected vessel assignments, vessel type, vessel tonnage, routes, number of pilots or other tariff-based billing determinates.

(r) Necessary tariff surcharge to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035.

(s) Change in methodologies for adjustments. If a party proposes to calculate an adjustment in a manner different from the method that the commission most recently accepted or authorized for the petitioner, it must also present a work paper demonstrating how the adjustment would be calculated under the methodology previously accepted by the commission, and a brief narrative describing the change. Commission approval of a settlement does not constitute commission acceptance of any underlying methodology unless so specified in the order approving the settlement.

AMENDATORY SECTION (Amending WSR 18-18-041, filed 8/29/18, effective 9/29/18)

WAC 480-07-540 General rate proceedings—Burden of proof. Public service companies and the petitioner seeking to establish or modify tariff rates for marine pilotage services bear the burden of proof in the general rate proceedings described in RCW 80.04.130 or 81.04.130. The burden of proof includes the burden of going forward with evidence and the burden of persuasion. The commission will consider the company's or petitioner's initial filing and any supplemental filings the commission authorized to be the company's or petitioner's full direct case in support of its rate change request for purposes of deciding any prehearing motion to dismiss under WAC 480-07-380.

AMENDATORY SECTION (Amending WSR 18-18-041, filed 8/29/18, effective 9/29/18)

WAC 480-07-700 Alternative dispute resolution. The commission supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest. Alternative dispute resolution (ADR) includes any mechanism to resolve

disagreements, in whole or in part, without contested hearings.

(1) **No delegation of commission authority.** The commission cannot delegate to parties the power to make final decisions in any adjudicative proceeding. The commission will determine whether to approve and adopt any proposed settlement or other agreement and the extent to which it resolves some or all of the issues presented in the proceeding consistent with the public interest.

(2) **Pilot training program stipend.** Any proposed settlement or agreement for pilotage rates must include the necessary tariff surcharge to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035.

(3) **Commission fee to set pilotage service rates.** The parties to any proposed settlement or agreement for pilotage rates must allow for the commission to apply its reasonable fee for setting rates for marine pilotage services.

(4) **Forms of ADR.** The commission provides the following nonexclusive forms of ADR:

(a) *Voluntary negotiation.* Parties to a dispute that is within the commission's jurisdiction may agree to negotiate with any other parties at any time without commission oversight.

(b) *Commission-directed negotiation.* The commission may direct parties to meet or consult as provided in subsection ((3)) (5) of this section, or may establish or approve a collaborative process as provided in WAC 480-07-720.

(c) *Mediation.* The commission may assign commission staff trained in ADR principles and techniques to serve as neutral third parties (e.g., mediator or facilitator) to assist the parties in formal or informal mediation.

(d) *Assignment of settlement judge.* The commission may assign a settlement judge to assist the parties to resolve their dispute through negotiation in appropriate circumstances.

(e) *Arbitration.* The commission may provide an arbitrator whose decision is subject to commission review in matters for which arbitration is authorized.

((3)) (5) **Settlement conference.** A settlement conference is any discussion or other communication between two or more parties in an adjudicative proceeding intended to resolve one or more disputed issues. Settlement conferences do not include requests for information, for clarification, or in aid of discovery, or communications to identify whether a dispute exists or whether another party is willing to negotiate resolution of a disputed issue. Settlement conferences must be informal and without prejudice to the rights of the parties. The parties may waive the procedural requirements of this section relating to settlement conferences if all parties and the commission agree. Any party and any person who has filed a petition to intervene may participate in an initial or early settlement conference as defined in this section. An intervenor's participation in a settlement conference is limited to the interests supporting its intervention, except by agreement of other participants in the conference. No party is required to attend a settlement conference, but any party that attends and participates must make a good faith effort to resolve one or more disputed issues in which the party has a substantial interest.

(a) *Initial settlement conference.* The commission will include in the procedural schedule for each adjudicative proceeding the date for at least one settlement conference. Parties may reschedule a settlement conference included in the procedural schedule without seeking to modify the schedule if all parties agree, but the parties must provide notice to the presiding officer of the rescheduled date.

(b) *Early settlement conference.* Any party may initiate a settlement conference with any other party after the commission opens a docket and before the initial prehearing conference, but in general rate proceedings for electric, natural gas, or Class A telecommunications companies, the party initiating the settlement conference must provide ten days prior notice of any such conference to the commission, any statutory party, any person who has submitted a petition to intervene or notice of appearance, and any person who was a party in the most recent proceeding of the same type involving the same filing party and respondent, if any. Such persons may participate in the early settlement conference, as may any other person who submits a petition to intervene prior to the early settlement conference.

((4)) **(6) Settlement negotiation guidelines.** In any settlement negotiation, including collaboratives, settlement conferences, and mediations, the following apply unless all participants agree otherwise:

(a) No statement, admission, or offer of settlement made during negotiations is admissible in evidence in any formal hearing before the commission without the consent of the participants or unless necessary to address the process of the negotiations;

(b) Information exchanged exclusively within the context of settlement negotiations will be treated as confidential and will be privileged against disclosure to the extent permitted by law;

(c) Participants in a commission-sanctioned ADR process must periodically advise any nonparticipating parties and the commission of any substantial progress made toward settlement and must immediately advise the commission if that process is without substantial prospects of resolving the issue or issues under discussion (i.e., if the participants agree that they are at an impasse or any neutral third party who is assisting the participants in the ADR process declares an impasse); and

(d) Any mediator, facilitator, or settlement judge who assists the participants in an ADR process will not participate in any adjudication, arbitration, or approval process for the same proceeding unless all parties consent in writing.

Chapter 480-160 WAC

PILOTAGE RULES

NEW SECTION

WAC 480-160-001 Purpose of chapter. (1) **Puget Sound pilotage district** - The legislature has declared that tariffs for pilotage services provided under chapter 88.16 RCW in the Puget Sound pilotage district shall be established by the commission. The purpose of these rules is to administer chapter 81.116 RCW in setting or amending pilotage tariff rates or charges for pilotage services.

(2) **Grays Harbor pilotage district** - The legislature has declared that in setting rates or charges for pilotage services provided by the Grays Harbor pilotage district under chapter 88.16 RCW, the commission will consider the recommendation of the port district. The purpose of these rules is to administer chapter 81.116 RCW in setting or amending pilotage tariff rates or charges for pilotage services.

NEW SECTION

WAC 480-160-005 Application. Except for the vessels exempted under RCW 88.16.070, every vessel that operates in the waters of the Puget Sound pilotage district or Grays Harbor pilotage district must employ a pilotage service provider licensed under the provisions of RCW 88.16.090 and must pay the applicable pilotage rates and charges in accordance with the applicable tariff.

NEW SECTION

WAC 480-160-010 Resolving disputes about the meaning of these rules. Any person subject to these rules may seek a commission interpretation of a rule by filing with the commission a petition for declaratory order pursuant to WAC 480-07-930 or a petition under WAC 480-07-370 requesting clarification.

NEW SECTION

WAC 480-160-020 Definitions. "Commission" means the utilities and transportation commission.

"File with the commission" means filed with the commission's executive secretary pursuant to WAC 480-07-140.

"Grays Harbor pilotage district" shall have the same meaning as in RCW 88.16.050(2).

"Person with a substantial interest" means:

(a) A pilot or a group or association of pilots licensed under chapter 88.16 RCW;

(b) A vessel operator or other person using the services of a licensed pilot and paying pilotage fees and charges for such services or an organization representing vessel operators or persons; or

(c) Any other person or business entity that can show that a requested tariff change would be likely to have a substantial economic impact on its operations.

"Pilotage service provider" means a person licensed by the state to provide marine pilotage services in the Grays Harbor pilotage district or Puget Sound pilotage district.

"Pro forma adjustments" means a mechanism that gives effect for the test period to all known and measurable changes that are not offset by other factors.

"Puget Sound pilotage district" shall have the same meaning as in RCW 88.16.050(1).

"Rate design" and **"rate structure"** mean an arrangement or system of rates and charges that produces revenues necessary to recover the costs of service and support economic and social goals and policies.

"Rates" and **"charges"** mean prices for services that, when multiplied by the number of times a service is performed, determines the amount owed for the services.

"Serve" or "provide" means to deliver to commission staff and parties in a proceeding documents that are filed with the commission or documents that are not filed with the commission but are formally exchanged between parties.

NEW SECTION

WAC 480-160-030 Change of address, telephone number, or email. A pilotage service provider must notify the commission in writing of any change in the provider's physical business address, business mailing address, business telephone number, or business email. This notice must be filed at least ten days before the effective date of the change.

NEW SECTION

WAC 480-160-040 Exemptions from rules in chapter 480-160 WAC. The commission may grant an exemption from the provisions of any rule in this chapter in the same manner, consistent with the standards, and according to the procedures set forth in WAC 480-07-110.

NEW SECTION

WAC 480-160-050 Records retention. (1) General provisions. A pilotage service provider must keep all business records and reports for at least three years following the date those documents are created unless otherwise specified in these rules or unless a longer retention period is required by another governmental entity.

(2) A pilotage service provider is deemed in compliance with the requirements of this section (records retention), WAC 480-160-060 (reporting requirements), and 480-160-160 (complaints) if the information required is provided by an organization of licensed pilots or an employer on the pilotage service provider's behalf.

(3) **Customer service records.** A pilotage service provider must maintain complete and accurate customer service records for all customers the provider serves.

(a) A pilotage service provider must keep customer service records on file in the provider's general office for at least three years.

(b) Customer service records must be retained either in a searchable electronic format, or in alphabetical, service address, or service route order.

(c) Customer service records must show at least the following information:

- (i) The name and service address of the customer;
- (ii) The billing address of the customer, if different than the service address;
- (iii) Categories and quantity of pilotage or other services provided, including extra services provided;
- (iv) Information required to provide, on customer request, a detailed description of the amount billed the customer;
- (v) Amounts billed;
- (vi) Amounts collected; and
- (vii) Any balance due.

NEW SECTION

WAC 480-160-060 Reporting requirements. (1) Annual reports. An annual report is an end-of-the-year summary of financial activity that each pilotage service provider is required to file with the commission.

(a) Each year the commission will make available on the commission web site an annual report form and instructions for completing the form.

(b) A pilotage service provider must file a complete and accurate annual report showing all requested information by May 1st of the succeeding year. Information provided in the annual report must be consistent with source documents maintained at the provider's offices.

(c) The commission may grant an extension of time to allow a pilotage service provider to file its annual report after the May 1st due date if the commission receives a request for extension before April 15th.

(d) The commission may issue penalty assessments if a provider fails to file its required annual report by May 1st or any extended due date the commission has established.

(2) **Other reports.** The commission may require a pilotage service provider to file periodic or other special reports.

NEW SECTION

WAC 480-160-070 Commission compliance policy. (1) The commission encourages voluntary compliance with statutes, rules, and commission orders.

(2) The commission will enforce statutes, rules, and commission orders through:

(a) A program emphasizing education and technical assistance.

(b) A compliance program including:

- (i) Investigation and resolution of complaints;
- (ii) Economic compliance audits including, but not limited to, rates, charges, and billing practices; and
- (iii) Cooperative agreements with other agencies to enable effective enforcement and appropriate use of resources.

(3) Where necessary to ensure compliance with statutes, rules, and commission orders, the commission will pursue administrative actions with the intent of ensuring future compliance, by the violating pilotage service provider including, but not limited to, warnings, sanctions, or penalty assessments under the provisions of chapter 81.04 RCW.

NEW SECTION

WAC 480-160-080 Fees. The commission will assess fees to recover the reasonable costs the commission incurs to establish or amend the tariff rates of Grays Harbor pilotage district and Puget Sound pilotage district, respectively. The fees must be included in the respective marine pilotage tariffs and shall be appropriated from the pilotage account established in RCW 88.16.061.

NEW SECTION

WAC 480-160-090 Pilots must charge only approved rates. No pilotage service provider shall charge, collect, or

receive, and no person, firm, corporation, or association shall pay for pilotage or other services performed that is any greater, less, or in a different amount, directly or indirectly, than the rates or charges approved by the commission.

NEW SECTION

WAC 480-160-100 Tariffs and rates—General. (1) A tariff is a publication containing the rates and charges for pilotage services, including rules that govern how rates and charges are assessed.

(2) The commission establishes and amends the tariffs that pilotage service providers serving the Puget Sound pilotage district and Grays Harbor pilotage district must use.

(3) All regulated pilotage service providers must comply with the rates, terms, conditions, and all other requirements in the applicable tariff.

(4) Any person with a substantial interest may petition the commission to update or modify the rates, terms, or conditions contained in the applicable marine pilotage district tariff.

(5) Any proposed changes to the tariff must be provided using the electronic template the commission provides.

NEW SECTION

WAC 480-160-110 Tariffs—Changes must be identified. Each change in rates, charges, terms, or conditions in a tariff must be clearly identified by including the appropriate code symbol immediately to the left of the material being changed. Symbols to indicate the type of changes are:

Code Symbol	Used to indicate:
(R)	Reductions in rates or charges
(I)	Increases in rates or charges
(C)	Changes resulting in neither increases nor decreases
(N)	New rates, terms, or conditions
(W)	Wording changes

NEW SECTION

WAC 480-160-120 Changing commission-published tariff—Puget Sound pilotage district. (1) A person with a substantial interest may petition the commission to modify the Puget Sound pilotage district tariff, and the commission may propose tariff changes on its own initiative.

(2) Persons must file their proposed changes electronically using the commission's records portal.

(3) Proposed changes must:

(a) Be made on the appropriate page(s) of the existing tariff using the commission's tariff template.

(b) Identify the tariff item to be changed.

(c) Fully describe the proposed change.

(d) State clearly the reason(s) for the proposed change.

(e) Include any information or documents that justify the proposed change.

(f) Provide name, title, address, telephone number, and email address of the person or entity proposing the changes.

(4) If the commission modifies the Puget Sound pilotage district tariff, the commission will enter an appropriate order. The order and the modified tariff will state the date on which the revised rates, terms, or conditions become effective. The commission will serve a copy of the modified tariff in electronic format on the Puget Sound pilotage service providers.

NEW SECTION

WAC 480-160-130 Changing commission-published tariffs—Grays Harbor pilotage district. (1) When the Grays Harbor pilotage district files a notice of its recommended pilotage service tariff with the commission, it must include:

(a) The district pilotage budget;

(b) The prior year pilotage financial statement; and

(c) Official notice of the public hearing held on the proposed tariff.

(2) If a person with a substantial interest petitions the commission to modify the Grays Harbor pilotage district tariff, the person must submit all of the following:

(a) The name of the petitioner;

(b) A description of why the existing tariff is not fair, just, reasonable, and sufficient;

(c) A description of each proposed change and a brief statement of the reason for the change;

(d) The dollar and percentage amounts that revenue generated under the tariff will change if the commission approves the filing;

(e) The percentage amount that rates will change if approved by the commission;

(f) A contact person's name, mailing address, telephone number, and email address;

(g) An electronic copy of the proposed tariff; and

(h) Information demonstrating the petition was submitted to and subsequently rejected by the Port of Grays Harbor.

(3) If the commission modifies the Grays Harbor pilotage district tariff, the commission will enter an appropriate order. The order and the modified tariff will state the date on which the revised rates, terms, or conditions become effective. The commission will serve a copy of the modified tariff electronically on the Grays Harbor pilotage service providers.

NEW SECTION

WAC 480-160-140 Tariffs—Approval. The commission's receipt of a filing to modify tariff rates, terms, or conditions does not mean that the proposed modifications are immediately effective or that the commission approves those revisions. Petitioners may not implement any proposed tariff modifications until the commission approves them or until the modified tariff becomes effective by operation of law.

NEW SECTION

WAC 480-160-150 Tariffs—Suspension by the commission. (1) Upon receiving a complaint or protest concerning rates or charges, or on its own initiative, the commission

may suspend tariff rates, terms, or conditions as provided in RCW 81.04.130.

(2) The commission will not take action to suspend a tariff, or any part of a tariff, based on a complaint or protest concerning rates or charges unless the complaint or protest is filed in compliance with the commission's rules of practice and procedure in chapter 480-07 WAC.

NEW SECTION

WAC 480-160-160 Complaints—Rates and charges.

(1) Pilotage service provider responsibility.

(a) **Complaints from customers.** When a pilotage service provider receives a complaint from a customer or an applicant concerning rates or charges, it must:

- (i) Acknowledge the complaint;
- (ii) Investigate the matter promptly;
- (iii) Report the results of the investigation to the complainant;
- (iv) Take corrective action, if warranted, as soon as appropriate under the circumstances;
- (v) Inform the complainant that the pilotage service provider's initial decision may be appealed to a higher level representative of the pilotage service provider, if any;
- (vi) Inform the complainant, if still dissatisfied after speaking with the higher level representative, of the commission's availability for review of the complaint; and
- (vii) Provide the complainant with the commission's mail and email addresses and toll free telephone number.

(b) **Complaint referred by commission.** When commission consumer protection staff refers an informal complaint regarding rates or charges to the pilotage service provider, the pilotage service provider must:

- (i) Investigate and report the results to the commission consumer protection staff within two business days (the commission consumer protection staff may grant an extension of time for responding to the complaint if requested and warranted);
- (ii) Keep the commission consumer protection staff informed of progress toward the solution; and
- (iii) Inform the commission consumer protection staff of the final result.

(c) **Complaint record.** A pilotage service provider must keep a record of all complaints against it concerning rates or charges for at least one year. The record of complaints must be made readily available for commission review. The record must contain:

- (i) The complainant's name and address;
- (ii) Date and nature of the complaint;
- (iii) Action taken; and
- (iv) Final result.

(2) **Complaints to commission.** Applicants, customers, or their representatives may file with the commission either:

- (a) An informal complaint against the pilotage service provider under the provisions of WAC 480-07-910; or
- (b) A formal complaint against the pilotage service provider under the provisions of WAC 480-07-370.

WSR 19-11-028

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed May 7, 2019, 10:59 a.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: The agency is revising these sections to clarify coverage and authorization criteria, as well as requirements for limitation extensions. The agency is also revising this section to update limited and comprehensive treatment payment methodology to facilitate more timely payments to providers.

Citation of Rules Affected by this Order: Amending WAC 182-535A-0040 and 182-535A-0060.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-07-050 on March 15, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 7, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535A-0040 Orthodontic treatment and orthodontic-related services—Covered, noncovered, and limitations to coverage. Coverage and authorization of covered services is subject to the requirements and limitations in this chapter and other applicable WAC.

(1) ~~((Subject to the limitations in this section and other applicable WAC,))~~ The medicaid agency covers orthodontic treatment and orthodontic-related services for a client who has one of the medical conditions listed in (a) and (b) of this subsection. Treatment and follow-up care must be performed only by an orthodontist or agency-recognized craniofacial team ~~((and do not require prior authorization)).~~

(a) Cleft lip and palate, cleft palate, or cleft lip with alveolar process involvement.

(b) The following craniofacial anomalies including, but not limited to:

- (i) Hemifacial microsomia;
- (ii) Craniosynostosis syndromes;
- (iii) Cleidocranial dental dysplasia;
- (iv) Arthrogyposis;

- (v) Marfan syndrome;
- (vi) Treacher Collins syndrome;
- (vii) Ectodermal dysplasia; or
- (viii) Achondroplasia.

(2) ~~((Subject to prior authorization requirements and the limitations in this section and other applicable WAC, the agency covers))~~ The agency authorizes orthodontic treatment and orthodontic-related services ~~((for))~~ when the following criteria are met:

(a) Severe malocclusions with a Washington Modified Handicapping Labiolingual Deviation (HLD) Index Score of twenty-five or higher~~((The agency determines the final HLD Index Score based on documentation submitted by the provider))~~ as determined by the agency:

(b) The client has established caries control; and

(c) The client has established plaque control.

(3) The agency may cover orthodontic treatment for dental malocclusions other than those listed in subsections (1) and (2) of this section on a case-by-case basis and when prior authorized. The agency determines medical necessity based on documentation submitted by the provider.

(4) The agency does not cover the following orthodontic treatment or orthodontic-related services:

(a) Orthodontic treatment for cosmetic purposes;

(b) Orthodontic treatment that is not medically necessary (as defined in WAC 182-500-0070);

(c) Orthodontic treatment provided out-of-state, except as stated in WAC 182-501-0180 (see also WAC 182-501-0175 for medical care provided in bordering cities);

(d) Orthodontic treatment and orthodontic-related services that do not meet the requirements of this section or other applicable WAC; or

(e) Case studies that do not include a definitive orthodontic treatment plan.

(5) The agency covers the following orthodontic treatment and orthodontic-related services with prior authorization~~((, subject to the following limitations (providers must bill for these services according to WAC 182-535A-0060):~~

~~((a) Panoramic radiographs (X-rays) when medically necessary.~~

~~((b))~~ when medically necessary:

~~((a))~~ (a) Interceptive orthodontic treatment~~((, when medically necessary)).~~

~~((e))~~ (b) Limited orthodontic treatment~~((, when medically necessary.~~

~~((i))~~ Approval for limited orthodontic treatment includes up to twelve months of treatment. (See subsection (7)(a) of this section for information on limitation extensions.)

~~((ii))~~ The agency may approve a single impacted tooth for limited orthodontic treatment.

~~((d))~~ The agency may approve limited orthodontic treatment for treatment of a single impacted tooth.

~~((c))~~ Comprehensive full orthodontic treatment on adolescent dentition~~((, when medically necessary. The treatment must be completed within thirty months from the date of the original appliance placement))~~ (see subsection ~~((7))~~ (8)(a) of this section for information on limitation extensions).

~~((e))~~ Replacement retainers after the first replacement retainer and within six months of debanding.

~~((f))~~ Orthodontic appliance removal as a stand-alone service only when:

~~((i))~~ The client's appliance was placed by a different provider or dental clinic; and

~~((ii))~~ The provider has not furnished any other orthodontic treatment or orthodontic-related services to the client.

~~((g))~~ Other medically necessary)) (d) Case study.

~~((e))~~ Other orthodontic treatment ~~((and orthodontic-related services))~~ subject to review for medical necessity as determined by the agency.

~~((6))~~ The ~~((treatment must meet industry standards and correct the medical issue. If treatment is discontinued prior to completion, or treatment objectives are not obtained, clear documentation must be kept in the client's record explaining why treatment was discontinued or not completed or why treatment goals were not achieved.~~

~~((7))~~ agency covers the following orthodontic-related services with prior authorization when medically necessary:

(a) Clinical oral evaluations according to WAC 182-535-1080.

(b) Cephalometric films that are of diagnostic quality, dated, and labeled with the client's name.

(c) Replacement retainer.

(d) Orthodontic appliance removal as a stand-alone service only when:

(i) The client's appliance was placed by a different provider or dental clinic; and

(ii) The provider has not furnished any other orthodontic treatment or orthodontic-related services to the client.

(7) The treatment must meet industry standards and correct the medical issue. If treatment is discontinued prior to completion, or treatment objectives are not achieved, the provider must:

(a) Keep clear documentation in the client's record explaining why treatment was discontinued or not completed, or why treatment goals were not achieved.

(b) Notify the agency.

(8) The agency evaluates a request for orthodontic treatment or orthodontic-related services:

(a) That are in excess of the limitations or restrictions listed in this section, according to WAC 182-501-0169; and

(b) That are listed as noncovered according to WAC 182-501-0160.

~~((8))~~ (9) The agency reviews requests for orthodontic treatment or orthodontic-related services for clients who are eligible for services under the EPSDT program according to the provisions of WAC 182-534-0100.

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535A-0060 Orthodontic treatment and orthodontic-related services—Payment. (1) The medicaid agency pays providers for furnishing covered orthodontic treatment and orthodontic-related services described in WAC 182-535A-0040 according to this section and other applicable WAC.

(2) ~~((The agency considers that))~~ A provider who furnishes covered orthodontic treatment and orthodontic-related services to an eligible client accepts the agency's fees as pub-

lished in the agency's fee schedules according to WAC 182-502-0010.

(3) ~~((The agency requires a provider to))~~ Providers must deliver services and procedures that are of acceptable quality to the agency. The agency may recoup payment for services ~~((that are))~~ determined to be below the standard of care or of an unacceptable product quality.

(4) **Interceptive orthodontic treatment.** The agency pays for interceptive orthodontic treatment on primary or transitional dentition in one payment that includes all professional fees, laboratory costs, and required follow-up.

(5) **Limited orthodontic treatment.** The agency pays for limited orthodontic treatment on transitional or adolescent dentition as follows:

(a) The first three months of treatment starts on the date the initial appliance is placed and includes active treatment for the first three months. The provider must bill the agency with the date of service that the initial appliance is placed.

(b) The agency's initial payment includes:

(i) The replacement of brackets and lost or broken orthodontic appliances;

(ii) Appliance removal;

(iii) The initial ~~((and the first replacement))~~ retainer fee ~~((s within the first six months after debanding));~~ and

(iv) The final records (photos, a panoramic X-ray, a cephalometric film, and final trimmed study models).

(c) Continuing follow-up treatment must be billed ~~((after each three-month treatment interval during the treatment))~~ as periodic orthodontic treatment visits.

(i) Payments are allowed once every six weeks during treatment, beginning three months after the initial appliance placement.

~~((d))~~ (ii) Payment for treatment provided ~~((after twelve months from the date the appliance is placed))~~ in addition to the six periodic orthodontic treatment visits requires a limitation extension. See WAC 182-535A-0040(8).

(iii) If treatment is discontinued or treatment objectives are not achieved, providers must notify the agency. See WAC 182-535A-0040(7).

(6) **Comprehensive full orthodontic treatment.** The agency pays for comprehensive full orthodontic treatment on adolescent dentition as follows:

(a) The first ~~((six))~~ three months of treatment starts the date the initial appliance is placed and includes active treatment for the first ~~((six))~~ three months. The provider must bill the agency with the date of service that the initial appliance is placed.

(b) The agency's initial payment includes:

(i) The replacement of brackets and lost or broken orthodontic appliances;

(ii) Appliance removal;

(iii) The initial ~~((and the first replacement))~~ retainer fee ~~((s within six months after debanding));~~ and

(iv) The final records (photos, a panoramic X-ray, a cephalometric film, and final trimmed study models).

(c) Continuing follow-up treatment must be billed ~~((after each three-month treatment interval, with the first three-month interval beginning six))~~ as periodic orthodontic treatment visits.

(i) Payments are allowed once every six weeks during treatment, beginning three months after the initial appliance placement.

~~((d))~~ (ii) Payment for treatment provided ~~((after thirty months from the date the appliance is placed))~~ in addition to the fourteen periodic orthodontic treatment visits requires a limitation extension. See WAC 182-535A-0040(8).

(iii) If treatment is discontinued or treatment objectives are not achieved, providers must notify the agency. See WAC 182-535A-0040(7).

(7) **Case study.** The agency pays for a case study, which includes:

(a) Preparation of comprehensive diagnostic records (additional photos, study casts, cephalometric examination film and panoramic film);

(b) Formation of diagnosis and treatment plan from such records; and

(c) Formal case conference.

(8) Payment for orthodontic treatment and orthodontic-related services is based on the agency's published fee schedule.

~~((8))~~ (9) Orthodontic providers who are in agency-designated bordering cities must:

(a) Meet the licensure requirements of their state; and

(b) Meet the same criteria for payment as in-state providers, including the requirements to contract with the agency.

~~((9))~~ (10) If the client's eligibility for orthodontic treatment under WAC 182-535A-0020 ends before the conclusion of the orthodontic treatment, payment for any remaining treatment is the client's responsibility. The agency does not pay for these services.

~~((10) Any))~~ (11) The agency does not pay for orthodontic treatment provided after the client's twenty-first birthday ~~((will not be paid for by the agency and will become the client's financial responsibility.~~

~~((11))~~ Payment for treatment that continues after the client's twenty-first birthday is the responsibility of the client.

(12) The client is responsible for payment of any orthodontic service or treatment received during any period of medicaid ineligibility, even if the treatment was started when the client was eligible ~~((The agency does not pay for these services)).~~

~~((12))~~ (13) See WAC 182-502-0160 and 182-501-0200 for when a provider or a client is responsible to pay for a covered service.

WSR 19-11-046

PERMANENT RULES

UNIVERSITY OF WASHINGTON

[Filed May 10, 2019, 1:21 p.m., effective June 10, 2019]

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

Purpose: The University of Washington is making changes in order to update terminology regarding current modes of transportation and advancement in parking technology (i.e., automatic license plate recognition and virtual permit parking) traveling to/from campus. It is also updating information to reflect current practices regarding parking and parking related products, systems and privileges, parking

fees, citations, violation categories, fines, immobilization and impoundment, and related appeals.

Citation of Rules Affected by this Order: New WAC 478-116-126 and 478-116-127; repealing WAC 478-116-415; and amending WAC 478-116-020, 478-116-022, 478-116-024, 478-116-111, 478-116-112, 478-116-114, 478-116-118, 478-116-122, 478-116-124, 478-116-131, 478-116-135, 478-116-155, 478-116-191, 478-116-193, 478-116-195, 478-116-197, 478-116-199, 478-116-221, 478-116-242, 478-116-301, 478-116-315, 478-116-321, 478-116-325, 478-116-331, 478-116-335, 478-116-351, 478-116-361, 478-116-365, 478-116-371, and 478-116-405.

Statutory Authority for Adoption: RCW 28B.10.560 and 28B.20.130.

Adopted under notice filed as WSR 19-06-065 on March 5, 2019.

Changes Other than Editing from Proposed to Adopted Version: The university changed the proposed version of WAC 478-116-024(18), defining motor scooter. The adopted version reads, "A light two-wheeled or three-wheeled open motor vehicle with a step-through frame on which the driver sits over an enclosed engine with legs together and feet resting on a floorboard." The change from the proposed version to the adopted version is underlined. The university made this change to align its WAC with anticipated future changes to RCW 46.04.336.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 30, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 30, 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: May 9, 2019.

Barbara Lechtanski, Director
University Policy and Rules Office

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-020 Objectives of parking and traffic rules. The objectives of these rules are:

- (1) To regulate, protect, and control pedestrian and vehicular traffic on the campus of the university;
- (2) To ~~((assure))~~ ensure access at all times for emergency vehicles and equipment;
- (3) To minimize traffic disturbances;
- (4) To facilitate the operations of the university by ~~((assuring))~~ ensuring access to its vehicles;

(5) To ~~((allocate limited parking space in order to promote its most efficient use))~~ maximize the use of the limited campus parking resource;

(6) To protect state property; and

(7) To encourage and support travel to the campus by means other than single occupancy vehicle (SOV).

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-022 Knowledge of parking and traffic rules. It is the responsibility of all individuals parking or operating a vehicle on the campus to read, understand, and comply with these rules. Lack of knowledge of these rules shall not be grounds for the dismissal of any citation for a violation of the parking or traffic rules.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-024 Definitions. (1) **Authorized agent.** An entity or individual authorized by the director of transportation services to facilitate services provided by the department.

(2) **Automatic license plate recognition.** (Also referred to as ALPR.) A system which automatically captures an image of a vehicle's license plate to assist in streamlined enforcement of parking by authorized agents.

(3) **Automatic vehicle identification.** (Also referred to as AVI.) A system to support vehicle access control and vehicle identification.

(4) **Bicycle.** ~~((Any device defined as a bicycle in chapter 46.04 RCW.~~

~~(3)))~~ A device with two or three wheels, a saddle, fully operative pedals propelled solely by human power.

(5) **Campus.** The University of Washington, Seattle, and those lands and leased facilities of the university within UWPD jurisdiction and where parking is managed by transportation services.

~~((4)))~~ (6) **Disability parking.** See "persons with disability."

(7) **Disability zone/area.** A parking zone designated for exclusive use by persons with a disability and identified with a sign bearing the associated international symbol.

(8) **Electric-assisted bicycle (class 1, 2, and 3).** A bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of no more than seven hundred fifty watts. The electric-assisted bicycle must meet the requirements of one of the following three classifications:

(a) Class 1: The motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour;

(b) Class 2: The motor may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour; or

(c) Class 3: The motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour and is equipped with a speedometer.

(9) Electric scooter. A stand-up motor vehicle consisting of a footboard mounted on two wheels and a long steering handle, propelled by an electric motor.

(10) Fee. ~~((A))~~ The charge for the use of services provided and facilities managed by transportation services.

~~((5)) Impoundment.~~ The removal of the vehicle to a storage facility either by an authorized agent of transportation services or UWPD.

~~((6))~~ (11) Fine. The charge associated with a parking citation.

(12) Immobilization. The attachment of a ~~((metal))~~ device to a ~~((wheel of a))~~ parked car, motorcycle, bicycle, electric-assisted bicycle, motor scooter, or electric scooter so that the vehicle cannot be moved.

~~((7))~~ (13) Impoundment. The removal of the vehicle, bicycle, electric-assisted bicycle, or electric scooter to a storage facility either by an authorized agent of transportation services or UWPD.

(14) Load zone. A stall or area signed for loading and unloading purposes, adjacent to a facility or loading dock, or in a parking area or lot.

~~((A single fixed device that registers and collects payment for the length of time a vehicle occupies a single parking space. A meter does not produce a receipt, physical permit, or virtual permit. A meter is not a permit-issuance machine.~~

~~((8) Motorcycles and scooters.)~~ See "parking meter."

(16) Mobile payment. Payment service performed from or via a mobile device.

(17) Motorcycle. Motor vehicle~~((s))~~ designed to travel with not more than three wheels in contact with the ground, on which the driver rides astride the motor unit or power train and which is designed to be steered with a handle bar. ~~((For the purposes of these rules, motorcycles, motorized bicycles excluding pedal assisted electric bicycles, and scooters are considered motor vehicles and are subject to all traffic and parking rules controlling other motor vehicles.~~

~~((9))~~ (18) Motor scooter. A light two-wheeled or three-wheeled open motor vehicle with a step-through frame on which the driver sits over an enclosed engine with legs together and feet resting on a floorboard.

(19) Motor vehicle. An automobile, truck, motorcycle, motor scooter, or electric-assisted bicycle that is assisted by an engine or other mechanism, or a vehicle without motor power designed to be drawn or used in conjunction with the aforementioned vehicles including, but not limited to, trailers, travel trailers, and campers. ~~((In addition, any bicycle with an electric motor that is disengaged will be considered a bicycle and not a motor vehicle under this chapter.~~

~~((10))~~ (20) Nonmotorized vehicle. A device other than a motor vehicle used to transport persons~~((s))~~ including, but not limited to, bicycles, skateboards, in-line skates, and roller skates.

~~((11))~~ (21) No parking zone/area. Any area not specifically marked and/or signed and designed for parking.

(22) Operator or driver. Every person who drives or is in actual physical control of a motor vehicle or nonmotorized vehicle.

~~((12))~~ (23) Overtime parking. The occupation by a vehicle of a time-limited space beyond the posted time limit

or time provided on a permit~~((, meter))~~ issuance system including, but not limited to, a permit, parking meter, mobile device, or permit-issuance machine.

~~((13))~~ (24) Park/parking. Refers to the placement or standing of a motorized vehicle or a nonmotorized vehicle, with or without a driver in attendance, and with or without the engine running.

(25) Parking citation. The notice of a parking violation.

(26) Parking credential. See parking product.

(27) Parking meter. (Also referred to as a meter.) A single fixed device that registers and collects payment for a specified length of time for a vehicle to occupy a single parking space. A parking meter does not produce a receipt. A parking meter is not a permit-issuance machine.

(28) Parking product. A product issued by transportation services to manage motorized and nonmotorized access to ~~((the))~~ university parking. Parking products include, but are not limited to, permits, virtual permits, access to bicycle lockers and other bicycle parking facilities, and parking access cards.

~~((14))~~ (29) Parking space. A space for parking one motor vehicle designated by lines painted on either side of the space, and/or a wheel stop positioned in the front of the space, and/or a sign or signs, or other markings.

~~((15))~~ (30) Parking system. A parking management system that includes parking related products and technologies. This includes, but is not limited to, web-based and online technologies to purchase virtual products, enforce parking permits, issue parking citations, and the administration of parking citation payments and appeals.

(31) Permit. A document approved by and/or issued by transportation services that when properly displayed authorizes a person to park.

~~((16))~~ (32) Permit-issuance machine. A transportation services deployed and managed machine that issues physical or virtual permits for designated spaces. A permit-issuance machine is not a parking meter.

~~((17))~~ (33) Persons with disability. For the purposes of this chapter, persons with disability refers to a person who meets one or more of the criteria of RCW 46.19.010(1) for the issuance of a state disability permit. A vehicle displaying a validly issued state department of transportation disability placard or a valid disability parking permit initiated through the University of Washington disability office shall be permitted to park in designated disability parking spaces, subject to payment of all applicable parking fees.

(34) Registered owner. The person who has the lawful right of possession of a vehicle most recently recorded with any state department of licensing.

~~((18))~~ (35) Roller skate/in-line skate. A device used to attach wheels to the foot or feet of a person.

~~((19))~~ (36) Scooter. A nonmotorized vehicle consisting of a footboard mounted on two wheels and a long steering handle, propelled by resting one foot on the footboard and pushing the other against the ground.

(37) Skateboard. Any oblong board of whatever composition, with a pair of wheels at each end, which may be ridden by a person.

~~((20))~~ **(38) Traffic.** The movement of motorized vehicles, nonmotorized vehicles, and pedestrians in an area or along a street as is defined in chapter 46.04 RCW.

~~((21))~~ **(39) Transportation services.** The university department that manages and maintains University of Washington vehicles and shuttles, promotes alternate commute options, manages and maintains parking facilities, issues parking products, issues citations, processes citation appeals, and collects fees and fines.

~~((22))~~ **(40) University.** The University of Washington, Seattle, and collectively those responsible for its control and operation.

~~((23))~~ **(41) UWPD.** University of Washington police department.

~~((24) **Vehicle.** Any motorized or nonmotorized vehicle.~~

~~((25))~~ **(42) Visitor.** A person who is neither an employee nor a student of the university. May also pertain to an employee or student who has not purchased a long-term product.

~~((26))~~ **(43) Virtual permit.** A permit stored within a permit-issuance machine or permitting system that authorizes a person to park in a designated space. Virtual permits are valid for a space through the date or time ~~((stored in the machine))~~ recorded in the permit system.

AMENDATORY SECTION (Amending WSR 12-03-038, filed 1/9/12, effective 2/9/12)

WAC 478-116-111 Permit required for all motorized vehicles parked on campus. Except as provided in WAC 478-116-112 and 478-116-155, no person shall park or leave any motorized vehicle, whether attended or unattended, upon the campus unless the person first purchases a valid permit from transportation services or a transportation services permit-issuance machine. Permission to park on campus shall be shown by display of a valid permit in accordance with WAC 478-116-122.

(1) A valid permit is:

(a) A current, physical vehicle permit issued by an authorized agent or permit-issuance machine or system designated by transportation services and displayed in accordance with WAC 478-116-122;

(b) A temporary physical permit issued by an authorized agent or permit-issuance machine designated by transportation services. Temporary permits are valid through the date or time of the permit; or

(c) A virtual permit that is stored within a permit-issuance machine or system for designated spaces. Virtual permits are valid for a specific space through the date or time stored in the machine or system and ~~((;))~~ if applicable, listed on the customer receipt.

(2) Parking permits are not transferable, except as provided in WAC 478-116-114.

(3) Transportation services reserves the right to refuse to issue parking permits.

(4) The university may allow persons without permits to drive through the campus without parking.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-112 Visitor parking for motorized vehicles. (1) No permit or payment shall be required for public safety and emergency vehicles while performing emergency services.

(2) Permits and payment of fees are required for all visitors parking on campus, unless exempted by transportation services ~~((;))~~ policy or state and local law.

(3) University departments may pay for all or part of the permit fee for their official visitors and guests.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-114 Transfer of permits limited. (1) Permits may be transferred between motor vehicles registered with transportation services for that individual permit ~~((;))~~ but may not be transferred to a third party to be used in an unregistered vehicle. The transfer of a permit by any unauthorized means including, but not limited to, resale or lending, is prohibited.

(2) Permits are not ~~((transferable))~~ transferable between parking areas, unless authorized by transportation services.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-118 Responsibility of person to whom the permit is issued. (1) The person(s) to whom a permit is issued is responsible for paying for the permit until the permit expires or is returned to transportation services ~~((;))~~ unless stated otherwise in these rules. All associated outstanding fees must be satisfactorily settled before a parking permit may be issued, reissued, or renewed.

(2) Permit holders shall provide transportation services with the license plate numbers of any vehicles they intend to use with a permit.

(3) The person(s) to whom a permit is issued is responsible for any violations of this chapter associated with a vehicle to which the permit is affixed and/or registered pursuant to WAC 478-116-341 up to the date and time the permit expires or is reported lost or stolen.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-122 Display of permits. (1) ~~((Permits))~~ Parking permits that are required to be displayed shall be prominently displayed ~~((and be))~~ so that they are fully visible from the exterior of the vehicle ~~((or recorded in a permit-issuance machine as required by transportation services))~~.

(2) Instructions on how to properly display permits will be provided by transportation services and permit-issuance machines and permit systems at the time of sale and/or on the transportation services' web site.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-124 Parking fees. Fees for parking and the effective date thereof shall be submitted to the board of regents for approval by motion. Prior to approval by the board of regents, the university shall, after notice, hold a hearing on the proposed schedule. The hearing shall be open to the public, and shall be presided over by a presiding officer who shall prepare a memorandum for consideration by the university, summarizing the contents of the presentations made at the hearing. Approved fee schedules shall be available ~~((in the lobby of the university transportation center and))~~ on the University of Washington web site.

NEW SECTION

WAC 478-116-126 Parking fines. Fines for parking citations and the effective date thereof shall be submitted to the board of regents for approval by motion. Prior to approval by the board of regents, the university shall, after notice, hold a hearing on the proposed schedule. The hearing shall be open to the public, and shall be presided over by a presiding officer who shall prepare a memorandum for consideration by the university, summarizing the contents of the presentations made at the hearing. Approved fine schedules shall be on the University of Washington web site.

NEW SECTION

WAC 478-116-127 Parking fines—Transitory provision. Until such time as new fine schedules are approved pursuant to WAC 478-116-126 the fine schedule set forth in previous WAC 478-116-325 and 478-116-331 as posted on the University of Washington transportation services web site shall remain in effect.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-131 ((Special)) Events parking and lot closures. (1) During ~~((special events causing additional or heavy traffic))~~ events, the university may impose additional traffic and parking restrictions per WAC 478-116-035.

(2) The university reserves the right to close any campus parking area it deems necessary for maintenance, safety, events, construction, or to meet special needs. Transportation services will, to the extent practical, provide notice to users and suitable alternatives for affected permit holders.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-135 Parking within designated spaces. (1) No motor vehicle shall be parked on the campus except in areas designated by transportation services as parking areas, unless authorized by transportation services, or in emergency situations, by UWPD.

(2) No person shall stop, stand, or park any motor vehicle so as to create a safety hazard, obstruct traffic along or

upon any street, or obstruct pedestrian movement along any plaza, path, or sidewalk.

(3) No motor vehicle shall be parked so as to occupy any portion of more than one parking space as designated within the parking area~~((s))~~ unless authorized by transportation services. The fact that other motor vehicles may have been so parked as to require the vehicle to occupy a portion of more than one space or stall shall not excuse a violation of this section.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-155 Parking regulated by a parking meter or permit-issuance machine. (1) Notwithstanding display of a valid permit to park in other parking areas/lots on campus, any motor vehicle which occupies a metered space is subject to payment of the parking meter fee and subject to the posted time limits. ~~((Motor vehicles displaying a disability permit or license plate issued by the state department of licensing shall not be subject to payment of fees when parked in a space which is restricted as to the length of time parking is permitted.))~~

(2) Notwithstanding the display of a valid permit to park in other parking area/lots on campus, any motor vehicle which occupies a space requiring a space-specific permit ~~((administered))~~ issued by a permit-issuance machine or system is subject to payment of ~~((a))~~ the applicable permit fee and the ~~((posted))~~ specified time limits. ~~((Vehicles displaying a disability permit or license plate issued by the state department of licensing shall not be subject to payment of fees when parked in a space which is restricted as to the length of time parking is permitted.))~~

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-191 Regulatory signs, markings, barricades, etc. (1) The university may install/erect permanent or temporary signs, barricades, paint marks, and other structures or directions upon the streets, curbs, and parking areas within the campus. Drivers of motorized and nonmotorized vehicles shall obey the signs, barricades, structures, markings, and directions. Drivers of motorized and nonmotorized vehicles shall comply with directions given to them by authorized agents of transportation services and UWPD in the control and regulation of traffic, in the assignment of parking spaces, and in the collection of parking fees.

(2) No one without authorization from transportation services or UWPD shall move, deface, install/erect, or in any way change a sign, barricade, structure, marking, or direction that regulates traffic or parking.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-193 Prohibited parking area(s). (1) No motor vehicle shall be parked at any place where official signs, curbs, and/or ground markings prohibit parking such as, but not limited to, "tow zone," "fire zone," "prohibited," or "no parking."

(2) No motor vehicle shall be parked within fifteen feet of a fire hydrant.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-195 Prohibited parking—Space designated ~~((as))~~ for disability ~~((or wheelchair))~~. No ~~((motor))~~ motorized vehicle or nonmotorized vehicle shall be parked in a disability ~~((or wheelchair))~~ space or lot without an appropriate permit.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-197 Motorcycle~~((, moped,))~~ and motor scooter~~((, and motorized bicycle))~~ parking. ~~((+))~~ Motorcycles~~((,))~~ and motor scooters~~((, mopeds, and motorized bicycles powered or assisted by combustible engines))~~ are considered motor vehicles and subject to all parking rules. These vehicles shall not be permitted to park on pathways, sidewalks, authorized bicycle racks, or storage facilities, pedestrian areas, or in buildings.

~~((2))~~ Motorcycles, scooters, mopeds, and motorized bicycles powered or assisted by combustible engines may only be parked in designated cycle areas and require a permit~~((;))~~

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-199 Bicycle, electric-assisted bicycle and electric scooter parking. (1) Bicycles ~~((and bicycles assisted by electric motors))~~, electric-assisted bicycles, and electric scooters shall be parked only in bicycle racks or designated bicycle parking facilities. ~~((All bicycle owners are encouraged to secure their bicycles with a secure lock.))~~ Without limiting the generality of the foregoing, at no time shall a bicycle, electric-assisted bicycle, or electric scooter be parked:

- (a) In a building, except where bicycle storage rooms are provided;
- (b) Near a building exit;
- (c) On a path or sidewalk unless attached to a university bike rack;
- (d) In planted areas; or
- (e) Chained or otherwise secured to trees, lamp standards, railings, garbage receptacles, fencing, or sign posts.

(2) Bicycle racks in campus areas are for parking and shall not be used for overnight storage, except for those racks adjacent to residence halls, which may be used for storage when the owner/operator is a current resident of that hall. Bicycle lockers ~~((in))~~ on campus are to be used for bicycle parking and may not be used for overnight storage of a bicycle. Bicycle houses on campus are to be used for bicycle parking and may not be used for overnight storage of a bicycle.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-221 Use of motorcycles, ~~((mopeds,))~~ motor scooters, electric-assisted bicycles, and electric scooters~~((, and motorized bicycles))~~. (1) Motorcycles, motor scooters, ~~((mopeds, and motorized))~~ and class 3 electric-assisted bicycles powered or assisted by combustible engines or engaged electric motors are considered motor vehicles and subject to all traffic rules. These vehicles shall not be permitted on paths, sidewalks, authorized bicycle or pedestrian areas, or in buildings.

(2) ~~((Bicycles assisted by electric motors are permitted on campus paths and sidewalks where bicycles are permitted to travel if the motor is disengaged and the bicycle is powered solely through human pedaling.))~~ Class 1 and 2 electric-assisted bicycles are subject to all of the restrictions set forth in WAC 478-116-232 relating to the use of bicycles.

(3) Electric scooters are permitted on campus paths where bicycles are permitted to travel with the exception of sidewalks, unless there is no alternative for an electric scooter to travel over a sidewalk as part of a bicycle or pedestrian path. It shall be a violation of this section for any electric scooter rider to fail to yield to pedestrians or to ride an electric scooter on paths, sidewalks, or streets where signs indicate it is prohibited. An audible signal or warning must be given by the electric scooter rider whenever there is any appreciable risk of injury to a pedestrian not otherwise aware of the presence of the electric scooter.

(4) Class 1 and 2 electric-assisted bicycles and electric scooters operated on paths, sidewalks, and roadways shall be subject to all relevant state statutes regulating class 1 and 2 bicycle and electric scooter use. Violation of those statutes shall be considered a violation of this section.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-242 Use of skateboards. Skateboard use in pedestrian areas including, but not limited to, walkways, ramps, concourses, and plazas (such as "Red Square"), and on internal university streets and loading areas on the campus, is restricted solely to transporting an individual from one campus destination to another. Any recreational, athletic, or other ~~((exhibitional))~~ exhibitioner use of skateboards unrelated to transportation is strictly prohibited, unless expressly approved in advance by the appropriate committee on the use of university facilities, pursuant to chapter 478-136 WAC. The use of skateboards for any purpose within parking lots or parking garages is strictly prohibited.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-301 Issuance of parking and traffic citations. (1) Upon probable cause to believe that a violation of this chapter related to motorized vehicle parking has occurred, an authorized agent of transportation services may issue a parking citation setting forth the date, approximate time, locality, nature of the violation, identifiable characteristics of the vehicle if applicable, and the amount of the fine(s).

(2) Upon probable cause to believe that a violation related to parking, traffic, or nonmotorized vehicles has occurred, UWPD may issue a citation setting forth the date, approximate time, locality, nature of violation, identifiable characteristics of the vehicle if applicable, and amount of the fine(s).

(3) The following information shall accompany and/or be printed on the citation:

- (a) The violation fine and instructions for payment; and
- (b) Instruction for contesting the citation, including where to obtain and submit petitions.

(4) The citation shall be served on the person responsible for the violation by:

- (a) Attaching a copy of the citation to the vehicle allegedly involved in the violation; and
- (b) Mailing a copy of the citation to the registered owner; or
- (c) Serving a copy of the citation personally to the person responsible.

(5) Failure to pay fines or contest the citation within the time specified in these rules can result in a late payment fee as set forth in WAC 478-116-335.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-315 Parking product revocations.

Parking products issued by the university are the property of the university, and may be recalled or revoked by the university for any of the following reasons:

- (1) When the purposes for which the parking product was issued changes or no longer exists;
- (2) When an unauthorized individual uses the parking product;

AMENDATORY SECTION (Amending WSR 12-03-038, filed 1/9/12, effective 2/9/12)

WAC 478-116-325 Motor vehicle (~~fine schedule~~) violation types by category. The following (~~schedule of fines for~~) offense categories and applicable violations of the rules listed below is hereby established.

((Offense Category	Maximum Citation Fine	Fine if Citation is Paid Within 20 Calendar Days	Applicable Violations
Minor	\$20.00	\$15.00	<ul style="list-style-type: none"> • Permit not registered to vehicle, see WAC 478-116-114; • Parking outside of area assigned by permit, see WAC 478-116-114; • Improper display of permit, see WAC 478-116-122.
General	\$40.00	\$35.00	<ul style="list-style-type: none"> • No valid permit displayed, no valid permit for space or parking without making payment, see WAC 478-116-111, 478-116-112, and 478-116-155; • Occupying more than one space, see WAC 478-116-135; • Parking at expired meter, see WAC 478-116-155; • Overtime parking, see WAC 478-116-175; • All other violations of this chapter.
Major	\$60.00	\$50.00	<ul style="list-style-type: none"> • Obstructing traffic or pedestrian movements, see WAC 478-116-135;

- (3) Falsification on a parking product application;
- (4) Nonpayment of fees and/or fines;
- (5) ~~((Receiving over eight citations within a calendar year;~~
- ~~(6)))~~ Counterfeiting or altering of parking products; or
- ~~((7)))~~ (6) Failure to comply with a final adjudicated decision of transportation services.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-321 Use of recalled, revoked, lost, stolen, or forged/altered permits prohibited.

(1) Vehicles displaying parking products that have been recalled, revoked, forged, altered, or reported lost or stolen will be subject to a citation and ~~((immobilization or impoundment))~~ may be immobilized or impounded on sight. Parking products that have been revoked, recalled, or reported lost or stolen must be returned to transportation services or an authorized agent of transportation services before the vehicle will be released.

(2) Purchasing a parking product from a party other than transportation services or a lawful designee(~~(s))~~) shall not constitute an excuse or defense for violating this section.

(3) Parties using parking products that have been recalled, revoked, forged, altered, or reported lost or stolen shall be subject to a serious violation per WAC 478-116-325, and(~~(s))~~) in addition, will be responsible for paying the cost of an equivalent permit fee from the date the permit was revoked, recalled, or reported lost or stolen to the date the permit expired or was returned to transportation services.

(4) Any unpaid fines for a violation of the rules in chapter 478-116 WAC will be deducted from any refunds resulting from the revocation of parking products.

((Offense Category	Maximum Citation Fine	Fine if Citation is Paid Within 20 Calendar Days	Applicable Violations
			<ul style="list-style-type: none"> • Parking in restricted, prohibited, or nonparking areas, see WAC 478-116-135, 478-116-191, 478-116-193, and 478-116-197.
Serious	\$300.00	\$250.00	<ul style="list-style-type: none"> • Disability/wheelchair space violations, see WAC 478-116-195; • Use of revoked, stolen, forged, or altered parking products, see WAC 478-116-321.
Late Payment Fee	Maximum Citation Fine + \$25.00	N/A	Penalty for failure to pay fine, respond, or comply with final decision of the citation hearing office within time limits, see WAC 478-116-301.)

<u>Offense Category</u>	<u>Applicable Violations</u>
<u>Minor</u>	<u>Permit not registered to vehicle, see WAC 478-116-114;</u> <u>Parking outside of area assigned by permit, see WAC 478-116-114;</u> <u>Improper display of permit, see WAC 478-116-122.</u>
<u>General</u>	<u>No valid permit displayed, no valid permit for space or parking without making payment, see WAC 478-116-111, 478-116-112, and 478-116-155;</u> <u>Occupying more than one space, see WAC 478-116-135;</u> <u>Parking at expired meter, see WAC 478-116-155;</u> <u>Overtime parking, see WAC 478-116-175;</u>

<u>Offense Category</u>	<u>Applicable Violations</u>
	<u>All other violations of this chapter.</u>
<u>Major</u>	<u>Obstructing traffic or pedestrian movements, see WAC 478-116-135;</u> <u>Parking in restricted, prohibited, or nonparking areas, see WAC 478-116-135, 478-116-191, 478-116-193, and 478-116-197.</u>
<u>Serious</u>	<u>Disability/wheelchair space violations, see WAC 478-116-195;</u> <u>Use of revoked, stolen, forged, or altered parking products, see WAC 478-116-321.</u>
<u>Late Payment Fee</u>	<u>Penalty for failure to pay fine, respond, or comply with final decision of the citation hearing office within time limits, see WAC 478-116-301.</u>

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-331 Nonmotorized vehicle ((~~fine schedule~~) violation types by category. The following ((~~schedule of fines for~~) offense categories and applicable violations of the rules listed below is hereby established.

((Offense Category	Maximum Citation Fine	Applicable Violations
General	\$10.00	Failure to yield to pedestrians, riding in restricted/prohibited areas, violation of state bicycle codes, see WAC 478-116-232.
Major	\$25.00	Negligent riding, see WAC 478-116-232.
Impoundment Fee	\$10.00	Bicycle impoundment, skateboard impoundment, see WAC 478-116-365 and 478-116-371.
Skateboard Violations	\$10.00 – \$30.00	Fines based on number of violations within a set time period, see WAC 478-116-371.
Late Payment Fee	Maximum Citation Fine + \$25.00	Penalty for failure to pay fine, respond, or comply with the final decision of the citation hearing office within time limits, see WAC 478-116-301.)

<u>Offense Category</u>	<u>Applicable Violations</u>
<u>General</u>	<u>Failure to yield to pedestrians, riding in restricted/prohibited areas, violation of state bicycle codes, see WAC 478-116-232.</u>
<u>Major</u>	<u>Negligent riding, see WAC 478-116-232.</u>
<u>Impoundment Fee</u>	<u>Bicycle, class 1 and 2 electric-assisted bicycles, and electric scooters impoundment, skateboard impoundment, see WAC 478-116-365 and 478-116-371.</u>
<u>Skateboard Violations</u>	<u>Fines based on number of violations within a set time period, see WAC 478-116-371.</u>
<u>Late Payment Fee</u>	<u>Penalty for failure to pay fine, respond, or comply with the final decision of the citation hearing office within time limits, see WAC 478-116-301.</u>

AMENDATORY SECTION (Amending WSR 17-15-068, filed 7/14/17, effective 8/18/17)

WAC 478-116-335 Payment of citation fines. (1) All fines must be paid as designated on the citation within twenty calendar days from the date of the citation. ~~((If a parking citation is paid within twenty calendar days, the citation fine shall be discounted according to the amounts listed in WAC 478-116-325.))~~

(2) Fines for parking citations must be delivered in person to the transportation services' office, paid online, or mailed and postmarked on or before the due date specified in these rules to avoid additional penalties.

(3) Fines for traffic citations associated with violations of this chapter must be delivered in person to the UWPD office, or mailed and postmarked on or before the due date specified in these rules to avoid additional penalties.

(4) If any citation has neither been paid nor appealed after twenty calendar days from the date of the citation, the university shall impose an additional fine as specified in WAC 478-116-325 or 478-116-331 and may:

- (a) Withhold the violator's degrees, transcripts, grades, refunds, or credits until all fines are paid;
 - (b) Delay registration for the following quarter;
 - (c) Impound or immobilize the violator's vehicle after providing notice of nonpayment to the permit holder and/or registered owner;
 - (d) Deny future ~~((parking))~~ transportation product privileges to the violator; or
 - (e) Refer outstanding balances associated with unpaid fines for collection in accordance with applicable statutes and university procedure.
- (5) An accumulation of traffic and parking violations by a student may be cause for discipline under the student conduct code of the university (see chapter 478-121 WAC).

(6) In addition to any other penalty which may be imposed as a result of actions described in this chapter, campus parking privileges shall be suspended until all such debts are paid.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-351 Motorized vehicles—Immobilization and impoundment. (1) In addition to issuing citations for violations of these rules, authorized agents of transportation services and UWPD may immobilize or impound any motorized vehicle parked on campus in violation of these rules. The expenses of immobilization, impoundment, and storage shall be charged to the owner or operator of the motor vehicle, or both, and must be paid before the motor vehicle's release. Grounds for immobilizing or impounding motor vehicles shall include, but not be limited to, the following:

- (a) Blocking a roadway so as to impede the flow of traffic;
 - (b) Blocking a walkway, trail, sidewalk, or crosswalk so as to impede the flow of pedestrian traffic or impede the ability of any person to fully access such walkway, trail, sidewalk, or crosswalk;
 - (c) Blocking a fire hydrant or fire lane;
 - (d) Creating a public safety hazard;
 - (e) Blocking another legally parked vehicle;
 - (f) Parking in a marked "tow-away" zone;
 - (g) Failing to pay a fine imposed under this chapter following notice of nonpayment to the registered permit holder and/or registered owner of the motor vehicle;
 - (h) Use of recalled, revoked, lost, stolen, or forged/ altered permits prohibited as per WAC 478-116-321;
 - ~~(i)~~ (j) UWPD has probable cause to believe the motor vehicle is stolen;
 - ~~((j))~~ (k) UWPD has probable cause to believe the motor vehicle contains or constitutes evidence of a crime and impoundment is necessary to obtain or preserve such evidence; or
 - ~~((k))~~ (l) When a driver is arrested and/or deprived of the right to leave with the driver's motor vehicle and UWPD is responsible for safekeeping of the vehicle.
- (2) Not more than one business day after immobilization or impoundment of any motor vehicle, the university shall mail a notice of immobilization or impoundment to the permit holder and/or registered owner of the motor vehicle and to any other person who claims the right to possession of the motor vehicle, if those persons can be identified. Similar notice shall be given to each person who seeks to redeem an immobilized or impounded motor vehicle. If a motor vehicle is redeemed prior to the mailing of the notice, the notice may not be mailed. The notice shall contain the date of immobilization or impoundment, reason for the action, the location of the motor vehicle if impounded, and redemption procedures ~~((, and an opportunity to contest the immobilization or impoundment as provided in WAC 478-116-415)).~~
- (3) A sticker will be attached to a motor vehicle that is immobilized which shall include, but is not limited to, the following information:
- (a) Date and time of immobilization;

- (b) Reason for immobilization;
- (c) Instruction for motor vehicle release; and
- (d) Notification that the motor vehicle will be towed within seventy-two hours of the date/time indicated on the sticker if the motor vehicle remains immobilized.

Motor vehicles that remain immobilized seventy-two hours after the immobilization device was placed on the motor vehicle will be impounded. Impoundment of these motor vehicles will follow the procedures outlined in WAC 478-116-361.

(4) Impounding or immobilizing a motor vehicle does not remove the obligation for any fines associated with the violation or other outstanding citations. All fines, fees, and the cost of the immobilization and impoundment (e.g., booting, towing, storage fees) must be paid prior to the removal of an immobilization device or the release of an impounded motor vehicle.

(5) Impounded motor vehicles shall only be redeemed by the registered owner who has a valid driver's license or a person authorized by the registered owner who has a valid driver's license and who produces proof of authorization and signs a receipt for the motor vehicle.

~~((6) Any person seeking to redeem a motor vehicle impounded or immobilized under this chapter has the right to contest the validity of the impoundment or immobilization, the amount of applicable booting, towing, and storage fees and shall have the motor vehicle released upon requesting a review provided in WAC 478-116-415, and paying any outstanding fines, towing, and storage charges.))~~

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-361 Motorized vehicles—Impoundment of abandoned motor vehicles. Authorized agents of transportation services discovering an apparently abandoned motor vehicle shall attach to the motor vehicle a readily visible notification sticker warning of impoundment if the motor vehicle is not removed within seventy-two hours from the time the sticker is attached. The sticker shall contain the following information:

- (1) The date and time sticker was attached;
- (2) A statement that if the motor vehicle is not removed within seventy-two hours from the time the sticker is attached, the motor vehicle will be impounded; and
- (3) The address and telephone number where additional information may be obtained.

If(;) the motor vehicle is not removed within seventy-two hours, the motor vehicle shall be impounded as described in WAC 478-116-351.

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-365 Nonmotorized vehicles—Impoundment of bicycles, electric-assisted bicycles, and electric scooters. (1) Bicycles, electric-assisted bicycles, and electric scooters parked in violation of WAC 478-116-199 will be subject to seizure and impoundment by the university.

(2) Except as provided by WAC 478-116-199(2), a bicycle abandoned or parked on campus, other than at residential

halls, for fourteen consecutive days or longer is presumed abandoned and is subject to seizure and impoundment by the university. Bicycles remaining at resident halls once the school year ends will be presumed abandoned and are subject to seizure and impoundment by the university. A bicycle will not be considered abandoned when the owner/operator is unable to remove it and so notifies UWPD. A bicycle that has been obviously stripped or vandalized may be immediately impounded.

(3) Owners of impounded bicycles, electric-assisted bicycles, and electric scooters, if identifiable, will be notified as soon as reasonably possible after impoundment and must reclaim their bicycle within fifteen consecutive days. All fines, fees, and the impoundment fee must be paid prior to the release of the bicycle. Bicycles, electric-assisted bicycles, and electric scooters unclaimed after sixty consecutive days will be subject to sale through the university surplus property department.

(4) The university and its officers, agents, and employees shall not be liable for loss or damage of any kind resulting from impoundment, storage, or sale of any item under this section.

(5) Impoundment or sale of any bicycle, electric-assisted bicycles, and electric scooters under this section shall neither substitute for, ~~((or))~~ nor release, any person from liability for damage to persons or property caused by the use of a bicycle, nor does it remove the obligation for any fines associated with the violation or other outstanding citations. Any proceeds resulting from the sale of a bicycle through the university surplus department will be credited toward the outstanding fee associated with the impoundment of that bicycle.

~~((6) Any person seeking to redeem a bicycle impounded under this chapter has the right to contest the validity of the impoundment and the amount of applicable fees and shall have the bicycle released upon establishing ownership, requesting a review provided in WAC 478-116-415, and paying any outstanding fines or storage charges.))~~

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-371 Nonmotorized vehicles—Skateboard violations. (1) Skateboard use in violation of WAC 478-116-242 shall result in the following:

(a) For the first offense, UWPD will record the name of the individual and provide a written warning against further skateboard use in violation of WAC 478-116-242. Individuals who cannot produce satisfactory identification will be given a receipt for their skateboard, which will be impounded at the UWPD station until they are able to return with the receipt and identification. There will be no impoundment fee.

(b) For a second offense, within twenty-four months of any previous offense or warning, the skateboard will be impounded for not less than forty-eight hours and the offender shall be subject to a fine of ten dollars plus applicable impoundment fee.

(c) For a third or subsequent offense, within twenty-four months of any previous two offenses, warnings, or combination thereof, the skateboard will be impounded for not less

than thirty calendar days and the offender shall be subject to a fine of thirty dollars plus the applicable impoundment fee.

(d) Impounded skateboards will be held by UWPD and released only during regular business hours to individuals with satisfactory identification. Payment of a ten-dollar storage fee will also be required for release, except as provided in (a) of this subsection.

(2) Skateboards impounded under this section which are unclaimed sixty consecutive days after the applicable minimum impoundment time period has elapsed will be presumed abandoned and be subject to sale at a public auction conducted by the university surplus property department.

(3) The university and its officers, agents, and employees shall not be liable for loss or damage of any kind resulting from impounding, storage, or sale of any item under this section.

(4) Impoundment or sale of any skateboard under this section shall neither substitute for, nor release any person from liability for damage to persons or property caused by use of a skateboard at the university, nor does it remove the obligation for any fines associated with the violation or other outstanding citations. Any proceeds resulting from the sale of a skateboard through the university surplus department will be credited toward the outstanding fee associated with the impoundment of that skateboard.

~~((5) Any person seeking to redeem a skateboard impounded under this chapter has the right to contest the validity of the impoundment, the amount of applicable fees, and shall have the skateboard released upon requesting a review provided in WAC 478-116-415, and paying any outstanding fines or impoundment fees.))~~

PART V

CITATION(~~, IMMOBILIZATION, AND IMPOUNDMENT~~) APPEALS

AMENDATORY SECTION (Amending WSR 11-13-058, filed 6/14/11, effective 8/8/11)

WAC 478-116-405 Election to pay fine or contest citations. (1) **Election to pay fine.** A person who receives a citation(~~(s)~~) shall, within twenty calendar days from the date of the citation, either pay the applicable fine or contest the issuance of the citation in the manner prescribed in subsection (2) of this section. ~~((If paid within twenty calendar days of citation issuance, motorized parking citation fines shall be discounted per WAC 478-116-325.))~~ Once the applicable fine is paid, the citation can no longer be appealed. Failure to either pay the fine or timely appeal the citation shall automatically result in the citation being final, ~~((the full amount of the fine shall stand,))~~ and an additional late payment fee per offense shall be imposed for each citation which is not responded to within the time limits set forth in this section.

(2) **Election to contest a citation.** A person wishing to contest a citation (hereinafter "petitioner") may do so by completing and submitting a citation petition (hereinafter "petition") ~~((to the citation hearing office))~~ within twenty calendar days of the date of the citation. Petitions for motorized and nonmotorized parking citations must be ~~((delivered to~~

~~transportation services))~~ submitted through the citation appeal process as described on the citation notification(s) within the allotted time limit. Petitions for traffic and all other nonmotorized citations must be delivered to UWPD within the allotted time limit.

~~((Petition forms are))~~ Petitioners may submit their petition through the citation appeals portal available ~~((at))~~ on the transportation services and UWPD ~~((or on the transportation services and UWPD))~~ web sites. The petitioner must complete each section of the petition form and provide a brief statement regarding circumstances associated with the citation. A citation hearing officer shall review the petition and provide written notification of his or her initial decision with information about the opportunity for further review ~~((within ten calendar days of taking action on the initial decision))~~. The amount of any reduction to the fine assessed in the initial decision is at the discretion of the citation hearing officer. Any fines owed on an initial decision not contested as provided in subsection (3) of this section shall be paid within twenty-one calendar days after service of the initial decision. If payment is not received within twenty-one calendar days, any offer of settlement or reduction is withdrawn, the full amount of the fine shall stand, an additional late fee shall be imposed, and the citation shall be deemed final.

(3) **Review of initial decision.** If a petitioner chooses to contest the initial decision issued by the citation hearing officer, the petitioner shall forfeit any reduction in the assessed fines offered in the initial decision. The petitioner must contact the department processing the petition (transportation services or UWPD) orally or in writing within twenty-one calendar days after service of the decision. The request for review shall contain an explanation of the petitioner's position and a statement of reasons why the initial decision on the petition was incorrect. The reviewing officer shall, within twenty calendar days of the date of the request to review the initial decision, render a final written decision which shall include a brief statement of the reasons for the decision, offer of settlement if applicable, and provide information about the opportunity to appeal the decision to district court. The amount of fine or settlement assessed in the final decision is at the discretion of the citation hearing officer. Any final decision of the reviewing officer not appealed as provided in subsection (4) or (5) of this section shall be paid within ten calendar days after service of the decision. If payment is not received within ten calendar days, any offer of settlement or reduction is withdrawn, the full amount of the fine shall stand, an additional late fee shall be imposed, and the citation shall be deemed final.

(4) **Discretionary review of initial decision.** If the petitioner has not requested a review of the initial decision, the citation hearing officer may, within twenty calendar days after service of the initial decision, conduct a review and issue a final decision on its own motion and without notice to the parties, but it may not take any action on review less favorable to the petitioner than the initial decision without giving the petitioner notice and opportunity to explain his or her view of the matter.

(5) **Appeal to district court.** The application for appeal to district court shall be in writing and must be filed with the department processing the petition (transportation services or

UWPD) within ten calendar days of service of the final decision. The written notice must be submitted on the "Notice of Appeal" form provided by transportation services or UWPD. The Notice of Appeal form will be available at transportation services or UWPD during regular hours of operation. The department processing the citation will forward the documents relating to the appeal to district court. No appeal to the district court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section, in addition to this subsection. If a petitioner chooses to contest the decision issued by the citation hearing officer via appeal to the district court, the petitioner shall forfeit any reduction in the assessed fines offered in the hearing officer's decision.

~~((6) **Providing an oral statement.** A petitioner who requests a review of the initial decision under subsection (3) of this section may request the opportunity to provide an oral statement before the citation hearing officer. A request to make an oral statement must be included in the request for review of the initial decision and must be submitted within ten calendar days of the initial decision. If the request for an oral statement is made, the citation hearing officer shall provide reasonable notice of the time and place for receiving the oral statement, which must occur no later than twenty calendar days after the request for review was submitted. If an oral statement cannot be scheduled within this time frame, the citation hearing officer will review the request as outlined in subsection (3) of this section.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 478-116-415 Election to contest immobilization or impoundment.

WSR 19-11-047 PERMANENT RULES GAMBLING COMMISSION

[Filed May 10, 2019, 1:22 p.m., effective June 10, 2019]

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

Purpose: Changes to WAC 230-16-005 were necessary to clarify what types of gambling equipment can be brought into the state, for what purpose, and in what manner they can be displayed at trade shows. Specific changes include defining the terms "trade show," "gambling equipment," and "demonstration mode"; clarifying what equipment can be displayed at trade shows and the manner in which it is displayed; providing parameters for how long unapproved equipment can remain in the state; establishing a method of notifying the Washington state gambling commission; and allowing for onsite inspection of equipment by the gambling commission at a trade show. Changes to WAC 230-06-050 were necessary to be consistent with WAC 230-16-005.

Citation of Rules Affected by this Order: Amending WAC 230-16-005 Transporting, displaying, and selling gambling equipment at trade shows and 230-06-050 Review of electronic or mechanical gambling equipment.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 19-03-095 on January 15, 2019, and WSR 19-07-071 on March 19, 2019.

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 the Request of a Non-governmental 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 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 9, 2019.

Ashlie Laydon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-09-037, filed 4/11/14, effective 7/1/14)

WAC 230-06-050 Review of electronic or mechanical gambling equipment. (1) When you submit gambling equipment, supplies, services, or games for our review to verify compliance with chapter 9.46 RCW and Title 230 WAC, you must pay the application deposit before we perform the review. You must also reimburse us for any additional costs of the review. All costs must be paid in full prior to the completion of the review.

(2) The gambling equipment submitted for review must be identical or substantially similar to what will be marketed, distributed, and deployed in Washington. If the equipment is not sufficient for testing and review, we may require additional equipment or information.

(3) If your application is incomplete or we request additional information, you must provide us with the required items within thirty days of notification or we may administratively close your application.

(4) You can begin ~~((selling or leasing the))~~ accepting orders for gambling equipment when you are licensed ~~((and the gambling equipment has been approved by the director or director's designee)).~~

(5) Only gambling equipment approved by the director or director's designee is allowed in Washington except as provided under WAC 230-16-005.

(6) We may include security or surveillance requirements as part of gambling equipment approval.

~~((6))~~ (7) Gambling equipment must operate as approved by the director or director's designee.

~~((7))~~ (8) We may keep equipment submitted for review to allow for continued testing and training as long as the equipment remains in play in Washington. We are not liable for any damage to equipment while in our possession.

~~((8))~~ (9) If you do not agree with the director or director's designee's decision, you may file a petition for declara-

tory order with the commission according to RCW 34.05.240 and chapter 230-17 WAC.

AMENDATORY SECTION (Amending WSR 07-19-069, filed 9/17/07, effective 1/1/08)

WAC 230-16-005 Transporting, displaying, and selling gambling equipment at trade shows (~~and conventions~~). (~~Licensed manufacturers and distributors selling gambling equipment authorized by state or federal law may transport, display, and accept orders for the sale or lease of their products at trade shows and conventions as long as:~~

~~(1) They notify us in writing of the nature, date, and location ten days before the trade show or convention; and~~

~~(2) Their target audience of the trade show or convention are operators of authorized gambling activities in Washington; and~~

~~(3) They deliver all gambling equipment purchased or leased at the trade show or convention to the operator's authorized location.)~~ (1) "Trade show" when used in this section means an exhibition where licensed manufacturers and distributors promote their products and services to operators of authorized gambling activities in Washington; the exhibition is not open to the public; and it is of limited duration.

(2) "Gambling equipment" as used in this section has the same meaning as in WAC 230-03-200.

(3) "Demonstration mode" when used in this section means when gambling equipment cannot be used for actual wagering and the equipment's coin or bill acceptor is removed or physically restricted from use.

(4) Licensed manufacturers and distributors may transport, display, and accept orders for the sale or lease of their products at trade shows only under the following conditions:

(a) All products must be manufactured by a licensed manufacturer for: Activities authorized by state laws or tribal-state compacts, or is Class II gaming equipment as authorized by federal law for use on tribal lands; and

(b) All gambling equipment physically displayed must be in demonstration mode and either:

(i) Approved for sale or lease in the state; or

(ii) Not approved by us but is only used for authorized activities under state laws or tribal-state compacts, or is Class II gaming equipment as authorized by federal law for use on tribal lands, and is transported into the state no more than ten days before a trade show begins and is removed from the state within ten days following the last day of a trade show.

(c) Gambling equipment must have a sign posted in close proximity to the device that contains the phrase, "No one under 18 years of age is allowed to operate this machine."

(5) Licensed manufacturers and distributors must provide notification that they will be transporting, displaying, or accepting orders for gambling equipment on a form prescribed by the gambling commission at least ten days before a specified trade show.

(6) Gambling equipment at a trade show is subject to on-site inspection by the gambling commission.

WSR 19-11-048

PERMANENT RULES

UNIVERSITY OF WASHINGTON

[Filed May 10, 2019, 1:56 p.m., effective June 10, 2019]

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

Purpose: The University of Washington, Bothell is updating terminology regarding current modes of transportation and advancement in parking technology (i.e., electric assisted bicycle and virtual permit parking) traveling to/from and through campus. The information in this WAC chapter has also been updated to reflect current practices regarding parking and parking related products, systems, and privileges, parking fees, citations, fines, immobilization and impoundment, and related appeals.

Citation of Rules Affected by this Order: New WAC 478-117-012, 478-117-035, 478-117-042, 478-117-043, 478-117-055, 478-117-235, 478-117-325, 478-117-330 and 478-117-340; repealing WAC 478-117-070, 478-117-080, 478-117-280, 478-117-400 and 478-117-410; and amending WAC 478-117-010, 478-117-020, 478-117-030, 478-117-040, 478-117-050, 478-117-060, 478-117-090, 478-117-100, 478-117-110, 478-117-200, 478-117-220, 478-117-240, 478-117-270, 478-117-300, 478-117-310, and 478-117-320.

Statutory Authority for Adoption: RCW 28B.10.560 and 28B.20.130.

Adopted under notice filed as WSR 19-06-035 on March 1, 2019.

Changes Other than Editing from Proposed to Adopted Version: The university changed the proposed version of WAC 478-117-050 second sentence and WAC 478-117-050 (1)(b). The adopted version of WAC 478-117-050 second sentence reads, "Permission to park on campus will be shown by the display of a valid visual permit or registration of a valid virtual permit." The adopted version of WAC 478-117-050 (1)(b) reads, "A current unexpired virtual permit issued by commuter services, or an authorized agent, that is associated with a vehicle's license plate." Both changes from the proposed version to the adopted version are underlined. The university made these minor changes to align with Cascadia College's chapter 132Z-116 WAC.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 9, Amended 16, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 16, Repealed 5.

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

Date Adopted: May 9, 2019.

Barbara Lechtanski, Director
University Policy and Rules Office

AMENDATORY SECTION (Amending WSR 17-14-035, filed 6/26/17, effective 7/27/17)

WAC 478-117-010 Objectives of parking and traffic rules. The objectives of these rules are:

- (1) To protect and control pedestrian and vehicular traffic on the campus of University of Washington, Bothell and Cascadia College.
- (2) To ~~((assure))~~ ensure access at all times for emergency equipment.
- (3) To minimize traffic disturbances.
- (4) To facilitate the operation of the institutions by ~~((assuring))~~ ensuring access to vehicles.
- (5) To allocate limited parking space for the most efficient use.
- (6) To protect state property.
- (7) To encourage and support travel to the campus by means other than single occupancy vehicle.

NEW SECTION

WAC 478-117-012 Knowledge of parking and traffic rules. It is the responsibility of all individuals parking or operating a vehicle on the campus to comply with these rules. Lack of knowledge of these rules shall not be grounds for the dismissal of any citation for a violation of the parking or traffic rules.

AMENDATORY SECTION (Amending WSR 17-14-035, filed 6/26/17, effective 7/27/17)

WAC 478-117-020 Definitions. The following definitions apply to this chapter:

- ~~((1) Campus: The collocated campus of University of Washington, Bothell and Cascadia College.~~
- ~~(2) College: Cascadia College, and collectively those responsible for its control and operations.~~
- ~~(3) Employee: An employee of the college or the university.~~
- ~~(4) Institutions: The college and the university.~~
- ~~(5) Public safety officers: Employees of the college or the university who are responsible for campus security, safety, and parking and traffic control.~~
- ~~(6) Student: A person enrolled in the college or the university.~~
- ~~(7) University: The University of Washington, Bothell, and collectively those responsible for its control and operations.~~
- ~~(8) Vehicle: An automobile, truck, motorcycle, motorized scooter, or bicycle.~~
- ~~(9) Visitor: A person who is neither an employee nor a student of the college or the university.)~~ (1) **Authorized valid payment:** Any payment accepted by commuter services, including online, mobile application, and pay stations.
- (2) **Bicycle:** Any device defined as a bicycle in RCW 46.04.071.
- (3) **Campus:** The collocated campus of University of Washington, Bothell and Cascadia College to include those lands and leased facilities where parking is managed or controlled by commuter services.

(4) **Campus safety officers:** Employees of the college or the university who are responsible for campus security, safety, parking, and traffic control.

(5) **Carpool:** A group of two or more employees or students who commute to campus in the same vehicle and complete the campus commuter services carpool registration process.

(6) **Citation:** Formal written notice of a parking violation.

(7) **College:** Cascadia College and collectively those responsible for its control and operations.

(8) **Commuter services:** The campus department that manages and maintains parking facilities, issues parking products, issues citations, processes citation appeals, and collects fees and fines.

(9) **Day:** Unless otherwise specified, the term "day" refers to a calendar day.

(10) **Disability parking:** See persons with a disability.

(11) **Disability zone/area:** A parking zone designated for exclusive use by persons with a disability and identified with a sign bearing the associated international symbol.

(12) **Electric assisted bicycle:** As defined under RCW 46.04.169.

(13) **Employee:** Any individual hired as or appointed to the faculty, staff, or administration of the college or the university.

(14) **Fee:** A charge for the use of services provided and facilities managed by commuter services.

(15) **Fine:** Monetary penalty for a parking violation.

(16) **Immobilization:** The attachment of a device to a parked motor vehicle so that the vehicle cannot be moved.

(17) **Impoundment:** The removal of the vehicle to a storage facility by an authorized agent of campus safety, commuter services, or an authorized agent of commuter services.

(18) **Institutions:** The college and the university.

(19) **License plate recognition (LPR):** Technology that uses optical character recognition to automatically read license plate characters.

(20) **Meter:** A single fixed device that registers and collects payment for the length of time a vehicle occupies a single parking space. A meter does not produce a receipt, physical permit, or virtual permit. A meter is not a permit-issuance machine.

(21) **Moped:** As defined under RCW 46.04.304.

(22) **Motorcycle:** As defined under RCW 46.04.330.

(23) **Motor vehicle:** As defined under RCW 46.04.320.

(24) **Nonmotorized vehicle:** A device other than a motor vehicle used to transport persons including, but not limited to, bicycles, skateboards, in-line skates, hover boards, personal conveyance devices, and roller skates.

(25) **Operator or driver:** Every person who drives or is in actual physical control of a motor vehicle or nonmotorized vehicle.

(26) **Overtime parking:** The occupation by a vehicle of a time-limited space beyond the posted time limit or time provided on a permit, meter, or permit-issuance machine.

(27) **Parking product:** A product issued by commuter services to manage motorized and nonmotorized access to the campus. Parking products include, but are not limited to,

visual permits, virtual permits, access to bicycle lockers and other bicycle parking facilities, and parking access cards.

(28) **Parking space:** A space for parking one motor vehicle normally designated by lines painted on either side of the space, a wheel stop positioned in the front of the space, a sign or signs, or other markings.

(29) **Pay station:** A commuter services deployed and managed machine that issues virtual permits.

(30) **Permit:** A visual permit or virtual permit.

(31) **Persons with a disability:** For the purpose of this chapter, persons with a disability shall refer to a person or persons with a disability or disabilities who qualify for a state-issued individual with disabilities parking identification and permit.

(32) **Registered owner:** The person who has the lawful right of possession of a vehicle most recently recorded with any state department of licensing.

(33) **Roller skate/in-line skate:** A device used to attach wheels to the foot or feet of a person.

(34) **Skateboard:** Any oblong board of whatever composition, with a pair of wheels at each end, which may be ridden by a person.

(35) **Student:** A person enrolled in the college or the university.

(36) **Traffic:** The movement of motorized vehicles, non-motorized vehicles, and pedestrians in an area or along a street as is defined in RCW 46.04.590.

(37) **University:** The University of Washington, Bothell, and collectively those responsible for its control and operations.

(38) **Vehicle:** As defined under RCW 46.04.670.

(39) **Virtual permit:** An authorization to park, issued by commuter services, or an authorized agent, that is associated with a vehicle's license plate.

(40) **Visitor:** A person who is neither an employee nor a student of the college or the university and who only visits campus on an occasional basis.

(41) **Visual permit:** A physical permit issued by campus commuter services that when properly filled out and displayed according to instructions, authorizes a vehicle to park on campus.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-030 Applicable parking and traffic rules. The applicable parking and traffic rules upon the campus are:

(1) The motor vehicle and other traffic laws of the state of Washington, Title 46 RCW.

(2) The ~~((traffic code of the city of Bothell.~~

~~(3) The parking and traffic rules in this chapter. If the Washington laws or the Bothell traffic code conflicts with these rules, the Washington laws or the Bothell traffic code shall govern)) parking and traffic rules in this chapter and chapter 132Z-116 WAC.~~

NEW SECTION

WAC 478-117-035 Severability, savings clause. If any provision of this chapter or its application to any person or

circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-040 Enforcement of parking and traffic rules. The institutions share responsibility for parking and traffic management on campus. Duly appointed ~~((public))~~ campus safety officers, designated commuter services employees, or independent contractors hired by the institutions are authorized to enforce these parking and traffic rules and may conduct traffic control on campus.

NEW SECTION

WAC 478-117-042 Liability of institutions. Except for vehicles that the institutions own or operate, the institutions assume no liability under any circumstances for vehicles on the campus. No bailment, but only a license, is created by the purchase and/or issuance of a permit.

NEW SECTION

WAC 478-117-043 General parking regulations. (1) No person may use any vehicle parked on campus as a living unit without specific approval from the campus safety director. Violators may be cited and/or towed.

(2) Vehicles are to be maintained in operating condition at all times while on campus, except those in a garage, research facility, or automotive shop designated for parking such vehicles by the commuter services manager or designee.

(3) A vehicle which appears to be abandoned, with or without a current parking product or license plate(s), may be impounded after an attempt is made to locate and notify the owner of the impending action.

(4) Stopped or parked vehicles must do so in line with the flow of traffic where they are located.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-050 Permits required for all motorized vehicles parked on campus. No person shall park((;)) or leave any motor vehicle ~~((other than bicycles))~~, whether attended or unattended, upon the campus without a permit issued by the institutions. Permission to park on campus will be shown by the display of a valid ~~((permit))~~ visual permit or registration of a valid virtual permit. Persons wishing to obtain virtual permits are required to complete a registration process established by commuter services and pay the corresponding fee. A vehicle associated with a virtual permit must have a visible license plate.

(1) A valid permit is:

(a) A current ~~((vehicle permit displayed in accordance with WAC 478-117-110. Vehicle permits are valid until revoked.~~

~~(b) A temporary permit authorized by the institutions and displayed in accordance with instructions. Temporary permits are valid through the date or time on the permit.~~

~~(c) A parking permit issued by a gate attendant and displayed on the vehicle in accordance with instructions.~~

~~(d) A parking permit dispensed by machine at the campus and displayed in accordance with instructions.~~

~~(2) Parking permits are not transferable, except as provided in WAC 478-117-060 and 478-117-090.~~

~~(3) The college and university reserve the right to refuse to issue parking permits.~~

~~(4) This section does not apply to vehicles that the institutions own or operate.~~

~~(5) The institutions may allow persons without permits to drive through the campus without parking.~~

~~(6) A public safety officer may require visitors to wait at the entrances to the campus when pedestrian or vehicular traffic congestion is above normal)) unexpired, visual permit issued by commuter services, or an authorized agent designated by commuter services, and displayed in accordance with the instructions given at the time of issuance.~~

(b) A current unexpired virtual permit issued by commuter services, or an authorized agent, that is associated with a vehicle's license plate.

(i) Vehicles with virtual permits associated with a vehicle's license plate must have the license plate exposed to the lane of travel and be clearly visible, unobstructed, and able to be read by the LPR equipment.

(ii) Parking permits are not transferable except as provided in WAC 478-117-060 and 478-117-090.

(2) Commuter services reserves the right to refuse to issue parking products.

(3) The institutions may allow persons without permits to drive through the campus without parking.

(a) This section does not apply to vehicles that the institutions own or operate.

(b) Any vehicle, attended or unattended, must have a valid parking permit when parked on the campus unless the vehicle is:

(i) Parked in a metered parking space with meter payment;

(ii) Parked in a loading zone in compliance with posted limits;

(iii) Parked in a lot that does not require a permit during specified times as posted;

(iv) Parked in a posted short term parking space in compliance with posted time limits; or

(v) A public safety or emergency vehicle parked while performing emergency services.

NEW SECTION

WAC 478-117-055 Overtime parking violations.

After a motor vehicle has been cited for parking beyond the time posted, the vehicle may be cited at a frequency of one additional citation for each period of time equal to the maximum time limit posted for the space.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-060 Carpool and disability parking permits. (1) Carpool permits may be issued to employees and students. One transferable permit will be issued by the

institutions for each carpool. This permit is transferable only among the registered members of the carpool. This permit must be displayed in accordance with the instructions provided with the permit. A carpool ~~((is a group of two or more employees or students who commute to the campus in the same vehicle))~~ permit may be used with only one vehicle per day. Members of the campus carpool program must register their carpool with commuter services.

(2) The institutions provide parking for the disabled in accordance with the requirements of federal and state law, including parking spots reserved for persons who display a state of Washington disabled driver permit.

(3) Use of disability accommodation parking on campus requires payment for parking in the form of a campus parking permit issued by commuter services, payment at a pay station, or payment at a parking meter for the designated space in which the vehicle is parked.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-090 Transfer of ~~((permits))~~ parking products limited. (1) As provided herein, a permit holder(s) may transfer ~~((one))~~ a permit between motor vehicles when used by ~~((the))~~ that permit holder. Improper transfer of a permit shall include, but is not limited to, the ~~((wrongful sale))~~ resale, lending, or transfer of a parking product or parking permit other than as provided herein. Multiple motor vehicles may be associated with a virtual permit, but only one vehicle associated with a specific virtual permit may be parked on campus per calendar day. If more than one vehicle associated with a virtual permit is parked on campus during the course of a day, all additional vehicles are subject to a parking citation unless each additionally parked vehicle has a separate valid permit.

(2) Permits displaying license plate numbers shall be used only in the vehicles whose license number is written on the permit.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-100 Responsibility of ~~((person))~~ person(s) to whom ~~((permit))~~ parking product issued. (1) The ~~((person))~~ person(s) to whom a ~~((permit))~~ parking product is issued is responsible for ~~((the vehicle upon which the permit is affixed. He or she shall be held responsible for all violations of this chapter charged to that vehicle. However, the operator of a vehicle will not be relieved of responsibility for violating any rule of this chapter simply because he or she is not also the holder of the permit))~~ paying for the product until it expires or is returned to commuter services unless stated otherwise in these rules. All associated outstanding commuter services related fees and fines must be satisfactorily settled before a parking product may be issued, reissued, or renewed.

(2) When requested, a parking permit holder shall provide commuter services with the current valid license plate number of any vehicle(s) with which they intend to use a parking permit.

(3) Subject to WAC 478-117-340, the person(s) to whom a parking product is issued is responsible for any violations of this chapter associated with a vehicle with which the product is used during the time the product is valid and up to the date and time the product expires or is reported lost or stolen.

(4) Commuter services may also require proof of vehicle registration for certain designated parking products.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-110 Display of permits. (1) ~~((Parking))~~ Visual permits shall be ((displayed by hanging from the rear view mirror or displayed face up on the dashboard of the motor vehicle and shall be fully visible from the exterior of the motor vehicle)) prominently displayed in accordance with the instructions printed on the permit and shall be fully visible from the exterior of the vehicle. Virtual permits are associated with a vehicle's license plate, and accordingly, a vehicle associated with a virtual permit must have its license plate exposed to the lane of travel and be clearly visible, unobstructed, and able to be read by the LPR equipment.

~~((When applicable, the area designator (numeral, letter or combination) shall be affixed to the vehicle permit and shall be fully visible from the exterior of the motor vehicle.))~~ Instructions relating to the display and assignment of a permit to a vehicle(s) will be provided by commuter services at the time of issuance and are located on the commuter services web site.

~~((the affiliated institution.~~

~~((Permits not fully visible from the exterior of a motor vehicle are not valid and are subject to citation for no valid permit displayed))~~ commuter services.

(4) Commuter services may authorize certain designated virtual permit holders to use a vehicle's license plate as a permit. Certain designated virtual permits may require the completion of a permit registration process. Virtual permit instructions will be provided at the time of permit issuance.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-200 Parking fees. The institutions' governing boards shall adopt parking fees, specifying the charge per day, quarter, and year. Each institution may set its own rates for quarterly and yearly permits, but the rates for daily parking permits must be uniform for both institutions. ~~((Each institution))~~ Commuter services or its designee shall sell quarterly and yearly permits to the institutions' employees and students ((only of its own institution. Each institution)). Commuter services or its designee may also sell quarterly and yearly permits ((to)) at its discretion to regular visitors to ((that)) each institution. A person who parks a vehicle in a metered parking space must pay for time used during posted times of operation.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-220 Parking within designated spaces.

(1) No motor vehicle shall be parked on the campus except in areas designated as parking areas, unless expressly authorized by commuter services or campus safety.

(2) No vehicle shall be parked so as to occupy any portion of more than one parking space as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not excuse a violation of this section.

(3) No person shall stop, stand, or park any motor vehicle so as to create a safety hazard, obstruct traffic along or upon any street, parking lot drive aisle, or roadway, or obstruct pedestrian movement along any plaza, path, or sidewalk unless expressly authorized by commuter services or campus safety.

NEW SECTION

WAC 478-117-235 Denial or revocation of parking privileges. Commuter services reserves the right to deny or revoke parking privileges to anyone who has:

- (1) Had a permit revoked;
- (2) Falsified a parking application or registration;
- (3) Counterfeited or altered a permit;
- (4) Failed to pay outstanding citations;
- (5) Been found to be in possession of or using a lost, refunded, or stolen permit;
- (6) Removed an immobilization device without authorization;
- (7) Been banned from campus;
- (8) Failed to comply with commuter services directions;
- (9) Damaged campus property while driving or parking on campus;
- (10) Verbally abused or assaulted staff, including commuter services staff.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-240 Regulatory signs, markings, barricades, etc. (1) The institutions may erect permanent or temporary signs, barricades, and other structures, and paint marks and other directions upon the streets and parking areas within the campus. Drivers of vehicles shall obey the signs, barricades, structures, markings, and directions. Drivers of vehicles shall comply with directions given to them by ~~((public safety officers))~~ commuter services employees, campus facilities employees, campus safety officers, or authorized commuter services contractors in the control and regulation of traffic. Drivers shall also comply with directions given to them by ~~((the traffic guides or parking checkers))~~ commuter services employees, campus safety officers, or authorized commuter services contractors in the assignment of parking space and in the collection of parking fees.

(2) No person without authorization from the institutions shall move, deface, or in any way change a sign, barricade,

structure, marking, or direction that regulates traffic or parking.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-270 Motorcycles, bicycles, scooters.

(1) Motorcycles, bicycles, and scooters are subject to all traffic rules controlling other motor vehicles.

(2) Motorcycles and motorized scooters (~~((may))~~) must be parked in designated motorcycle parking areas (~~((in addition to the regular parking lots))~~).

(3) Motorcycles and motorized scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas, or in buildings at any time.

(4) Bicycles shall be parked in designated areas only. Improperly parked bicycles may be impounded and a citation and fine imposed upon the owner.

(5) No bicycles or foot-propelled devices shall be operated on campus corridors, hallways, or buildings unless their use is required as part of the educational process in an authorized program, or authorized by campus personnel. A "foot-propelled device" is a wheeled device designed or used for recreation or transportation, including, but not limited to, skateboards, roller skates, and roller blades.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-300 Issuance of (~~((traffic))~~) parking citations. Upon probable cause (~~((to believe))~~) that a violation of these rules has occurred, a (~~((public safety officer or designated contractor))~~) campus safety officer, commuter services employee, or contractor designated by commuter services may issue a citation setting forth the date, the approximate time, the locality, the nature of the violation, the (~~((permit number))~~) license plate number, infraction, officer, and the amount of fine(s). The citation shall be served on the person responsible for the violation by: Attaching a copy of the citation to, or placing it prominently within, the vehicle allegedly involved in the violation; mailing a copy of the citation to the person responsible; or serving a copy of the citation personally on the person responsible.

AMENDATORY SECTION (Amending WSR 17-14-035, filed 6/26/17, effective 7/27/17)

WAC 478-117-310 Fines, immobilization, and impounding. (1) The current schedule of fines shall be published by the institutions and made available for review (~~((in the Chase House))~~) online and in the campus commuter services office.

(2) All fines are due upon receipt of the citation and must be paid as designated on the citation within twenty calendar days from the date of the citation. Fines must be delivered in person to the (~~((citation hearing office))~~) UW Bothell cashier's office, paid online, or postmarked on or before the due date specified in these rules to avoid additional penalties. If any citation has neither been paid nor appealed after twenty calendar days from the date of the citation, the institution shall impose an additional fine of ten dollars per offense and may:

(a) Withhold the violator's degrees, transcripts, grades, refunds, or credits until all fines are paid.

(b) Delay registration for the following quarter.

(c) Impound or immobilize the violator's vehicle.

(d) Deny future parking privileges to the violator.

(e) Refuse to issue keys to a violator who is an employee or student.

(f) Refer outstanding balances associated with unpaid fines for collection in accordance with applicable statutes and institutional procedure.

(3) In addition to imposing fines, (~~((public safety officers may impound or immobilize))~~) campus safety officers, commuter services employees, or authorized commuter services contractors or agents may immobilize and/or impound any vehicle parked on campus in violation of these rules. (~~((The expenses of impounding, immobilization, and storage shall be charged to the owner or operator, or both, of the vehicle and must be paid before the vehicle's release.))~~) Grounds for impounding or immobilizing vehicles shall include, but not be limited to, the following:

(a) Blocking a roadway so as to impede the flow of traffic.

(b) Blocking a walkway so as to impede the flow of pedestrian traffic.

(c) Blocking a fire hydrant or fire lane.

(d) Creating a safety hazard.

(e) Blocking another legally parked vehicle.

(f) Parking in a marked "tow-away" zone.

(g) Leaving a vehicle unattended on campus for longer than two days, unless the vehicle has a valid student housing resident permit.

(h) Failing to pay a fine(s) imposed under this chapter.

(i) Parking a vehicle on campus that has no license plate(s) and no observable vehicle identification number.

(4) Not more than (~~((twenty-four hours))~~) one business day after impoundment or immobilization of any motor vehicle, (~~((the institution))~~) commuter services shall mail a notice to the registered owner of the vehicle and to any other person who claims the right to possession of the vehicle, if those persons can be identified. Similar notice shall be given to each person who seeks to redeem an immobilized or impounded motor vehicle. If a motor vehicle is redeemed prior to the mailing of the notice, the notice may not be mailed. The notice shall contain the date of immobilization or impoundment, reason for the action, the location of the motor vehicle if impounded, redemption procedures, and an opportunity to contest the immobilization or impoundment as provided in WAC 478-117-320. The institutions shall not be liable for loss or damage of any kind resulting from impounding, immobilization, or storage. (~~((Impounding a vehicle does not remove the obligation for any fines associated with the violation.))~~)

(4)) All parking fines, fees, the cost of immobilization and/or impoundment (e.g., booting, towing, and storage fees) must be paid prior to the removal of an immobilization device or the release of an impounded motor vehicle. Impounded motor vehicles shall be redeemed only by the registered owner who has a valid driver's license or a person authorized by the registered owner who has a valid driver's license and who produces proof of authorization and signs a receipt for

the motor vehicle. Proof of ownership may be required before a vehicle is released from immobilization or impound.

(5) An accumulation of traffic violations by a student may be cause for discipline under the student conduct code of the student's institution.

AMENDATORY SECTION (Amending WSR 02-08-023, filed 3/26/02, effective 5/1/02)

WAC 478-117-320 Appeals of fines, immobilization, and impoundments. (1) Any immobilization, impoundment, or fine under this chapter may be appealed in writing, or when available, appealed through the online parking portal, within twenty calendar days from the date of the citation, the notice of immobilization, or the notice of impoundment. The notice of appeal must be addressed to the location indicated on the citation, notice of immobilization, or notice of impoundment. ~~((The institutions will make appeal forms available at the university's cashier's office in Room UW1-176 and at the college's cashier's office in Room CC1-103.))~~ Commuter services will make appeal forms available at the commuter services office. The notice of appeal must explain the reasons for contesting the citation, immobilization, or impoundment. If the person who files a notice of appeal desires an opportunity to make an oral statement in the appeal, the request to make an oral statement must be included in the notice of appeal. Online appeal instructions can be accessed through the commuter services web site.

(2) The hearing on the appeal shall be a brief adjudicative hearing as provided by RCW 34.05.482 et seq. If a request for an oral statement was made, the presiding officer or officers shall provide reasonable notice of the time and place for receiving the oral statement. The presiding officer(s) shall review the notice of appeal and provide a written decision to the person submitting the appeal within ten calendar days of taking action. If the appeal is denied, the decision shall include a brief statement of its reasons and information about the opportunity for further review. Any fine owed on a written decision that is not further appealed as provided in subsection (3) of this section shall be paid within twenty-one calendar days after service of the decision.

(3) A person wishing to contest the written decision may request a review by contacting the institution in writing within twenty-one calendar days after service of the decision. The request for review shall explain why the decision was incorrect. The reviewing officer shall, within twenty calendar days of the date of the request, review the matter and render a final written decision, which shall include a brief statement of its reasons and information about the opportunity to appeal the decision to the district court. Any final decision of the reviewing officer not appealed as provided in subsection (4) of this section shall be paid within ten calendar days after service of the decision.

(4) A person wishing to appeal a final decision of the citation hearing office to the district court may, within ten calendar days of service of the final decision, file a written notice with the institution. Documents relating to the appeal shall immediately be forwarded to the district court, which shall have jurisdiction to hear the appeal de novo. No appeal to the district court may be taken unless the citation has been

contested as provided in subsections (2) and (3) of this section.

NEW SECTION

WAC 478-117-325 Permit and parking product revocations. Parking products are the property of the institutions and may be recalled by the issuer for any of the following reasons:

- (1) When the purpose for which the parking product was issued changes or no longer exists;
- (2) When a parking product is used on an unauthorized vehicle, by an unauthorized individual, or in an unauthorized manner;
- (3) Falsification on a parking product application;
- (4) Multiple or continued violations of parking rules;
- (5) Counterfeiting, altering, or using a lost/stolen parking product;
- (6) Failure to comply with a final decision of the citation review committee, or institutional hearing officer;
- (7) Nonpayment of parking product fees or parking fines.

NEW SECTION

WAC 478-117-330 Right to appeal revocation. Parking product revocations under this chapter may be appealed pursuant to the procedures in WAC 478-117-320.

NEW SECTION

WAC 478-117-340 Motorized vehicles—Responsible parties for illegal parking. (1) For any motor vehicle citation involving a violation of this chapter where the motor vehicle is registered to a permit holder, there shall be a prima facie presumption that the permit holder was the person who operated the motor vehicle in violation of these rules. Such responsibility does not afford a defense to another person who violated these rules.

(2) For any motor vehicle citation involving a violation of this chapter where the motor vehicle is not registered to a permit holder, there shall be a prima facie presumption that the registered owner of the motor vehicle was the person who operated the motor vehicle in violation of these rules. Such responsibility does not afford a defense to another person who violated these rules.

(3) This section shall not apply to university or college operated motor vehicles. The operator of a university owned or a college owned motor vehicle is personally liable for any citation issued to the motor vehicle.

(4) A third party other than the permit holder or registered owner can assume responsibility for a citation by either paying the citation within twenty calendar days of the date of the citation or submitting a petition where the third party agrees to take responsibility.

(5) When mitigating circumstances exist, authorized commuter services personnel may reduce or dismiss fines.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 478-117-070 Permit revocations.
- WAC 478-117-080 Right to appeal revocation.
- WAC 478-117-280 Distribution of literature.
- WAC 478-117-400 Report of accident.
- WAC 478-117-410 Liability of institutions.

WSR 19-11-049**PERMANENT RULES****UNIVERSITY OF WASHINGTON**

[Filed May 10, 2019, 2:04 p.m., effective June 10, 2019]

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

Purpose: The University of Washington, Tacoma is updating terminology regarding current modes of transportation (i.e., electric assist bicycles and scooters) traveling to/from and through campus. The information in this WAC chapter has also been updated to reflect current practices regarding carpool and disability parking, display of permits, crosswalk markings, fines and impoundment, and appeals related to the latter.

Citation of Rules Affected by this Order: Amending WAC 478-118-010, 478-118-020, 478-118-050, 478-118-055, 478-118-060, 478-118-070, 478-118-100, 478-118-210, 478-118-260, 478-118-270, 478-118-290, 478-118-400, 478-118-410, and 478-118-420.

Statutory Authority for Adoption: RCW 28B.10.560 and 28B.20.130.

Adopted under notice filed as WSR 19-06-032 on February 28, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 14, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 14, Repealed 0.

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

Date Adopted: May 9, 2019.

Barbara Lechtanski, Director
University Policy and Rules Office

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-010 Objectives of parking and traffic rules. The objectives of these rules are:

- (1) To protect and control pedestrian and vehicular traffic on the campus of the University of Washington, Tacoma;
- (2) To ~~((assure))~~ ensure access at all times for emergency vehicles and equipment;
- (3) To minimize traffic disturbances;
- (4) To facilitate the operation of the university by ~~((assuring))~~ ensuring access to its vehicles;
- (5) To allocate limited parking space for the most efficient use;
- (6) To protect state property; and
- (7) To encourage travel to the campus by means other than a single occupancy vehicle (SOV).

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-020 Definitions. The following definitions apply to this chapter:

- (1) Bicycle: Any device defined as a bicycle in chapter 46.04 RCW.
- (2) Campus: The campus of University of Washington, Tacoma.
- (3) Employee: An employee of the university.
- (4) Fee: A charge for the use of the permit issued.
- (5) Hours of operation: The hours of operation established by the university for a particular parking area, parking lot, or parking space.
- (6) Impoundment: The removal of a vehicle to a storage area by either a public safety officer or agent of the university.

(7) Immobilization: The application of a device to prevent the use, activity, or movement of a vehicle.

~~((8))~~(a) Motorcycles and scooters: A motor vehicle designed to travel on not more than three wheels in contact with the ground, on which the driver rides astride the motor unit or power train and is designed to be steered with a handle bar. For the purposes of these rules, motorcycles, motorized bicycles, and motorized scooters are considered to be motor vehicles and are subject to all traffic and parking rules controlling motor vehicles.

~~((8))~~ (b) Motorized bicycles and scooters definition includes electric assist propelled.

(9) Nonmotor/nonmotorized vehicle: A device other than a motor vehicle used to transport persons. Nonmotorized vehicles include, but are not limited to, bicycles, skateboards, rollerblades, and roller skates.

~~((9))~~ (10) Operator or driver: Every person who drives or is in actual physical control of a motor vehicle or a nonmotorized vehicle.

~~((10))~~ (11) Parking space: A space for parking one motor vehicle designated by ~~((:))~~ lines painted on either side of the space, at the rear of the space, a wheelstop positioned in front of the space, a sign or signs, or other markings.

~~((11))~~ (12) Public safety officers: Employees of the university who are responsible for campus security, safety, and parking and traffic control.

~~((12))~~ (13) Registered owner: The person who has the lawful right of possession of a vehicle most recently recorded with any state department of licensing.

~~((13))~~ (14) Roller skate/rollerblade: A device used to attach wheels to the foot or feet of a person.

~~((14))~~ (15) Skateboard: Any oblong board of whatever composition, with a pair of wheels at each end, which may be ridden by a person.

~~((15))~~ (16) Student: A person enrolled in the university.

~~((16))~~ (17) Traffic: Motorized and nonmotorized modes of transportation defined in chapter 46.04 RCW.

~~((17))~~ (18) University: The University of Washington, Tacoma, and collectively those responsible for its control and operations.

~~((18))~~ (19) Vehicle: Any motorized vehicle or nonmotorized vehicle.

~~((19))~~ (20) Visitor: A person who is neither an employee nor a student of the university.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-050 Permits required for vehicles on campus. Except as provided in WAC 478-118-055, no person shall park or leave any vehicle (other than bicycles), whether attended or unattended, upon the campus unless the person first purchases a permit from the university or from the operator of the parking lot in which the vehicle is parked. Permission to park on campus will be shown by display of a valid permit, or (if a parking lot does not issue permits) by payment of the fee for parking.

(1) A valid permit is:

(a) A current vehicle permit displayed in accordance with WAC 478-118-100. Vehicle permits are valid until revoked or expired;

(b) A temporary permit authorized by the university and displayed in accordance with instructions. Temporary permits are valid through the date or time on the permit;

(c) A parking permit issued by a gate attendant and displayed on the vehicle in accordance with instructions; or

(d) A parking permit dispensed by machine at the campus and displayed in accordance with instructions.

(2) Parking permits are not transferable, except as provided in WAC 478-118-060 and 478-118-080.

(3) The university reserves the right to refuse to issue parking permits.

(4) This section does not apply to vehicles that the university owns or operates.

(5) The university may allow persons without permits to drive through the campus without parking.

(6) A public safety officer may require visitors to wait at the entrances to the campus when pedestrian or vehicular traffic congestion is above normal.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-055 Visitor parking. (1) No permit shall be required for the following motor vehicles:

(a) Public safety and emergency vehicles while performing services;

(b) Marked taxis, tow trucks, commercial delivery; and media vehicles which have agreed to comply with university guidelines and received prior written approval of the university; ~~(and)~~

(c) School buses and tour buses parking in spaces designated by the university; and

(d) University and state operated, marked vehicles.

(2) University departments may pay for all or part of the parking fees for their official visitors and guests based on the established fee schedule.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-060 Carpool and disability parking permits. (1) Carpool permits may be issued to employees and students. One transferable permit will be issued by the university for each carpool participant. This permit is transferable only among the registered members of the carpool. ~~((This))~~ Two or more permits must be displayed simultaneously in vehicle while parked on campus. These permits must be displayed in accordance with the instructions provided with the permit. A carpool is a group of two or more employees or students who commute to the campus in the same vehicle.

(2) The university provides parking for the disabled in accordance with the requirements of federal and state law.

AMENDATORY SECTION (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

WAC 478-118-070 Permit revocations. (1) Parking permits issued by the university are the property of the university~~((s))~~ and may be recalled by the issuer for any of the following reasons:

(a) When the purpose for which the permit was issued changes or no longer exists;

(b) When an unauthorized individual uses a permit;

(c) Falsification on a parking permit application;

(d) Multiple or continued violations of parking rules;

(e) Counterfeiting or altering permits; or

(f) Failure to comply with a final decision of the citation review committee, or university hearing officer.

(2) Parking permit revocations under this chapter may be appealed pursuant to the procedures in WAC 478-118-420.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-100 Display of permits. (1) Parking permits, other than hourly permits (receipts) dispensed from parking machines and motorcycle and scooter permits, shall be displayed either by hanging from the rear view mirror or by placing face-up on the driver's side dashboard and shall be fully visible from the exterior of the motor vehicle.

(2) Hourly permits dispensed from parking machines are not required to be displayed on or in the vehicle when payment is by stall number. If payment is not by stall number, the receipt must be displayed and fully visible in vehicle.

(3) When applicable, the area designator (numeral, letter, or combination) shall be affixed to the vehicle permit and shall be fully visible from the exterior of the motor vehicle.

(4) Motorcycle and scooter license numbers shall be registered with the university. Motorcycle and scooter permits need not be displayed.

(5) When required to be displayed, permits not fully visible from the exterior of a motor vehicle are not valid and are subject to citation for no valid permit displayed.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-210 Allocation of parking spaces. The parking spaces available on campus shall be allocated in a manner that will best attain the objectives of these rules.

During special occasions causing additional or heavy traffic and during emergencies, the university may impose additional traffic, fees, and parking policies to achieve the specified objectives of this chapter.

AMENDATORY SECTION (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

WAC 478-118-260 Pedestrian's right of way. (1) The operator of a vehicle shall yield right of way to any pedestrian. However, no pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible or unsafe for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass that vehicle.

(3) Where a sidewalk ~~((*)~~) or marked crossings are provided, pedestrians shall proceed upon the sidewalk or crossings.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-270 Motorcycles and scooters. (1) Motorcycles and scooters are subject to all traffic rules controlling other motor vehicles.

(2)(a) Motorcycles and scooters may only be parked in areas designated for motorcycles or scooters.

(b) This also includes electric assist bicycles and scooters.

(3)(a) Motorcycles and scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas, or in buildings at any time.

(b) This also includes electric assist bicycles and scooters.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-290 Bicycle and scooter parking and traffic rules. (1) The primary aim of the bicycle control program is safety. This aim will be achieved by keeping bicycles out of buildings, away from building exits, and parking them off paths and sidewalks.

All bicycle parking and traffic rules under WAC 478-118-290 also include electric assist bicycles and scooters.

(2) Bicycles and scooters may be ridden ~~((any place where))~~ anywhere vehicles are permitted. They may be ridden on most sidewalks, though pedestrians always have the right of way. It shall be a violation of this section for any bicycle rider to fail to yield to pedestrians, or to ride a bicycle on paths, sidewalks, or streets where signs indicate such is prohibited. An audible signal or warning must be given by the bicyclist whenever there is any appreciable risk of injury to a pedestrian not otherwise aware of the presence of the bicycle or scooter.

(3) Bicycles and scooters operated on paths, sidewalks, and roadways shall be subject to all relevant state statutes regulating bicycle use. Violation of those statutes shall be considered a violation of this section.

(4) Bicycles and scooters shall be operated in a safe manner at all times on paths, sidewalks, and roadways. Riding at speeds too fast for conditions, weaving in and out of vehicular or pedestrian traffic, or similar unsafe actions shall be considered "negligent riding." Negligent riding shall be a violation of this section.

(5) Bicycles and scooters shall be parked only in ~~((bicycle racks))~~ designated parking areas. All bicycle owners are encouraged to secure their bicycles with a secure lock. At no time shall a bicycle or scooter be parked in a building, except where bicycle storage rooms are provided, near a building exit, on a path or sidewalk, in planted areas ~~((not))~~, or chained or otherwise secured to trees, lamp standards, railings, or sign posts.

(6) Moving a bicycle or scooter into any unauthorized area such as a building or construction zone is prohibited.

(7) Bicycle racks in campus areas are for parking and shall not be used for overnight storage.

(8) Impoundment for illegal parking.

(a) Bicycles and scooters parked in violation of subsections (5), (6), and (7) of this section will be subject to seizure and impoundment by the university.

(b) A bicycle abandoned or parked on university land for fourteen consecutive days or longer is presumed abandoned and is subject to seizure and impoundment by the university. A bicycle will not be considered abandoned when the owner/operator is unable to remove it and so notifies the campus safety and security office. A bicycle that has been obviously stripped or vandalized may be immediately impounded.

(c) Impounded bicycles will be stored by the campus safety and security office. Bicycles will be released at specified times and upon presentation of proof of ownership and payment of any fine that has been imposed. Owners of impounded bicycles, if identifiable, will be notified as soon as reasonably possible after impoundment and must reclaim their bicycle within fifteen consecutive days. Bicycles unclaimed after sixty consecutive days will be subject to disposal, including sale at public auction, in accordance with university property disposal rules.

(d) The university and its officers, agents, and employees shall not be liable for loss or damage of any kind resulting from impoundment, storage, or sale of any item under this section.

(e) Impoundment or sale of any bicycle under this section shall not substitute for, nor release any person from liability for, damage to persons or property caused by the use of a bicycle.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-400 Issuance of traffic and parking citations. Upon probable cause to believe that a violation of these rules has occurred, a public safety officer or designated contractor may issue a citation setting forth the date, the approximate time, the locality, the nature of the violation, the permit number, license number, infraction, officer, and the amount of fine(s). The citation shall be served on the person responsible for the violation by: Attaching a copy of the citation to((;)) or placing it prominently within((;)) the vehicle allegedly involved in the violation; mailing a copy of the citation to the person responsible; or serving a copy of the citation personally on the person responsible.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-410 Fines and impounding. (1) The current schedule of fines shall be published by the university and made available for review in the safety and security office.

(2) All fines must be paid as designated on the citation within twenty calendar days from the date of the citation. Fines must be ~~((delivered in person to the university's cashier office))~~ paid or postmarked on or before the due date specified in these rules to avoid additional penalties. If any citation has neither been paid nor appealed after twenty calendar days from the date of the citation, the university shall impose an additional fine of ten dollars per offense and may:

- (a) Withhold the violator's degrees, transcripts, grades, refunds, or credits until all fines are paid;
- (b) Delay registration for the following quarter;
- (c) Impound the violator's vehicle;
- (d) Deny future parking privileges to the violator; or
- (e) Refuse to issue keys to a violator who is an employee or student.

(3) In addition to imposing fines, public safety officers may impound or immobilize any vehicle parked on campus in violation of these rules. The expenses of impounding, immobilization, and storage shall be charged to the owner or operator, or both, of the vehicle and must be paid before the vehicle's release. Grounds for impounding or immobilizing vehicles shall include, but not be limited to, the following:

- (a) Blocking a roadway so as to impede the flow of traffic;
- (b) Blocking a walkway so as to impede the flow of pedestrian traffic;
- (c) Blocking a fire hydrant or fire lane;
- (d) Creating a safety hazard;
- (e) Blocking another legally parked vehicle;
- (f) Parking in a marked "tow-away" zone;
- (g) Leaving a vehicle unattended on campus for longer than two days;

(h) Failing to pay a fine imposed under this chapter; ~~((or))~~

(i) Vehicle with three or more fines in late or collection status; or

(j) Parking a nonuniversity vehicle in a spot reserved for university use.

Not more than twenty-four hours after impoundment of any vehicle (excluding bicycles and skateboards), the university shall mail a notice to the registered owner of the vehicle and to any other person who claims the right to possession of the vehicle, if those persons can be identified. The university shall not be liable for loss or damage of any kind resulting from impounding, immobilization, or storage. Impounding a vehicle does not remove the obligation for any fines associated with the violation.

(4) An accumulation of traffic violations by a student may be cause for discipline under the student conduct code of the university.

AMENDATORY SECTION (Amending WSR 05-08-017, filed 3/28/05, effective 4/28/05)

WAC 478-118-420 Appeals of fines and impoundments. (1) Except for skateboards, any impoundment or fine under this chapter may be appealed in writing within twenty calendar days from the date of the citation or the notice of impoundment. The notice of appeal must be addressed to the location indicated on the citation or notice of impoundment. The university will make appeal forms available at the university's cashier office. The notice of appeal must explain the reasons for contesting the citation or impoundment. If the person who files a notice of appeal desires an opportunity to make an oral statement in the appeal, the request to make an oral statement must be included in the notice of appeal.

(2) The hearing on the appeal shall be a brief adjudicative hearing as provided by RCW 34.05.482 et seq. If a request for an oral statement was made, the presiding officer or officers shall provide reasonable notice of the time and place for receiving the oral statement. The presiding officer(s) shall review the notice of appeal and provide a written decision to the person submitting the appeal within ten days of taking action. If the appeal is denied or modified to a warning, dismissal, reduction, or suspension, the decision shall include a brief statement of its reasons and information about the opportunity for further review. Any fine owed on a written decision that is not further appealed as provided in subsection (3) of this section shall be paid within twenty-one days after service of the decision.

(3) A person wishing to contest the written decision may request a review by contacting the designated university reviewing officer in writing within twenty-one days after service of the decision. The request for review shall explain why the decision was incorrect. The reviewing officer shall, within twenty days of the date of the request, review the matter and render a final written decision to uphold or modify (warning, dismissal, reduction, or suspension), which shall include a brief statement of its reasons and information about the opportunity to appeal the decision to the district court. Any final decision of the reviewing officer not appealed as

provided in subsection (4) of this section shall be paid within ten days after service of the decision.

(4) A person wishing to appeal a final decision of the reviewing officer to the district court may, within ten days of service of the final decision, file a written notice with the university's finance and administration office. The written notice must be submitted on the "Notice of Appeal" form provided by the university. Documents relating to the appeal shall immediately be forwarded to the district court, which shall have jurisdiction to hear the appeal de novo. No appeal to the district court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section.

WSR 19-11-050
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed May 10, 2019, 2:56 p.m., effective June 10, 2019]

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

Purpose: The agency is revising this rule to clarify excluded income requirements by striking references to non-excluded income (child support received from the noncustodial parent) from sections pertaining to excluded income and adding a definition of child support from the noncustodial parent in the appropriate WAC section.

Citation of Rules Affected by this Order: Amending WAC 182-513-1340, 182-512-0600, and 182-512-0820.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-08-013 on March 22, 2019.

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 the Request of a Non-governmental 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 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: May 10, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

WAC 182-512-0600 SSI-related medical—Definition of income. (1) Income is anything a ~~((person))~~ client receives in cash or in-kind that can be used to meet his/her needs for food or shelter. Income can be earned or unearned.

(2) Some receipts are not income because they do not meet the definition of income above. Some types of receipts that are not income are:

(a) Cash or in-kind assistance from federal, state, or local government programs whose purpose is to provide medical care or services;

(b) Some in-kind payments that are not food or shelter coming from nongovernmental programs whose purposes are to provide medical care or medical services;

(c) Payments for repair or replacement of an exempt resource;

(d) Refunds or rebates for money already paid;

(e) Receipts from sale of a resource;

(f) Replacement of income already received (see 20 C.F.R. 416.1103 for a more complete list of receipts that are not income); and

(g) Receipts from extraction of exempt resources for a member of a federally recognized tribe.

(3) Earned income includes the following types of payments:

(a) Gross wages and salaries, including garnished amounts;

(b) Commissions and bonuses;

(c) Severance pay;

(d) Other special payments received because of employment;

(e) Net earnings from self-employment (WAC 182-512-0840 describes earnings exclusions);

(f) Self-employment income of tribal members unless the income is specifically exempted by treaty;

(g) Payments for services performed in a sheltered workshop or work activities center;

(h) Royalties earned by a ~~((person))~~ client in connection with any publication of ~~((his/her))~~ their work and any honoraria received for services rendered; and

(i) In-kind payments made in lieu of cash wages, including the value of food or shelter.

(4) Unearned income is all income that is not earned income. Some types of unearned income are:

(a) Annuities, pensions, and other periodic payments;

(b) Alimony and support payments;

(c) Voluntary or court-ordered child support payments, including arrears, received from a noncustodial parent for the benefit of a child are the income of the child;

~~((d))~~ (d) Dividends and interest;

~~((e))~~ (e) Royalties (except for royalties earned by a ~~((person))~~ client in connection with any publication of ~~((his/her))~~ their work and any honoraria received for services rendered which would be earned income);

~~((f))~~ (f) Capital gains;

~~((g))~~ (g) Rents;

~~((h))~~ (h) Benefits received as the result of another's death to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the recipient;

~~((i))~~ (i) Gifts;

~~((j))~~ (j) Inheritances;

~~((k))~~ (k) Prizes and awards; and

~~((4))~~ (1) Amounts received by tribal members from gaming revenues with the exceptions cited in WAC 182-512-0770(3).

(5) Some items which may be withheld from income, but which the agency considers as received income are:

- (a) Federal, state, or local income taxes;
- (b) Health or life insurance premiums;
- (c) SMI premiums;
- (d) Union dues;
- (e) Penalty deductions for failure to report changes;
- (f) Loan payments;
- (g) Garnishments;
- (h) Child support payments, court ordered or voluntary (WAC 182-512-0900 has an exception for deemors);
- (i) Service fees charged on interest-bearing checking accounts;
- (j) Inheritance taxes; and
- (k) Guardianship fees if presence of a guardian is not a requirement for receiving the income.

(6) Countable income, for the purposes of this chapter, means all income that is available to the ~~((person))~~ client:

- (a) If it cannot be excluded; and
- (b) After deducting all allowable disregards and deductions.

AMENDATORY SECTION (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

WAC 182-512-0820 SSI-related medical—Child-related income exclusions and allocations. (1) For the purposes of Washington apple health ~~((WAH))~~ SSI-related medical eligibility determinations under chapter 182-512 WAC, a child is defined as a person who is:

- (a) Unmarried;
- (b) Living in the household of the SSI-related applicant;
- (c) The natural, adopted or stepchild of the SSI-related applicant or the applicant's spouse;
- (d) Not receiving a needs-based cash payment such as TANF or SSI; and
- (e) Either:
 - (i) Age seventeen or younger; or
 - (ii) Age twenty-one or younger and meets the SSI-related definition of a student described in subsection (6) of this section.

(2) The agency allows an allocation for the support of a child when determining the countable income of an SSI-related applicant. The allocation is calculated as follows:

(a) For ~~((WAH))~~ apple health categorically needy (CN) health care coverage, the allocation is deducted from the countable income of a nonapplying spouse before determining the amount of the nonapplying spouse's income to be deemed to the SSI-related applicant. Allocations to children are not deducted from the income of an unmarried SSI-related applicant.

(b) For ~~((WAH))~~ apple health medically needy (MN) medical coverage, the allocation is first deducted from the income of the nonapplying spouse as described in subsection (2)(a) of this section when the SSI-related applicant is married, and from the income of the applicant when the applicant is not married.

(3) The child's countable income, if any, is subtracted from the maximum child's allowance before determining the amount of allocation.

(4) Foster care payments received for a child who is not SSI-eligible and who is living in the household, placed there by a licensed, nonprofit or public child placement or child-care agency are excluded from income regardless of whether the ~~((person))~~ client requesting or receiving SSI-related medical is the adult foster parent or the child who was placed.

(5) Adoption support payments, received by an adult for a child in the household that are designated for the child's needs, are excluded as income. Adoption support payments that are not specifically designated for the child's needs are not excluded and are considered unearned income to the adult.

(6) The agency excludes the earned income of a ~~((person))~~ client age twenty-one or younger if that ~~((person))~~ client is a student. In order to allow the student earned income exclusion, a student must:

- (a) Attend a school, college, or university a minimum of eight hours a week; or
- (b) Pursue a vocational or technical training program designed to prepare the student for gainful employment a minimum of twelve hours per week; or
- (c) Attend school or be home schooled in grades seven through twelve at least twelve hours per week.

(7) Any portion of a grant, scholarship, fellowship, or gift used for tuition, fees and/or other necessary educational expenses at any educational institution is excluded from income and not counted as a resource for nine months after the month of receipt.

(8) One-third of child support payments received for a child who is an applicant for ~~((WAH))~~ SSI-related medical is excluded from the child's income. Child support payments that are subject to the one-third deduction may be voluntary or court-ordered payments for current support or arrears.

~~((The one-third deduction described in subsection (8) of this section does not apply to child support payments received from an absent parent for a child living in the home when the parent(s) or their spouse is the applicant for SSI-related medical. Voluntary or court-ordered payments for current support or arrears are always considered the income of the child for whom they are intended and not income to the parent(s).))~~

~~((10))~~ The following gifts to, or for the benefit of, a ~~((person))~~ client under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that code, are excluded:

- (a) In-kind gifts that are not converted to cash; and
- (b) Cash gifts up to a total of two thousand dollars in a calendar year.

~~((11))~~ (10) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children are excluded from income. Any portion of a veteran's payment that is designed as the dependent's income is countable income to the dependent and

not the applicant (assuming the applicant is not the dependent).

AMENDATORY SECTION (Amending WSR 17-03-116, filed 1/17/17, effective 2/17/17)

WAC 182-513-1340 Determining excluded income for long-term care (LTC) services. This section describes income the agency or its designee excludes when determining a ~~((person's))~~ client's eligibility and participation in the cost of care for long-term care (LTC) services.

(1) When determining a ~~((person's))~~ client's eligibility and participation in the cost of care for LTC services, the agency excludes:

- (a) Crime victim's compensation;
- (b) Earned income tax credit (EITC) for twelve months after the month of receipt;
- (c) American Indian/Alaskan native benefits excluded by federal statute (refer to WAC 182-512-0770);
- (d) Tax rebates or special payments excluded by other statutes;
- (e) Any public agency's refund of taxes paid on real property and/or on food;
- (f) Supplemental security income (SSI) and certain state public assistance based on financial need;
- (g) The amount a representative payee charges to provide services when the services are a requirement for the ~~((person))~~ client to receive the income;
- (h) The amount of expenses necessary for a ~~((person))~~ client to receive compensation, e.g., legal fees necessary to obtain settlement funds;
- (i) Education benefits under WAC ~~((182-509-0335))~~ 182-512-0760;
- (j) ~~((Child support payments received from a noncustodial parent for a child living in the home are the income of the child;~~
- ~~((k))~~ Self-employment income allowed as a deduction by the Internal Revenue Service (IRS);
- ~~((H))~~ (k) Payments to prevent fuel cut-offs and to promote energy efficiency that are excluded by federal statute;
- ~~((m))~~ (l) Assistance (other than wages or salary) received under the Older Americans Act;
- ~~((n))~~ (m) Assistance (other than wages or salary) received under the foster grandparent program;
- ~~((o))~~ (n) Certain cash payments a ~~((person))~~ client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;
- ~~((p))~~ (o) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement that are left to accumulate and become part of the separately identified burial funds set aside;
- ~~((q))~~ (p) Tax exempt payments received by Alaska natives under the Alaska Native Settlement Act established by P.L. 100-241;
- ~~((r))~~ (q) Compensation provided to volunteers in ACTION programs under the Domestic Volunteer Service Act of 1973 established by P.L. 93-113;
- ~~((s))~~ (r) Payments made from the Agent Orange Settlement Fund or any other funds to settle Agent Orange liability claims established by P.L. 101-201;

~~((t))~~ (s) Payments made under section six of the Radiation Exposure Compensation Act established by P.L. 101-426;

~~((u))~~ (t) Payments made under the Energy Employees Occupational Illness Compensation Program Act of 2000, (EEOICPA) Pub. L. 106-398;

~~((v))~~ (u) Restitution payment, and interest earned on such payment to a civilian of Japanese or Aleut ancestry established by P.L. 100-383;

~~((w))~~ (v) Payments made under sections 500 through 506 of the Austrian General Social Insurance Act;

~~((x))~~ (w) Payments made from *Susan Walker v. Bayer Corporation, et. al.*, 95-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds;

~~((y))~~ (x) Payments made from the Ricky Ray Hemophilia Relief Fund Act of 1998 established by P.L. 105-369;

~~((z))~~ (y) Payments made under the Disaster Relief and Emergency Assistance Act established by P.L. 100-387;

~~((aa))~~ (z) Payments made under the Netherlands' Act on Benefits for Victims of Persecution (WUV);

~~((bb))~~ (aa) Payments made to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act;

~~((cc))~~ (bb) Interest or dividends received by the institutionalized individual is excluded as income. Interest or dividends received by the community spouse of an institutional individual is counted as income of the community spouse. Dividends and interest are returns on capital investments such as stocks, bonds, or savings accounts. Institutional status is defined in WAC 182-513-1320;

~~((dd))~~ (cc) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible ~~((person))~~ client, e.g., chore services~~((t))~~;

(2) The agency or its designee treats Department of Veterans Affairs (VA) benefits as follows:

(a) Any VA dependent allowance is ~~((considered))~~ countable income to the dependent unless it is paid due to unusual medical expenses (UME);

(b) UME, aid and attendance allowance, special monthly compensation (SMC) and housebound allowance are third-party resources;

(c) Benefits in subsection (2)(b) of this section for a ~~((person))~~ client who receives long-term care services are excluded when determining eligibility, but are available as a third-party resource (TPR) as defined under WAC 182-513-1100 when determining the amount the institutionalized ~~((individual))~~ client contributes in the cost of care.

(3) Any other income excluded by federal law is excluded.

WSR 19-11-055
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Behavioral Health Administration)

[Filed May 13, 2019, 4:51 p.m., effective June 13, 2019]

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

Purpose: The department is repealing one section and amending other existing sections in chapter 388-875 WAC, Criminally insane person committed to the care of the department of social and health services—Evaluation, placement, care and discharge.

Citation of Rules Affected by this Order: Repealing WAC 388-875-0080; and amending WAC 388-875-0010, 388-875-0020, 388-875-0030, 388-875-0040, 388-875-0050, 388-875-0060, 388-875-0070, 388-875-0090, and 388-875-0110.

Statutory Authority for Adoption: Chapter 10.77 RCW, RCW 72.01.090, 70.02.290, 70.02.340, 71.05.560, 71.24.035 (5)(c), 71.34.380.

Adopted under notice filed as WSR 19-05-087 on February 20, 2019.

Changes Other than Editing from Proposed to Adopted Version: In WAC 388-875-0020, the term "bachelor's" was changed to "master's."

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 9, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, 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 9, Repealed 1.

Date Adopted: May 8, 2019.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0010 Purpose. ~~((These regulations are adopted pursuant to and in accordance with chapter 117, Laws of 1973 1st ex. sess. They are adopted))~~ To provide procedures for the evaluation, restoration, placement, care, and discharge of persons committed to the care of the department of social and health services, required under ~~((the aforementioned act, relating to the criminally insane))~~ chapter 10.77 RCW.

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0020 Definitions. "Administration" means the behavioral health administration, department of social and health services.

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

~~((**"Division"** means the mental health division, department of social and health services.))~~

"Director" means the director of the office of forensic mental health services.

"Evaluation" means the initial procedure when a court requests the department to provide an opinion if a person charged with a crime is competent to stand trial or, if indicated and appropriate, if the person was suffering under a mental disease or defect excluding responsibility at the time of the commission of the crime.

"Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to ~~((himself))~~ the person or his or her family.

"Office" means the office of forensic mental health services, department of social and health services.

"Professional person" means:

(1) A psychiatrist. This is defined as a person having a license as a physician and surgeon in this state, who has in addition, completed three years of graduate training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association and who is certified or is eligible to be certified by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry.

(2) A psychologist. This is defined as a person who has been licensed as a psychologist ~~((pursuant to))~~ under chapter 18.83 RCW.

(3) A social worker. This is defined as a person with a master's or further advanced degree from an accredited school of social work ~~((or a degree deemed equivalent under rules adopted by the secretary))~~ educational program accredited and approved under RCW 18.320.010.

"Secretary" means the secretary of the department of social and health services or his or her designee.

"Superintendent" means the person responsible for the functioning of a treatment facility.

"Treatment" means any currently standardized medical or mental health procedure including medication.

"Treatment facility" means any facility operated or approved by the department of social and health services ~~((for the treatment of))~~ that provides services for the criminally insane or persons receiving competency services. ~~((Such))~~ This definition ((shall)) does not include any state correctional institution or facility.

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0030 ((Mental health division)) Evaluation & treatment. (1) The secretary designates to the ~~((division))~~ administration the responsibility for:

~~((4))~~ (a) Evaluation and treatment of any person committed to the secretary for evaluation or treatment, under chapter 10.77 RCW; and

(b) Determination of which treatment facility must have custody of the persons committed to the secretary under chapter 10.77 RCW.

(2) The secretary designates to the office the responsibility for:

(a) Assisting the court in obtaining nondepartmental experts or professional persons to participate in the evaluation or a hearing on behalf of the defendant and ~~((supervising the procedure whereby))~~ providing quality standards in addition to compensating such professionals ((will be compensated)), according to ((fee)) payment schedule published under WAC 388-875-0040 if the person being evaluated or treated is an indigent person;

~~((3) Assuring)~~ (b) Ensuring that any nondepartmental expert or professional person requesting compensation has maintained adequate evaluation and treatment records, as determined by the office, which justify compensation;

~~((4))~~ (c) Assisting the court by designation of experts or professional persons to examine the defendant and report to the court when the defendant is not committed to the secretary; and

~~((5) Determination of what treatment facility shall have custody of persons committed to the secretary under chapter 10.77 RCW.~~

~~(6) If the court is advised by any party that the defendant may be developmentally disabled, at least one of the experts or professional persons appointed shall be a)~~ (d) Assisting the court by designating an expert or professional person who is a developmental disabilities professional to examine the defendant if the court is advised by any party that the defendant may be developmentally disabled.

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0040 Schedule of ~~((maximum))~~ payment for defendant expert or professional person. Department payments to an expert or professional person for department services an indigent person receives ~~((shall not exceed))~~ must occur as follows:

- (1) ~~((One hundred dollars an hour for services; or~~
- (2) ~~Eight hundred dollars total payment for services.))~~

The department ~~((shall only approve an exception to this section ruling when the exception is approved, in writing, by the division director))~~ must publish a schedule of hourly fees, and travel time, in amounts that the department determines to be fair and reasonable. The department will review the hourly reimbursement schedule annually and make adjustments as appropriate. This schedule may be found online at: <https://www.dshs.wa.gov/bha/office-service-integration/office-forensic-mental-health-services>.

(2) Under RCW 10.77.140, the department ~~((shall))~~ must only approve payment for one mental health examination per indigent person in each six month period.

(3) All invoices for court-ordered services must be submitted using the department's invoicing procedure, with each service itemized by hour and quarter-hour increments. Foren-

sic evaluation reports conducted by a professional person and submitted for payment are subject to accounting and quality review by the office prior to approving payment.

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0050 Time limitations and requirements. If a person is committed to the secretary as criminally insane, commitment and treatment ~~((cannot))~~ must not exceed the maximum possible sentence for any offense charged. Therefore:

(1) The ~~((superintendent))~~ administration, ((if no superintendent then the division,)) with the assistance of the office of the attorney general where necessary ~~((shall))~~ must determine at the time of commitment the maximum possible sentence for any offense charged, and thereby compute a maximum release date for every individual so committed.

(2) If the committed person has not been released by court order six months prior to the expiration of the maximum possible release date, the ~~((superintendent))~~ administration, ((if no superintendent, the division, shall)) must notify the committing court and prosecuting attorney of its computation of maximum release date and the requirement that the person must be released on that date unless civil proceedings are instituted or the court determines that the computation of maximum release date is incorrect.

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0060 Individualized treatment. (1) Whenever a person is committed to the secretary as criminally insane, the treatment facility to which the person is assigned ~~((shall))~~ must, within fifteen days of admission to the facility, evaluate and diagnose the committed person for the purpose of devising an individualized treatment program.

(2) Every person, committed to the secretary as criminally insane, ~~((shall))~~ must have an individualized treatment plan formulated by the treatment facility. This plan shall be developed by appropriate treatment team members and implemented as soon as possible but no later than fifteen days after the ((person's admission)) person is admitted to the treatment facility ((as criminally insane)). Each individualized treatment plan ((shall)) must include, but not be limited to:

- (a) A statement of the nature of the specific problems and specific needs of the patient;
- (b) A statement of the physical setting necessary to achieve the purposes of commitment;
- (c) A description of intermediate and long-range treatment goals, with a projected timetable for their attainment;
- (d) A statement and rationale for the plan of treatment for achieving these intermediate and long-range goals;
- (e) A specification of staff responsibility and a description of proposed staff involvement with a patient in order to attain these treatment goals; and
- (f) Criteria for recommendation to the court for release.

(3) This individualized treatment plan ~~((shall))~~ must be reviewed by the treatment facility periodically, at least every six months((, and a copy of the)).

(4) This individualized treatment plan (~~((shall))~~ must be (~~(sent))~~ made available to the committing court, and other authorized persons or entities, upon request.

AMENDATORY SECTION (Amending WSR 16-13-087, filed 6/15/16, effective 7/16/16)

WAC 388-875-0070 Transfer of a patient between ~~((state-operated))~~ treatment facilities ~~((for persons with mental illness))~~. In some instances, it is appropriate for the department to transfer a patient currently residing in a state facility to another state facility for ongoing treatment. The department accomplishes the transfer with the utmost care given to the therapeutic needs and legal status of the patient. This section describes the procedures for handling a patient transfer between state facilities in a manner consistent with the best interest of the patient.

(1) The department uses the following criteria when determining the appropriateness of a patient transfer:

(a) The patient's family resides within the receiving facility's service area; (~~((or))~~)

(b) The patient's primary home of residence is in the receiving facility's service area; (~~((or))~~)

(c) A particular service or need of the patient is better met at the receiving facility; (~~((or))~~)

(d) Transfer to the receiving facility may facilitate ~~((community discharge due to the availability of community service in the receiving facility's service area))~~ continuity of care; or

(e) The ~~((county, behavioral health organization (BHO), or patient))~~ prosecutor, defense counsel, or the court requests a transfer.

(2) Prior to any proposed transfer of a patient, the ~~((state))~~ treatment facility must comply with the following:

(a) The sending facility, at the request of the ~~((chief executive officer (CEO)))~~ superintendent, must have forwarded in writing information necessary to make a decision on whether transfer is appropriate to the receiving facility's attending physician or the physician's designee ~~((and the (BHO) liaison))~~, copying the prosecutor and defense counsel on that communication;

(b) The receiving facility's attending physician or the physician's designee ~~((and the BHO liaison))~~ must have recommended appropriate action to the ~~((CEO))~~ superintendent of the sending facility in writing within five calendar days of receipt of the request, and where exigent circumstances exist, necessitating immediate transfer of a patient, these communications must be made immediately as well;

(c) If the receiving facility accepts the proposed patient transfer, the sending facility must notify the patient, guardian, ~~((BHO liaison, and attorney, if known))~~ prosecutor, and defense counsel, at least five days before the proposed patient transfer;

(d) The sending facility is responsible for all patient transfer arrangements, such as, transportation and staff escort, and coordinates the day and time of arrival with the receiving facility; and

(e) The sending facility arranges for the transfer of patient's medical record to the receiving facility.

(3) The sending facility must document the following in the patient's record:

(a) That the physician documented the medical suitability of the patient for transfer; and

(b) That the ~~((social worker))~~ facility documented:

(i) Justification as to why the transfer is considered in the patient's best interests; and

(ii) The patient's wishes regarding transfer.

(4) The sending facility must contact the prosecuting attorney's office of the committing county, and defense counsel before the transfer. Where court orders need to be amended as a result of transfer of a patient, the relevant court must also be contacted in order to affect such amendments.

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0090 Conditional release. (1) Any person committed to the secretary as criminally insane may make application to the secretary for conditional release.

(2) The ~~((secretary designates the superintendent of the treatment facility, if no superintendent, then the director of the division, as the person to receive and act on such application))~~ administration is responsible for receiving and acting on applications for conditional release.

(3) The person making application for conditional release ~~((shall))~~ must not, under any circumstances, be released until there is a court hearing on the application, and recommendations and a court order authorizing conditional release has been issued.

(4) If conditional release is denied by the court the person making the applications may reapply after a period of six months from the date of denial.

(5) If the court grants conditional release and places the person making application under the supervision of ~~((a))~~ the department ~~((employee)), ((that supervising))~~ the department ~~((employee shall))~~ must make monthly reports ~~((, unless indicated otherwise by the court,))~~ for the first six months, and semi-annually thereafter, unless indicated otherwise by the committing court, concerning the conditionally released person's progress and compliance with the terms and conditions of conditional release. Such reports ~~((shall))~~ must be forwarded to the committing court, ~~((the division,))~~ the prosecuting attorney, and the treatment facility in which the person was most recently housed.

(6) The following persons are designated to exercise power and authority of the secretary contained in RCW 10.77.190:

(a) The assistant secretary of the behavioral health administration, the director or designee of the ~~((division))~~ office;

(b) The probation and parole office, if any, supervising the conditionally released person; and

(c) The treatment facility supervising the conditionally released person or from which the person was conditionally released.

AMENDATORY SECTION (Amending WSR 01-01-008, filed 12/6/00, effective 1/6/01)

WAC 388-875-0110 Access to records by criminal justice agencies. Upon written request, criminal justice agencies (~~shall~~) must have access to the following documents developed pursuant to the procedures set forth in chapter 10.77 RCW. The most recent forensic:

- (1) Psychiatric assessment;
- (2) Release summary; and
- (3) Pretrial report of the examination, either inpatient or outpatient.

Other relevant information may be provided by agreement between the requesting criminal justice agency and the treatment facility, subject to federal and state confidentiality provisions.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-875-0080 Restoration procedure for a former involuntarily committed person's right to firearm possession.

**WSR 19-11-061
PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed May 15, 2019, 9:14 a.m., effective June 15, 2019]

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

Purpose: The department is amending WAC 388-845-1410 to ensure that prevocational services are no longer available as of March 1, 2019. Prevocational services do not meet federal integration requirements under 42 C.F.R. 441.301 (c)(4) for home and community based services settings. The developmental disabilities administration (DDA) must enact this mass change to comply with the Centers of Medicare and Medicaid Services approved waiver amendments that eliminate prevocational services on the basic plus and core waivers. DDA also amended this rule to replace "community access" with the service's new name, "community inclusion."

Citation of Rules Affected by this Order: Amending WAC 388-845-1410.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: 42 C.F.R. 441.301 (c)(4), RCW 71A.12.120.

Adopted under notice filed as WSR 19-07-023 on March 12, 2019.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.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 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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: May 14, 2019.

Cheryl Strange
Secretary

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-1410 Are there limits to the prevocational services you may receive? The following limits apply to your receipt of prevocational services:

(1) Effective September 1, 2015, no new referrals are accepted for prevocational services.

(2) Effective March 1, 2019, prevocational services are no longer available.

(3) Clinical and support needs for prevocational services are limited to those identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan (~~individual support plan~~).

~~((3))~~ (4) You must be age twenty and graduating from high school before your July or August twenty-first birthday, age twenty-one and graduated from high school, or age twenty-two or older to receive prevocational services.

~~((4))~~ (5) Prevocational services are a time limited step on the pathway toward individual employment and are dependent on your demonstrating steady progress toward gainful employment over time. Your annual employment plan will include exploration of integrated settings within your next service year. Criteria that would trigger a review of your need for these services include, but are not limited to:

(a) Compensation at more than fifty percent of the prevailing wage;

(b) Significant progress made toward your defined goals; and

(c) Recommendation by your individual support plan team.

~~((5))~~ (6) You will not be authorized to receive prevocational services in addition to community (~~access~~) inclusion services or supported employment services.

~~((6))~~ (7) Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325.

WSR 19-11-063**PERMANENT RULES****WASHINGTON STATE UNIVERSITY**

[Filed May 15, 2019, 10:09 a.m., effective June 15, 2019]

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

Purpose: The university is updating the campus parking and traffic regulations including, but not limited to, the rules regarding permit display.

Citation of Rules Affected by this Order: Amending WAC 504-15-010, 504-15-020, 504-15-080, 504-15-100, 504-15-220, 504-15-250, 504-15-300, 504-15-420, 504-15-450, 504-15-460, 504-15-470, 504-15-520, 504-15-540, 504-15-560, 504-15-580, 504-15-600, 504-15-650, 504-15-810, 504-15-860, 504-15-865, 504-15-870, 504-15-880, 504-15-885, 504-15-920, and 504-15-930.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 19-06-082 on March 6, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 25, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 25, 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 25, Repealed 0.

Date Adopted: May 15, 2019.

Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-010 Authorization. Pursuant to the authority granted by RCW 28B.30.125, 28B.30.150, 28B.10.560, and chapter 34.05 RCW, the board of regents of the university adopts this chapter to govern parking and traffic on the Pullman campus. The board of regents may delegate authority to the president or their designee to adopt changes to the parking and traffic rules in this chapter. If adoption authority is delegated to the president or their designee, changes to this chapter are not submitted to the board of regents.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-020 Purposes of regulations. (1) The purposes of these regulations are to:

(a) Expedite university business and provide maximum safety, order, and access;

- (b) Regulate parking, with priority given to:
- (i) Services of the university;
 - (ii) ~~((Persons))~~ Individuals who require the use of vehicles in connection with their on-campus work; and
 - (iii) Staff and students who require the use of private vehicles because of a disability or other approved reason; and
 - (c) Provide and maintain suitable campus parking and transportation systems.

(2) The vice president or designee whose responsibilities include supervision of the parking department ~~((shall have))~~ has the authority to designate particular locations as parking, temporary parking, restricted parking, or prohibited parking, as well as the authority to designate permanent and temporary areas as being closed to vehicular traffic.

AMENDATORY SECTION (Amending WSR 90-11-078, filed 5/16/90, effective 7/1/90)

WAC 504-15-080 Severability. If any provision of this chapter, chapter 504-15 WAC, or its application to any ~~((person))~~ individual or circumstance is held invalid, the remainder of the chapter or its application to other ~~((persons))~~ individuals or circumstances is unaffected.

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-100 Definitions. The definitions in this section are applicable within the context of this chapter.

(1) Campus. Describes all property owned, leased, and/or controlled by the university Pullman campus which is or may hereafter be dedicated mainly to the educational, research, housing, recreational, parking, or other activities of the university.

(2) Commuter student. Any student who does not live in a university residence hall (dormitory). All students living in fraternities, sororities, university-owned housing (other than residence halls), and private housing are considered to be commuter students.

(3) Day. Unless otherwise specified, the term "day" refers to a calendar day.

(4) Disability zone. A parking zone designated for exclusive use by ~~((persons))~~ individuals with disability and identified with a sign bearing the associated international symbol.

(5) Electric-assisted bicycle. As defined under RCW 46.04.169.

(6) Fire zone. An area needed for emergency access to buildings, fire hydrants, or fire equipment. Such areas include, but are not limited to, areas with adjacent curbs or rails painted red.

(7) Gate card. A plastic card that activates the gates controlling access to certain parking areas.

(8) Illegal use of permit. A parking violation in which a parking ticket is issued under the following circumstances:

(a) Use of a parking permit or indicator on a vehicle other than the specified vehicle identified by a license plate number on the permit.

(b) Use of a parking permit or indicator obtained under false pretenses.

(c) Use of a modified parking permit or indicator.

(d) Use and/or retention of a parking permit or indicator by ~~((person(s)))~~ individual(s) ineligible, or no longer eligible, for such a permit as described and authorized in this chapter.

(9) Impound. To take and hold a vehicle in legal custody by use of a wheel lock and/or towing.

(10) Indicator. A decal or hanger displayed adjacent to a parking permit which defines additional parking areas available to a permit holder.

(11) Loading zone. A loading dock, or an area signed "loading zone" adjacent to a facility, in a parking area, or near a residence hall. Such an area is intended for loading and unloading bulky or voluminous material. Loading zones are restricted at all times unless signed otherwise.

(12) Moped. As defined under RCW 46.04.304.

(13) Motorcycle. As defined under RCW 46.04.330.

(14) Motorized foot scooter. As defined under RCW 46.04.336.

(15) Motor vehicle. As defined under RCW 46.04.320.

(16) No parking zone. Any area not specifically marked and/or signed for parking. Such areas include, but are not limited to, areas with adjacent curbs or rails painted yellow.

(17) Officer. Any parking or police official employed by the university who is designated by the parking administrator or chief of police to issue parking tickets, to place and remove wheel locks, or to cause vehicles to be towed under this chapter.

(18) Owner. The ~~((person))~~ individual registered with any state as the present owner of a vehicle in the most current registration records available to the university, the owner's expressed representative, or any transferee not designated in such records, provided that the parking administrator or chief of police has received actual written notice of the transfer.

(19) Park/parking. This refers to the placement or standing of a vehicle, with or without a driver in attendance, and with or without the engine running.

(20) Parking administrator. The director in charge of the parking department or designee.

(21) Parking appeals committee. Any ~~((person or persons))~~ individual or individuals appointed to consider parking violations and the application of fees, fines, and sanctions. Said ~~((person or persons))~~ individual or individuals are appointed by the vice president whose responsibilities include supervision of the parking department or designee.

(22) Parking department. The university department which is charged with the responsibility of managing, operating, planning, and maintaining parking facilities; enforcing the parking regulations; and coordinating commute trip reduction efforts for the Pullman campus.

(23) Parking meter. A single fixed device that typically requires payment and limits the amount of time a vehicle can park in a single space. Also referred to as "meter" in this chapter. A parking meter is not a parking payment device.

(24) Parking payment device. A machine that requires payment and vends a parking permit and/or a paid receipt. Parking payment devices may be located in various places on the campus. A parking payment device is not a parking meter.

(25) Parking permit. A vinyl, plastic, paper, or other instrument sanctioned by the parking department that is displayed from a vehicle, and authorizes parking in specified areas. Some parking permits may be purchased online and

may be virtual in nature, and identified by other means such as by license plate. (See the definition of "virtual permit" in subsection (46) of this section.) Also referred to as "permit" in this chapter.

(26) Parking ticket. The first notice of a parking violation which is usually placed in a visible location on a motor vehicle.

(27) Pay parking facility. A location where parking is provided and payment is made on-site via a parking payment device, cashier, or other means other than a parking meter.

(28) Pedestrian mall. A space that is designed primarily for pedestrian use, but with limited authorized use of motor vehicle and other motorized and nonmotorized conveyances. These restricted areas are depicted on the Pullman campus map and/or with signing at the entrances to the pedestrian mall areas.

(29) ~~((Persons))~~ Individuals with disability. For the purpose of this chapter, ~~((persons))~~ individuals with disability ~~((shall))~~ refer to ~~((a person or persons))~~ an individual or individuals with disability or disabilities who qualify for a state-issued individual with disabilities parking identification and permit.

(30) Resident priority zone. A parking area close to a residence hall (i.e., crimson zone or gray zone) that is typically limited to use by residence hall students.

(31) Residence hall student. A student with a current, valid residence hall contract, who lives in a residence hall.

(32) Residence hall. Residence hall units (dormitories) that are owned by the university but are not included as university-owned housing apartments. Occupants of residence halls are considered residence hall students and are eligible for parking permits in resident priority zones.

(33) Service vehicle. A vehicle used to provide a service for the university or a tenant or contractor of the university (e.g., a university owned vehicle or a privately owned vehicle with a valid service vehicle authorization displayed).

(34) Service zone. Parking spaces or area designated for the use of service vehicles, other government-owned vehicles, and vehicles displaying a service indicator or commercial permit. Authorized vehicles may park in these zones on an occasional basis for a maximum of fifteen minutes, except for vehicles that display a commercial permit, or a service indicator issued for an extended time. Service zones are restricted at all times unless signed otherwise.

(35) Staff. For the purposes of these regulations, "staff" includes all nonstudent employees of the university and the nonstudent employees of other entities located on, or regularly doing business on campus. Teaching assistants, research assistants, and other students employed by the university, or other entities located on, or regularly doing business on campus, are not "staff." They are considered to be students for the purpose of these regulations.

(36) Standing. "Standing" is the stopping of a vehicle with the driver remaining in it.

(37) Storage of a vehicle. Impounded vehicles are held in storage until released. During such time they are subject to storage fees.

(38) Student. The term "student" includes all ~~((persons))~~ individuals who are not staff who are taking courses at the university, enrolled full-time or part-time, pursuing under-

graduate, graduate, professional studies, or auditing one or more classes.

(39) Summer session. The summer session includes all summer sessions beginning on the first day of the earliest session, and ending on the last day of the latest session.

(40) University. Refers to Washington State University.

(41) University holiday. A day regarded by the university as an official university holiday.

(42) University-owned housing. Housing units or apartments, and their respective parking areas, that are owned by the university, but are not included as residence halls. Occupants of university-owned housing are eligible for housing parking permits issued by the university.

(43) Unpaid. A full or partial outstanding balance due. This definition includes parking tickets which are pending appeal.

(44) Vacation. A period of time when classes or final exams are not in session. Except for holidays that fall within this period, the business offices of the university are open during this time.

(45) Vehicle storage. Vehicle storage means the parking or leaving of any vehicle for a period of more than twenty-four consecutive hours.

(46) Virtual permit. A virtual permit is authorization given at the time of vehicle registration with the parking department, allowing the registered vehicle to park in a designated lot, zone, or space. The virtual permit is associated with the vehicle license plate number and is used to identify the parking authorization.

(47) ~~Persons~~ Individuals who are not staff or students and who only visit the campus on an occasional basis.

~~((47))~~ (48) Wheel lock. A device used to temporarily immobilize a motor vehicle. Wheel locked vehicles are considered to be impounded in place and subject to storage fees.

~~((48))~~ (49) Wheel lock-eligible list. The current list of wheel lock-eligible vehicles as maintained by the parking department. A vehicle remains on the wheel lock-eligible list until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((49))~~ (50) Wheel lock-eligible vehicle. Any vehicle on which three or more parking tickets more than thirty days old are unpaid and which parking tickets were issued during the time the vehicle was registered to or otherwise held by the owner. The vehicle remains wheel lock-eligible until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((50))~~ (51) WSU disability permit. WSU-issued zone permit displayed with a valid state-issued disability placard or disability license plate.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-220 Signed and marked areas. (1) Parking on campus is ~~((permitted))~~ allowed only in the marked and/or signed spaces in parking facilities and on streets. All other areas outside these designated areas are "no parking

zones." Each parking facility has signs or markings to indicate the type of permit or payment required, and the times they are required.

(2) Individual parking spaces are marked, and no vehicle may be parked so as to occupy any portion of more than one parking space. The fact that other vehicles were parked in a manner requiring a vehicle to occupy a portion of more than one space ~~((shall))~~ must not constitute an excuse for a violation of this regulation.

(3) Standing (the stopping of a vehicle with the driver remaining in it) is ~~((permitted))~~ allowed in marked parking spaces, except metered spaces and restricted spaces, even though the vehicle does not have a valid parking permit. Double parking while "standing" is not ~~((permitted))~~ allowed.

(4) Should there be a conflict between these regulations, map designation, and on-site signs regarding parking instructions, the on-site sign takes precedence.

(5) Permit areas and restricted spaces are not always signed individually.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-250 Motorcycles and mopeds. (1) The general traffic regulations applicable to motor vehicles apply to motorcycles and mopeds. Motorcycles or mopeds may not be driven on sidewalks or in pedestrian mall areas. Owners of motorcycles and mopeds are responsible for all violations issued.

(2) The university classifies mopeds and motorcycles by engine displacement (also referred to as engine size). This definition applies only to university property and does not replace or supersede the definitions established by the state of Washington for licensing purposes.

~~(3) ((Mopeds. Mopeds may park only in a designated moped parking area marked by signs and/or the letters "MP" on the parking surface; and a bicycle rack unless the rack is signed to exclude mopeds. Mopeds must display a valid university moped permit during posted times. Mopeds may not park in marked motorcycle areas at any time or anywhere within designated pedestrian mall areas.~~

~~(4))~~ Motorcycles and mopeds. Motorcycles and mopeds may park only in spaces which are marked by signs, or the letter "M" painted on the parking surface. Motorcycles and mopeds must display a valid university ~~((motorcycle))~~ "M" permit during posted times. During all other times, these spaces are restricted to use by motorcycles and mopeds only. Motorcycles and mopeds may not park at bicycle racks or ~~((# designated moped))~~ anywhere within designated pedestrian mall areas at any time.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-300 Financial responsibility for parking tickets. (1) Each registered parking permit holder ~~((shall be))~~ is financially responsible for parking tickets on vehicles:

(a) Registered with the parking department; and/or

(b) Displaying the registered parking permit holder's permit.

(2) Owners of vehicles are ~~((held))~~ ultimately held financially responsible for parking tickets issued to their vehicles.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-420 Withholding of fines and fees. All parking permit applications ~~((shall))~~ must provide that the university may withhold unpaid fines and fees, when permitted by law, from any sums owed the permit holder and to treat the same as a debt.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-450 Replacement parking permits, indicators, and gate cards. (1) Sold or traded vehicles. Failure to advise the parking department of a sale or trade for registration purposes may result in continued responsibility to the permit holder for parking tickets received on vehicles.

The permit holder has responsibility for removing parking permits prior to selling or trading a vehicle. The identifiable remnants of the original permit must be presented to the parking department to receive a free replacement. ~~((Persons))~~ Individuals failing to comply with this requirement ~~((shall))~~ must pay the cost of a new permit.

(2) Lost/stolen permits. Permit holders are responsible for the security of their permits. The theft or loss of a parking permit should be reported to the parking department immediately upon discovery. A lost or stolen permit may be replaced upon payment to the parking department of the cost of replacing the permit, according to a schedule adopted by the parking department. Lost or stolen permits must be returned to the parking department immediately if recovered.

(3) Windshield replacements. When a permit-bearing windshield is replaced, the permit replacement fee is waived if proof of windshield replacement is presented.

(4) Gate card replacement. A lost, stolen, or damaged gate card is replaced upon payment to the parking department of the cost of replacing the gate card, according to a schedule adopted by the parking department.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-460 False information. No ~~((person shall))~~ individual may obtain, attempt to obtain, or use in a manner contrary to these regulations, a modified parking permit or a permit issued upon false information. A violation of this section includes giving a false name, address, identification number, and/or other information known to be false. It also includes the use of a visitor, conference, and commercial permit by staff or students. Violation of this provision ~~((shall))~~ constitutes the illegal use of a parking permit, and is subject to issuance of a parking ticket.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-470 Recall of parking permits and gate cards. Parking permits are the property of the university and may be recalled by the parking administrator when:

(1) The purpose for which the permit or gate card was issued changes or no longer exists (e.g., ~~((a person))~~ an individual who no longer lives in a residence hall would be required to return their gray permit for refund or credit toward an appropriate permit);

(2) A permit or gate card is used on an unauthorized vehicle or by an unauthorized ~~((person))~~ individual;

(3) A parking permit application is falsified;

(4) A counterfeit, modified, lost/stolen permit or gate card is used; or

(5) The parking permit fee is unpaid.

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-520 Parking permits—Form and display. All parking permits must be entirely visible and displayed in the approved position on the vehicle with permit numbers and relevant dates visible. Vehicles with permits which are not displayed in accordance with the provisions of this section are subject to parking tickets for the violation of improperly displaying a permit.

(1) Autos and trucks:

(a) Daily permits must be displayed as instructed on the permit.

(b) Annual permits must be displayed on the left side (driver's side) of the windshield. Permits must be mounted completely by means of their own design. No additional substances may be used to adhere the permit unless approved by the parking department.

(2) Motorcycles and mopeds. ~~((Motorcycle and moped))~~ "M" permits must be ~~((mounted completely by means of their own adhesive and))~~ prominently displayed on the left rear side of the vehicle or on top of the rear tail light. Permits must be mounted completely by means of their own design. No additional substances may be used to adhere the permit unless approved by the parking department.

(3) Virtual permits: Certain parking permissions do not require that a permit be displayed. In those instances, the virtual permit is associated with the license plate registered.

(a) Vehicles must be parked so that the license plate is visible from the driving aisle.

(b) No covers may be placed over the license plate that would inhibit the reflectivity of the plate.

(c) The alphanumeric characters of the license plate must be visible and unobstructed by license plate frames or other accessories.

(d) Individuals with virtual permits must ensure their current vehicle is registered and associated with their virtual permit. This process can be accomplished at the parking department.

(e) Multiple vehicles on the same virtual permit do not allow for more than one motor vehicle to be parked in a permit area on campus during the same period.

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-540 Zone parking permits—Availability and use. The management and assignment of parking zones is designed to provide a parking space to each permit holder. However, uncontrolled access to parking areas and unexpected parking demand make it impossible to guarantee a parking space in a permit holder's assigned zone. Every effort is made via surveys and limits on permit sales, to ensure that permit holders are not displaced from their assigned zones. The only exception to this is that the sale of blue permits is not limited.

Staff and students are generally assigned to specific parking areas, referred to as zones. Parking zones are color-coded with respect to their price and numbered with respect to the specific parking zone assignment of each permit holder. Permit holders may park in their assigned zone as reflected by the combination of color and number on their permit and corresponding sign, or they may park in other zones as described below.

(1) Orange permits. Orange permit holders may park in their numerically assigned orange zone, or in any green, yellow, red, or blue zone. These permits may be made available on a daily basis.

(2) Green permits. Green permit holders may park in their numerically assigned green zone, or in any yellow, red, or blue zone. These permits may be made available on a daily basis.

(3) Yellow permits. Yellow permit holders may park in their numerically assigned yellow zone, or in any red or blue zone. These permits may be made available on a daily basis.

(4) Red permits. Red permit holders may park in their numerically assigned red zone or in any blue zone. These permits may be made available on a daily basis.

(5) Crimson permits. Crimson 1 permit holders may park in ((their numerically assigned crimson zone, or in the numerically corresponding gray zone (e.g., a crimson 1 permit is valid in the gray 1 zone, but not in the gray 2 zone), or in any blue zone)) the crimson 1 zone, or in any gray 1 zone, or blue 1 zone. Crimson 2 permit holders may park in the crimson 2 zone, or in any gray 2 zone, or blue 1 zone. Crimson 3 permit holders may park in the crimson 3 zone, or in any gray 2 zone, or blue 1 zone. Crimson 4 permit holders may park in the crimson 4 zone, or in any gray 1 zone, or blue 1 zone. Crimson permit holders must turn in their crimson permit for a refund or credit toward another permit, if applicable, immediately upon moving out of the residence hall. Only residence hall students are eligible for crimson permits ((with the exception of the crimson 3 zone, which is available to all students)). Residence hall students are eligible for crimson, gray, or blue permits only.

(6) Gray permits. Gray permit holders may park in their numerically assigned gray zone, or in any blue zone. These permits may be made available on a daily basis. Gray permit holders must turn in their gray permit for refund or credit toward another permit, if applicable, immediately upon moving out of a residence hall. Only residence hall students are eligible for gray permits. Residence hall students are eligible for crimson, gray, or blue permits only.

(7) Blue permits. Blue permit holders may park in any blue zone. These permits may be made available on a daily basis.

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-560 Other parking permits—Availability and use. (1) Visitor permits. For information about visitor parking, refer to the parking department's web site.

(2) Golden cougar permits. Golden cougar permits are special permits that are issued to retired or emeritus staff for their sole use in recognition of their service without additional cost. They are issued on an annual basis and are valid in designated areas that are approved by the parking department. Staff who are employed by the university or by other entities located on campus after formal retirement are not eligible to use a golden cougar permit in lieu of a regular paid zone permit.

(3) Event permits. Event permits are available to patrons who participate in events held on the university campus. They are available on a daily basis only. Event permits are assigned to specific zones on a space-available basis. Event permits are not valid in restricted spaces.

(4) ~~((Motorcycle))~~ "M" permits. Motorcycle and moped permits are valid within boundaries of areas specifically posted and/or marked for ((motorcycle)) "M" permits. ~~((Motorcycle)) "M" permits are available on an annual and daily basis.~~

~~(5) ((Moped permits. Moped permits are valid within boundaries of areas specifically posted and/or marked for moped permits. Moped permits are available on an annual and daily basis.~~

~~((6))~~ Commercial permits. Commercial permits are issued to vendors, suppliers, and service representatives of outside companies performing a service for the university. Commercial permits are available on an annual or daily basis. Annual commercial permits are valid in service zones, parking meters, and green, yellow, red, and blue zones ~~((and visitor permit only parking spaces))~~. Daily commercial permits may be assigned to specific zones on a space-available basis. Commercial permits are not valid in orange zones or pay parking facilities.

~~((7) Construction permits. A construction permit is issued to personnel who are working on a construction site on campus. Construction permits are available on an annual or daily basis and are assigned to a specific parking area.~~

~~((8))~~ (6) Housing permits. A housing permit is issued to eligible residents of university-owned housing. Housing permits are valid only in specific housing parking areas.

~~((9))~~ (7) Carpool. Upon application, a bona fide carpool as defined by the campus policies and procedures is given preference in the assignment of parking zones, and issued a permit that facilitates the carpool. Obtaining or using a carpool permit under false pretenses constitutes the illegal use of a permit.

~~((10))~~ (8) Departmental permits. Departmental parking permits are available for use by department employees who need to use their personal vehicles for university business. Departmental permits are available in different forms and are

valid at parking meters; service zones; orange, green, yellow, red, blue, crimson, and gray permit zones; and pay parking facilities. Departmental permits are not valid in reserved spaces. The use of departmental permits for anything other than official departmental business is prohibited by the State Ethics Act.

(9) College hill permits. College hill permits are valid in designated parking areas that are approved by the parking department.

(10) Night parking permits. Night parking permits are permits issued to designated WSU employees approved by the parking department that allow the approved employees to park during specific hours in designated areas.

(11) Exempt permits. Exempt permits are issued to departments and entities located on campus for university owned vehicles and other publicly owned vehicles. All other publicly owned vehicles owned by entities not located on or regularly doing business on campus must display a valid permit to park on campus. Police, fire, and emergency vehicles are not required to display a permit on campus.

(12) Media permits. Media permits are issued to media organizations that need to cover news on the WSU Pullman campus. Media permits are valid in green, yellow, red, and blue zones, and meters for the maximum time listed on the meter. Media employees who are also WSU students, faculty, or staff may use the media permit only to cover news stories. Media permits may not be used for personal use, attending class, other day-to-day services that fall within normal job duties. Any attempt by WSU students, faculty, or staff to use a media permit in lieu of a WSU permit may result in a fine for illegal use of a parking permit and/or recall of the media permit by the parking department.

(13) WSU permits. WSU permits are valid in orange, green, yellow, red, and blue zones, hourly parking facilities, and parking meters.

(14) Day permits. Day permits are sold on a daily basis and are valid in green, yellow, red, and blue zones.

(15) Reserved permits. Reserved permits are valid in a designated reserved lot or space.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-580 Special indicator decals and hangers. Special indicator decals or hangers may be issued to staff and student permit holders who have otherwise valid parking permits in the following cases:

(1) A "service" indicator decal or hanger is valid typically for a maximum of fifteen minutes in a marked service zone. A "mall service" indicator is valid typically for a maximum of fifteen-minute parking in the pedestrian malls. These are available to staff or students who must use a private vehicle for university business. ~~((They))~~ Mall service indicators are issued on an annual or daily basis upon the approval of the parking administrator or ~~((his/her))~~ their designee.

(2) A "night parking" indicator decal or hanger is valid in permit zones up to thirty minutes after the permit enforcement times for the zone begin, and thirty minutes before the permit times for the zone end. For example, if permits are required in a permit zone from 7:00 a.m. to 5:00 p.m., the

night parking indicator is valid in that zone from 4:30 p.m. until 7:30 a.m. Night parking indicators are not valid at any time in orange zones, crimson zones, gray zones, parking meter spaces, pay parking facilities, restricted spaces, or permit zones that require a parking permit at all times.

(3) Reserved parking indicator decals and hangers which are valid in parking spaces that are signed for the corresponding permit and indicator.

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-600 Parking for ~~((persons))~~ individuals with disability. (1) The provisions of this chapter cover disability parking and the payment of fees and fines associated with parking for ~~((persons))~~ individuals with disability.

(2) For the purpose of this chapter, ~~((persons))~~ individuals with disability ~~((shall))~~ refer to ~~((a person or persons))~~ individuals with disability who qualify for a state-issued individual with disabilities parking identification and permit as provided in chapter 308-96B WAC.

(3) The university uses the state individual with disabilities parking permit system to determine eligibility for disability parking.

(4) Unless otherwise authorized, parking in spaces designated for ~~((persons))~~ individuals with disability requires a WSU disability permit to park on campus.

(5) ~~((Persons))~~ Individuals with a WSU disability permit may park in ~~((a persons))~~ an individuals with disability parking space and any other, nonrestricted permit space within a parking permit zone.

(6) ~~((Persons))~~ Individuals with a WSU disability permit may not park in restricted spaces with the exception of ~~((persons))~~ individuals with disability parking spaces.

(7) Unless otherwise posted, any university parking permit to include a WSU disability permit is not valid in lieu of payment of regular posted fees in pay parking facilities.

(8) A state-issued individual with disabilities license plate, placard, or permit is valid in lieu of a WSU disability permit in parking zones during times when a university permit is not required.

(9) The university intends to retain control of access to the pedestrian malls on campus. For that reason a WSU disability permit is required in lieu of a state-issued individual with disabilities license plate, placard, or permit as authorization to use a pedestrian mall to access marked ~~((persons))~~ individuals with disability parking spaces within the confines of a pedestrian mall.

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-650 Parking fees and fines. (1) Schedules for parking fees, parking administrative fees, late payment fees, parking fines and sanctions, parking meter rates, prorate and refund schedules, and the effective date thereof are submitted to the president or ~~((his/her))~~ their designee and to the board of regents for approval by motion, provided, however, that increases in fees and fines do not exceed limits established by the board of regents. Increases in fees and fines that do not exceed limits established by the board of

regents are not submitted to the board of regents so long as the board of regents has delegated authority to the president or ((his)) their designee to approve all such fees and fines. The schedules described above for all parking fees and fines are thereafter posted in the public area of the parking department office and posted on the parking department's web site.

(2) Before purchasing a permit, the balance of any fees and fines owed to the parking department must be paid in full.

(3) Payments. Parking fees and fines may be paid at the parking department by cash, check, approved payment card, or money order. A payroll deduction plan is available for eligible university employees and eligible graduate students.

(4) The annual fee for any shorter period relative to all permits ((shall be)) is prorated according to the published schedule.

(5) The proper fee must be paid for all vehicles parked in parking meter spaces unless otherwise authorized.

(6) Staff members whose work schedules qualify them for nighttime differential pay may purchase a permit for one-half the regular fee. Verification is required.

(7) Refunds. Annual physical permits being relinquished ((may)) must be returned to the parking department in person for a pro rata refund in accordance with university policy. Identifiable remnants of ((the)) physical permits must be returned. In the case of annual virtual permits, the permit purchaser must notify the parking department in person or in writing that they want to relinquish the permit permissions for a pro rata refund in accordance with university policy. The balance of any fees and fines owed the parking department is deducted from any refund due. Refunds for temporary permits are not granted. Refunds for pretax payroll deductions cannot be granted pursuant to federal tax laws.

(8) The parking department makes a wide array of options available in advance to university departments for use by their visitors, guests, and employees for the purpose of conducting departmental business. However, when necessary, university departments that can establish in writing that a parking ticket issued by the parking department was received as a result of parking any vehicle for the purpose of conducting official state business, or while conducting official business with the university or an entity located at the university are assessed a parking fee assessment (PFA) in lieu of the parking fine. Such requests for PFAs are signed by a department fiscal custodian. A PFA consists of the maximum daily parking fee plus an additional administrative fee for failing to purchase and provide the necessary parking permit or fee in advance or at the time of parking. University departments are encouraged to avoid additional administrative fees associated with PFAs by purchasing and storing pre-paid parking permits and by making them available as the department deems necessary. Nothing in this regulation allows a university employee to receive, or attempt to receive, any benefit associated with ((his or her)) their personal expenses in violation of the State Ethics Act. All questionable employee conduct regarding the application of this section is reported to, and investigated by, the university internal auditor. This section applies only to parking tickets issued pursuant to this chapter.

AMENDATORY SECTION (Amending WSR 14-11-024, filed 5/12/14, effective 6/12/14)

WAC 504-15-810 Violations, fines, and sanctions. (1) Violations and fines. Parking violations are processed by the university. Fines must be paid at the parking department or at other authorized locations, by mail, or from the parking department's web site. Schedules for parking violations, fines, and sanctions are posted in the public area of the parking department office and on the parking department's web site.

(2) Reduction of fines. Internal policies regarding disposition of parking tickets may be established on approval of the vice president or designee whose responsibilities include supervision of the parking department.

(3) Payment of parking fines.

(a) All parking fines and fees are due upon issuance. Thirty days after date of issuance, a late fee ((shall be)) is added to all unpaid parking fines. For example, a parking ticket issued on May 1st ((would be)) is assessed a late fee on May 31st.

(b) Parking fines and fees assessed for any violation results in referral to the university controller's office for internal collection. ((The controller or designee may, if other collection efforts fail, withhold the amount of the outstanding fines and fees from damage deposits or other funds held for any student in order to secure payment.)) Where internal collection efforts are unsuccessful, the controller or designee may ((notify the registrar to refrain from issuing)) place a hold on student transcripts ((or to withhold permission to reenroll for a subsequent term)), registration, or other university services until outstanding fines and fees are paid, and/or transfer the account to an external collection agency. The procedures discussed above are not exclusive, however, and failure by anyone to pay fines and fees may also lead to towing or use of the wheel lock device described in these regulations. Nor are the procedures discussed above a precondition to towing or use of the wheel lock.

(c) Account balances not paid to the university voluntarily may be forwarded to an external collections agency and are subject to additional collection fees of up to fifty percent, attorney's fees, and court costs when necessary.

(4) Failure to pay fines. Failure to pay a fine or comply with other penalties assessed pursuant to these regulations, and exhausting or failing to exercise appeals provided for in these regulations, may result in the inability to renew a vehicle license through the state pursuant to RCW 46.16.216.

AMENDATORY SECTION (Amending WSR 14-11-024, filed 5/12/14, effective 6/12/14)

WAC 504-15-860 Appeal procedures. The parking ticket represents a determination that a parking violation has been committed and the determination is final unless otherwise provided or appealed as provided in this chapter.

(1) Purpose. The parking appeals process serves three primary functions:

(a) To hear parking ticket appeals;

(b) To hear appeals of wheel lock eligibility determinations; and

(c) To hear appeals of impoundments.

(2) Procedure. Any ~~((person))~~ individual who has received a parking ticket may appeal the alleged parking violation. Appeal of wheel lock eligibility determinations and impoundments are described in WAC 504-15-865 and 504-15-870.

(3) Written parking ticket appeals. The appeal must be in writing and received at the parking department within ten calendar days of issuance of the parking ticket. ~~((Paper and))~~ Online forms for this purpose are available from the parking department. The parking appeals committee makes an initial decision regarding the appeal within twenty calendar days during the academic year and within thirty calendar days during the summer months after receipt of the appeal. The committee provides a brief statement of the reason(s) for its decision to the appellant within ten calendar days of the decision.

(4) Review hearing of initial decision. If the appellant is dissatisfied with the initial decision, the appellant may request a hearing before a hearing officer or the parking appeals committee. Such request must be made within ten calendar days of the date of the initial parking appeals committee decision. If no such request is received, the initial decision ~~((shall be))~~ is final. During the hearing the appellant and representatives of the parking department may present and cross-examine witnesses. The hearing officer or appeals committee ~~((shall))~~ renders a decision in writing and provides the appellant with the decision within ten calendar days after the hearing.

(5) Appeal to district court. RCW 28B.10.560 provides that ~~((a person))~~ an individual who is not satisfied with the final decision of the university may appeal to district court. The application for appeal to district court ~~((shall))~~ must be in writing and must be filed at the parking department office within ten calendar days after the date of the review hearing. The parking department forwards the documents relating to the appeal to the district court.

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-865 General. (1) Pursuant to the provisions of this chapter, an officer ~~((shall))~~ must cause a vehicle to be wheel locked, or towed, or both, if:

- (a) The vehicle is on the wheel lock-eligible list; or
 - (b) The vehicle displays a lost, stolen, or counterfeit parking permit.
- (2) Any vehicle may be towed away at owner's/operator's expense if the vehicle:
- (a) Has been immobilized by wheel lock for more than twenty-four hours; or
 - (b) Is illegally parked in a marked tow-away zone; or
 - (c) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or
 - (d) Cannot be immobilized with a wheel lock device; or
 - (e) Is illegally parked in a disability space; or
 - (f) Is parked in an area designated to be used for emergencies, maintenance, events, or construction; or

(g) Is otherwise illegally parked based on the executive authority of the parking department or the university police department.

(3) The driver and/or owner of a towed vehicle ~~((shall))~~ must pay towing and storage expenses.

(4) Any vehicle immobilized by use of the wheel lock device in excess of twenty-four hours is assessed a storage fee for each calendar day or portion thereof, beyond the first twenty-four hours.

(5) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.

(6) No vehicle impounded by towing or wheel lock devices ~~((shall be))~~ is released until the following fines are paid in cash or with an approved payment card:

- (a) All unpaid parking ticket fines and late fees against said vehicle and any other vehicle registered to the owner;
- (b) A wheel lock fee; and
- (c) All towing and storage fees.

(7) ~~((A person))~~ An individual wishing to challenge the validity of any fines or fees imposed under this chapter may appeal such fines or fees as provided in WAC 504-15-860. However, in order to secure release of the vehicle, such ~~((person))~~ individual must pay the amount of such fines or fees as a bond which ~~((shall be))~~ is refunded to the extent the appeal is successful.

(8) An accumulation of six unpaid violations during any twelve-month period, exclusive of overtime at parking meter violations, and overtime in time zone violations, subjects the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-870 Wheel lock-eligible list. (1) The parking administrator ~~((shall be))~~ is responsible for creating and maintaining the wheel lock-eligible list. See definition of "wheel lock-eligible vehicle under WAC 504-15-100(50)."

(2) A wheel lock-eligible vehicle ~~((shall be))~~ is placed on the wheel lock-eligible list after notice has been issued as provided in subsection (3) of this section and an appeal of the wheel lock eligibility determination, if requested, under subsection (4) of this section.

(3) At least ten days prior to placing a vehicle on the wheel lock-eligible list, the parking administrator ~~((shall))~~ must mail a notice to the owner. The parking administrator mails the notice to the address stated on the most current registration records available to the university from a state, or any more current address of which the parking administrator or chief of police has actual written notice. The notice is sent by first class United States mail, postage prepaid. The notice ~~((shall))~~ must set forth:

- (a) The make and license plate number of the alleged wheel lock-eligible vehicle.
- (b) A specified date on which the wheel lock-eligible vehicle is subject to placement on the wheel lock-eligible list.

(c) A list of the three or more alleged unpaid parking tickets, including the parking ticket number, date, time, place of the violation, and the nature of the violation. This list ~~((shall))~~ must include all unpaid parking tickets issued to a particular vehicle to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(d) That the owner may avoid the placement of the vehicle on the wheel lock-eligible list by making payment in full of fines and late fees on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees by the specified date on which the vehicle is subject to placement on the wheel lock-eligible list.

(e) The name, mailing address (and street address if different), and telephone number of the parking department office that may be contacted to appeal the wheel lock eligibility determination. Such an appeal only considers whether an individual vehicle was properly placed on the wheel lock-eligible list and not the merits of an individual parking ticket, which may be addressed pursuant to a separate appeals process described in WAC 504-15-860.

(f) That the vehicle is subject to wheel lock, towing, or both once it is placed on the wheel lock-eligible list.

(g) That all late fees, wheel lock fees, towing, and storage fees ~~((shall))~~ must be payable in full to obtain the release of a vehicle wheel locked or towed pursuant to this chapter in addition to payment of any and all unpaid parking tickets on this vehicle or other vehicles owned by the registered owner to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(4) If a request for an appeal of a wheel lock eligibility determination is received by the parking administrator before the specified date in the notice for placement of the vehicle on the wheel lock-eligible list, then the parking administrator ~~((shall))~~ must afford the owner an opportunity to appeal the wheel lock eligibility determination prior to the placing of a vehicle on the wheel lock-eligible list. Although the parking administrator ~~((shall))~~ does not have the authority to adjudicate the merits of any parking ticket, she or he ~~((shall))~~ must, however, receive evidence and other input from the owner appealing the wheel lock eligibility determination that the notice given under subsection (3) of this section was erroneous or based on erroneous information.

(5) If an owner timely participates in the appeal as scheduled by the parking administrator, ~~((he or she shall))~~ they must furnish the owner written notice of ~~((his or her))~~ their decision prior to placing the vehicle on the wheel lock-eligible list.

(6) After the specified date provided in the notice issued under subsection (3) of this section, the parking administrator ~~((shall))~~ must review the records to ensure that the alleged unpaid parking tickets have not been paid or otherwise resolved, and that no information has been received indicating that the notice was erroneous.

(7) Once a vehicle has been placed on the wheel lock-eligible list, it ~~((shall))~~ must not be removed from the list unless and until:

(a) The fines and fees on all unpaid parking tickets issued during the time it has been registered to or otherwise held by the owner are paid or otherwise resolved to include

the payment of fines and fees related to parking tickets not yet eligible for late fees;

(b) The parking administrator receives reliable information that title to the vehicle has been transferred; or

(c) The parking administrator determines that the placement of the vehicle on the wheel lock-eligible list was erroneous.

(8) If a vehicle is not properly registered in any state or no registration information is available to the university and the vehicle is wheel lock eligible, then notice ~~((shall))~~ must be provided by posting on the vehicle a conspicuous notice, which ~~((shall))~~ must set forth:

(a) A description of the alleged wheel lock-eligible vehicle;

(b) A specified date on which the wheel lock-eligible vehicle is subject to placement on the wheel lock-eligible list;

(c) That the owner may avoid placement of the vehicle on the wheel lock-eligible list by making payment in full of fines and late fees on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees by the specified date certain on which the vehicle is subject to placement on the wheel lock-eligible list; and

(d) That the vehicle is subject to wheel lock, towing or both once it is placed on the wheel lock-eligible list.

(9) An officer ~~((shall))~~ must attempt to wheel lock any vehicle which appears on the wheel lock-eligible list when parked, lawfully or unlawfully, on campus.

(10) The parking administrator or the chief of police ~~((shall))~~ must ensure that officers are on duty to remove wheel locks from vehicles Monday through Friday between 8:00 a.m. and 5:00 p.m.

AMENDATORY SECTION (Amending WSR 10-11-083, filed 5/17/10, effective 7/1/10)

WAC 504-15-880 Fees, fines, and release of an impounded vehicle. The owner of an impounded vehicle may not secure the release of the stored vehicle until payment in full by cash, approved payment card, or money order of fines and fees has been made on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees relating to the vehicle which were issued while the vehicle was owned by the ~~((person))~~ individual who owned the vehicle at the time it is wheel locked or towed hereunder, and the owner has paid in full the wheel lock fee, unpaid parking tickets, late fees, storage fees, and towing fees for any and all other vehicles owned by the registered owner.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-885 Theft, damage, or removal of a wheel lock device. The following conduct of any ~~((person shall))~~ individual must be reported to university police:

- (1) Causing physical damage to a wheel lock device;
- (2) Removing, or attempting to remove, a wheel lock device; or
- (3) Taking or stealing a wheel lock device.

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-920 Closed and restricted areas. In certain designated areas on campus, such as the pedestrian mall in the campus core, driving is restricted to mall service vehicles and vehicles bearing university-issued (~~(persons))~~ individuals with disability permits.

AMENDATORY SECTION (Amending WSR 15-11-036, filed 5/14/15, effective 6/14/15)

WAC 504-15-930 Bicycles, skateboards, scooters, and roller skates. (1) The riding and use of bicycles, skateboards, scooters, and roller skates is prohibited on all building plazas, all pedestrian overpasses, interior building spaces, parking structures, parking structure ramps, all stairways, steps, ledges, benches, planting areas, any other fixtures, and in any other posted area.

(2) Bicycles, skateboards, scooters, and roller skates may be ridden and used on sidewalks outside the prohibited areas when a bike path is not provided.

(3) Electric-assisted bicycles must be used in a human propulsion only mode on pedestrian malls and sidewalks.

(4) Motorized foot scooters must be used in a human propulsion only mode on sidewalks.

(5) Operators must move at a safe speed and yield to pedestrians at all times. Reckless or negligent operation of bicycles, skateboards, scooters, and roller skates on any part of campus is prohibited.

(6) Bicyclists must obey all traffic laws applying to (~~(persons))~~ individuals riding bicycles when operating bicycles on roadways.

(7) Bicycles may be secured only at university-provided bicycle racks and bicycle storage facilities designed for such purpose.

(8) Bicycles that are not secured at university-provided bicycle racks or bicycle storage facilities may be impounded at the owner's expense.

(9) Abandoned and inoperable bicycles. Internal policies regarding abandoned and inoperable bicycles, including the impoundment of bicycles at the WSU Pullman campus, may be established upon approval by the vice president or designee whose responsibilities include supervision of the parking department.

WSR 19-11-065
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

(Securities Division)

[Filed May 15, 2019, 1:59 p.m., effective June 15, 2019]

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

Purpose: The securities division hereby amends WAC 460-42A-030, which provides that certain municipal securities are exempt from registration under RCW 21.20.310(1) if they receive requisite ratings from designated ratings agencies. Specifically, the securities division amends WAC 460-

42A-030 to correct an inadvertent drafting error, and to recognize equivalent ratings by Fitch Ratings, a nationally recognized statistical rating organization that issues credit ratings to municipal securities.

In 2014, the securities division amended WAC 460-10A-160 to update references to securities manuals for the purpose of the "manual exemption." As part of this update, Moody's Investors Service was replaced with a reference to Mergent's Investor Service to reflect current publishers of securities manuals. In an early 2017 update to our rules to remove references to discontinued securities manuals, the securities division inadvertently replaced a reference to Moody's Investors Service with a reference to Mergent, Inc. in WAC 460-42A-030. However, Mergent, Inc. does not publish such municipal securities ratings, while Moody's Investors Service, Inc. is a well-known ratings organization.

The securities division had no intent to disqualify offerings with the requisite rating from Moody's Investors Service, Inc. from relying on the municipal securities exemption in WAC 460-42A-030. Accordingly, the securities division amends WAC 460-42A-030 to replace references to Mergent, Inc. with references to Moody's Investors Service, Inc. Beyond the 2017 drafting error, WAC 460-42A-030 has not been significantly amended since 1989. Accordingly, the securities division also amends WAC 460-42A-030 to recognize equivalent ratings by Fitch Ratings, a nationally recognized statistical rating organization that also issues credit ratings to municipal securities.

Citation of Rules Affected by this Order: Amending WAC 460-42A-030.

Statutory Authority for Adoption: RCW 21.20.310, 21.20.450.

Adopted under notice filed as WSR 19-07-075 on March 19, 2019.

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 the Request of a Non-governmental 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: May 15, 2019.

Charles Clark
Director

AMENDATORY SECTION (Amending WSR 17-05-002, filed 2/1/17, effective 3/4/17)

WAC 460-42A-030 Exemption of securities pursuant to RCW 21.20.310(1). Any security which would otherwise be exempt from registration under RCW 21.20.310(1) except

that it is payable from a nongovernmental industrial or commercial enterprise shall be exempt from registration if it meets the requirements of either subsection (1) or (2) of this section:

(1) The security receives a rating of "AA" or better from Standard and Poor's Corporation or an equivalent rating from ~~((Amergent))~~ Moody's Investors Service, Inc. or Fitch Ratings, Inc.; or

(2)(a) The security is issued to fund a single-family mortgage loan program established and operated by a state housing finance agency; and

(b) The security receives a rating of at least "A+" from Standard and Poor's Corporation or an equivalent rating from ~~((Amergent))~~ Moody's Investors Service, Inc. or Fitch Ratings, Inc.

WSR 19-11-080
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed May 17, 2019, 9:08 a.m., effective June 17, 2019]

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

Purpose: The agency is amending WAC 182-538A-060 Fully integrated managed care and choice and 182-538A-130 Exemptions and ending enrollment in fully integrated managed care (FIMC), to remove language indicating that enrollment in a behavioral health services only (BHSO) managed care organization (MCO) is mandatory for American Indian and Alaska native (AI/AN) clients and their descendants or add language to stipulate there is no mandatory enrollment, whichever is appropriate.

Citation of Rules Affected by this Order: Amending WAC 182-538A-060 and 182-538A-130.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, and 74.09.873.

Adopted under notice filed as WSR 19-07-051 on March 15, 2019.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
WAC 182-538A-060		
Proposed	(1) Except as provided in subsection (2) of this section, the medicaid agency requires a client to enroll in a fully integrated managed care (FIMC) managed care organization (MCO) when that client:	To clarify the language surrounding the exemption to mandatory enrollment in BHSO in WAC 182-538A-130.
Adopted	(1) The medicaid agency requires a client to enroll in a fully integrated managed care (FIMC) managed care organization (MCO) when that client:	
Proposed	(ii) Enrollment with a primary care case management (PCCM) provider through a tribal clinic or urban Indian center available in their area, which includes enrollment into a behavioral health services only (BHSO) MCO; or	To clarify the language surrounding the exemption to mandatory enrollment in BHSO in WAC 182-538A-130.
Adopted	(2)(a)(ii) Enrollment with a primary care case management (PCCM) provider through a tribal clinic or urban Indian center available in their area; or	
WAC 182-538A-130		
Proposed	(1) Fully integrated managed care (FIMC) and behavioral health services only (BHSO) are mandatory for individuals residing in FIMC regional service areas.	To clarify the language surrounding the exemption to mandatory enrollment in BHSO in WAC 182-538A-130.
Adopted	(1) Fully integrated managed care (FIMC) is mandatory for individuals residing in FIMC regional service areas.	
Proposed	(2) The medicaid agency enrolls a client residing in an FIMC regional service area in either FIMC or BHSO, depending on the client's eligibility, in accordance with WAC 182-538A-060.	To clarify the language surrounding the exemption to mandatory enrollment in BHSO in WAC 182-538A-130.
Adopted	(2) The medicaid agency enrolls a client residing in an FIMC regional service area in FIMC in accordance with WAC 182-538A-060.	
Proposed	(3) The agency may end enrollment of an enrollee in FIMC or authorize an exemption of a client from enrollment in FIMC according to the rules in WAC 182-538-130.	To correct the WAC citation.

Proposed/Adopted	WAC Subsection	Reason
Adopted	(3) The agency may end enrollment of an enrollee in FIMC or authorize an exemption of a client from enrollment in FIMC according to the rules in this section.	
Proposed	(4) If the agency authorizes a request to end enrollment of an enrollee in FIMC or authorizes exemption of a client from enrollment in FIMC based on WAC 182-538-130, the enrollee is required to enroll in BHSO if eligible.	To clarify the language surrounding the exemption to mandatory enrollment in BHSO in WAC 182-538A-130.
Adopted	(4) If the agency authorizes a request to end enrollment of an enrollee in FIMC or authorizes exemption of a client from enrollment in FIMC, the enrollee is enrolled in an MCO for behavioral health services only (BHSO) unless exempt.	

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 17, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-05-051, filed 2/11/16, effective 4/1/16)

WAC 182-538A-060 Fully integrated managed care and choice. (1) ~~((Except as provided in subsection (2) of this section,))~~ The medicaid agency requires a client to enroll in a fully integrated managed care (FIMC) managed care organization (MCO) when that client:

- (a) Is eligible;
- (b) Resides in a mandatory enrollment FIMC regional service area; and
- (c) Is not exempt from FIMC enrollment under WAC 182-538A-130.

(2)(a) American Indian and Alaska native (AI/AN) clients and their descendants may choose one of the following:

(i) Enrollment with an FIMC MCO available in their regional service area;

(ii) Enrollment with a primary care case management (PCCM) provider through a tribal clinic or urban Indian center available in their area~~((, which includes mandatory enrollment into a behavioral health services only (BHSO) MCO));~~ or

(iii) The agency's fee-for-service system~~((, which includes mandatory enrollment into a BHSO MCO)).~~

(b) To enroll with an FIMC MCO or PCCM provider, an AI/AN client may:

(i) Call the agency's toll-free enrollment line at 800-562-3022;

~~((ii))~~ ~~((Mail or fax the following to the agency's unit responsible for FIMC enrollment:~~

~~((A) Form HCA 13-664; or~~

~~((B) Form HCA 13-862 found online at <https://www.health.wa.gov/medicaid/forms/pages/index.aspx>.~~

~~((iii))~~ Enroll online through the Washington Healthplanfinder at <https://www.wahealthplanfinder.org>; or

~~((iv))~~ ~~((iii))~~ Go to the ProviderOne client portal at <https://www.waproviderone.org/client> and follow the prompts.

(3) A client must enroll with an FIMC MCO available in the regional service area where the client resides.

(4) The agency enrolls all family members with the same FIMC MCO, if available.

(5) If a family member is enrolled in the patient review and coordination (PRC) program, that family member must follow the rules in WAC 182-501-0135.

(6) When a client requests enrollment with an FIMC MCO or PCCM provider, the agency enrolls a client effective the first day of the current month a client becomes eligible.

(7) To enroll with an FIMC MCO, a client may:

(a) Call the agency's toll-free enrollment line at 800-562-3022;

~~((b))~~ ~~((Mail or fax the following to the agency's unit responsible for FIMC enrollment:~~

~~((i) Form HCA 13-664; or~~

~~((ii) Form HCA 13-862 found online at <https://www.health.wa.gov/medicaid/forms/pages/index.aspx>.~~

~~((e))~~ Enroll online through the Washington Healthplanfinder at <https://www.wahealthplanfinder.org>; or

~~((d))~~ ~~((c))~~ Go to the ProviderOne client portal at <https://www.waproviderone.org/client> and follow the prompts.

(8) The agency assigns a client who does not choose an FIMC MCO or PCCM provider as follows:

(a) If the client has a family member or members enrolled with an FIMC MCO, the client is enrolled with that FIMC MCO;

(b) If the client has a family member or members enrolled with a PCCM provider, the client is enrolled with that PCCM provider;

(c) The client is reenrolled within the previous six months with their prior MCO plan if:

(i) The agency identifies the prior MCO and the program is available; and

(ii) The client does not have a family member enrolled with an agency-contracted MCO or PCCM provider.

(d) If the client has a break in eligibility of less than two months, the client will be automatically reenrolled with his or her previous MCO or PCCM provider and no notice will be sent; or

(e) If the client cannot be assigned according to (a), (b), (c), or (d) of this subsection, the agency assigns the client according to agency policy.

(9) An FIMC enrollee's selection of a primary care provider (PCP) or assignment to a PCP occurs as follows:

(a) An FIMC enrollee may choose:

(i) A PCP or clinic that is in the enrollee's FIMC MCO's provider network and accepting new enrollees; or

(ii) A different PCP or clinic participating with the enrollee's FIMC MCO's provider network for different family members.

(b) The FIMC MCO assigns a PCP or clinic that meets the access standards described in the relevant managed care contract if the enrollee does not choose a PCP or clinic.

(c) An FIMC enrollee may change PCPs or clinics for any reason, provided the PCP or clinic is within the enrollee's FIMC MCO's provider network and accepting new enrollees.

(d) An FIMC enrollee may file a grievance with the FIMC MCO if the FIMC does not approve an enrollee's request to change PCPs or clinics.

(e) Enrollees required to participate in the agency's PRC program may be limited in their right to change PCPs (see WAC 182-501-0135).

AMENDATORY SECTION (Amending WSR 17-07-087, filed 3/20/17, effective 4/20/17)

WAC 182-538A-130 Exemptions and ending enrollment in fully integrated managed care (FIMC). (1) Fully integrated managed care (FIMC) ~~((and behavioral health services only (BHSO) are))~~ is mandatory for individuals residing in FIMC regional service areas.

(2) The medicaid agency enrolls a client residing in an FIMC regional service area in ~~((either FIMC or BHSO, depending on the client's eligibility,))~~ FIMC in accordance with WAC 182-538A-060.

(3) The agency may end enrollment of an enrollee in FIMC or authorize an exemption of a client from enrollment in FIMC according to the rules in ~~((WAC 182-538-130))~~ this section.

(4) If the agency authorizes a request to end enrollment of an enrollee in FIMC or authorizes exemption of a client from enrollment in FIMC ~~((based on WAC 182-538-130)),~~ the enrollee is ~~((required to enroll in BHSO if eligible))~~ enrolled in an MCO for behavioral health services only (BHSO) unless exempt.

(5) American Indian and Alaska native (AI/AN) clients and their descendants are exempt from mandatory enrollment in FIMC. See WAC 182-538A-060(2) for coverage options for AI/AN clients.

WSR 19-11-082

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed May 17, 2019, 9:36 a.m., effective June 17, 2019]

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

Purpose: As directed by the legislature, the agency created rules to implement a premium assistance program for Pacific Islanders residing in Washington under a compact of free association (COFA).

Citation of Rules Affected by this Order: New WAC 182-524-0100, 182-524-0200, 182-524-0250, 182-524-0300, 182-524-0400, 182-524-0500, and 182-524-0600.

Statutory Authority for Adoption: SSB 5683, 65th legislature, 2018 regular session; ESSB 6032 Section 213 (1)(hhh), (4)(d), 65th legislature, 2018 regular session; RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-04-006 on January 23, 2019.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
Original WAC 182-524-0100 General.		
Proposed	(3) You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC.	The agency added additional information regarding coordinated appeals with the Washington health benefit exchange, as suggested by a commenter.
Adopted	(3) You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC. For coordinated appeals with the Washington health benefit exchange, as described under WAC 182-526-0102, we treat appeals made to either the Washington health benefit exchange or us as filed on the same day. You will not have to submit any information that you have previously submitted to either the Washington health benefit exchange or us.	

Proposed/Adopted	WAC Subsection	Reason
Original WAC 182-524-0250 How to apply.		
Proposed	(2) When you submit an application for a QHP through HBE, you are automatically considered for COFA islander health care.	The agency added clarification, as suggested by a commenter.
Adopted	(2) When you submit an application for a QHP through HBE using any of the methods listed in subsection (1) of this section, you are automatically considered for COFA islander health care.	
Original WAC 182-524-0300 Eligibility.		
Proposed	(6) Your COFA islander health care begins the first day of the month following the month you meet the eligibility requirements as described in subsection (1) of this section.	The agency added clarification, as suggested by a commenter.
Adopted	(6) Your COFA islander health care begins the first day of the month your silver level QHP coverage begins and you meet the other eligibility requirements as described in subsection (1) of this section.	
Original WAC 182-524-0300 Eligibility.		
Proposed	(7)(b) The first day of the month after the following month if the change was reported after the fifteenth of the month.	This change was made to clarify when a client's coverage begins after reporting a change.
Adopted	(7)(b) The first day of the second month if the change was reported after the fifteenth of the month.	
Original WAC 182-524-0500 Notice requirements.		
Proposed	(1) This section applies only to notices and letters that we send regarding COFA islander health care.	The agency agreed to add clarification by recommendation of a commenter.
Adopted	(1) The provisions in chapter 182-518 WAC apply to COFA islander health care, where applicable. This section applies only to notices and letters that we send regarding COFA islander health care.	
Original WAC 182-524-0500 Notice requirements.		
Proposed	(2)(c) Change or terminate your eligibility from COFA islander health care; and (d) Ask you for more information.	The agency agreed to add clarification by recommendation of a commenter.
Adopted	(2)(c) Change or terminate your eligibility from COFA islander health care; (d) Ask you for more information; and (e) Reimburse you for premium costs, as determined by WAC 182-524-0600.	
Original WAC 182-524-0500 Notice requirements.		
Proposed	(3)(b) Specific contact information for you if you have questions or need help with the notice; (f) Your appeal rights, if an appeal is available; and (g) Other information required by the state.	Added "to use" for further clarification, as recommended by commenter.
Adopted	(3)(b) Specific contact information for you to use if you have questions or need help with the notice; (f) The specific regulation on which the action is based; (g) Your appeal rights, if an appeal is available; and (h) Other information required by the state.	

Proposed/Adopted	WAC Subsection	Reason
Original WAC 182-524-0500 Notice requirements.		
Proposed	(6)(g) You move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan; (h) You are eligible for medicare; (i) You die; (j) You begin receiving other state or federal medical assistance that provides minimum essential coverage; or (k) Your silver level QHP is closed and you do not enroll in another silver level QHP.	Removed "You are eligible for medicare." COFA islander health care eligibility is based on receipt of QHP with a tax credit. The agency does not govern the eligibility rules for QHP.
Adopted	(6)(g) Your plan ends because you move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan; (h) You die; (i) You begin receiving other state or federal medical assistance that provides minimum essential coverage; or (j) Your silver level QHP is closed and you do not enroll in another silver level QHP.	

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 7, 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 7, Amended 0, Repealed 0.

Date Adopted: May 17, 2019.

Wendy Barcus
Rules Coordinator

Chapter 182-524 WAC

COFA ISLANDER HEALTH CARE

NEW SECTION

WAC 182-524-0100 General. (1) Compact of Free Association (COFA) islander health care is a state-funded program administered by the health care authority (the agency) to pay the monthly premiums and out-of-pocket expenses for silver level qualified health plans for eligible COFA islanders.

(2) For the purpose of this chapter, "our," "us," and "we" refer to the agency or the agency's designee and "you" refers to the applicant for, or recipient of, COFA islander health care.

(3) You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC. For coordinated appeals with the

Washington health benefit exchange, as described under WAC 182-526-0102, we treat appeals made to either the Washington health benefit exchange or us as filed on the same day. You will not have to submit any information that you have previously submitted to either the Washington health benefit exchange or us.

NEW SECTION

WAC 182-524-0200 Definitions. This section defines terms used in this chapter. See chapter 182-500 WAC for additional definitions.

"Advance premium tax credit (APTC)" - A tax credit taken in advance to lower a monthly health insurance payment (or premium).

"COFA islander" - A person who is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

"COFA islander health care" - An agency-administered program that pays the premium and out-of-pocket costs for a silver level qualified health plan for eligible COFA islanders.

"Compact of Free Association (COFA)" - A legal agreement between the government of the United States and the governments of the Federated States of Micronesia (U.S. Pub. L. 108-188); the Republic of the Marshall Islands (U.S. Pub. L. 108-188); and the Republic of Palau (U.S. Pub. L. 99-658).

"Cost-sharing funds" - Agency-provided funds for out-of-pocket costs.

"Out-of-pocket costs" - Copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices, and other health benefits covered by the plan and rendered as in-network. Excludes premiums, balance billing amounts for out-of-network providers, and spending for non-covered services.

"Premium cost" - A person's premium for a qualified health plan, minus the amount of the person's advanced premium tax credit.

"Silver level qualified health plan (QHP)" - Silver level indicates the category of a qualified health plan (QHP) offered by the Washington health benefit exchange (HBE). For a definition of QHP, see WAC 182-500-0090.

NEW SECTION

WAC 182-524-0250 How to apply. (1) COFA islanders age nineteen and older may apply for a qualified health plan (QHP) by:

- (a) Completing the application via the Washington Healthplanfinder web site at www.wahealthplanfinder.org;
- (b) Calling the Washington health benefit exchange (HBE) customer support center and completing an application by telephone;
- (c) Calling the COFA islander health care support line and completing an application by telephone; or
- (d) Completing the application for health care coverage (HCA 18-001P), and mailing or faxing to the HBE.

(2) When you submit an application for a QHP through HBE using any of the methods listed in subsection (1) of this section, you are automatically considered for COFA islander health care.

NEW SECTION

WAC 182-524-0300 Eligibility. In order to be eligible for state-funded COFA islander health care, you must enroll in a silver level qualified health plan (QHP) through the Washington health benefit exchange (HBE) during open enrollment or when you qualify for a special enrollment period as described in 45 C.F.R. 155.410 and 45 C.F.R. 155.420.

(1) You are eligible for state-funded COFA islander health care administered by us no earlier than January 1, 2019, if you:

- (a) Are a COFA islander;
- (b) Meet the residency requirements as described under WAC 182-524-0400;
- (c) Have household income, as defined under 26 C.F.R. 1.36B-1(e), under one hundred thirty-three percent of the federal poverty level (FPL);
- (d) Do not qualify for another federal or state medical assistance programs under chapter 74.09 RCW, that provides minimum essential coverage;
- (e) Qualify for, and accept, the maximum advance premium tax credit available under 45 C.F.R. 155.305(f); and
- (f) Are enrolled in a silver level QHP.

(2) Eligibility for COFA islander health care is subject to the availability of amounts appropriated for the program.

(3) You will be terminated from COFA islander health care if you:

- (a) Do not meet the eligibility criteria under subsection (1) of this section; or
- (b) Request termination.

(4) You may be terminated from COFA islander health care if you:

- (a) Perform an act, practice, or omission that constitutes fraud, and an insurer rescinds your QHP policy; or
- (b) Use your COFA islander health care cost-sharing funds to pay for anything other than out-of-pocket costs.

(5) We will reinstate your COFA islander health care if you were:

- (a) Terminated in error; or
 - (b) Successful in your appeal of a termination.
- (6) Your COFA islander health care begins the first day of the month your silver level QHP coverage begins and you meet the other eligibility requirements as described in subsection (1) of this section.

(7) If you report a change that makes you eligible for COFA islander health care, your sponsorship begins either:

- (a) The first day of the following month if the change was reported before the fifteenth of the month; or
- (b) The first day of the second month if the change was reported after the fifteenth of the month.

(8) Your COFA islander health care ends the day your enrollment in a silver level QHP ends or the last day of the month your COFA islander health care eligibility ends, whichever is earlier.

NEW SECTION

WAC 182-524-0400 Residency requirements. (1) This section applies only to residency requirement for COFA islander health care.

(2) A resident is a person who currently lives in Washington and:

- (a) Intends to reside here, including people without a fixed address; or
- (b) Entered the state looking for a job; or
- (c) Entered the state with a job commitment.

(3) You do not need to live in the state for a specific period of time to meet the requirements in subsection (2) of this section.

(4) You can be temporarily out-of-state and remain on COFA islander health care if you:

- (a) Intend to return once the purpose of your absence concludes; and
- (b) Meet the eligibility requirements as described under WAC 182-524-0300.

NEW SECTION

WAC 182-524-0500 Notice requirements. (1) The provisions in chapter 182-518 WAC apply to COFA islander health care, where applicable. This section applies only to notices and letters that we send regarding COFA islander health care.

- (2) We send you written notices (letters) when we:
 - (a) Approve you for COFA islander health care;
 - (b) Deny you for COFA islander health care;
 - (c) Change or terminate your eligibility from COFA islander health care;
 - (d) Ask you for more information; and
 - (e) Reimburse you for premium costs, as determined by WAC 182-524-0600.

(3) All written notices we send to you include:

- (a) The date of the notice;
- (b) Specific contact information for you to use if you have questions or need help with the notice;
- (c) The nature of the action;
- (d) The effective date of the action;
- (e) The facts and reasons for the action;
- (f) The specific regulation on which the action is based;
- (g) Your appeal rights, if an appeal is available; and
- (h) Other information required by the state.

(4) If we request information from you, we allow at least ten calendar days for you to submit requested information. If you ask, we may allow you more time to get us the information.

(a) If the due date falls on a weekend or a legal holiday as described in RCW 1.16.050, the due date is the next business day.

(b) We do not deny or terminate your eligibility when we ask you to provide information.

(c) If we do not receive your information by the due date, we make a determination based on all the information available.

(5) We send a written notice to you at least ten days before taking any adverse action. The ten-day notice period starts on the day we send the notice.

(6) We may send a notice fewer than ten days before the date of the adverse action if:

- (a) You request the action;
- (b) You request termination;
- (c) A change in statute, federal regulation, or administrative rule is the sole cause of the action;
- (d) You are incarcerated and expect to remain incarcerated at least thirty days;
- (e) Mail sent to you is returned without a forwarding address and we do not have a more current address for you;
- (f) You move out-of-state;
- (g) Your plan ends because you move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan;
- (h) You die;
- (i) You begin receiving other state or federal medical assistance that provides minimum essential coverage; or
- (j) Your silver level QHP is closed and you do not enroll in another silver level QHP.

NEW SECTION

WAC 182-524-0600 Payments. (1) We pay your silver level qualified health plan (QHP) premium costs directly to the QHP carrier unless we determine good cause exists to reimburse you for the premium costs.

(2) We pay your mandatory out-of-pocket costs separate from your premium costs through cost-sharing funds.

(3) Cost-sharing funds are only for your out-of-pocket costs.

(4) We will not pay for, or reimburse you for, costs not considered as out-of-pocket costs or expenses incurred by people not covered under COFA islander health care.

(5) You are responsible for ensuring the services you receive are covered under your QHP and rendered as in-network.

(6) We may stop payments of your silver level QHP premium costs and your cost-sharing funds when you:

- (a) Fail to provide verification of payments through us or an agency-contracted vendor;
- (b) Fail to respond to a request for information from us or an agency-contracted vendor;
- (c) Misuse your cost-sharing funds by:
 - (i) Purchasing anything not considered an out-of-pocket cost; or
 - (ii) Allowing another person access to your cost-sharing funds.

(d) Are no longer eligible for COFA islander health care as described under WAC 182-524-0300.

(7) You must follow the requirements of any agency-contracted vendor that provides services enabling you to access your cost-sharing funds.

(8) We monitor payments and cost-sharing transactions under COFA islander health care.

WSR 19-11-098

PERMANENT RULES

BATES TECHNICAL COLLEGE

[Filed May 20, 2019, 11:15 a.m., effective June 20, 2019]

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

Purpose: Chapter 495A-134 WAC, rules coordinator was amended to designate new position title of rules coordinator.

Citation of Rules Affected by this Order: Amending chapter 495A-134 WAC.

Statutory Authority for Adoption: RCW 34.05.312.

Adopted under notice filed as WSR 19-06-023 on February 27, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 20, 2019.

Dr. Jean Hernandez
Special Assistant
to the President

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-134-010 Rules coordinator. The rules coordinator for Bates Technical College as designated by the president is:

((Jon G. Thorpe
Senior Vice)) Executive Assistant to the President
1101 South Yakima Avenue
Tacoma, WA 98405

WSR 19-11-103
PERMANENT RULES
ENVIRONMENTAL AND
LAND USE HEARINGS OFFICE

[Filed May 21, 2019, 7:54 a.m., effective June 21, 2019]

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

Purpose: To allow the environmental and land use hearings office (ELUHO) to use the statutory fee schedule when providing public records and to allow ELUHO to use its discretion to waive charges for providing public records.

Citation of Rules Affected by this Order: Amending WAC 198-14-090(1).

Statutory Authority for Adoption: RCW 42.56.120.

Adopted under notice filed as WSR 19-07-007 on March 7, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 21, 2019.

Nina Carter
Director

AMENDATORY SECTION (Amending WSR 12-03-042, filed 1/10/12, effective 2/10/12)

WAC 198-14-090 Costs of providing copies of public records. (1) ~~((Costs for paper copies:~~

~~((a))) There is no fee for inspecting public records. ~~((Photocopies of thirty-five pages or more will be charged at fifteen cents per page and, nonstandard copies, including planning or engineering documents, oversized maps, and photographs, will be charged at the actual cost of reproduction. ELUHO may, in its discretion, send records to a commercial~~~~

~~copying center for duplication. The requestor is required to pay the actual cost of copying performed by a copying vendor. Actual cost will be charged for manuals and nonprinted materials, such as audio or video tapes or CDs.~~

~~((b))) ELUHO may charge for providing public records or waive charges for providing public records. ELUHO will charge using the fees listed under RCW 42.56.120 and will maintain a fee schedule on its web site.~~

~~(2) There will be no charge for emailing electronic records to a requestor, unless another cost applies.~~

~~(3) ELUHO has determined calculating the actual costs for providing public records is unduly burdensome for the following reasons:~~

~~(a) The level of effort, supplies, and shipping costs incurred by ELUHO vary widely for each records request and are unique to each records request;~~

~~(b) Recordkeeping needed to capture all allowed costs unnecessarily increases ELUHO's administrative overhead; and~~

~~(c) Determining actual costs for each records request within the statutory response time frame requires a greater than normal level of administrative resources.~~

~~(4) Before beginning to make the copies, the public records officer or designee may require:~~

~~(a) A deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. ~~((The public records officer or designee may also require))~~~~

~~(b) The payment of the remainder of the copying costs before providing all the records~~((s));~~ or~~

~~(c) The payment of the costs of copying an installment before providing that installment. ELUHO will not charge sales tax when it makes copies of public records.~~

~~((2) Costs for electronic records. The cost of electronic copies of records shall be the actual cost of medium and preparation, including the actual cost of any necessary scanning. There will be no charge for emailing electronic records to a requestor, unless another cost applies, such as a scanning fee. ELUHO may charge a fee consistent with RCW 43.105.280 and WAC 198-14-070(3) for customized access of electronic records.~~

~~(3) Costs of mailing. ELUHO may also charge actual costs of mailing, including the cost of the shipping container.~~

~~(4) Payment.~~ (5) Payment may be made by cash, check, or money order to ELUHO.

WSR 19-11-109
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 21, 2019, 12:50 p.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: The department reviewed these chapters and made revisions to:

- Update and clarify information and references in multiple classifications in general, and in classifications impacted by the 2018 stores rule making;

- Correct errors in classification information that occurred in a past rule making;
- Correct typographical errors; and
- Implement changes required by chapter 278, Laws of 2018 (SB [ESSB] 6199) passed by the legislature in 2018.

The purpose of this rule making is not to make substantive changes to how employers are classified, but review and revise the reporting and classification rules to ensure they are accurate, clear and understandable. These amendments will not impact employer reporting or rates.

Citation of Rules Affected by this Order: Amending WAC 296-17-31001 Introduction, 296-17-31006 Application process, 296-17-31007 Owner/officer coverage and coverage for exempt employments, 296-17A-2009-00 Building material dealers and lumber yards, 296-17A-2009-01 Electrical supply dealers, 296-17A-2009-04 Pump, plumbing, irrigation, and pipe supply dealers, 296-17A-2009-06 HVAC supply dealers, 296-17A-4502 Radio, television, recording, video production, and cable service providers; all other employees, 296-17A-4504-00 Theatres, 296-17A-4903-09 Inspection for insurance or valuation, 296-17A-6303 Sales personnel with outside duties, messengers, insurance producers or surplus line brokers, social workers and dietitians employed by a home health care service, 296-17A-6303-21 Home health care services: Social workers and dietitians, 296-17A-6305-00 Stores: Clothing—Retail, 296-17A-6305-04 Stores: Western wear, including tack—Retail, 296-17A-6406-00 Retail sales and inventory services, N.O.C., 296-17A-6406-17 Variety and general stores, 296-17A-6407-00 Wholesale stores, N.O.C.—Including combined wholesale and retail store operations, 296-17A-6411-19 Coin, stamp, rare metals, and collectible cards, 296-17A-6411-20 Books, videos, electronic games, newspapers, magazines, and comic books, 296-17A-6511 Chore services/home care assistants, 296-17A-6512-00 Home care services/home care referral registry (HCRR), 296-17A-6603-01 Auction or estate sales: Antiques or general household furnishings, 296-17A-6605-00 Actors and performers, N.O.C., 296-17A-6605-01 Musicians, N.O.C., 296-17A-6605-03 Players, entertainers and musicians hired by a theatre, N.O.C., and 296-17A-6608-00 Motion picture production.

Statutory Authority for Adoption: RCW 51.04.020 and 51.16.035.

Adopted under notice filed as WSR 19-08-077 on April 2, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 17, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 17, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 21, 2109 [2019].

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 07-12-045, filed 5/31/07, effective 7/1/07)

WAC 296-17-31001 Introduction. ((~~WAC 296-17-31001 through 296-17-35204~~)) Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance provides rules applicable to workers' compensation insurance coverage (industrial insurance) that employers in the state of Washington must provide for their workers. We refer to these rules (WACs) as sections and ((~~the complete body of information as the workers' compensation underwriting manual. The workers' compensation underwriting manual contains sections (WACs) that~~)) they define or explain:

- Words and phrases which we use
- Who the workers' compensation system applies to
- How to obtain workers' compensation coverage
- Why a classification system is necessary
- How our classification plan is designed
- How our classification approach compares to other states
- How we assign classifications to your business
- How we classify your business if a specific classification treatment is not referenced in our classification plan
- How employers report and pay premiums to us
- How we compute base rates
- Audit and recordkeeping requirements
- Experience rating plan
- Base rate tables.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

WAC 296-17-31006 Application process. (1) **Where can I buy workers' compensation insurance?** Washington law requires that you:

- Purchase your workers' compensation insurance through labor and industries. You will need to complete a *business license application* to obtain workers' compensation insurance from us; or

- Be certified as a self-insured employer by the self-insurance certification services section of the department of labor and industries. For more information on the self-insurance ((you can call 360-902-6867 and one of our self-insurance representatives will assist you.)) program go to www.lni.wa.gov/selfinsurance, additional resources and contact information are listed under "Contact Us."

Employers engaged exclusively in interstate or foreign commerce are permitted to purchase workers' compensation insurance from a private carrier in another state if they do business in that state. The workers' compensation laws of the other state must allow the Washington drivers to be covered in that state.

(2) Where can I get a business license application?

You can file and print a business license application online at www.business.wa.gov/BLS. You can pick up a paper business license application from:

- Any office of the department of labor and industries;
- Employment security;
- Department of revenue business licensing service office;
- The corporations division of the office of the secretary of state;
- For your convenience you can call us at 360-902-4817 and we will mail you one.

(3) Where do I send my completed business license application?

You can mail your completed business license application to the department of revenue address shown on the form, or you can return it to your local department of labor and industries office, or department of employment security district tax office. Be sure to include the appropriate fees indicated on the form.

AMENDATORY SECTION (Amending WSR 17-11-120, filed 5/23/17, effective 7/1/17)

WAC 296-17-31007 Owner/officer coverage and coverage for exempt employments. (1) **As a business owner, can I buy workers' compensation insurance to cover myself or to cover workers who are exempt from mandatory coverage as defined in RCW 51.12.020, 51.12.035, or 51.12.170?**

Yes. Coverage is not required, but is available for sole proprietors, partners, qualifying corporate officers, qualifying members of a limited liability company, and for exempt employments defined in **RCW 51.12.020, 51.12.035, or 51.12.170**. We refer to this coverage as optional coverage. For owner optional coverage, you must meet certain conditions and requirements which are detailed on the *application for owner/officer optional coverage*. These requirements include:

- Completing an application for optional owner/officer coverage;
- Reporting owner/officer hours in the classification assigned to your business that is applicable to the work being performed by the owner/officer;
- Submitting a supplemental report which lists the name of each covered owner/officer; and
- Reporting four hundred eighty hours or actual hours worked each quarter for each covered owner/officer and in the applicable workers' compensation classification code.

(2) When will my owner/officer coverage or coverage for exempt employments become effective?

Your coverage will become effective the day after we receive your completed and signed application for optional coverage, unless you indicate that optional coverage should begin at a later date. Coverage cannot begin before the day after we receive your completed application.

(3) How does cancellation work? You may cancel your optional owner/officer coverage or elective coverage for exempt employments by notifying the department in writing. For sole proprietors (~~and~~), partners, and LLC partnership

model, we will cancel your coverage either the same day we receive your written notice to cancel or on the future date you indicate. For corporations, LLC(~~s~~) corporate model, or elective coverage for exempt employment, we will cancel the coverage thirty days from the date we receive your written request to cancel.

The department may cancel optional coverage if any required payments have not been made. Cancellation will become effective no later than thirty days from the date of the cancellation notice the department sent to the employer.

When your account balance is paid, if you want to reestablish owner/officer coverage, you must **submit a new application** for owner/optional coverage.

(4) Where can I get an application for owner/officer coverage, or coverage for exempt employments? There are separate applications for owner/officer optional coverage and coverage for exempt employments. To get these applications, go to <http://www.lni.wa.gov/FormPub>, contact your local labor and industries office, or you can call the employer services division at 360-902-4817.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-2009 Classification 2009.**2009-00 Building material dealers and lumber yards**

Applies to establishments engaged as building material dealers or lumber yards. For purposes of this classification the term "building materials" includes, but is not limited to, such items as wallboard, roofing, insulation, sheet metal, bricks, blocks, windows, fixtures, cabinets, doors, linoleum, tile, paneling, interior wood and plastic trim and molding, concrete mix, pipe, plumbing, and electrical supplies. In addition, such establishments often carry a variety of paints and accessories, garden tools and accessories, and hardware items such as nails, nuts and bolts, tools, hinges, doorknobs, locks, and more. It is not uncommon for a building material dealer to specialize and sell only one of the above types of items. Establishments engaged as lumber yards carry a diverse line of wood and lumber products and usually with sufficient quantity to build an entire wood structure. This line of wood and lumber products could include beams, planks, boards, plywood, an array of dimensional lumber (1x2, 2x4, 2x12, etc.), fence posts, railroad ties, shakes and shingles, siding, wood paneling, as well as interior wood trim and molding. Such establishments often carry a variety of other building materials such as electrical supplies, pipe and plumbing supplies, fixtures, cabinets, doors, windows, wallboard, insulation, linoleum, tile, paneling, bricks, blocks, concrete mix, roofing materials, sheet metal and more. These establishments often utilize one or more covered sheds to protect less durable materials from the outside climate, and will also utilize an uncovered open yard type of environment for storage of more durable wood, lumber, and building materials. In addition, such establishments could also have an inside store operation to include a variety of items such as hand and power tools, table saws, paints and varnishes, caulking, and a variety of hardware type items such as nails, nuts and bolts, hinges, doorknobs, locks, and more. This classification also includes retail/wholesale fence material deal-

ers. This classification includes all store and yard operations and the transfer of materials or inventory between related stores.

This classification excludes delivery drivers (other than those involved in ~~((intrastore or intrayard transfers mentioned above))~~ transferring materials or inventory between related stores) who are to be reported separately in classification 1101; nondelivery activities conducted away from the store or yard; hardware stores with building materials or lumber which are to be reported separately in classification 2009-03; and warehouse centers which are to be reported separately in classification 2009-05.

2009-01 Electrical supply dealers

Applies to establishments engaged as electrical hardware and supply dealers who primarily sell electrical hardware and supplies in bulk to the contractor trades, such as electrical and construction, although sales also may be made to individuals for their own use. Supplies are typically received in bulk quantity and may include, but are not limited to, spools of electrical wiring and cable, wiring harnesses, plastic and flex hosing, panel boxes, brackets, electrical outlet boxes, fuses, switches, plates, and residential and commercial canisters and light fixtures. This classification includes all store and yard operations and the transfer of materials or inventory between related stores.

This classification excludes delivery drivers (other than those involved in ~~((intrastore or intrayard transfers mentioned above))~~ transferring materials or inventory between related stores) who are to be reported separately in classification 1101; nondelivery activities conducted away from the store or yard; all service or repair work which is to be reported separately in the applicable classification whether it is conducted at the store or a customer's location; retail lighting fixture stores which demonstrate lights and fixtures to walk-in customers which are to be reported separately in classification 6406; and establishments engaged as wholesale lighting fixture and light bulb dealers who buy direct from manufacturers and who sell wholesale to retail lighting fixture stores or other such stores or institutions who are to be reported separately in classification 6407.

2009-02 Farm supply stores

Applies to establishments primarily engaged in operating farm supply or farm cooperative stores. These establishments carry a diverse line of farm feeds, products, and accessories. Typical items may include, but are not limited to, bulk quantities of mixed and unmixed feeds, seeds, oats and grains; bales of alfalfa or hay; bag feed for dogs, cats, chickens, birds, and other animals; bulk and bag fertilizers; pesticides and other garden items including peat moss and bark; animal grooming and care accessories; horse tack; specialty clothing; feed and water bins; metal fencing and grates for livestock; fence posts; barbed wire; pumps and piping; hardware and tools; automotive and tractor parts and accessories; and miscellaneous homeowner or yard equipment such as mowers, rototillers, and a variety of small tractors and accessories. This classification includes all store and yard operations and the transfer of materials or inventory between related stores.

This classification excludes delivery drivers (other than those involved in transferring materials or inventory between related stores) who are to be reported separately in classification 1101; all other nondelivery activities conducted away from the store or yard; all service or repair work which is to be reported separately in the applicable classification whether it is conducted at the store or a customer's location; and establishments primarily engaged in the sale, service and/or repair of farm machinery and implements which are to be reported separately in classification 6408.

Special note: Farm supply or farm cooperative stores may conduct additional operations which are to be reported separately. These activities may occur at a single location operated by the business or at separate locations and may include an oil or gas dealership which is to be reported separately in classification 3407; self-service gas or diesel stations which are to be reported separately in classification 3409; or agricultural fertilizer dealers (not including the manufacture of raw materials) which are to be reported separately in classification 2106.

2009-03 Hardware stores with lumber or building material supplies

Applies to establishments engaged in operating hardware stores that also sell building material supplies. For purposes of this classification the term "building materials" includes, but is not limited to, such items as wallboard, roofing, insulation, sheet metal, bricks, blocks, and windows, cabinets, doors, windows, sheet metal, roofing materials, concrete mix, boards, plywood, dimensional lumber (1x2, 2x4, 2x12, etc.), fence posts, railroad ties, siding, and wood paneling, as well as interior wood trim and molding. The merchandise carried will vary from store to store. For the purposes of this classification, hardware includes items such as, but not limited to, nails, nuts, bolts, screws, door fixtures, hinges, locks, power and hand tools, garden tools and accessories, electrical and plumbing supplies, and paint and automobile supplies. Depending on their location and customer base, hardware stores may also sell a limited selection of giftware, housewares, sporting goods, athletic equipment, games or similar items. Other services provided could include making keys, threading pipe, mixing paint, and the sale of fishing or hunting licenses. This classification includes all store and yard operations and the transfer of materials or inventory between related stores.

This classification excludes delivery drivers (other than those involved in transferring materials or inventory between related stores) who are to be reported separately in classification 1101; all other nondelivery activities conducted away from the store or yard operation; and all service or repair work which is to be reported separately in the applicable classification whether it is conducted at the store or a customer's location.

Special note: Hardware stores with lumber or building material supplies are smaller and offer a smaller product selection than warehouse centers which are reported separately in classification 2009-05. Establishments primarily engaged as building material dealers and lumber yards are to be reported separately in classification 2009-00.

2009-04 Pump, plumbing, irrigation, and pipe supply dealers

Applies to establishments engaged as pump, plumbing, irrigation, and pipe supply dealers. Merchandise includes, but is not limited to, pumps, above and below ground irrigation systems and supplies, pipe, fittings, elbows, adapters, connectors, hoses, valves, water softeners, filters, disposals, hot water tanks, heaters, sinks, tubs, toilets, and shower units. Merchandise is typically received in bulk quantity by the pallet, sling, crate or box. Merchandise is sold primarily to plumbing and irrigation contractors. This classification includes all store and yard operations, including showrooms or display areas and in-shop services such as the rebuilding or repair of pumps, and cutting and threading pipe. Also included in this classification is the transfer of product or material inventory between related stores.

This classification excludes delivery drivers (other than those involved in transferring materials or inventory between related stores) who are to be reported separately in classification 1101; all other nondelivery activities conducted away from the store or yard; and all service or repair work not described above which is to be reported separately in the applicable classification whether it is conducted at the store or a customer's location.

2009-05 Warehouse centers

Applies to establishments engaged in operating warehouse centers with lumber or building material supplies. For purposes of this classification a warehouse center is an enclosed building or structure which serves to protect the majority of the items or products contained within the warehouse environment. Warehouse centers are larger than traditional hardware stores and offer a wider product selection. A dominant characteristic of a warehouse center is that excess stock is stacked up to 25 feet high throughout the building. The term "building materials" as used in this classification includes, but is not limited to, such items as wallboard, roofing, insulation, sheet metal, bricks, blocks, and windows. Merchandise carried by warehouse centers may include hardware, variety items, building materials, as well as wood or lumber. Hardware items may include such items as nails, nuts, bolts, door fixtures, hinges, locks, hand or power tools, garden tools, garden supplies and accessories, lawn mowers, electrical supplies, plumbing supplies, paint, and auto supplies. Variety items may include giftware, housewares, sporting goods, athletic equipment, games, rugs, and lawn chairs. Wood and lumber products may include beams, planks, boards, plywood, dimensional lumber (1x2, 2x4, 2x12, etc.), fence posts, railroad ties, shakes and shingles, siding, and wood paneling. This classification includes all store and yard operations and the transfer of materials or inventory between related stores.

This classification excludes delivery drivers (other than those involved in transferring materials or inventory between related stores) who are to be reported separately in classification 1101; all other nondelivery activities conducted away from the store or yard; and all service or repair work which is to be reported separately in the applicable classification whether it is conducted at the store or a customer's location.

Special note: Hardware stores with lumber or building material supplies are smaller and offer a smaller product

selection than warehouse centers and are reported separately in classification 2009-03. Establishments primarily engaged as building material dealers and lumber yards are to be reported separately in classification 2009-00.

2009-06 HVAC supply dealers

Applies to establishments engaged as heating, ventilation, and air conditioning product and supply dealers. Merchandise includes, but is not limited to, furnace units, gas fireplaces, air conditioning and heater units, hot water tanks, thermostats, vents, venting duct and pipe, vent collars and reels, registers, fittings, adapters, galvanized pipe, insulation wrap, preformed or bent duct portions, flat sheets of metal, concrete pads and gas logs. Merchandise is typically received in bulk quantity by the pallet, sling, crate or box. Merchandise is primarily sold to heating and ventilation contractors, furnace contractors and sheet metal contractors. This classification includes all store and yard operations and the transfer of product or material inventory between related stores.

This classification excludes sheet metal fabrication shops which are to be reported separately in classification 3404; delivery drivers (other than those involved in (~~intrastore or intrayard transfers~~)) transferring materials or inventory between related stores) who are to be reported separately in classification 1101; all other nondelivery activities conducted away from the store or yard; and all service or repair work which is to be reported separately in the applicable classification whether it is conducted at the store or a customer's location.

AMENDATORY SECTION (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

WAC 296-17A-4502 Classification 4502.

Radio, television, recording, video production, and cable service providers; all other employees

Classification 4502 is limited to employees who do **not** install, test, or repair electrical wiring, cable lines, antennas, satellite dishes, or hook-up subscribers, unless the work is performed inside buildings on their employers' premises. Occupations reported in this classification include clerical office and sales workers, but may also include:

- Account managers;
- Administrative staff;
- Advertising, marketing, and promotions staff;
- Animation production staff;
- Announcers;
- Art, design, wardrobe staff;
- Billing, customer service staff;
- Camera operators, videographers, photographers;
- Commercial productions staff;
- Control room engineers and operators;
- Facility operations, maintenance staff;
- Film and video editors;
- Meteorologists;
- Music DJs;
- Musicians, performers, actors, and personalities;
- Producers, directors, reporters;
- Sales staff;
- Set construction staff, lighting technicians;

Studio engineers, studio technicians;
Stunts staff.

This classification excludes:

- Field employees for cable television or communication providers installing or maintaining extension lines and subscriber hook-ups, who are reported separately in classification 1305;
- Technical staff employed by a radio or television station, recording studio, or video production company installing, testing, or repairing electrical wires, cable, antennas, satellite dishes, or any other equipment outside their employers' studios, offices, or facilities;
- Large-scale theatrical/movie productions reported separately in classification 6608;
- Videotaping by photography studios reported separately in classification 6506; and
- Entertainers, musicians, recording engineers, etc., who are not employees of the broadcasting or recording company.

Special note: Care should be exercised when assigning this classification as the entertainers or musicians may be exempt from coverage as specified in RCW 51.12.020(9).

Businesses may be assigned either classification 4501 or 1305 in addition to classification 4502; however, employers must maintain records that permit the department to confirm hours worked in each classification. If employers do not or cannot maintain these records, they must report all hours in question in the classification with the higher rate.

For administrative purposes classification 4502 is divided into the following subclassification(s):

4502-00 Radio stations, N.O.C.

4502-01 Television stations and video production

4502-02 Recording studios

4502-03 Cable companies, including homeowners' associations or cooperatives offering a central cable system

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-4504 Classification 4504.

4504-00 ((Theatres)) Theaters

Applies to establishments engaged in the operation of indoor motion picture ((theatres)) theaters, drive-in ((theatres)) theaters, and live production ((theatres)) theaters. This classification includes, but is not limited to, managers, stage hands, box office employees, projectionists, ushers, snack bar employees, parking lot attendants, security guards, sound system and lighting engineers, set builders, clerical office employees, and sales personnel. This classification includes the organization and management of nontheatrical events on ((theatre-owned)) theater-owned property, such as a "swap meet" on the grounds of an outdoor ((theatre)) theater, when done by employees of an employer having operations subject to this classification.

This classification excludes performers in live ((theatre)) theater such as, but not limited to, actors, entertainers, and musicians who are to be reported separately in 6605 or 6620 as applicable; nontheater employees engaged in setting up

stage lighting and sound systems who are to be reported separately in classification 0601 or 0608 as applicable; and non-theater employees engaged in building and setting up props and sets who are to be reported separately in classification 0516.

Special note: Theatrical productions often involve independent contractors. The independent contractor tests found in RCW 51.08.180 and 51.08.195 should be applied when reviewing the status of individuals such as, but not limited to, the playwright, composer, set designer, costume designer, lighting and sound designers, and videographer. Care should be exercised when assigning this classification as the entertainers or musicians may be exempt from coverage as specified in RCW 51.12.020(9).

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-6305 Classification 6305.

6305-00 Stores: Clothing - Retail

Applies to establishments engaged in the retail sale of new or used clothing. Merchandise varies, but generally includes shoes, jewelry, giftware, or accessories in addition to wearing apparel. Some establishments will specialize in certain types of clothing such as, but not limited to, athletic wear, T-shirts, coats, socks, or vintage clothing. This classification also applies to stores that rent clothing such as, but not limited to, costumes, tuxedos, or wedding apparel. This classification includes all store employees including specialty services such as alterations personnel and delivery drivers.

This classification is distinguishable from ((department stores in classification 6304 or)) retail variety stores in classification 6406 in the limited number of specialized departments and the variety of nonclothing or giftware merchandise for sale.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6305-01 Stores: Dry goods - Retail

Applies to establishments engaged in the retail sale of a variety of new or used dry goods. For purposes of this classification dry goods include, but are not limited to, fabric, embroideries, veiling, laces, textile trimmings, curtains, draperies, blankets, bedspreads, sheets, pillowcases, tablecloths, napkins, and towels. This classification includes all store employees.

This classification is distinguishable from retail fabric stores in classification 6406 in that dry good stores will carry primarily finished piece goods for sale while fabric stores will carry primarily fabric, sewing notions and a limited supply of finished goods.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6305-02 Stores: Shoe - Retail**Shoe shine stands**

Applies to establishments engaged in the retail sale of new or used shoes. Establishments may sell a full line of shoes or they may specialize in certain types such as athletic shoes, safety shoes, work boots, women's, men's, or children's shoes. It is customary for shoe stores to sell some related products such as, but not limited to, handbags, socks, belts, or shoe care products. This classification includes all store employees. This classification also applies to shoe shine stands.

This classification excludes establishments engaged in the manufacture or repair of shoes or boots which are to be reported separately in classification 3802.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6305-04 Stores: Western wear, including tack - Retail

Applies to establishments engaged in the retail sale of new or used western style clothing. Merchandise varies, but may also include western style shoes and boots, jewelry, giftware, or horse tack. This classification includes all store employees including specialty services such as alterations personnel and delivery drivers.

~~((This classification is distinguishable from department stores in classification 6304 in that classification 6305 businesses are not comprised of specialized departments and do not carry furniture, housewares, and similar items required as part of the department store classification.))~~

This classification excludes establishments engaged exclusively in the sale of horse tack and related animal grooming and care products which are to be reported separately in classification 2009 "farm supply stores."

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6305-05 Stores: Wig or hat - Retail

Applies to establishments engaged in the retail sale of new or used wigs or hats. Merchandise varies, but generally these establishments will also sell related hair care products, hat pins, brooches or similar accessory items. This classification includes all store employees.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6305-06 Custom dressmaking, tailoring, alterations

Applies to establishments who provide custom dressmaking, tailoring, or alterations services to others. Activities include the showing of sketches and fabrics, modeling samples, taking individual orders and measurements, cutting, basting and fitting. Employees use sewing machines, but much of the work is hand sewing, steaming or pressing. Materials include fabrics, buttons, zippers, and sewing notions. Tools and machinery include, but are not limited to, scissors, steam presses and irons, dress forms, and sewing machines with attachments to perform a variety of sewing

functions. Custom dressmakers and tailors may sell fabrics and sewing notions, or limited supply ready-made apparel. The sale of these items by establishments engaged in custom dressmaking or tailoring is included in this classification. This classification is distinguishable from clothing manufacturers in classification 3802 in that establishments subject to classification 6305 make custom clothing for individuals rather than making garments on a quantity basis. However, customers of a 6305 business may order several items of a kind such as for a wedding party or small theater group.

This classification excludes the mass production of wearing apparel which is to be reported separately in classification 3802.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

AMENDATORY SECTION (Amending WSR 17-05-095, filed 2/14/17, effective 1/1/18)

WAC 296-17A-6406 Classification 6406. Retail store operations primarily providing any combination of the following merchandise, supplies, or services:

- Architect and surveyor supplies;
- Athletic outfits, team uniforms and other specialty clothing;
- Blenders, food processors, juicers, microwaves, toasters, portable ovens, and other countertop appliances;
- Candy stores;
- Cleaning supplies;
- Copy services;
- Desktop computers;
- Game arcades;
- Hobby and craft supplies;
- Inventory services;
- Luggage;
- Mail and safety deposit box services;
- Office and school supplies;
- Office equipment, including:
 - Copy machines;
 - Fax machines;
 - Printers.
- Pets (other than cats and dogs) and pet supplies;
- Picture frames;
- Pots, pans, bowls, dishes, eating utensils, and all other kitchenware products;
- Prescription and nonprescription drugs;
- Souvenirs, knickknacks, candles, ornaments, and novelties;
- Sporting goods, including:
 - All types of sports equipment;
 - Archery supplies;
 - Bicycles and accessories;
 - Camping supplies;
 - Children's pools;
 - Fishing gear;
 - Guns, ammunition, and accessories;
 - Knives;
 - Motorized toy vehicles meant to carry a child.

- Stained glass supplies;
- Unfinished fabric, thread, and yarn, and other sewing supplies;
- Store demonstrator services.

Notes: Stores selling a combination of merchandise and/or services found in store classifications **6406** and **6411** are classified **6406**. Stores primarily selling merchandise included in classifications **6406** and **6411**, but also selling groceries and/or merchandise normally found in classification **6309**, are classified **6406**. Stores primarily selling merchandise included in classification **6406**, but also selling goods described by a store classification rated higher than classification **6309**, are classified **6309**.

Classification 6406 includes:

- Assembling merchandise from prepackaged kits for display and/or sale;
 - Cashiering;
 - Classes for customers;
 - Cleaning and maintenance of store, storage areas, and associated business offices;
 - Inventory work by store employees;
 - Parts and batteries for products included in classification **6406**;
 - Packaging, addressing, and mailing articles for shipment;
 - Receiving and returning merchandise at store's loading ramp;
 - Renting items normally sold in classification **6406**;
 - Sales work inside store;
 - Store security and surveillance;
 - Stocking.

Classification 6406 excludes:

- Workers assembling products for sale, when these products are not purchased and sold as a kit. Assembling goods from component parts that do not come as a kit, is reported separately in the applicable manufacturing classification;
 - Delivery drivers who are to be reported separately in classification **1101**;
 - Door to door sales, reported separately in subclassification **6309-22**;
 - Stores primarily selling merchandise described by a higher rated store classification, which are assigned the classification that best represents their inventory;
 - Stores primarily selling merchandise included in classification **6406**, but also merchandise described by a store classification higher rated than **6309**, such as:
 - Large appliances;
 - Automobiles or boats;
 - Antique variety;
 - Furniture;
 - Tires;
 - Motorized exercise equipment or machines;
 - Meat cutting/packaging;
 - Pianos and/or organs;
 - Large entertainment systems and televisions;
 - Secondhand or used variety store type merchandise.

Note: Stores primarily selling merchandise included in classification **6406**, but also selling goods described by a

classification rated higher than classification **6309** are classified **6309**.

- Stand-alone distribution centers or warehouses which are reported in classification **6407**;
- Any repair or installation work;
- Workers installing, servicing, and/or stocking vending equipment, which are reported separately in **0606**;
- Coffee, snack, lunch counters or any on-site food preparation which are reported separately in classification **3905**;
- Stores with wholesale operations, reported in classification **6407**.

High volume warehouse and distribution facilities which are reported separately in classification **6407**.

For administrative purposes, classification **6406** is divided into the following subclassification(s):

6406-00 Retail sales and inventory services, N.O.C.

This subclassification differs from **6406-17** in that the stores in ((~~this subclassification will be specialized~~)) 6406-00 specialize and have inventories around themes such as "pet supplies," "sporting goods," or "gifts."

Excludes:

- Stores selling cats or dogs, reported in classification **7308**;
- Stores that *specialize* in selling bicycles or guns, which are reported in classification **6309**;
- Pet grooming, reported separately in classification **7308**;
- Pet food stores, which are reported in classification **6403**;
- Installation, removal, or repair of arcade equipment, reported separately in classification **0606**.

6406-11 Desktop computers, school and office supplies and equipment stores

Excludes:

- Worker hours repairing computers and other office equipment, which is to be reported separately in classification **4107**;
- Stores selling office furniture, which are reported separately in classification **6306**.

6406-12 Crafts, hobbies, fabric, yarn, and sewing supplies stores

Excludes:

- Worker hours for custom framing, which are reported separately in subclassification **6309-20**;
- Stores primarily selling sewing machines and vacuum cleaners, which are reported in **6309-19**.

6406-16 Pharmacies, supplements and drug stores

Excludes:

Sale and/or rental of hospital beds, motorized wheel chairs or mobility aids, and other patient appliances, which are reported separately in classification **6306**.

6406-17 Variety and general stores

This subclassification differs from **6406-00** in that the stores in ((~~this subclassification~~)) 6406-17 tend to be larger and less specialized.

6406-18 Private mail, safe deposit box, and copy services

6406-23 Candy stores

Excludes:

- Manufacturing and retail sales of candy or confection at store site, which is classified in **3905**;
- Manufacturing candy or confection away from the store site, which is reported separately in classification **3906**.

6406-29 Toy stores

Excludes:

Small specialty toy stores with inventory limited to smaller items, such as playing cards, puzzles, games, blocks, small dolls, and other hand toys, which is classified **6411**.

6406-40 Retail product demonstrator services

This special exception classification applies only to manufacturers, wholesalers, and businesses specializing in providing product demonstrators and their services to others. Workers reported in this classification can have no duties during their work shift other than those permitted for product demonstrators.

The classification includes:

- Set up and break down of a demonstration display space;
- Providing samples without charge;
- Use of kitchen appliances and utensils to prepare food samples;
- Use of nonpowered hand tools and battery-powered screwdrivers to assemble and disassemble displays.

This classification excludes:

- Stocking shelves;
- Selling;
- Setting up product displays intended to remain after the product demonstration;
- Delivery;
- Demonstrating machinery or equipment.

Product demonstrators employed by a retail store are to be reported under the store's basic classification; product demonstrators employed by a temporary help service are to be reported in classification **7106**.

AMENDATORY SECTION (Amending WSR 17-05-095, filed 2/14/17, effective 1/1/18)

WAC 296-17A-6407 Classification 6407.**6407-00 Wholesale stores, N.O.C. - Including combined wholesale and retail store operations**

Applies to establishments engaged in the wholesale, or combined wholesale and retail sales of merchandise that is not covered by another classification (N.O.C.). Establishments subject to classification 6407 usually own the merchandise they sell, but may also be marketing goods on consignment, in which case classification 6407 still applies because the exposure and processes are the same. This classification is primarily the wholesale counterpart (supplier) for establishments assigned to retail store classification ((~~6304~~)) 6305, 6406, and 6411.

Classification 6407 also applies to retail stores with high volume warehouse and distribution facilities without the normal exposures associated with a retail store.

Work contemplated by classification 6407 includes, but is not limited to, maintaining warehouse inventories, sorting

and grading goods, and breaking down bulk quantities to repack into smaller lots. Equipment typically used includes, but is not limited to:

- Balers to bind merchandise into bundles;
- Strapping equipment to secure palletized goods;
- Forklifts; and
- Hand tools.

This classification excludes:

- Delivery which is to be reported separately in classification 1101;
- Large high volume sales operations where retail customers select and carry out the goods they purchase, which are reported in the classification applicable to the merchandise sold.

Special notes: When assigning classification 6407, care must be exercised to look beyond the words "wholesale" or "retail." The manufacturer of a product will also "wholesale" their merchandise (or a combination of their own merchandise and finished products bought from other manufacturers) to a customer. These sales are an integral part of the manufacturing/marketing process and is an inclusion in the manufacturing classification. Establishments that buy goods, such as clothing or cloth goods, in wholesale quantities, then screen print or embroider them for resale are performing manufacturing operations and are to be reported separately in the appropriate manufacturing classification.

Warehouse operations in classification 2102, with the exception of grocery dealers, do not own the product they are warehousing and are not in the business of selling the goods they store. Businesses in classification 6407 may operate a warehouse, but only as an integral part of the wholesaling/distribution process, which is included in classification 6407.

AMENDATORY SECTION (Amending WSR 18-11-113, filed 5/22/18, effective 7/1/18)

WAC 296-17A-6411 Classification 6411. Retail store operations limited to providing any combination of the following merchandise, supplies, or services:

- All types of phones;
- Beads;
- Books, newspapers, magazines, and comic books;
- Cameras;
- Cards (greeting, post, and sports);
- Cosmetics and fragrances;
- Laptops, electronic notebooks and pads, and other small electronic devices;
- Musical instruments (string, wood, brass, wind, and percussion);
- Photography and darkroom supplies;
- Records, music discs, tapes, videos, video games, and software disks;
- Small or portable entertainment players (or parts of player), radios, for homes, offices, or automobiles;
- Smoking accessories and tobacco products;
- Vaporizers and e-liquids;
- Other smaller items, such as playing cards, cups, calendars, puzzles, games, costume jewelry, cosmetics, pencils, pens, notebooks, etc.

Note: Stores in classification **6411** may also carry inventory listed in the scopes language of lower rated store risk classifications, along with the goods listed below, as long as the majority of the merchandise is described by the above list.

Classification 6411 includes:

- Cashiering;
- Cleaning and maintenance of store, storage areas, and associated business offices when performed by store employees;
- Inventory work by store employees;
- Sales of already-prepared snacks, and beverages (for off-site consumption), and/or promotional clothing;
- Parts and batteries for products included in classification **6411**;
- Receiving and returning merchandise at store's loading area;
- Renting items normally sold in classification **6411**;
- Sales work inside store;
- Store security and surveillance;
- Stocking.

Classification 6411 excludes:

- Stores selling merchandise described by a higher rated store classification;
- Delivery drivers who are reported separately in classification **1101**;
- Door to door sales, which are reported separately in subclassification **6309-22**;
- Stores using pallet jacks, fork lifts, conveyors, or other mechanized means of moving merchandise into and within store premises, which are classified in **6406** when merchandise is described by classification **6411** and/or classification **6406**;
- Stand-alone distribution centers or warehouses which are to be reported separately in classification **6407**;
- Repair or installation work, which must be reported separately;
- Sales of pets; see classifications **6406** and **7308**;
- Working at coffee stands, lunch counters, or any on-site food preparation or manufacturing of candy, where employees' hours are to be reported separately in classification **3905**;
- Employees doing custom framing; see classifications **6406** and **6309**;
- Product demonstration services which are to be reported in subclassification **6406-40**;
- Businesses providing inventory services which are to be reported in subclassification **6406-00**;
- Wholesales, reported in classification **6407**;
- High volume warehouse and distribution facilities which are reported separately in classification **6407**.

For administrative purposes, classification **6411** is divided into the following retail store subclassification(s):

6411-00 Stores meeting the criteria for classification 6411, but not specifically described in any other subclassification. N.O.C.

6411-14 Wind, string, brass, and percussion musical instruments

Includes hand held keyboards and music instruction.

Excludes:

- Stores selling pianos and organs, see classifications **6406**, **6309**, and **6306**;
- Repair of instruments, which is reported separately in classification **2906** or **3602**; (if more than one is applicable, assign only the highest rated classification for all repair).

6411-19 Coins, stamps, rare metals, and collectible cards
6411-20 Books, videos, electronic games, music, newspapers, magazines, and comic books

Excludes establishments with coin or token arcades, to be reported in subclassification **6406-00**.

6411-24 Tobacco and marijuana products, vaporizers and liquids, and smoking accessories

Excludes:

- Retail stores primarily selling marijuana infused grocery items or marijuana, see classification **6403**;
- Retail bakeries selling a variety of baked goods infused with marijuana; see subclassification **3901-00**.

6411-25 Phones, cameras, electronic tablets, laptops, and notebooks, GPS displays, small stereo components and other small portable electronic devices, N.O.C.

Includes stores and kiosks selling and/or arranging DSL, cable, or dish services for phones, computers, televisions and other devices.

Excludes:

- Stores selling office or school supplies, reported in subclassification **6406-11**;
- Stores selling furniture or furniture kits; see classification **6406**, **6309**, or **6306**;
- Stores providing photo development and printing, see classification **6406** or **6506**;
- Workers performing repair work, which is to be reported separately in classification **3602**.

AMENDATORY SECTION (Amending WSR 17-11-120, filed 5/23/17, effective 7/1/17)

WAC 296-17A-6511 Classification 6511.

Chore services/home care assistants

Applies to:

Entities providing chore services/home care assistants to private individuals.

Chore services performed by the chore workers/home care assistants include, but are not limited to:

- General household chores;
- Meal planning and preparation;
- Shopping and errands, either with or without the client;
- Personal care, such as bathing, body care, dressing, and help with ambulating;
- Companionship.

Note: Some common terms to describe these types of services include supported living, tenant support, and intensive tenant support services.

Also included in this classification are:

- Supervising visits between children and parents, including transporting the child;
- Packing up senior homes;
- Organizing homes prior to customers putting a home on the market;

- Organizing homes prior to customers having an estate auction;
- Pet sitting;
- House sitting.

Excluded activities in this classification:

- Firms involved in organizing homes and also conducting estate auctions (report in 6603).
- Social workers and dieticians employed by home health care service establishments (report in 6303-21). Workers in classification 6303-21 are teaching people living with physical or developmental disabilities living in their own home to manage daily living skills such as caring for themselves, dressing, cooking, etc. Workers in classification 6511 are performing this work as a service to individuals.
- Individuals working under a welfare special works training program (report in classification 6505).
- Residential cleaning or janitorial services (report in classification 6602).
- Skilled or semi-skilled nursing care (report in classification 6110).
- Home health care providers covered under the (~~Washington state home care referral registry~~) consumer directed employer program (report in classification 6512).
- Household furnishings moving and storage (report in classification 6907).
- Staging services (report in classification 0607).
- Any construction related work. Example: If a business builds shelving as part of organizing homeowner's personal belongings, this employer would not be eligible to report in classification 6511.

For administrative purposes, classification **6511** is divided into the following subclassification(s):

6511-00 Chore services/home care assistants

6511-20 Community action organizations - Chore services/home care assistants

Applies to organizations providing two or more services to support the local community and people in need. See subclassifications 1501-20, 4904-20, and 5308-20 for other community action organization classifications. If the entity provides only chore services, then 6511-00 applies.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-6512 Classification 6512.

6512-00 Home care services/((~~home care referral registry (HCRR))~~) consumer directed employer program

Applies to persons who are employed by people who are ill, people with disabilities, or vulnerable individuals to provide home care services that enable those individuals to remain in their own homes. Services provided may include, but are not limited to:

- Household tasks, such as housekeeping, shopping, meal planning and preparation, and transportation; and delegated tasks of nursing under RCW 18.79.260 (3)(e);
- Personal care such as assistance with dressing, feeding, and personal hygiene to facilitate self-care.

Special note: Premiums are paid by the (~~home care referral registry (HCRR))~~ consumer directed employer on behalf of the persons who provide the home care services.

AMENDATORY SECTION (Amending WSR 08-15-132, filed 7/22/08, effective 10/1/08)

WAC 296-17A-6603 Classification 6603.

6603-00 Auction sales: Industrial or commercial equipment or machinery

Applies to establishments engaged in auction sales of industrial or commercial plant equipment or machinery such as, but not limited to, tractors, farm implements, backhoes, cranes, booms, asphalt pavers, trailers, conveyors, stone crushers, lifts, bulldozers, forklifts, dump trucks, and logging equipment. Auctions are held at the auctioneer's permanent location or at the client's place of business. Work contemplated by this classification includes, but is not limited to, picking up merchandise from clients, advertising, preparing catalog listings of items for auction, preparing the auction site, demonstrating equipment at preauction inspections, estimating values, ensuring that there is title for the goods, numbering and tagging items into lots, conducting the auction, and receiving payment from buyers and paying the consignor. This classification includes clerical office and outside sales personnel, snack bars, concession stands, and lunch counters when operated by employees of the auction company.

This classification also applies to auctions performed online via the internet.

This classification excludes establishments engaged as equipment or machinery dealers which are to be reported separately as applicable.

6603-01 Auction or estate sales: Antiques or general household furnishings

Applies to establishments engaged in auction or estate sales of collectibles and antiques or of general household furnishings such as, but not limited to, furniture, pictures, vases, dishes, musical instruments, books, clothing, or lawn and garden furniture, ornaments, tools and equipment. Auctions are held at the auctioneer's permanent location or at the client's location. Work contemplated by this classification includes, but is not limited to, picking up merchandise from clients, advertising, preparing catalog listings of items for auction, preparing the auction site, opening boxes with razor blades and knives, moving merchandise with the use of hand carts, estimating values, ensuring that there is title for the goods, numbering and tagging items into lots, conducting the auction, and receiving payment from buyers and paying the consignor. This classification includes clerical office and outside sales personnel, snack bars, concession stands, and lunch counters when operated by employees of the auction company.

This classification also applies to auctions performed online via the internet.

This classification excludes establishments engaged as antique variety stores which are to be reported separately in classification ((~~6304~~) 6309).

6603-02 Auction sales: Specialty merchandise, N.O.C.

Applies to establishments engaged in auction sales of specialty merchandise such as, but not limited to, fine art, furs, collectibles, cars and trucks. Auctions are held at the auctioneer's permanent location or at the client's place of business. Depending on the value of items, these types of auctions may operate on a wholesale only basis, or for dealers or qualified buyers only. Work contemplated by this classification includes, but is not limited to, picking up merchandise from clients, advertising, preparing catalog listings of items for auction, preparing the auction site, opening boxes with razor blades and knives, moving merchandise with the use of hand carts, estimating values, ensuring that there is title for the goods, numbering and tagging items into "lots," conducting the auction, and receiving payment from buyers and paying the consignor. This classification includes clerical office and outside sales personnel, snack bars, concession stands, and lunch counters when operated by employees of the auction company. This classification excludes livestock auctions, which are to be reported in classification 4304.

This classification also applies to auctions performed online via the internet.

This classification excludes establishments engaged as stores or dealers which are to be reported separately as applicable.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6605 Classification 6605.**6605-00 Actors and performers, N.O.C.**

Applies to establishments or individuals providing performances that are not of a physical or strenuous nature, and who are not specifically covered by another classification (N.O.C.). For purposes of this classification, entertainment that is not physical or strenuous includes, but is not limited to, comedians, magicians or clowns at parties, or nightclubs. Physical or strenuous activities which are not covered by this classification include, but are not limited to, ballet, dancing, skating, gymnastics, or performing stunts.

This classification excludes actors, players, performers, entertainers, or musicians whose routines or performances are of a physical or strenuous nature who are to be reported separately in classification 6620; players, entertainers or musicians N.O.C., hired by ((~~theatres~~)) theaters, who perform nonstrenuous routines or performances who are to be reported separately in classification 6605-03; musicians performing nonstrenuous routines or performances at dance halls who are to be reported separately in classification 6605-04; musicians, N.O.C. performing nonstrenuous routines or performances who are to be reported separately in classification 6605-01; entertainers engaged in television or radio company operations who are to be reported separately in classification 4502; and entertainers engaged in motion picture production company operations who are to be reported separately in classification 6608.

Special note: Classifications 6620 and 6605 may be assigned to a single establishment provided the establishment maintains accurate records which distinguishes actors and performers whose routines are of a physical and strenuous

nature, from the routines which are not physical or strenuous. Care should be exercised when assigning this classification as the actors and performers may be exempt from coverage as specified in RCW 51.12.020(9).

6605-01 Musicians, N.O.C.

Applies to establishments or individuals engaged as musicians whose entertainment is not of a physical or strenuous nature, and who are not specifically covered by another classification (N.O.C.). For purposes of this classification, entertainment that is not physical or strenuous includes disk jockeys or members of a musical band playing at nightclubs, concerts, or other events, as well as members of the entertainer's road crew who set up or disassemble musical equipment or sound systems. Physical or strenuous activities which are not covered by this classification include, but are not limited to, ballet, dancing, skating, gymnastics or performing stunts.

This classification excludes actors, players, performers, entertainers or musicians whose routines or performances are of a physical or strenuous nature who are to be reported separately in classification 6620; players, entertainers or musicians hired by ((~~theatres~~)) theaters performing nonstrenuous routines or performances who are to be reported separately in classification 6605-03; actors or performers performing nonstrenuous routines or performances who are to be reported separately in classification 6605-00; musicians performing nonstrenuous routines or performances at dance halls who are to be reported separately in classification 6605-04; entertainers engaged in television or radio company operations who are to be reported separately in classification 4502 and entertainers engaged in motion picture production company operations who are to be reported separately in classification 6608.

Special note: Classifications 6620 and 6605 may be assigned to a single establishment provided the establishment maintains accurate records which distinguishes musicians whose routines are of a physical and strenuous nature, from the routines which are not physical or strenuous. Care should be exercised when assigning this classification as the musicians may be exempt from coverage as specified in RCW 51.12.020(9).

6605-03 Players, entertainers and musicians hired by a ((~~theatre~~)) theater, N.O.C.

Applies to establishments or individuals engaged as players, entertainers, and musicians who are hired by ((~~theatres~~)) theaters to provide entertainment of a nonphysical or strenuous nature, and who are not covered by another classification (N.O.C.). For purposes of this classification, entertainment that is not physical or strenuous includes players, entertainers, and musicians in theatrical productions such as plays, programs, or operas. Physical or strenuous activities which are not covered by this classification include, but are not limited to, ballet, dancing, skating, gymnastics, or performing stunts.

This classification excludes actors, players, performers, entertainers or musicians whose routines or performances are of a physical or strenuous nature who are to be reported separately in classification 6620; actors and performers performing nonstrenuous routines or performances who are to be

reported separately in classification 6605-00; musicians, N.O.C. performing nonstrenuous routines or performances who are to be reported separately in classification 6605-01; entertainers engaged in television or radio company operations who are to be reported separately in classification 4502; and entertainers engaged in motion picture production company operations who are to be reported separately in classification 6608.

Special note: Classifications 6620 and 6605 may be assigned to a single establishment provided the establishment maintains accurate records which distinguishes players, entertainers and musicians whose routines are of a physical and strenuous nature, from the routines which are not physical or strenuous. Care should be exercised when assigning this classification as the players, entertainers and musicians hired by a ((theatre)) theater may be exempt from coverage as specified in RCW 51.12.020(9).

6605-04 Dance halls, N.O.C.

Applies to establishments engaged in operating dance halls that are not covered by another classification (N.O.C.). Establishments contemplated by this classification may provide only the dance hall facility, or may also provide disc jockey services or live musicians, singers, and/or dancers. Some charge a cover charge; some will allow customers to bring their own beverages and/or snacks. This classification applies to all employees including, but not limited to, bouncers, security personnel, attendants, and food and beverage servers.

This classification excludes entertainers or musicians whose routines or performances are of a physical or strenuous nature who are to be reported separately in classification 6620; and lounges or restaurants that provide entertainment for customers which are to be reported separately in classification 3905.

Special note: Care should be exercised when assigning this classification as the entertainers or musicians may be exempt from coverage as specified in RCW 51.12.020(9).

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6608 Classification 6608.

6608-00 Motion picture production

Applies to establishments engaged in the production of motion pictures. Elaborate sets are often constructed at the production sites and filmed with cameras mounted on large booms. This classification includes all employment such as, but not limited to, staff who design and construct the sets, actors and entertainers, stunt personnel, camera and lighting personnel, musicians, writers, costume designers, make-up artists, film editing, directors, producers, sales personnel, and clerical office employees.

This classification excludes video taping or production work conducted in a studio or on location for a television broadcasting company which is to be reported separately in classification 4502.

Special note: Care should be exercised when assigning this classification as the entertainers or musicians may be exempt from coverage as specified in RCW 51.12.020(9).

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-4903 Classification 4903.

4903-06 Marine appraising

Applies to establishments engaged in providing marine appraisal services. Type of property appraised includes, but is not limited to, boats, yachts, marinas, wharves, and dry-docks. This service may be provided to a prospective buyer or to insurance companies for determining the value of a piece of property or for evaluating damage.

This classification excludes maritime appraisers who provide their service exclusively to insurance companies who are to be reported separately in classification 4903-09, and nonmaritime building appraisers who are to be reported separately in the classification applicable to the employer's business.

4903-07 Boiler inspecting, N.O.C.

Applies to establishments engaged in providing boiler inspection services not covered by another classification (N.O.C.). These establishments inspect pressurized vessels, including air tanks and liquefied gas tanks, in addition to boilers. The inspections involve determining if a vessel conforms to safety standards in regard to their design, fabrication, installation, repair and operation. The inspections may take place at a manufacturer's plant or where the vessel has been installed. These inspections will generally be conducted at the request of a manufacturer or an insurance company. Activities of the inspectors include, but are not limited to, inspecting the safety devices and welding, performing tests to verify the condition, calculating allowable limits of pressure, recommending changes to correct unsafe conditions, and investigating accidents involving pressurized vessels.

This classification excludes boiler inspectors employed by a state agency or municipality who are to be reported separately in the appropriate state agency or municipality classification; boiler manufacturing, repair or installation which is to be reported separately in the appropriate manufacturing, repair or installation classification; inspectors of the manufacturing company who are to be reported separately in the classification applicable to the employer's business; and establishments who provide inspections exclusively for insurance companies who are to be reported separately in classification 4903-09.

4903-08 Elevator inspecting

Applies to establishments engaged in providing elevator inspection services. Types of devices inspected include, but are not limited to, elevators, escalators, ski lifts, amusement rides and moving sidewalks. The inspections involve determining if the device conforms to safety standards in connection with their design, fabrication, installation, repair and operation. The inspections may take place at the manufacturing plant or where the conveyance device has been installed. These inspections are usually conducted at the request of a manufacturer or an insurance company. Activities of the

inspectors include, but are not limited to, reviewing the design, inspecting the mechanical and electrical features, inspecting the cables and guide rails, conducting time tests for speed, computing allowable load, observing running and drop tests to determine if brakes and safety devices are working properly, recommending changes to correct unsafe conditions, and investigating accidents involving conveyance devices.

This classification excludes elevator inspectors employed by a state agency or municipality who are to be reported separately in the appropriate state agency or municipality classification; repair or service to the elevator or conveyance device which is to be reported separately in the appropriate repair classification assigned to the type of conveyance device; inspectors employed by the manufacturer who are to be reported in the appropriate manufacturing classification; and establishments who provide inspection exclusively for insurance companies who are to be reported separately in classification 4903-09.

4903-09 Inspection for insurance or valuation

Applies to establishments engaged in providing inspection and valuation services exclusively for insurance companies. These establishments inspect damaged goods or property for loss valuation or to determine the value of an article or property the insurance company is underwriting. The property inspected includes, but is not limited to, personal property, real estate, and manufactured goods.

This classification excludes inspectors employed by a state agency or municipality who are to be reported separately in the appropriate state agency or municipality classification and boiler, elevator, or building inspectors or maritime appraisers who do not provide ~~(the)~~ service to insurance companies exclusively who are to be reported separately in classifications 4903-07, 4903-08, 4903-10 or 4903-06 as applicable and employees of insurance companies who are to be reported separately in the applicable classifications; and independent appraisal businesses not working exclusively for insurance companies which are to be reported in classification 6303.

4903-10 Inspection of buildings

Applies to establishments engaged in providing building inspection services. These establishments inspect all types of buildings including new or existing residential, commercial, industrial, multifamily, and temporary structures. The inspections may be provided for prospective buyers to determine the condition of the building, for contractors to assist in interpreting legal requirements and recommending procedures for compliance, or for insurance companies in assessing damages. Activities of the inspectors include, but are not limited to, inspecting all components of a building for structural soundness, dry rot, pest problems, energy efficiency, and compliance with grading, zoning and safety laws.

This classification excludes building inspectors employed by a state agency or municipality who are to be reported separately in the appropriate state agency or municipality classification and establishments who provide inspections exclusively for insurance companies who are to be reported separately in classification 4903-09.

AMENDATORY SECTION (Amending WSR 16-14-085, filed 7/5/16, effective 1/1/17)

WAC 296-17A-6303 Classification 6303.

Sales personnel with outside duties, messengers, insurance producers or surplus line brokers, social workers and dieticians employed by a home health care service

Although referenced as sales personnel, this classification also applies to others with similar type activities. While some duties may be performed in a business office, the work is often conducted away from the employer's physical business location or in showrooms. We refer to work that takes place away from the employer's premises as "outside sales."

Classification **6303** is a standard exception classification, as described in WAC 296-17-31018 Exception classifications, with restrictions on both the type of work and where the work can take place. If any of a worker's duties are excluded from **6303** because of restrictions described in this rule, then none of the worker's hours may be reported in classification **6303**.

Special note: Care must be taken to:

- Look beyond job titles such as salesperson, social worker, or messenger. Job titles do not ensure the work satisfies the restrictions for classification **6303**;

- Ensure standard exceptions are permitted - Some basic classifications include sales work;

- Ensure workers assigned classification **6303** perform no work other than what is allowed by this classification or that permitted in WAC 296-17-4904.

Classification **6303** includes all activities allowed by WAC 296-17A-4904 (office workers) as well as:

- Meeting with customers off premises;
- Showing and demonstrating products and merchandise;
- Off-site classroom instructional training;
- Driving oneself or being transported to or from meeting or training locations;

- Delivering interoffice mail, correspondence and legal documents necessary for administering the employer's business;

- Providing counseling or verbal direction to clients of a home health care service;

- Performing public relations for employers' business;

and

- Estimating (nonconstruction) or appraising.

Classification **6303** excludes:

- Stocking, shipping, receiving, or delivering merchandise;

- The demonstration of machinery or equipment;

- Workers who perform any duties not specifically allowed by WAC 296-17A-4904 or 296-17A-6303;

- Specialty services merchandising products in stores, reported in classification **0607-19**;

- Directly supervising workers not included in classifications **4904** or **6303**;

- Providing samples to retail customers, reported in classification **6406-40** or **7106-01**;

- Working as a driver for a service that transports or chauffeurs others;

- Driving, cooking, or cleaning for, or physically assisting others for home health care services;

- Employees of collection agencies, who are reported separately in **5301-13**;
- Door-to-door sales persons who are reported separately in **6309-22**;
- ~~((Employees of services (WAC 269-17A-4903) providing inspection or valuation services to others;))~~ Businesses engaged in providing inspections and valuations exclusively for insurance companies which are to be reported separately in classification **4903**;
 - Employees of messenger services who are reported separately in **1101-09**;
 - Employees working for a legal messenger service who are reported separately in **6601-07**;
 - Construction estimators, who are reported in classification **4911**, when their work is limited to time and material estimating for a full work shift.

Special note: Hands on training outside of a classroom setting has to be reported separately in the applicable basic classification. For example, a karate instructor is reported in classification 6204, not 6303.

For administrative purposes, classification **6303** is divided into the following subclassifications:

6303-00 Outside sales personnel, messengers, N.O.C.

6303-03 Insurance sales personnel and claims adjusters

Special note: Individuals licensed by the insurance commissioner as insurance producers for soliciting, negotiating, and selling insurance are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010. To elect coverage, these individuals must submit a completed optional coverage form to the department.

6303-21 Home health care services: Social workers and dietitians

Applies to social workers and dietitians employed by home health care services agencies. These agencies provide care for the elderly, or individuals who need the continuous care and supervision that hospitals and nursing facilities provide, or people living with disabilities. Duties in this classification include teaching people with physical or developmental disabilities in their own homes to manage daily living skills to care for themselves, and assessing clients to determine level of care needed.

Note: Employees working in this classification are only assessing level of need, and teaching clients how to perform duties and tasks; they do not provide direct care to individuals.

Teaching duties of social workers could include teaching clients to:

- Shop for groceries;
- Dress and use proper hygiene;
- Use public transportation;
- Attend medical appointments or go to work;
- Cook meals;
- Write checks;
- Budget finances;
- Do laundry;
- Access recreational or social activities.

Patients are referred to dietitians (also called nutritionists) by the patients' physicians. The dietitian assesses the patient's current nutritional status, and then develops a food plan to meet the patient's needs.

Classification 6303-21 excludes:

- Direct care of clients, such as: Cooking, cleaning, transporting and physically assisting clients, which is to be reported in the applicable classification;
- Nursing and home therapy services which are classified in **6110-00**;
- Domestic servants who are classified in **6510**;
- Chore workers who are classified in **6511**;
- Home care services provided through the ~~((home care referral registry (HCRR)))~~ consumer directed employer program, which are classified in **6512-00**.

Special note: Subclassification **6303-21** should be assigned only to accounts that also have classifications 6110, 6511, or both.

WSR 19-11-122

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed May 22, 2019, 9:23 a.m., effective June 22, 2019]

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

Purpose: The agency is amending WAC 182-531-1730 Telemedicine, to add renal dialysis centers to the list of originating sites. This addition aligns with RCW 41.05.700.

Citation of Rules Affected by this Order: Amending WAC 182-531-1730.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, and 41.05.700.

Adopted under notice filed as WSR 19-07-018 on March 11, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 22, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-20-063, filed 10/1/15, effective 11/1/15)

WAC 182-531-1730 Telemedicine. (1) Telemedicine is when a health care practitioner uses HIPAA-compliant, interactive, real-time audio and video telecommunications (including web-based applications) or store and forward technology to deliver covered services that are within his or her

scope of practice to a client at a site other than the site where the provider is located. If the service is provided through store and forward technology, there must be an associated office visit between the client and the referring health care provider.

(2) The medicaid agency does not cover the following services as telemedicine:

(a) Email, audio only telephone, and facsimile transmissions;

(b) Installation or maintenance of any telecommunication devices or systems; and

(c) Purchase, rental, or repair of telemedicine equipment.

(3) **Originating site.** An originating site is the physical location of the client at the time the health care service is provided. Approved originating sites are:

(a) Clinics;

(b) Community mental health/chemical dependency settings;

(c) Dental offices;

(d) Federally qualified health centers;

(e) Home or any location determined appropriate by the individual receiving the service;

(f) Hospitals - Inpatient and outpatient;

(g) Neurodevelopmental centers;

(h) Physician or other health professional's office;

(i) Renal dialysis centers, except an independent renal dialysis center:

(j) Rural health clinics;

~~((j))~~ (k) Schools; and

~~((k))~~ (l) Skilled nursing facilities.

(4) **Distant site.** A distant site is the physical location of the health care professional providing the health care service.

(5) The agency pays an additional facility fee per completed transmission to either the originating site or the distant site, as specified in the agency's program-specific billing instructions.

(6) If a health care professional performs a separately identifiable service for the client on the same day as the telemedicine service, documentation for both services must be clearly and separately identified in the client's medical record.

(7) Billing procedures for telemedicine can be found in the agency's program-specific billing instructions.

WSR 19-11-123

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed May 22, 2019, 9:31 a.m., effective June 22, 2019]

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

Purpose: The agency is amending the presumptive eligibility period from twelve to twenty-four months in subsection (7) to align with Title 388 WAC. The agency is also correcting a reference to the medicaid agency in subsection (8) and replacing it with the department of social and health services.

Citation of Rules Affected by this Order: Amending WAC 182-513-1620.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-09-051 on April 12, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: May 22, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-12-019, filed 5/30/17, effective 7/1/17)

WAC 182-513-1620 Tailored supports for older adults (TSOA)—Presumptive eligibility (PE). (1) A person may be determined presumptively eligible for tailored supports for older adults (TSOA) services upon completion of a prescreening interview.

(2) The prescreening interview may be conducted by either:

(a) The area agency on aging (AAA); or

(b) A home and community services intake case manager or social worker.

(3) To receive services under presumptive eligibility (PE), the person must meet:

(a) Nursing facility level of care under WAC 388-106-0355;

(b) TSOA income limits under WAC 182-513-1635; and

(c) TSOA resource limits under WAC 182-513-1640.

(4) The PE period begins on the date the determination is made and:

(a) Ends on the last day of the month following the month of the PE determination if a full TSOA application is not completed and submitted by that date; or

(b) Continues through the date the final TSOA eligibility determination is made if a full TSOA application is submitted before the last day of the month following the month of the PE determination.

(5) If the person applies and is not determined financially eligible for TSOA, there is no overpayment or liability on the part of the applicant for services received during the PE period.

(6) The medicaid agency or the agency's designee sends written notice as described in WAC 182-518-0010 when PE for TSOA is approved or denied.

(7) A person may receive only one PE period within a ~~((twelve consecutive month))~~ consecutive twenty-four-month period.

(8) If the ((agency)) department of social and health services establishes a waitlist for TSOA services under WAC 388-106-1975, then PE does not apply.

WSR 19-11-129
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed May 22, 2019, 10:19 a.m., effective June 22, 2019]

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

Purpose: The agency is amending these rules to clarify and update eligibility criteria for clients receiving premium assistance subsidies for comprehensive health insurance.

Citation of Rules Affected by this Order: Amending WAC 182-558-0010, 182-558-0020, 182-558-0030, 182-558-0040, 182-558-0050, and 182-558-0060.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-08-018 on March 25, 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: May 22, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

WAC 182-558-0010 Premium payment program (PPP). The medicaid agency may pay a premium assistance subsidy for comprehensive health insurance premiums and other cost-sharing (defined in WAC 182-500-0020) when the agency determines it would ((cost less)) be cost-effective to maintain a client's available health care coverage ((~~than it would cost to provide comparable medicaid coverage~~)).

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

WAC 182-558-0020 Definitions. The following definitions, and those definitions found in chapter 182-500 WAC, apply to this chapter.

"Average cost per user" means the average medicaid expenditure for a person of the same age, sex, and eligibility type as the applicant, per fiscal year, as calculated by the agency.

"Comprehensive" means coverage comparable to the services offered under the agency's medicaid state plan that provides at least the following: Physician-related services, inpatient hospital services, outpatient hospital services, prescription drugs, immunizations, and laboratory and X-ray costs.

"Cost-effective" means it would cost less for the agency to pay premium assistance than not to pay premium assistance. The agency determines cost-effectiveness by comparing the anticipated cost of premiums, cost-sharing, and administrative costs to:

(a) The average cost per user; or

(b) The medicaid expenditures to be incurred if the client does not receive the premium assistance, based on the client's documented medical condition.

"Employer-sponsored group health insurance" means a comprehensive group health plan provided through an employer or other entity, for which the employer or entity pays some portion of the cost. Group health plans must cover all applicants whose employment qualifies them for coverage and cannot increase the cost for an applicant with a preexisting condition.

"Flexible health spending arrangement" means the portion of an employee's wages set aside in an account to pay for qualified expenses such as medical or child care costs.

"Health savings account" means a medical savings account available to employees enrolled in a high-deductible health insurance plan.

"High-deductible health insurance plan" means coverage that meets the definition in Section 223(c)(2) of the Internal Revenue Code.

"Overpayment" has the same definition for purposes of this chapter as that term is defined in RCW 41.05A.010.

"Premium tax credit" has the same definition for purposes of this chapter as defined in 26 C.F.R. 1.36B-1 through 1.36B-5.

"Qualified employer-sponsored group health insurance" means a comprehensive group health plan provided through an employer that is offered in a nondiscriminatory manner under 26 U.S.C. Sec. 105(h)(3), and for which the employer subsidizes at least forty percent of the cost of the premium.

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

WAC 182-558-0030 Overview of eligibility. (1) To be eligible for the premium payment program (PPP):

(a) A member of the client's medical assistance unit, as described in chapter 182-506 WAC, must be receiving benefits under:

(i) Alternative benefits plan coverage;

(ii) Categorically needy coverage; or

(iii) Medically needy coverage.

(b) The client must provide the medicaid agency with proof of:

- (i) Enrollment in a comprehensive individual or comprehensive employer-sponsored health insurance plan;
 - (ii) A Social Security Number or tax identification number for the policy holder; and
 - (iii) Premium expenditures.
- (2) A comprehensive health insurance plan includes:
- (a) An individual health insurance plan;
 - (b) An employer-sponsored group health insurance plan;
- or
- (c) A qualified employer-sponsored group health insurance plan.
- (3) A comprehensive health insurance plan does not include:
- (a) A health savings account or flexible health spending arrangement;
 - (b) A high-deductible plan;
 - (c) A high-risk plan, including a Washington state health insurance pool (WSHIP) plan;
 - (d) A limited or supplemental plan, including a medicare supplemental plan; ~~((or))~~
 - (e) A medicare advantage plan (medicare Part C); ~~(f)~~
- ~~(4) Exceptions to comprehensive health insurance requirement in subsection (1)(b)(i) of this section:~~
- ~~(a) The agency will continue eligibility for clients currently in the premium payment program with a plan as described in subsection (3)(c), (d), or (e) of this section as long as:~~
 - ~~(i) The client remains continuously eligible for medicaid benefits under subsection (1)(a) of this section; and~~
 - ~~(ii) The client was approved for the premium payment program on or before January 1, 2012.~~
 - ~~(b) The agency limits the premium assistance subsidy for a client eligible under subsection (4)(a) of this section to an amount the agency determines cost effective);~~
 - ~~(f) A qualified health plan (QHP) purchased through the health benefit exchange with a premium tax credit; or~~
 - ~~(g) A plan that is the legal obligation of a noncustodial parent, or any other liable party under RCW 74.09.185.~~
- (4) Exception to comprehensive insurance requirement:
- (a) The agency allows an exception to the comprehensive health insurance requirement for clients enrolled in the PPP based on a plan as described in subsection (3)(c), (d), and (e) of this section when the client:
 - (i) Has been enrolled in the same plan continuously since January 1, 2012;
 - (ii) Was approved for and continuously enrolled in the PPP since January 1, 2012; and
 - (iii) Remained eligible for a medicaid program identified in subsection (1)(a) of this section continuously since January 1, 2012.
 - (b) If a client's medicaid eligibility or their enrollment in their health plan changes or terminates, the exception to the comprehensive health insurance requirement terminates.
- (5) A comprehensive health insurance plan must be cost effective as defined in WAC 182-558-0020.
- (6) If a client's comprehensive health insurance premium is more than the average cost per user, the client must provide the agency proof from the client's provider(s):
- (a) Of an existing medical condition that requires or will be requiring extensive medical care; and

- (b) That the cost of the medicaid expenditures would be greater if the agency does not pay premium assistance.
- (7) The agency pays no more than one premium per client, per month. PPP enrollment begins no sooner than the date on which:
- (a) A client is approved for medicaid;
 - (b) The agency receives and accepts the completed Application for HCA Premium Payment Program (HCA 13-705) form; and
 - (c) A client's apple health managed care enrollment, if applicable, ends.
- (8) A client enrolled in the PPP is exempt from ~~((otherwise))~~ mandatory managed care under chapter 182-538 and 182-538A WAC.
- (9) The agency's premium assistance subsidy may not exceed the minimum amount required to maintain comprehensive health insurance for the medicaid-eligible client.
- (10) Proof of premium expenditures must be submitted to the agency no later than the end of the third month following the last month of coverage.
- (11) The agency's cost-sharing benefit for copays, coinsurance, and deductibles is limited to services covered under the medicaid state plan.
- (12) Proof of cost-sharing must be submitted to the agency no later than the end of the sixth month following the date of service.
- (13) The agency may review a client's eligibility for the PPP at any time including, but not limited to, when the client's:
- (a) Health insurance plan has an annual open enrollment;
 - (b) Medicaid eligibility changes or ends;
 - (c) Medical assistance unit changes;
 - (d) Premium changes; or
 - (e) Private health insurance coverage changes or ends.

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

WAC 182-558-0040 PPP for a client with an individual health insurance plan. (1) **General rule.** Under section 1905(a) of the Social Security Act, the agency pays a premium assistance subsidy up to an eligible person's individual health insurance premium obligation when the agency determines it is cost effective.

- (2) **Eligible persons.** An eligible person is any client who:
- (a) Has a comprehensive individual health insurance plan; and
 - (b) Is receiving categorically needy ~~((or))~~, medically needy ~~((coverage))~~, or alternative benefit plan scope of coverage.

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

WAC 182-558-0050 PPP for a client with an employer-sponsored group health insurance plan. (1) **General rule.** Under section 1906 of the Social Security Act, the agency pays a premium assistance subsidy:

- (a) Up to an eligible person's employer-sponsored group health insurance plan premium obligation; and

(b) When the agency determines it is cost effective as defined in WAC 182-558-0020.

(2) **Eligible persons.** An eligible person is any client who:

(a) Has a comprehensive employer-sponsored group health insurance plan, which may be a Consolidated Omnibus Budget Reconciliation Act (COBRA) health insurance plan as described in 26 C.F.R. 54.4980; and

(b) Is receiving categorically needy ~~((or))~~, medically needy, or the alternative benefit plan scope of coverage.

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

WAC 182-558-0060 PPP for a client with a qualified employer-sponsored group health insurance plan. (1) **General rule.** Under section 1906A of the Social Security Act, the agency pays an eligible person's premium assistance subsidy and other cost-sharing obligations when the agency determines it is cost-effective as defined in WAC 182-558-0020.

(2) **Eligible persons.** An eligible person is:

(a) A client under age nineteen who is:

(i) Covered under a qualified employer-sponsored group health insurance plan as defined in WAC 182-558-0020;

(ii) Receiving benefits under:

(A) Alternative benefits plan coverage;

(B) Categorically needy coverage; or

(C) Medically needy coverage.

(b) The parent of the client in (a) of this subsection, if:

(i) Enrollment in the health plan depends on a parent's enrollment; and

(ii) The client is a dependent of the parents.

(3) **Cost-sharing benefit.** The ~~((PPP provides))~~ premium payment plan (PPP) may provide cost-sharing reimbursement ((limited to services for the medicaid-eligible client or their parents)) to nonmedicaid-eligible parents for medicaid-covered services under this section.

WSR 19-11-134

PERMANENT RULES

OFFICE OF

FINANCIAL MANAGEMENT

[Filed May 22, 2019, 11:47 a.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: The state is implementing a new information technology (IT) professional/technical classification and compensation structure. This means that all state agency and higher education classified IT positions within the Washington general service and Washington management service positions designated in the IT market segment have been or will be evaluated for allocation into the new information technology professional structure (ITPS). The purpose of expanding Title 357 WAC is to cover those employees who will be placed into the new ITPS.

Citation of Rules Affected by this Order: New WAC 357-01-187, 357-01-188, 357-01-317, 357-13-058 and 357-

28-215; and amending WAC 357-01-075, 357-01-080, 357-13-035, 357-46-035, and 357-46-045.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Other Authority: RCW 41.06.150.

Adopted under notice filed as WSR 19-08-071 on April 2, 2019.

Changes Other than Editing from Proposed to Adopted Version: Since the proposed version, WAC 357-13-058, 357-28-215, and 357-46-035 were changed. WAC 357-13-058 was changed to allow an exception for employers who have fifteen or less permanent positions covered by ITPS the ability to establish a smaller evaluation committee. WAC 357-28-215 and 357-46-035 (1)(a) were updated due to house-keeping changes.

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 5, Amended 5, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 5, Repealed 0.

Date Adopted: May 22, 2019.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 05-01-204, filed 12/21/04, effective 7/1/05)

WAC 357-01-075 Class. A level of work within the statewide job classification system. Where there is a professional structure that includes a job family and a job level, the combination of the job family and the job level constitutes a class, and a change in job family, job level or both is a change in class.

AMENDATORY SECTION (Amending WSR 09-11-063, filed 5/14/09, effective 6/16/09)

WAC 357-01-080 Class series. A grouping of job functions having similar purpose and knowledge requirements, but different levels of difficulty and responsibility. Where there is a professional structure that includes a job family and a job level, different job levels within one job family constitutes a class series.

NEW SECTION

WAC 357-01-187 Job family. A functional discipline involving work focused within a specific and specialized

body of knowledge as established within a professional structure. This definition applies to professional structures only.

NEW SECTION

WAC 357-01-188 Job level. The measure of complexity of work performed. This definition applies to professional structures only.

NEW SECTION

WAC 357-01-317 Supervisor. (1) An employee who is assigned responsibility by management to participate in the following functions with respect to their subordinate employee(s):

- (a) Selecting staff;
- (b) Training and development;
- (c) Planning and assignment of work;
- (d) Evaluating performance;
- (e) Resolving grievances; and
- (f) Taking corrective action.

(2) Participation in these functions is not routine and requires the exercise of individual judgment.

(3) A supervisor must supervise a minimum of one full-time employee or equivalent (total of part-time FTEs).

AMENDATORY SECTION (Amending WSR 05-01-201, filed 12/21/04, effective 7/1/05)

WAC 357-13-035 Must a standard form be used for each position description? A standard form developed by the director or one containing components similar to those found in the director's form must be used for each position description. For positions in the information technology professional structure (ITPS), a standard form developed by the director, or an alternate form approved by the director must be used for requests to establish or reevaluate ITPS positions.

NEW SECTION

WAC 357-13-058 What is the requirement for employers to develop procedures which address evaluating positions for placement in the information technology professional structure (ITPS)? (1) Each employer must develop and document an information technology professional structure (ITPS) evaluation procedure consistent with this chapter and guidelines established by the director's office.

(2) The procedure must include the process for requesting and evaluating positions for placement within the ITPS.

(a) Employers with more than fifteen permanent positions covered by the ITPS, the procedure must require, at a minimum the establishment of a committee of three or more employees to include the following:

(i) A human resource (HR) professional who is designated as the employers ITPS coordinator and who also serves as the single point of contact for the director's office regarding ITPS issues;

(ii) An information technology (IT) manager from the employer who has comprehensive knowledge of the employer's business; and

(iii) At least one other HR professional or IT manager.

(b) Employers with fifteen or less permanent positions covered by the ITPS may establish a committee of two or more employees in accordance with (a)(i) and (ii) of this subsection.

(3) Only those who have successfully completed training may participate on an ITPS committee. The training must satisfy the core curriculum as defined by the director's office.

(4) All evaluation results and a copy of the signed IT position description form must be uploaded in the tool identified by the director.

NEW SECTION

WAC 357-28-215 When must an employee receive supervisory pay differential? Employees within the information technology professional structure who are in the entry, journey and senior/specialist levels designated as and performing all the duties of a supervisor, in accordance with WAC 357-01-317, must receive a five percent supervisory pay differential in addition to their base pay as long as they meet the definition of supervisor.

AMENDATORY SECTION (Amending WSR 10-11-068, filed 5/14/10, effective 6/15/10)

WAC 357-46-035 Layoff option. (1) **What option does a permanent employee have to take a position when the employee is scheduled for layoff?**

Within the layoff unit, a permanent employee scheduled for layoff must be offered the option to take a position, if available, that meets the following criteria:

(a) The position is allocated to the class in which the employee holds permanent status at the time of the layoff. If no option to a position in the current class is available, the employee's option is to a position in a class in which the employee has held permanent status that ~~(is at)~~ has the same salary range maximum. If the employee has no option to take a position ~~(at)~~ that has the same salary range maximum, the employee must be given an opportunity to take a position in a lower class in a class series in which the employee has held permanent status, in descending salary order. The employee does not have to have held permanent status in the lower class in order to be offered the option to take a position in the class.

(b) The position is comparable to the employee's current position as defined by the employer's layoff procedure.

(c) The employee satisfies the competencies and other position requirements.

(d) The position is funded and vacant, or if no vacant funded position is available, the position is occupied by the employee with the lowest employment retention rating.

(2) **What if the employee has no option under subsection (1) of this section?**

(a) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an available position in the layoff unit to offer the employee in lieu of separation that meets the following criteria:

(i) The position is at the same or lower salary range maximum as the position from which the employee is being laid off;

- (ii) The position is vacant or held by a probationary employee or an employee in a nonpermanent appointment;
 - (iii) The position is comparable or less than comparable;
- and

(iv) The position is one for which the employee meets the competencies and other position requirements.

(b) If more than one qualifying position is available, the position with the highest salary range maximum is the one that must be offered.

(3) What happens when a class in which the employee previously held permanent status has been revised or abolished?

(a) If a class in which an employee has previously held permanent status has been revised or abolished, the employer shall determine the closest matching class to offer as a layoff option. The closest matching class must be at the same or lower salary range maximum as the class from which the employee is being laid off.

(b) For employees who held permanent status in abolished information technology (IT) classes, an employer may use the IT Assessment form along with any other documentation to determine the closest matching class to offer as a layoff option.

(4) Does an employee have layoff option rights as provided in subsection (1) of this section to classifications the employee held permanent status in prior to any breaks in state service?

General government employees have layoff option rights as provided in subsection (1) of this section to classifications the employee has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff options to classes they held permanent status in prior to any breaks in state service.

AMENDATORY SECTION (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

WAC 357-46-045 How do employers establish competency and other position requirements? In establishing competency and other position requirements, employers may use any of the following documented criteria:

- (1) Licensing/certification requirements;
- (2) Position description;
- (3) Class specification;
- (4) Information technology professional structure evaluator's handbook;

(5) Skills/competencies listed on the position's most recent recruitment announcement or the last announcement used to fill the position;

~~((5))~~ (6) Bona fide occupational requirement(s) approved by the Washington human rights commission; or

~~((6))~~ (7) Additional documented competencies or requirements not reflected in the position description.

**WSR 19-11-135
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT**

[Filed May 22, 2019, 11:50 a.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: The purpose is to become one step closer in becoming an employer of choice and to align with recent legislative changes to shared leave. An employee may request to receive donated leave for the purposes of parental leave, therefore, employees should be able to use their own accrued sick leave for bonding purposes. The proposed amendment to WAC 357-31-130 [is] to expand the amount of time employers must approve an employee's request to use their accrued sick leave for bonding purposes. The amendment also removes the requirement for employees to be approved for family medical leave under the Family Medical Leave Act in order to use their accrued sick leave for this purpose. The proposed amendment to WAC 357-31-100 requires employers to update their leave policies to state the total amount of sick leave allowed to be used beyond eighteen weeks for bonding purposes.

Citation of Rules Affected by this Order: Amending WAC 357-31-100 and 357-31-130.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Other Authority: RCW 41.06.133.

Adopted under notice filed as WSR 19-08-070 on April 2, 2019.

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

Number of Sections Adopted at the Request of a Non-governmental 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 2, Repealed 0.

Date Adopted: May 22, 2019.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 18-05-032, filed 2/10/18, effective 3/13/18)

WAC 357-31-100 Must an employer have a policy for requesting and approving leave? Each employer must develop a leave policy which specifies the procedure for requesting and approving all leave, as provided in the civil service rules. The employer's policy must:

- (1) Allow an employee to use vacation leave without advance approval when the employee is requesting to use

vacation leave to respond to family care emergencies((;)) or for an emergency health condition as provided in WAC 357-31-200 (1)(b);

(2) Allow an employee to use a reasonable amount of accrued leave or unpaid leave when the employee is a victim((;)) or has a family member, as defined in chapter 357-01 WAC, who is a victim of domestic violence, sexual assault((;)) or stalking as defined in RCW 49.76.020;

(3) Address advance notice from the employee when the employee is seeking leave under subsection (2) of this section. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault((;)) or stalking, the employee or the employee's designee must give notice to the employer no later than the end of the first day that the employee takes such leave;

(4) Allow an employee to use sick leave for ~~((qualifying absences under the Family and Medical Leave Act (FMLA) for parental leave for))~~ the purpose of ~~((baby bonding with his/her))~~ parental leave to bond with a newborn, adoptive((;)) or foster child ((in accordance with WAC 357-31-495)). The policy must state the ~~((maximum))~~ total amount of sick leave allowed to be used ((during the twelve-week FMLA period)) beyond eighteen weeks in accordance with WAC 357-31-130;

(5) Address overtime eligible employees that are required to provide medical certification or verification to their employer for the use of paid sick leave under chapter 296-128 WAC; and

(6) Address overtime eligible employees that are required to provide reasonable notice to their employer for an absence from work for the use of paid sick leave under chapter 296-128 WAC.

AMENDATORY SECTION (Amending WSR 18-05-032, filed 2/10/18, effective 3/13/18)

WAC 357-31-130 When ~~((can))~~ may an employee use accrued sick leave? The employer may require medical verification or certification of the reason for sick leave use in accordance with the employer's leave policy and in compliance with chapter 296-128 WAC.

(1) Employers **must** allow the use of accrued sick leave under the following conditions:

(a) An employee's mental or physical illness, disability, injury((;)) or health condition that has incapacitated the employee from performing required duties; to accommodate the employee's need for medical diagnosis, care((;)) or treatment of a mental or physical illness, injury((;)) or health condition; or an employee's need for preventive medical care.

(b) By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

(c) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such reason.

(d) To allow an employee to provide care for a family member with a mental or physical illness, injury((;)) or health condition; care of a family member who needs medical diag-

nosis, care((;)) or treatment of a mental or physical illness, injury((;)) or health condition; or care for a family member who needs preventive medical care.

(e) For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300((;)) and 357-31-305.

(f) When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee or relatives of the employee's spouse/registered domestic partner who experience an illness or injury, not including situations covered by subsection (1)(d) of this section.

(i) The employer must approve up to five days of accumulated sick leave each occurrence. Employers may approve more than five days.

(ii) For purposes of this subsection, "relatives" is limited to spouse, registered domestic partner, child, grandchild, grandparent or parent.

(g) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(h) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

~~((For qualifying absences under the Family and Medical Leave Act for parental leave))~~ When an employee requests to use sick leave for the purpose of ~~((bonding with their))~~ parental leave to bond with a newborn, adoptive((;)) or foster child ((in accordance with WAC 357-31-495. The amount of sick leave allowed to be used must be addressed in the employer's leave policy in accordance with WAC 357-31-100)) for a period up to eighteen weeks. Sick leave for this purpose must be taken during the first year following the child's birth or placement.

(2) Employers **may** allow the use of accrued sick leave under the following conditions:

(a) For condolence or bereavement((;));

(b) When an employee is unable to report to work due to inclement weather in accordance with the employer's policy on inclement weather as described in WAC 357-31-255; or

(c) To bond with a newborn, adoptive or foster child for a period beyond eighteen weeks as allowed in subsection (1)(i) of this section. Sick leave for this purpose must be taken during the first year following the child's birth or placement. The total amount of sick leave allowed to be used, beyond subsection (1)(i) of this section must be addressed in the employer's leave policy in accordance with WAC 357-31-100.

WSR 19-11-136
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed May 22, 2019, 11:52 a.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: In April 2018, the Washington management service (WMS) coordinator's group requested a review of chapter 357-58 WAC. As a result, a subgroup of five agencies met to review the chapter to determine if there were any updates needed. Additional amendments were a result of questions that have been received from stakeholders. As a result of amending WAC in chapter 357-58 WAC it was determined that similar amendments were required for WAC 357-13-045, 357-19-297, 357-28-095, 357-28-100, and 357-31-165 for consistency purposes. The ultimate goal is to improve transparency and consistency of WMS as a whole. The purpose of the proposed changes to chapter 357-58 WAC are housekeeping in nature and to provide clarification for consistent rule application.

Citation of Rules Affected by this Order: New WAC 357-58-207; repealing WAC 357-58-540 and 357-58-565; and amending WAC 357-13-045, 357-19-297, 357-28-095, 357-28-100, 357-31-165, 357-58-035, 357-58-042, 357-58-055, 357-58-065, 357-58-085, 357-58-095, 357-58-115, 357-58-125, 357-58-126, 357-58-130, 357-58-136, 357-58-145, 357-58-170, 357-58-175, 357-58-180, 357-58-205, 357-58-210, 357-58-215, 357-58-225, 357-58-230, 357-58-255, 357-58-275, 357-58-290, 357-58-355, 357-58-375, 357-58-395, 357-58-438, 357-58-480, 357-58-485, 357-58-490, 357-58-500, 357-58-515, 357-58-552, and 357-58-555.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Other Authority: RCW 41.06.150.

Adopted under notice filed as WSR 19-07-025 on March 12, 2019.

Changes Other than Editing from Proposed to Adopted Version: Since the proposed version, housekeeping changes were made to chapter 357-58 WAC.

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 39, Repealed 2.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 39, Repealed 2.

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 39, Repealed 2.

Date Adopted: May 22, 2019.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 05-01-201, filed 12/21/04, effective 7/1/05)

WAC 357-13-045 Who is responsible for completing the position description form? The manager of the position is responsible for completing the position description form. If the position is filled, input from the ((~~incumbent~~)) employee is recommended.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-297 What are the notification requirements for appointing an employee to a cyclic year position? Upon appointment and before the start of each annual cycle, ((~~incumbents~~)) employees of cyclic year positions must be informed in writing of their scheduled periods of leave without pay in the ensuing annual cycle. Scheduled, cyclic leave without pay does not constitute a break in service and is not deducted from the employees' seniority and does not affect the employees' vacation leave accrual rate.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-095 Can an employer authorize additional pay to support recruitment and/or retention of a position? (1) Employers may authorize additional pay to support the recruitment or retention of the incumbent or candidate for a **specific position**. At the employer's discretion, up to a fifteen percent premium may be added to the employee's base salary or paid on a lump sum basis as described in subsection (2). An employee may not receive more than fifteen percent of his/her annual base salary over a twelve month period under the provisions of this section.

(2) In advance of authorizing a lump sum recruitment or retention payment, employers must establish express conditions in writing for the payment. The conditions must include a specified period of employment or continued employment. Any lump sum payment under this section must only be made after services have been rendered in accordance with conditions established by the employer and become part of the ((~~incumbent's~~)) employee's annual compensation for work performed prior to receipt of any funds.

(3) Any additional pay granted under this section is a premium that is not part of base salary. The premium is to be used only as long as the circumstances it is based on are in effect.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-100 When must an employer receive director approval to authorize additional pay to support recruitment or retention of an ((~~incumbent~~)) employee or candidate for a position? (1) Director approval is required for employers to authorize:

(a) Premiums exceeding fifteen percent under the provisions of WAC 357-28-095; and

(b) Additional pay to support the recruitment and/or retention of **like positions** at a specific work location.

(2) In advance of authorizing a director approved lump sum recruitment or retention payment, employers must establish express conditions in writing for the payment. The conditions must include a specified period of employment or continued employment. Any lump sum payment under this section must only be made after services have been rendered in accordance with conditions established by the employer and become part of the ~~((incumbent's))~~ employee's annual compensation for work performed prior to receipt of any funds.

(3) Additional pay granted under this section is a premium that is not part of base salary. The premium is to be used only as long as the circumstances it is based on are in effect.

AMENDATORY SECTION (Amending WSR 18-17-132, filed 8/20/18, effective 9/21/18)

WAC 357-31-165 At what rate do general government employees accrue vacation leave? (1) Full-time general government employees accrue vacation leave at the following rates:

(a) During the first and second years of current continuous state employment - Nine hours, twenty minutes per month;

(b) During the third year of current continuous state employment - Ten hours per month;

(c) During the fourth year of current continuous state employment - Ten hours, forty minutes per month;

(d) During the fifth and sixth years of total state employment - Eleven hours, twenty minutes per month;

(e) During the seventh, eighth and ninth years of total state employment - Twelve hours per month;

(f) During the tenth, eleventh, twelfth, thirteenth and fourteenth years of total state employment - Thirteen hours, twenty minutes per month;

(g) During the fifteenth, sixteenth, seventeenth, eighteenth and nineteenth years of total state employment - Fourteen hours, forty minutes per month;

(h) During the twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth years of total state employment - Sixteen hours per month; and

(i) During the twenty-fifth and succeeding years of total state employment - Sixteen hours, forty minutes per month.

(2) As provided in WAC 357-58-175, an employer may authorize a lump-sum accrual of vacation leave or accelerate the vacation leave accrual rate to support the recruitment and/or retention of a candidate or ~~((incumbent))~~ employee for a WMS position. Vacation leave accrual rates may only be accelerated using the rates established in subsection (1) of this section and must not exceed the maximum listed in subsection (1)(i) of this section.

(3) The following applies for purposes of computing the rate of vacation leave accrual:

(a) Employment in the legislative and/or the judicial branch except for time spent as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

(c) Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.

AMENDATORY SECTION (Amending WSR 05-12-068, filed 5/27/05, effective 7/1/05)

WAC 357-58-035 What is the definition of a manager or managerial employee? In accordance with RCW 41.06.022, a manager or managerial employee is defined as the ~~((incumbent))~~ employee of a position that:

(1) Formulates statewide policy or directs the work of an agency or agency subdivision;

(2) Administers one or more statewide policies or programs of an agency or agency subdivision;

(3) Manages, administers~~((s))~~ and controls a local branch office of an agency or an agency subdivision, including the physical, financial~~((r))~~ or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information~~((r))~~ or the preparation and administration of budgets; and/or

(5) Functions above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

AMENDATORY SECTION (Amending WSR 06-15-068, filed 7/13/06, effective 8/14/06)

WAC 357-58-042 What happens when it has been determined that a position no longer meets the definition of manager found in WAC 357-58-035? When an agency has determined that the duties of a position no longer meet the definition of manager, found in WAC 357-58-035, and is no longer appropriate in WMS, then provisions of chapter 357-58 WAC ~~((357-58))~~ no longer apply. The WGS rules on reallocation ~~((WAC 357-13))~~ (chapter 357-13 WAC) will apply. The employee will retain existing status.

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

WAC 357-58-055 What civil service rules do not apply to WMS? Except where specifically stated otherwise, the following WAC chapters do not apply to positions or employees included in the ~~((Washington management service))~~ WMS:

Chapter 357-01 WAC, Definitions;

Chapter 357-13 WAC, Classification;

Chapter 357-16 WAC, Recruitment, assessment, and certification;

Chapter 357-19 WAC, Appointments and reemployment;

Chapter 357-28 WAC, Compensation;

Chapter 357-46 WAC, Layoff and separation; and

Chapter 357-49 WAC, Director's reviews.

AMENDATORY SECTION (Amending WSR 16-05-056, filed 2/12/16, effective 3/14/16)

WAC 357-58-065 Definitions for WMS. The following definitions apply to chapter 357-58 WAC:

~~((1))~~ **(1) Break in service.** An employee has a break in continuous state service if the employee is separated, dismissed or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-58-550 is not considered a break in continuous state service.

~~((2))~~ **(2) Competencies.** Those measurable or observable knowledge, skills, abilities and behaviors critical to success in a key job role or function.

~~((3))~~ **(3) Director.** State human resources director within the office of financial management.

~~((4))~~ **(4) Dismissal.** The termination of an individual's employment for disciplinary ~~((purposes))~~ reasons.

~~((5))~~ **(5) Employee.** An individual working in the classified service. Employee business unit members are defined in WAC 357-43-001.

~~((6))~~ **(6) Evaluation points.** ~~((Evaluation points are))~~ The points resulting from an evaluation of a position using the managerial job value assessment chart.

~~((7))~~ **(7) Layoff unit.** A clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

~~((8))~~ **(8) Management bands.** ~~((Management bands are))~~ A series of management levels included in the ~~((Washington management service))~~ WMS. Placement in a band reflects the nature of management, decision-making environment and policy impact and scope of management accountability and control assigned to the position.

~~((9))~~ **(9) Performance management confirmation.** Approval granted by the director to an employer allowing the employer to factor in individual employee performance when granting recognition leave and when making layoff decisions.

~~((10))~~ **(10) Premium.** Pay added to an employee's base salary on a contingent basis in recognition of special requirements, conditions or circumstances associated with the job.

~~((11))~~ **(11) Reassignment.** ~~((A reassignment is))~~ An employer initiated movement of:

(a) A WMS employee from one position to a different position within WMS with the same salary standard and/or evaluation points; or

(b) A WMS position and ~~((its incumbent))~~ the employee in that position from one section, department or geographical location to another section, department or geographical location.

~~((12))~~ **(12) Review period.** ~~((The review period is))~~ A period of time that allows the employer an opportunity to ensure the WMS employee meets the requirements and performance standards of the position.

~~((13))~~ **(13) Salary standard.** Within a management band a salary standard is the maximum dollar amount assigned to a position in those agencies that use a salary standard in addition to, or in place of, evaluation points.

~~((14))~~ **(14) Separation.** Separation from state employment for nondisciplinary ~~((purposes))~~ reasons.

~~((15))~~ **(15) Suspension.** An absence without pay for disciplinary ~~((purposes))~~ reasons.

~~((16))~~ **(16) Transfer.** ~~((A WMS transfer is))~~ An employee initiated movement from one position to a different position with the same salary standard and/or same evaluation points.

~~((17))~~ **(17) Washington general service (WGS).** ~~((Washington general service is))~~ The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which do not meet the definition of manager found in RCW 41.06.022.

~~((18))~~ **(18) Washington management service (WMS).** ~~((Washington management service is))~~ The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

WAC 357-58-085 Can WMS salaries be set outside the maximum of an assigned management band? Compensation for a WMS position may be set outside the maximum of the assigned management band when allowed under ~~((any provision of this chapter))~~ WAC 357-58-125 or when approved by the director.

AMENDATORY SECTION (Amending WSR 16-05-056, filed 2/12/16, effective 3/14/16)

WAC 357-58-095 May agencies provide salary increases for WMS employees? Employers may provide salary increases to WMS employees in recognition of the employee's demonstrated growth and development in accordance with WAC 357-58-100.

AMENDATORY SECTION (Amending WSR 05-12-068, filed 5/27/05, effective 7/1/05)

WAC 357-58-115 What is a voluntary demotion and what changes may occur in salary? A voluntary demotion is a voluntary movement by an employee to a position ~~((with))~~ that has a lower salary standard and/or lower evaluation points. Such movement may result in a salary decrease.

AMENDATORY SECTION (Amending WSR 17-11-048, filed 5/15/17, effective 6/19/17)

WAC 357-58-125 What is an involuntary downward movement and how does that affect the salary? An involuntary downward movement is based on a nondisciplinary reassignment of duties that results in a lower salary standard and/or lower evaluation points for an employee's current position. A WMS employee occupying a position that is ~~((affected))~~ affected by an involuntary downward movement must be placed within the salary standard established for the WMS position at an amount equal to ~~((his/her))~~ the employee's previous base salary. If the previous base salary exceeds the new salary standard, the employee's base salary must be set equal to the maximum of the salary standard for the position. The employee's base salary may be set higher

than the salary standard maximum, but not exceeding the previous base salary, if allowed by the employer's salary administration policy.

AMENDATORY SECTION (Amending WSR 14-06-007, filed 2/20/14, effective 3/24/14)

WAC 357-58-126 How is the employee affected when ~~((his/her))~~ the employee's position is involuntarily moved downward as described in WAC 357-58-125? When an employee's position is moved involuntary downward as described in WAC 357-58-125, the following applies:

(1) If the employee meets the position requirements and chooses to remain in the position the employee retains appointment status and ~~((his/her))~~ the employee's salary is set in accordance with WAC 357-58-125.

(2) If the employee chooses to vacate the position or does not meet the position requirements, the employer's WMS layoff procedure applies.

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

WAC 357-58-130 Do salary increases greater than five percent for a group of employees need approval? Salary ~~((changes))~~ increases greater than five percent proposed for any group of five or more employees must be reviewed and approved by the director. A group of employees means five or more employees with the same working title.

AMENDATORY SECTION (Amending WSR 17-18-027, filed 8/28/17, effective 10/2/17)

WAC 357-58-136 Can an employer authorize a lump sum payment to support recruitment and/or retention of a WMS position? (1) With director approval, employers may authorize up to a fifteen percent lump sum payment in addition to the employee's base salary to support the recruitment and/or retention of the ~~((incumbent))~~ employee or candidate for a specific WMS position.

(2) An employee may not receive more than fifteen percent of their annual base salary over a twelve-month period.

(3) In advance of authorizing a lump sum payment for recruitment and/or retention, employers must establish express conditions in writing for the payment. The conditions must include a specified period of employment or continued employment. Any lump sum payment under this section must only be made after services have been rendered in accordance with conditions established by the employer.

AMENDATORY SECTION (Amending WSR 05-12-069, filed 5/27/05, effective 7/1/05)

WAC 357-58-145 When may an agency authorize lump sum relocation compensation? An agency director may authorize lump sum relocation compensation, within existing resources, whenever:

(1) It is reasonably necessary that a ~~((person move his or her home to accept a transfer or))~~ new or existing employee move their primary domicile to accept an appointment; or

(2) It is necessary to successfully recruit or retain a qualified candidate or employee who will have to move ~~((his or her home))~~ in order to accept the position.

AMENDATORY SECTION (Amending WSR 05-12-069, filed 5/27/05, effective 7/1/05)

WAC 357-58-170 What about other pay issues? Each agency may establish policies and practices for additional compensation ~~((such as))~~ for shift differential, call back pay~~((s))~~ and standby pay in accordance with the provisions of chapter 357-28 WAC. Other additional compensation may be allowed when approved by the director.

AMENDATORY SECTION (Amending WSR 17-18-028, filed 8/28/17, effective 10/2/17)

WAC 357-58-175 Can an employer authorize lump sum vacation leave or accelerate vacation leave accrual rates to support the recruitment and/or retention of an ~~((incumbent))~~ employee or candidate for a WMS position? In addition to the vacation leave accruals as provided in WAC 357-31-165, an employer may authorize additional vacation leave as follows to support the recruitment and/or retention of an ~~((incumbent))~~ employee or candidate for a specific WMS position:

(1) Employers may authorize an accelerated accrual rate for an ~~((incumbent))~~ employee or candidate. The WMS employee would remain at the accelerated accrual rate until the WMS employee's anniversary date caught up to the accrual rate amount in accordance with WAC 357-31-165; and/or

(2) Employers may authorize a lump sum accrual of up to eighty hours of vacation leave for the ~~((incumbent))~~ employee or candidate.

Vacation leave accrued under this section must be used in accordance with the leave provisions of chapter 357-31 WAC.

AMENDATORY SECTION (Amending WSR 05-12-069, filed 5/27/05, effective 7/1/05)

WAC 357-58-180 Must an agency have a policy regarding authorization of additional leave to support the recruitment of a candidate or the retention of an ~~((incumbent))~~ employee for a WMS position? In order to authorize additional leave for the recruitment and/or retention of a candidate or ~~((incumbent))~~ employee for a WMS position, an agency must have a written policy that:

(1) Identifies the reasons for which the employer may authorize additional leave; and

(2) Requires that lump sum accruals only be granted after services have been rendered in accordance with express conditions established by the employer.

AMENDATORY SECTION (Amending WSR 09-03-013, filed 1/9/09, effective 2/13/09)

WAC 357-58-205 Under what conditions may an employer reassign a WMS employee? At any time, an agency may reassign an employee or a position and its

~~(incumbent)~~ employee to meet client or organizational needs. If the new location is within a reasonable commute of the employee's domicile, as defined by the agency, the employee must accept the reassignment.

If the reassignment is beyond a reasonable commute of the employee's domicile and the employee does not agree to the reassignment, the employee has layoff rights in accordance with this chapter.

NEW SECTION

WAC 357-58-207 How much notice must an employer give when reassigning a WMS employee? An employer must give fifteen calendar days' written notice to a WMS employee who is being reassigned unless the employer and employee agree to waive the fifteen days' notice period.

AMENDATORY SECTION (Amending WSR 05-12-069, filed 5/27/05, effective 7/1/05)

WAC 357-58-210 When may a WMS employee transfer to a WGS position and vice versa? A permanent employee may transfer from a WMS position to a WGS position if ~~((his/her))~~ the employee's salary is within the salary range of the WGS position.

A permanent employee may transfer from a WGS position to a WMS position if ~~((his/her))~~ the employee's salary is within the management band assigned to the WMS position.

AMENDATORY SECTION (Amending WSR 05-21-053, filed 10/13/05, effective 11/15/05)

WAC 357-58-215 May a permanent employee voluntarily demote to a WGS position? A permanent employee may voluntarily demote from a WMS position to a WGS position at a lower pay level than ~~((his/her))~~ the employee's current position.

AMENDATORY SECTION (Amending WSR 05-12-069, filed 5/27/05, effective 7/1/05)

WAC 357-58-225 What return rights must an employer provide to a permanent WMS employee who accepts a nonpermanent appointment to a WGS position? (1) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within the **same** agency and the nonpermanent appointment ends, the agency must at a minimum provide the employee the layoff rights of ~~((his/her))~~ the employee's permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position.

(2) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within ~~((the))~~ a different agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six months from the time the employee is appointed. Any return right after six months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can

request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) or (2) of this section, the agency and the employee may agree to other terms.

AMENDATORY SECTION (Amending WSR 05-21-053, filed 10/13/05, effective 11/15/05)

WAC 357-58-230 May a permanent WMS employee accept an appointment to a project position in the general service and does the employee have any return right to ~~((his/her))~~ the employee's permanent WMS position? A permanent WMS employee may accept an appointment to a project WGS position as provided in chapter 357-19 WAC. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the WGS position. If no return right is agreed to, the employee has the rights provided by chapter 357-46 WAC upon layoff from the project.

AMENDATORY SECTION (Amending WSR 05-12-070, filed 5/27/05, effective 7/1/05)

WAC 357-58-255 May a permanent WMS employee accept a project appointment within WMS and does the employee have any return rights to ~~((his/her))~~ the employee's permanent WMS position? A permanent WMS employee may accept an appointment to a project WMS position. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the project position. If no return right is agreed to, the permanent employee has the rights provided by WAC 357-58-465 upon layoff from the project.

AMENDATORY SECTION (Amending WSR 08-07-062, filed 3/17/08, effective 4/18/08)

WAC 357-58-275 May a permanent WMS employee accept an acting WMS appointment and what are the employee's return rights at the conclusion of the acting appointment? Permanent WMS employees may accept acting appointments to WMS positions.

(1) When a permanent WMS employee has accepted an acting appointment within the **same** agency and the acting appointment ends~~((, the agency must at a minimum provide the employee the layoff rights of his/her permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position))~~ the following applies:

(a) The agency may agree to return the employee to a permanent WMS position. If returning to a permanent WMS position, the employee's salary must not be less than the salary of the previously held permanent WMS position.

(b) The agency at a minimum provide the employee the layoff rights of the employee's permanent WMS position in accordance with WAC 357-58-465.

(2) When a permanent WMS employee has accepted an acting appointment within a **different** agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six months from the time the employee is appointed. Any return right after six months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsections (1) and (2) of this section, the agency and the employee may agree to other terms.

AMENDATORY SECTION (Amending WSR 05-12-070, filed 5/27/05, effective 7/1/05)

WAC 357-58-290 How long does the review period last? Based on the nature of the job and the skills of the appointee, the review period will be between twelve and eighteen months as determined by the appointing authority. At the time of the appointment, the appointing authority will inform the appointee in writing of the length of the review period. If an employee in a WMS review period accepts a nonpermanent position in a WGS position, upon return to the WMS position the employer may suspend the review period and allow the employee to resume where the employee left off or start the review period over.

AMENDATORY SECTION (Amending WSR 05-21-053, filed 10/13/05, effective 11/15/05)

WAC 357-58-355 Can a permanent employee voluntarily revert during a review period? Within the first thirty calendar days of any review period, a permanent employee may request to voluntarily revert to ~~((his/her))~~ the employee's former employer. If the former employer authorizes the reversion, the following applies:

(1) If the employee holds permanent status in WMS, the employer must place the employee in a vacant funded WMS position for which the employee is qualified~~((;))~~ and that is comparable to the employee's position and salary prior to the last WMS appointment.

(2) If the employee holds permanent status in WGS and has not yet gained permanent status in WMS, the employee has reversion rights in accordance with WAC 357-19-115, 357-19-117~~((;))~~ and 357-19-120.

AMENDATORY SECTION (Amending WSR 14-24-025, filed 11/21/14, effective 12/22/14)

WAC 357-58-375 When permanent WMS employees promote or demote to positions in the general service and fail to complete the trial service period what reversion rights do permanent WMS employees have? (1) When a permanent WMS employee **promotes** to a WGS position within the **same** agency and is reverted during the trial service period, the agency must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the WGS appointment. If no vacant funded positions

are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous position and salary. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(2) When a permanent WMS employee **demotes** to a WGS position in the **same** agency and is reverted during the trial service period the agency must place the employee in a vacant funded WMS position for which the employee is qualified and with a salary that is equal to or less than the salary range maximum of the class from which the employee is reverting. If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous position and salary. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(3) When a permanent WMS employee **promotes or demotes** to a WGS position in a **different** agency and is reverted during the trial service period, the employer may separate the employee by providing fifteen calendar days' written notice. The employee may apply for the general government transition pool.

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

WAC 357-58-395 What ~~((will-be))~~ is the role of the department of enterprise services? The department of enterprise services shall assist state agencies by providing a quality developmental and leadership training program and consultative and technical assistance to help agencies address the development needs of their managers.

AMENDATORY SECTION (Amending WSR 06-03-075, filed 1/12/06, effective 2/13/06)

WAC 357-58-438 What is the impact of a layoff? Layoff is an employer-initiated action taken in accordance with WAC 357-58-445 that results in:

- (1) Separation from service with an employer;
- (2) Employment in a WMS position with a lower salary standard or evaluation points or a WGS position with a lower salary range maximum~~((;))~~ ~~((;))~~ ~~Reduction in the work year~~; or
- ~~((4))~~ (3) Reduction in the number of work hours.

AMENDATORY SECTION (Amending WSR 05-12-071, filed 5/27/05, effective 7/1/05)

WAC 357-58-480 What provisions govern~~((s))~~ separation due to disability for WMS employees? WMS employees may be separated due to disability in accordance with WAC 357-46-160, 357-46-165, 357-46-170, and 357-46-175.

AMENDATORY SECTION (Amending WSR 05-12-071, filed 5/27/05, effective 7/1/05)

WAC 357-58-485 What provisions govern((s)) non-disciplinary separation for WMS employees? Employers may separate WMS employees for nondisciplinary reasons in accordance with WAC 357-46-195, 357-46-200((;)) and 357-46-205.

AMENDATORY SECTION (Amending WSR 05-12-071, filed 5/27/05, effective 7/1/05)

WAC 357-58-490 What provisions govern((s)) separation for unauthorized absence for WMS employees? Employers may separate WMS employees for unauthorized absence in accordance with WAC 357-46-210, 357-46-215, 357-46-220 and 357-46-225.

AMENDATORY SECTION (Amending WSR 05-12-072, filed 5/27/05, effective 7/1/05)

WAC 357-58-500 May an employee request withdrawal of ((his/her)) the employee's resignation? An appointing authority or employing official may permit withdrawal of a resignation at any time prior to the effective date.

AMENDATORY SECTION (Amending WSR 14-24-023, filed 11/21/14, effective 12/22/14)

WAC 357-58-515 When a WMS employee disagrees with an employer's action, can the employee request the employer reconsider the action that was taken? Each agency will develop procedures to reconsider agency actions at the request of the employee. The agency's procedure must identify those actions for which an employee may request reconsideration. At a minimum, the agency's procedure must allow an employee to request reconsideration of the following:

(1) Salary adjustment (or lack thereof) when the responsibilities of the permanent employee's position have been changed.

(2) Placement following reversion of a permanent employee.

(3) Decisions about whether or not a position is included in the WMS. When reconsidering decisions concerning inclusion in WMS the following apply:

(a) The final agency internal decision must be made by the agency director or designee.

(b) If the ((incumbent)) employee disagrees with the agency director/designee's decision, ((he/she)) the employee may request a review by the director, as long as such request is made within fifteen calendar days of notification of the decision. Such review will be limited to relevant documents and information and will be final.

AMENDATORY SECTION (Amending WSR 06-07-048, filed 3/9/06, effective 4/10/06)

WAC 357-58-552 Under the provisions of temporary layoff, what happens if an employer has less than twenty hours per week of work for a WMS employee to perform?

If an employer has less than twenty hours per week of work for a WMS employee to perform during a period of temporary layoff, the employer must ((~~notify~~)) provide notification to the WMS employee that ((he/she)) is being furloughed. The employer may then offer the available work hours to the WMS employee as an acting appointment under the provisions of WAC 357-58-265.

AMENDATORY SECTION (Amending WSR 06-07-048, filed 3/9/06, effective 4/10/06)

WAC 357-58-555 At the conclusion of a temporary layoff, does a WMS employee have the right to return to the position ((he/she)) that was held immediately prior to being temporarily laid off? At the conclusion of the temporary layoff, the WMS employee has the right to resume the position ((he/she)) that was held immediately prior to being temporarily laid off. The employee returns with the same status and percentage of appointment ((he/she)) that was held prior to the layoff.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 357-58-540 What type of records are agencies required to keep and report for WMS employees?

WAC 357-58-565 What mechanism must be used to report WMS inclusion and evaluation activities?