

WSR 19-20-009
EXPEDITED RULES
ECONOMIC DEVELOPMENT
FINANCE AUTHORITY

[Filed September 19, 2019, 1:59 p.m.]

Title of Rule and Other Identifying Information: Washington economic development finance authority (WEDFA): (1) Organization, operations and procedures; and (2) public records, expected to be codified in Title 178 WAC.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WEDFA (the agency) is engaging in the rule-making process to publish its public records compliance requirements including information about the agency's organization, operations and procedures. No existing rules of the Washington Administrative Code are being changed.

Reasons Supporting Proposal: The agency needs to unify its procedural rules into a single source. The agency also needs to publish certain information about its organization, operations and procedures as well as its public records policies.

Statutory Authority for Adoption: RCW 43.163.100.

Statute Being Implemented: Chapters 43.163 and 43.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WEDFA, governmental.

Name of Agency Personnel Responsible for Drafting: Rodney Wendt, 1000 2nd Avenue, Suite 2700, Seattle, WA 98104, 206-587-5634; Implementation and Enforcement: Molly Abbey, 1000 2nd Avenue, Suite 2700, Seattle, WA 98104, 206-287-4447.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed rule[s] are not subject to violation by any business, company or member of the public, but only relate to internal government operations of the agency.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Molly Abbey, WEDFA, 1000 2nd Avenue, Suite 2700, Seattle, WA 98104, phone 206-287-4447, fax 206-587-5113, email molly.abbey@wshfc.org, AND RECEIVED BY December 2, 2019.

September 19, 2019
 Rodney Wendt
 Executive Director

Chapter 178-02 WAC

**ORGANIZATION, OPERATIONS
 AND PROCEDURES**

NEW SECTION

WAC 178-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington economic development finance authority with the provisions of RCW 42.56 and RCW 34.05.

NEW SECTION

WAC 178-02-020 Rules of interpretation. (1) All adjectives and adverbs, including but not limited to the words "adequate," "approved," "qualified," "reasonable," "reputable," "satisfactory," "sufficiently," and "suitable," as used in this title to qualify a person, procedure, process or otherwise shall be as determined by the authority or its designee.

(2) Where the word "shall" is used in this title, the subject rule or action to which the word relates is mandatory.

(3) Where the word "should" is used in this title, it indicates suggestion or recommendation but not a requirement.

(4) Where the word "may" is used in this title, the action or rule to which the word relates is permissive or discretionary.

(5) Words importing the singular number may also be applied to the plural of persons and things; words importing the plural may be applied to the singular; and words importing a specific gender may also be extended to any gender and be considered to relate equally to any person.

NEW SECTION

WAC 178-02-030 Definitions. (1) "Act" means RCW 43.163, as amended.

(2) "Washington economic development finance authority" and "authority" each mean the corporate and politic public body created by the act and also refer to the staff and employees of the authority.

(3) "Board" means the members of the authority acting collectively as the governing body of the authority.

The terms defined in the act shall have the same meaning when used in this title.

NEW SECTION

WAC 178-02-040 Description of organization. (1) The authority is a public entity established under the provisions of RCW 43.163, which exercises essential governmental functions. The authority was created by the legislature of the state of Washington to establish a state economic development finance authority to act as a financial conduit that, without using state funds or lending the credit of the state or local governments, can issue nonrecourse revenue bonds and participate in federal, state, and local economic development programs to help facilitate access to needed capital by Washington businesses that cannot otherwise readily obtain needed capital on terms and rates comparable to large corporations, and can help local government obtain more capital more effi-

ciently. The act also sets forth as a primary purpose the encouragement of the employment and retention of Washington workers at meaningful wages and to develop innovative approaches to the problem of unmet capital needs.

(2) Members. The authority shall consist of seventeen members as follows: The director of the department of commerce, the director of the department of agriculture, the state treasurer, one member from each caucus in the house of representatives appointed by the speaker of the house, one member from each caucus in the senate appointed by the president of the senate, and ten public members with one representative of women-owned businesses and one representative of minority-owned businesses and with at least three of the members residing east of the Cascades. The public members shall be residents of the state appointed by the governor on the basis of their interest or expertise in trade, agriculture or business finance or jobs creation and development. One of the public members shall be appointed by the governor as chair of the authority and shall serve as chair of the authority at the pleasure of the governor. The term of the persons appointed by the governor as public members of the authority, including the public member appointed as chair, shall be four years from the date of appointment.

In the event of a vacancy on the authority due to death, resignation or removal of one of the public members, or upon the expiration of the term of one of the public members, the governor shall appoint a successor for the remainder of the unexpired term. If any of the state offices is abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office.

Any public member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing by the affected public member.

The state officials serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Such designations shall be made in writing and provided to the authority.

The members of the authority shall serve without compensation but shall be entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter.

Any public member may continue to serve past their scheduled term of office until the governor has appointed a new member to replace such member.

(3) Authority staff. The executive director shall be the chief operating officer of the authority and subject to the direction of the board. The executive director shall serve solely at the pleasure of the board. As the chief operating officer, the executive director is responsible for day-to-day operations and for operating the authority under the requirements of the Washington law. Compensation for the executive director shall be paid from non-appropriated funds under the control of the authority. Compensation, pay and benefits shall be reviewed annually by the board. The executive director may hire, terminate and pay subordinate staff as necessary, subject to board approval of additional subordinate staff posi-

tions and board approval of necessary budgeted funds. The executive director shall have custody of and be responsible for all moneys and securities of the authority and shall deposit all such moneys forthwith in such banks and funds as the authority may designate from time to time.

(4) Administrative office. The administrative office of the authority shall be located at 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046.

(5) Communications with the authority. To request information, or to make submittals or requests, or to obtain copies of agency decisions, members of the public may contact the authority at the following:

Attn: Executive Director

Washington Economic Development Finance Authority

1000 Second Avenue, Suite 2700

Seattle, WA 98104-1046

(206) 587-5634

NEW SECTION

WAC 178-02-050 Operations and procedures—General

(1) Authority meetings. The meetings of the authority shall all be "regular meetings" or "special meetings" as those designations are applied in RCW 42.30. Regular meetings shall be scheduled for each calendar quarter under an agreed upon schedule and location by the authority, and notice thereof shall be provided as required in RCW 42.30. Special meetings may be called at any time by the chair or a majority of the board. Notice of all special meetings shall be given by delivering personally, or by mail, fax or electronic mail, to each member a written notice specifying the time and place of the meeting and a copy of the agenda prepared by the executive director in consultation with the chair, and by giving such notice to the public as required by RCW 42.30. Pursuant to RCW 42.30.080(4), in certain circumstances, the notice requirements for a special meeting may be dispensed with where an emergency is deemed to exist. An executive session may be called by the authority to consider the appointment, employment or dismissal of an officer or employee, and such other matters as are permitted by RCW 42.30.110. Except during executive sessions, all meetings shall be open to the public under the guidelines established by state law for public bodies.

(2) Quorum. Nine members shall constitute a quorum, and the act of a majority of the members present at any meeting, if there is a quorum, shall be deemed the act of the authority. Members participating in a meeting through the use of any means of communication by which all members participating can hear each other during the meeting shall be deemed to be present at the meeting for all purposes.

(3) Chair's, vice chair's or secretary's voting rights. The chair, vice chair and secretary shall have the right to vote on all matters before the authority, just as any other authority member.

(4) Minutes of meetings. The executive director, at the direction of the secretary, shall keep minutes of the proceedings of the authority reflecting board member attendance and actions taken during the meeting.

(5) Rules of order. The authority shall generally follow *Robert's Rules of Order*, newly revised, in conducting its meetings.

(6) Form of authority action. The authority may act on the basis of a motion except when authorizing issuance of bonds and when otherwise taking official and formal action with respect to the creation of special funds and the issuance and sale of bonds for a project of a participant, in which case the authority shall act by resolution. Resolutions shall be adopted and motions approved upon the affirmative vote of a majority of the members of the authority present at any meeting. All bonds and coupons shall bear either the manual or the facsimile signatures of the governor and executive director.

(7) Public participation. The presiding officer may grant permission to any person or organization to make a presentation at any of the authority's public meetings. The presiding officer may limit any remarks addressed to the authority.

NEW SECTION

WAC 178-02-060 Operations and procedures—Authority officers and committees. (1) The officers of the authority. As described in the act, the chair shall be appointed by the governor. A vice chair, secretary and any additional officers determined necessary by the authority shall be elected by majority vote of the board and serve until replaced by a majority vote of the members voting. The term of officers elected by the board shall continue until the earlier of: (a) the stated term of such appointment, (b) the death, resignation or removal of such officer from such position or from the board or (c) the election of a new officer for such position.

(2) Authority chair and vice chair. In addition to any other duties assigned to the chair by the act, by vote of the board or by this chapter, the chair shall convene board meetings and shall preside over the deliberations of the meeting. The chair shall be a member of each board committee and shall have the ability to vote on any matter coming before such committee; *provided*, that the chair shall not vote as an audit committee member on any matter on which the vice chair determines the chair would not have adequate objectivity due to the chair's check-signing authority. The vice chair shall act in the chair's absence with his or her same authority and chair special committees as designated by the authority chair; *provided*, that the vice chair shall not act as a signatory to financial account transactions.

(3) Secretary. The secretary shall be responsible for directing the executive director and staff in keeping minutes and records of board actions, sending out meeting announcements, distributing copies of minutes and the agenda to each board member and assuring that corporate records are maintained.

(4) Committee formation. The authority, either by direction of the chair or action of the board, may create committees as needed. All committees created by the authority shall be advisory in nature only and shall not act on behalf of the authority. Each committee will have a committee chairperson appointed by the chair of the authority. The committee chair may request the participation of any authority member willing to participate; *provided*, that no committee shall have members sufficient to constitute a quorum of the authority;

provided further, that no committee meeting shall have sufficient authority members present and participating to constitute a quorum of the authority. The authority chair is an ex-officio member of all committees.

(5) Executive committee. The authority has and shall maintain an executive committee. The chair, vice chair and secretary comprise the membership of the executive committee. The executive director may serve as a non-voting ex-officio member of the executive committee. The executive committee may review issues and make recommendations to the full board. The executive committee may make recommendations regarding the annual performance evaluation of the executive director. The committee may, with the consent of the chair, delegate to the chair the making of any recommendation regarding the annual performance evaluation of the executive director.

(6) Audit committee. The authority has and shall maintain an audit committee. The audit committee is chaired by the vice chair of the authority and operates with at least three members of the board. The audit committee shall review the financial actions by the executive director and staff. The audit committee may develop and review the authority's fiscal procedures.

NEW SECTION

WAC 178-02-070 Operations and procedures—Miscellaneous. (1) Budget. Each year, the executive director and the executive committee shall prepare and recommend to the board an annual budget. Following such a recommendation, the board shall approve an annual budget. All authority expenditures must be within the total budget. If annual expenses are expected to exceed the budget, the executive director may submit a budget amendment to the board for the board's consideration. Any change in the budget sought by the executive director which proposes an increase of more than 10% in annual expenditures over the existing budget shall be submitted to the audit committee or the executive committee for review prior to submission to the board.

(2) Fiscal year. The authority's fiscal year shall be the calendar year.

(3) All financing documents relating to any issuance of the authority's nonrecourse revenue bonds to which the authority is a party may be executed or attested to by any of the following officials of the authority: the chair, the vice chair, the secretary and the executive director.

Chapter 178-03 WAC

PUBLIC RECORDS

NEW SECTION

WAC 178-03-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington economic development finance authority with the provisions of RCW 42.56.001 through 42.56.904, dealing with public records.

NEW SECTION

WAC 178-03-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency, regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "Washington economic development finance authority" and "authority" each refers to that state agency described in RCW 43.163.120.

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

NEW SECTION

WAC 178-03-030 Public records available. All public records of the authority are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.56.

NEW SECTION

WAC 178-03-040 Public records officer. The authority's public records shall be under the charge of the public records officer designated by the executive director of the authority. The person so designated shall be located in the administrative office of the authority. The public records officer shall be responsible for implementing the authority's rules and regulations regarding release of public records, coordinating the staff of the authority in this regard and generally ensuring compliance by the staff with the public records disclosure requirements of RCW 42.56.

NEW SECTION

WAC 178-03-050 Office hours. Public records shall be available for inspection and copying by appointment from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 178-03-060 Requests for public records. In accordance with the requirements of RCW 42.56 that agencies prevent unreasonable invasion of privacy, that they protect public records from damage or disorganization, and that they prevent excessive interference with essential functions of the agency, public records may be inspected or copied or

copies of such records may be obtained by members of the public upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the authority, which form shall be available at its administrative office. The form shall be presented by the public records officer, or to any member of the authority's staff if the public records officer is not available, at the administrative office of the authority during the office hours specified in WAC 178-03-050. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the authority's current index, an appropriate description of the record requested.

NEW SECTION

WAC 178-03-070 Copying. (1) No fee shall be charged for the inspection of public records.

(2) The following copy fees and payment procedures apply to requests to the authority under chapter 42.56 RCW:

(a) Pursuant to RCW 42.56.120 (2)(b), the authority is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

- (i) The authority does not have the resources to conduct a study to determine all of its actual copying costs;
- (ii) To conduct such a study would interfere with other essential agency functions; and
- (iii) Through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3), and (4).

(b) The authority will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The authority will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the authority may charge other copy fees authorized by statutes outside of RCW 42.56. The authority may enter into an alternative fee agreement with a requester under RCW 42.56.120(4).

(3) The authority may agree to provide copies without fee to federal, state, local, or tribal governments, or to others, when doing so is in the best interest of the authority.

NEW SECTION

WAC 178-03-080 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the executive director of the authority. The executive director shall return a final decision by the end of the second business day following denial of inspection.

(3) Administrative remedies shall not be considered exhausted until the authority has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

NEW SECTION

WAC 178-03-090 Protection of public records. In order that public records maintained on the premises of the authority may be protected from damage or disorganization as required by RCW 42.56.100, the following procedures and practices are hereby instituted:

(1) Upon receipt of a request by a member of the public for a public record, the public records officer or the staff member in the authority's office receiving the request shall review the request for a public record and the requested public record to determine whether deletions from such record should be made or the request for such record should be denied.

(2) Only after a determination has been made that all or such portion of a public record as is not deleted may be inspected shall such public record or portion thereof be made available for inspection by a member of the public.

(3) Only the staff and members of the authority may open authority files to gain access to authority records for either authority business or to respond to a request for a public record.

(4) No public record of the authority may be taken from the premises of the authority by a member of the public.

(5) Public inspection of authority records shall be done only in such locations as are approved by the public records officer, which locations must provide an opportunity for authority staff members to ensure that no public record of the authority is damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public.

(6) Public records of the authority may be copied only on the copying machines at the premises of the authority unless other arrangements are authorized by the public records officer.

NEW SECTION

WAC 178-03-100 Records index. (1) The authority has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the authority;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and reports or surveys, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the authority relating to any regulatory, supervisory, or enforcement responsibilities of the authority, whereby the authority determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or any private party.

(2) The current index promulgated by the authority shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

NEW SECTION

WAC 178-03-110 Exemptions list. (1) For informational purposes, the following is a list of every law, other than those listed in RCW 42.56, that the authority believes exempts or prohibits disclosure of specific information or records of the authority:

(a) The attorney-client privilege as codified at RCW 5.60.060(2).

(2) Notwithstanding the foregoing, pursuant to RCW 42.56.070(2), the failure of the authority to list any exemption herein shall not affect the efficacy of any such exemption.

WSR 19-20-015

EXPEDITED RULES

DEPARTMENT OF REVENUE

[Filed September 20, 2019, 1:19 p.m.]

Title of Rule and Other Identifying Information: WAC 458-20-279 Clean alternative fuel vehicles and high gas mileage vehicles.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is updating WAC 458-20-279 to clarify that the information in the rule only applies to sales and use tax exemptions that were in effect from January 1, 2009, through July 1, 2015, for clean alternative fuel vehicles and high gas mileage vehicles. Language was also added to the rule that directs the reader on where to find information for similar exemptions that were in effect after July 1, 2015.

Reasons Supporting Proposal: The new language will assist taxpayers on finding information for sales and use tax exemptions that apply to clean alternative fuel vehicles, high gas mileage vehicles, and other similar vehicles.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.08.809 and 82.08.999.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: Randy Simmons, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The amendments to WAC 458-20-279 only direct the reader to the correct location for finding information on sales and use tax exemptions for certain types of vehicles given that the rule in its current state does not provide accurate information regarding the tax exemptions that are the subject of the rule. No substantial changes were made to this rule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Leslie Mullin, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone 360-534-1589, fax 360-534-1606, email LeslieMu@dor.wa.gov, AND RECEIVED BY December 2, 2019.

September 20, 2019
Atif Aziz
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-17-069, filed 8/13/10, effective 9/13/10)

WAC 458-20-279 Clean alternative fuel vehicles and high gas mileage vehicles. (1) **Introduction.** This ~~((section))~~ rule provides information about the requirements for ~~((the))~~ retail sales and use tax exemptions ~~((provided))~~ for clean alternative fuel vehicles ~~((by RCW 82.08.809 and 82.12.809, respectively, and the exemption from the 0.3 percent retail sales tax on retail sales of motor vehicles provided for high gas mileage vehicles by RCW 82.08.020(7) ("the exemptions"))~~ that were in effect from January 1, 2009, through July 1, 2015. For information on available exemptions after

July 1, 2015, refer to RCW 82.08.809, 82.08.9999, or dor.wa.gov.

(2) **Exemption periods.** The exemption periods provided for clean alternative fuel vehicles and high gas mileage vehicles differ.

(a) **Clean alternative fuel vehicles.**

(i) **New vehicles.** The exemptions provided for new passenger cars, light duty trucks, and medium duty passenger vehicles that are exclusively powered by a clean alternative fuel apply to purchases made from January 1, 2009, through July 1, 2015.

(ii) **Used vehicles.** The exemptions provided for qualifying used passenger cars, light duty trucks, and medium duty passenger vehicles, which were modified after their initial purchase, with an EPA certified conversion to be exclusively powered by a clean alternative fuel apply to purchases made from July 12, 2010, through July 1, 2015.

(iii) **Use of previously exempt vehicles on or after July 1, 2015.** Use tax does not apply to the use, on or after July 1, 2015, of a vehicle if:

- The person used the vehicle in this state before July 1, 2015; and
- The use prior to July 1, 2015, was exempt from use tax as described in (a)(i) or (ii) of this subsection.

(b) **High gas mileage vehicles.** The exemptions provided for new passenger cars, light duty trucks, and medium duty passenger vehicles that utilize hybrid technology and have a United States Environmental Protection Agency estimated highway gasoline mileage rating of at least forty miles per gallon apply as follows:

(i) **January 1, 2009, through July 31, 2009.** The exemptions apply to all retail sales and use taxes.

(ii) **August 1, 2009, through December 31, 2010.** The exemption is limited to the 0.3 percent retail sales tax imposed by RCW 82.08.020(3) on retail sales of motor vehicles.

(3) **Definitions.** The following definitions apply throughout this section:

(a) "Clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California code of regulations, effective January 1, 2005, and the rules of the Washington state department of ecology. See RCW 82.08.809(3) and 82.12.809(2).

(b) "Gross vehicle weight rating" is the value specified by the manufacturer as the maximum design loaded weight of a single vehicle. See WAC 173-423-040(4).

(c) "Hybrid technology" means propulsion units powered by both electricity and gasoline. See RCW 82.08.813(3) and 82.12.813(2).

(d) "Light duty truck" is any vehicle certified to the standards in Title 13, CCR, section 1961 (a)(1) rated at eight thousand five hundred pounds gross vehicle weight or less, and any other motor vehicle rated at six thousand pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property or is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use. See WAC 173-423-040(8).

(e) "Medium duty passenger vehicle" is any medium duty vehicle with a gross vehicle weight rating of less than ten thousand pounds that is designed primarily for the transportation of persons. The medium duty passenger vehicle definition does not include any vehicle which:

(i) Is an "incomplete truck," i.e., is a truck that does not have the primary load carrying device or container attached; or

(ii) Has a seating capacity of more than twelve persons; or

(iii) Is designed for more than nine persons in seating rearward of the driver's seat; or

(iv) Is equipped with an open cargo area of seventy-two inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition. See WAC 173-423-040(9).

(f) "Medium duty vehicle" is a vehicle with a gross vehicle weight rating of eight thousand five hundred one to four thousand pounds. See WAC 173-423-100(2).

(g) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year. If the manufacturer has no annual production period, "model year" is the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis. See WAC 173-423-040(10).

(h) "New motor vehicle" is any motor vehicle that:

- Is self-propelled;

- Is required to be registered and titled under Title 46 RCW;

- Has not been previously titled to a retail purchaser or lessee; and

- Is not a vehicle which has been sold, bargained, exchanged, given away, or title transferred from the person who first took title to it from the manufacturer or first importer, dealer, or agent of the manufacturer or importer, and so used as to have become what is commonly known as "secondhand" within the ordinary meaning thereof. See RCW 46.70.011 and 46.04.660.

The model year of the vehicle is not determinative of whether it meets the definition of "new motor vehicle."

(i) "Passenger car" means every motor vehicle except motorcycles and motor-driven cycles designed primarily for transportation of persons and having a design capacity of twelve persons or less. See WAC 173-423-040(13) and RCW 46.04.382.

(j) "Qualifying used passenger cars, light duty trucks, and medium duty passenger vehicles" means vehicles that:

- Are part of a fleet of at least five vehicles, all owned by the same person;

- Have an odometer reading of less than thirty thousand miles;

- Are less than two years past their original date of manufacture; and

- Are being sold for the first time after modification.

(4) **New passenger cars, light duty trucks, and medium duty passenger vehicles.** In order to qualify for the exemptions, the vehicle must meet the definition of "passenger car," "light duty truck," or "medium duty passenger vehicle"

in addition to meeting the definition of "new motor vehicle."

(5) **Purchases of previously owned clean alternative fuel or high gas mileage vehicles.** The exemptions do not apply to purchases of used vehicles unless they are qualifying used passenger cars, light duty vehicles, or medium passenger vehicles, which were modified after their initial purchase, with an EPA certified conversion to be exclusively powered by clean alternative fuel.

(a) **Example 1.** Mike purchases a *used* 2009 model year hybrid vehicle from a dealer or private party in July 2011. The purchase would not qualify for the exemptions. The exemption for vehicles using hybrid technology only applies to new vehicles.

(b) **Example 2.** Nicole purchases a *new* 2008 model year hybrid vehicle in July 2009 from a dealer. This purchase would be exempt (assuming it meets the other requirements). A new vehicle could be any model year as long as it has not been previously titled to a retail purchaser or lessee.

(c) **Example 3.** Joe purchases a *new* 2009 model year hybrid vehicle on August 5, 2009, from a dealer. This purchase is not exempt from all retail sales taxes but, assuming it meets the other requirements, is exempt from the 0.3 percent retail sales tax on retail sales of motor vehicles.

(6) **Conversions.** For purposes of this section, a conversion refers to the alteration of an otherwise nonqualifying vehicle exclusively powered by gasoline or diesel into a qualifying vehicle that either:

- (a) Is exclusively powered by clean alternative fuel; or

- (b) Utilizes hybrid technology and has a United States environmental protection agency estimated highway gasoline mileage rating of at least forty miles per gallon.

(i) **Purchases of converted vehicles.** The purchase of a new vehicle, or a used vehicle satisfying the requirements described in subsection (2)(a)(ii) of this section, that is converted prior to or as part of the retail sale to the purchaser and that otherwise satisfies the requirements of the exemptions will qualify for the exemptions. If the conversion is performed after the retail sale, the purchase of the vehicle will not qualify for the exemptions.

(ii) **Purchases of the service of converting vehicles.** While the purchase of a new vehicle converted by the seller prior to or as part of the retail sale to the purchaser qualifies for the exemptions as described in subsection (6)(a) of this section, the purchase of the service of converting a vehicle does not qualify for the exemptions. However, if the seller hires a third party to convert the vehicle, it can give the third party a resale certificate (WAC 458-20-102A) for work completed before January 1, 2010, or a reseller permit (WAC 458-20-102) for work completed on or after January 1, 2010. Even though resale certificates are no longer used after December 31, 2009, they must be kept on file by the seller for five years from the date of last use or December 31, 2014.

(A) **Example 1.** Tom wants to purchase a new nonqualifying vehicle from Dealer but have it converted as a part of the purchase transaction. Dealer hires John's Shop to convert the vehicle for Tom, and Tom purchases the converted vehicle from Dealer. Tom's purchase of the converted vehicle qualifies for the exemptions.

(B) **Example 2.** Tom purchases a new nonqualifying vehicle from Dealer. Tom then hires John's Shop to convert the vehicle. The purchase of the nonqualifying vehicle does not qualify for the exemptions, even if Dealer delivers the vehicle directly to John's Shop on Tom's behalf for conversion.

(7) **Use tax.** The use of a qualifying vehicle by the original title holder is exempt from use tax if the vehicle is purchased during the applicable exemption period specified in subsection (2) of this section.

(a) **Example 1.** Will, a Washington resident, purchases a new qualifying clean alternative fuel vehicle in Oregon from Dealer on February 1, 2009, and returns to Washington in the vehicle on February 2, 2009. Will's use of the vehicle in Washington is exempt from use tax.

(b) **Example 2.** Oliver, an Oregon resident, purchases a new qualifying hybrid vehicle from Dealer in Oregon on April 1, 2009. Oliver moves to Washington on May 15, 2009. Oliver's use of the vehicle in Washington is exempt from use tax. Note: In the absence of the exemptions discussed in this section, Oliver's purchase would be subject to use tax since his first use of the vehicle in Washington occurred within 90 days of his acquisition and use of the vehicle in another state. See RCW 82.12.0251.

(8) **Extended warranties and maintenance agreements.** The sale of an extended warranty or maintenance agreement is subject to retail sales tax even though the vehicle itself may qualify for the exemptions. See WAC 458-20-257.

(9) **Replacement parts and/or repair services.** The sale of replacement parts or repair services is subject to retail sales tax even though the vehicle itself may have qualified for the exemptions. Only the purchase and use of a qualifying vehicle is exempt from retail sales and use taxes.

(10) **Accessories.** A qualifying vehicle includes all accessories installed or sold as part of the sale of the vehicle.

(a) **Example 1.** A dealership installs a ski rack and applies pinstriping on an otherwise qualifying vehicle on January 5, 2009, before a customer purchases the vehicle. Any separate, itemized charges for the accessories listed on the vehicle sales invoice are exempt from retail sales tax.

(b) **Example 2.** On January 5, 2009, a customer purchases an otherwise qualifying vehicle, and as a condition of the purchase requires that the seller install stereo speakers and apply paint sealant. The seller does not have the accessories in stock, but the customer takes delivery of the vehicle. The customer then brings the vehicle back to the seller, and the accessories are installed and applied on January 12, 2009. Any separate, itemized charges for the accessories listed on the vehicle sales invoice are exempt from retail sales tax.

(11) **Leases.** A vehicle is exempt from retail sales and use taxes on a lease if the other requirements are met. If the vehicle is new, registered, and titled in the lessee's name during the applicable exemption period specified in subsection (2) of this section, the retail sales tax exemption will apply only to amounts due during the exemption period. See also WAC 458-20-103 and 458-20-235.

(a) **Example 1.** Alex leases a new hybrid vehicle that he registers and titles on December 8, 2008. None of his lease

payments will qualify for the exemptions because the vehicle was registered and titled prior to January 1, 2009.

(b) **Example 2.** Beth leases a new clean alternative fuel vehicle that she registers and titles on December 8, 2010. Assuming that the other requirements of the exemptions are met, any amounts due under the lease before January 1, 2011, are exempt from retail sales tax.

(12) **Payments made prior to January 1, 2009.** Any payment made toward the purchase of an otherwise qualifying vehicle prior to the effective date of the exemptions, January 1, 2009, qualifies for the exemptions if:

(a) The vehicle sold is titled and registered on or after January 1, 2009, but before the applicable exemption expires; and

(b) The purchaser takes possession of the vehicle on or after January 1, 2009, but before the applicable exemption expires. See WAC 458-20-103, 458-20-197, and 458-20-235.

Example. Greg makes a down payment toward the purchase of a new qualifying hybrid vehicle on November 7, 2008, but does not actually take possession of the vehicle at the dealership lot until January 2, 2009. The vehicle is titled and registered on January 9, 2009. The purchase of the vehicle is exempt from all retail sales taxes.

(13) **Payments made prior to the expiration date of the applicable exemption.** Any payment made toward the purchase of an otherwise qualifying vehicle prior to the expiration date of the applicable exemption does not qualify for the exemption if:

(a) The vehicle sold is titled or registered on or after the expiration date of the exemption; or

(b) The purchaser takes possession of the vehicle on or after the expiration date of the exemption. See WAC 458-20-103, 458-20-197, and 458-20-235.

Example. Craig makes a down payment toward the purchase of a new qualifying clean alternative fuel vehicle on November 7, 2010, but does not actually take possession of the vehicle at the dealership lot until January 2, 2011. The vehicle is titled and registered on January 11, 2011. The purchase of the vehicle is subject to retail sales tax and the 0.3 percent retail sales tax imposed by RCW 82.08.020(3) on retail sales of motor vehicles.

WSR 19-20-086

EXPEDITED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 30, 2019, 12:11 p.m.]

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-424-0001 Citizenship and alien status—Definitions and 388-424-0030 How does my alien status impact my eligibility for state-funded benefits under the food assistance program?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The community services division is proposing to amend WAC 388-424-0001

and 388-424-0030 to update a WAC reference and correct a typographical error.

Reasons Supporting Proposal: These amendments meet the criteria for expedited adoption as set forth in RCW 34.05.353, specifically subsection (1)(c): "The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect."

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services (DSHS), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ivette Dones-Figueroa, P.O. Box 45470, Olympia, WA 98504-5470, 360-725-4651.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: These minor changes are needed to update a WAC reference and correct a typographical error.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY December 2, 2019.

September 26, 2019
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-16-056, filed 7/29/11, effective 8/29/11)

WAC 388-424-0001 Citizenship and alien status—Definitions. For the purposes of determining an individual's citizenship and alien status for public assistance, the following definitions apply:

(1) "**Lawfully present**" are immigrants or noncitizens who have been inspected and admitted into the United States and not overstayed the period for which they were admitted, or have current permission from the U.S. Citizenship and Immigrant Services (CIS) to stay or live in the U.S.

(2) "**Qualified aliens**" are lawfully present immigrants defined in federal law as one of the following:

(a) Individuals lawfully admitted for permanent residence (LPRs).

(b) Individuals who are admitted to the U.S. as refugees under INA §207. The following individuals are treated the same as refugees in their eligibility for public assistance:

(i) Hmong or Highland Lao are members of a Hmong or Highland Laotian tribe which rendered military assistance to the U.S. during the Vietnam era (August 5, 1964 to May 7, 1975), and are "lawfully present" in the U.S. This category also includes the spouse (including unremarried widow or widower) or unmarried dependent child of such tribal members.

(ii) Victims of trafficking according to federal law are:

(A) Individuals who have been certified or approved as victims of trafficking by the federal office of refugee resettlement.

(B) Immediate family members of trafficking victims. Immediate family members are the spouse or child of a victim of any age and the parent or minor sibling if the victim is under twenty-one years old.

(iii) Special immigrants from Iraq and Afghanistan are individuals granted special immigrant status under INA §101 (a)(27).

(c) Individuals who have been granted asylum under INA §208.

(d) Cuban/Haitian entrants. These are nationals of Cuba or Haiti who were paroled into the U.S. or given other special status.

(e) Abused spouses or children, parents of abused children, or children of abused spouses:

(i) When the alien no longer resides with the person who committed the abuse, and has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse or unmarried child under age twenty-one of a lawful permanent resident (LPR);

(B) A notice of "prima facie" approval of a pending self-petition under the violence against women act (VAWA); or

(C) Proof of a pending application for suspension of deportation or cancellation of removal under VAWA.

(ii) Children of an abused spouse do not need their own separate pending or approved petition, but are included in their parent's petition if it was filed before they turned twenty-one years old. Children of abused persons who meet the conditions above retain their "qualified alien" status even after they turn twenty-one years old.

(f) Individuals who have been granted parole into the U.S. for at least a period of one year (or indefinitely) under INA §212 (d)(5), including "public interest" parolees.

(g) Individual's granted withholding of deportation or removal under INA §243(h) or §241 (b)(3).

(h) Individuals who were admitted to the U.S. as conditional entrants under INA §203 (a)(7) prior to April 1, 1980.

(i) Amerasians who were born to U.S. citizen armed services members in Southeast Asia during the Vietnam War.

(3) "~~(((Nonqualified—Nonqualified)))~~ **Nonqualified aliens**" are noncitizens who are lawfully present in the U.S. and who are not included in the definition of qualified aliens

in subsection (1) of this section. (~~Nonqualified~~) Nonqualified aliens include but are not limited to:

- (a) Citizens of Marshall Islands, Micronesia or Palau;
- (b) Immigrants paroled into the U.S. for less than one year;
- (c) Immigrants granted temporary protected status; or
- (d) Nonimmigrants who are allowed entry into the U.S. for a specific purpose usually for a limited time are also non-qualified. Examples include:
 - (i) Business visitors;
 - (ii) Students; and
 - (iii) Tourists.
- (4) **"Undocumented aliens"** are noncitizens without a lawful immigration status as defined in subsections (2) or (3) of this section, and who:
 - (a) Entered the U.S. illegally; or
 - (b) Were lawfully admitted but whose status expired or was revoked per United States Citizenship and Immigration Services (USCIS).
 - (5) **"U.S. citizens"** are one of the following:
 - (a) Individual's born in the United States or its territories (Guam, Puerto Rico, and the U.S. Virgin Islands; also residents of the Northern Mariana Islands who elected to become U.S. citizens).
 - (b) American Indians born outside the U.S. without regard to immigration status or date of entry if:
 - (i) They were born in Canada and are fifty percent American Indian blood (but need not belong to a federally recognized tribe); or
 - (ii) They are members of a federally recognized Indian tribe or Alaskan Native village or corporation.
 - (c) Individuals who have become naturalized U.S. citizens.
 - (d) Individuals born abroad to at least one U.S. citizen parent depending on conditions at the time of their birth, per title 8, subchapter III, section 1401 of the United States Code.
 - (e) Individuals who turn eighteen years of age on or after February 27, 2001, automatically become U.S. citizens if the following conditions are met while the individual is under age eighteen per INA 320.
 - (i) The individual is granted lawful permanent resident (LPR) status;
 - (ii) At least one of the individual's parents is a U.S. citizen by birth or naturalization; and
 - (iii) The individual:
 - (A) Resides in the U.S. in the legal and physical custody of the citizen parent; or
 - (B) Was adopted according to the requirements of INA 101 and resides in the U.S. in the legal and physical custody of the citizen parent.
 - (f) Individuals who turned eighteen before February 27, 2001, would have automatically become a citizen if, while the individual was still under eighteen, he or she became a lawful permanent resident and both his or her parents naturalized. Such individuals also may have derived citizenship when only one parent naturalized, if the other parent was dead or a U.S. citizen by birth, or the individual's parents were separated and the naturalized parent had custody.
 - (6) **"U.S. nationals"** are persons who owe permanent allegiance to the U.S. and may enter and work in the U.S.

without restriction. The following are the only persons classified as U.S. nationals:

- (a) Persons born in American Samoa or Swain's Island after December 24, 1952; and
- (b) Residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

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

AMENDATORY SECTION (Amending WSR 12-18-024, filed 8/27/12, effective 9/27/12)

WAC 388-424-0030 How does my alien status impact my eligibility for state-funded benefits under the food assistance program? (1) If you are not a citizen and are not eligible for federally funded basic food benefits, you may be eligible for state-funded benefits under the food assistance program (FAP) if you are a legal immigrant. This means you must be one of the following:

- (a) A "qualified alien" as defined in WAC 388-424-0001, who does not meet the eligibility requirements under WAC 388-424-0020 to receive federally funded basic food benefits; or
- (b) A "nonqualified alien" as described in WAC 388-424-0001 who:
 - (i) Is not a nonimmigrant as described in WAC (~~388-424-0001(d)~~) 388-424-0001 (3)(d);
 - (ii) Intends to stay in the United States indefinitely; and
 - (iii) The United States Immigration and Customs Enforcement is not taking steps to enforce your departure.
- (2) If you are eligible for state-funded FAP, we calculate your benefits as described under WAC 388-400-0050.

WSR 19-20-088

EXPEDITED RULES

DEPARTMENT OF LICENSING

[Filed September 30, 2019, 12:43 p.m.]

Title of Rule and Other Identifying Information: WAC 308-100-033 Minimum training requirements.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Correcting the number of hours required for hazardous material training from the December 17, 2018, filing for minimum training requirements.

Reasons Supporting Proposal: This rule reduces the number of required hours for hazardous material training on a commercial driver license endorsement from twenty hours to sixteen hours to reflect the number reached in agreement with stakeholders. While federal regulations specify that the hazardous materials curriculum must be taught in its entirety, the number of hours required to do so remain unspecified. In working with stakeholders, the commercial driver license program concluded that the number of hours to teach the curriculum amounted to sixteen hours, or two business days.

Statutory Authority for Adoption: RCW 46.01.110 and 46.25.085.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Geoffrey Cunningham, 1125 Washington Street S.W., Olympia, WA 98507, 360-902-3655; Implementation and Enforcement: Tandy Alexander, 1125 Washington Street S.W., Olympia, WA 98507, 360-902-3893.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This rule making is limited to correcting a typographical error in the number of training hours required.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Tandy Alexander, Department of Licensing, 1125 Washington Street S.W., Olympia, WA 98507, phone 360-902-3893, email TAlexander@dol.wa.gov, AND RECEIVED BY December 2, 2019.

September 30, 2019
Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-01-078, filed 12/17/18, effective 1/17/19)

WAC 308-100-033 Minimum training requirements.

(1) Approval for a course of instruction in the operation of a commercial motor vehicle will only be granted if the course of instruction:

(a) Is provided by, and under the direct supervision of, a training provider that has an application with the department approving the course of instruction offered by the training provider. Beginning on February 7, 2020, the training provider must also be listed on the Federal Motor Carrier Safety Administration's Training Provider Registry that is established under 49 C.F.R. 380.700; and

(b) **Class A course - Minimum requirements for approval:** A course of instruction for students seeking a class A CDL must follow the class A training curriculum defined in C.F.R. Appendix A to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Forty hours of classroom instruction;
- (ii) Eighteen hours of street driving training;
- (iii) Sixteen hours of training in backing maneuvers;
- (iv) Sixteen hours of proficiency development; and

(v) Seventy hours of combined lab training, range training, and observation.

(c) **Class B course - Minimum Requirements:** A course of instruction for students seeking a class B CDL must follow the class B training curriculum defined in C.F.R. Appendix B to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Forty hours of classroom instruction;
- (ii) Fourteen hours of street driving training;
- (iii) Eight hours of training in backing maneuvers;
- (iv) Eight hours of proficiency development; and
- (v) Ten hours of combined lab training, range training, and observation.

(d) **Class C course - Minimum requirements:** A course of instruction for students seeking a class C CDL must follow the class B training curriculum defined in C.F.R. Appendix B to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Forty hours of classroom instruction;
- (ii) Fourteen hours of street driving training;
- (iii) Eight hours of training in backing maneuvers;
- (iv) Eight hours of proficiency development; and
- (v) Ten hours of combined lab training, range training, and observation.

(e) **Upgrade from either class B or C to class A - Minimum requirements:** A course of instruction for students seeking to upgrade from a class B or C to a class A must follow the class A behind the wheel training curriculum defined in C.F.R. Appendix A to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Eighteen hours of street driving training;
- (ii) Sixteen hours of training in backing maneuvers;
- (iii) Sixteen hours of proficiency development; and
- (iv) Thirty hours of combined lab training, range training, and observation.

(f) **Upgrade from a class C to class B - Minimum requirements:** A course of instruction for students seeking to upgrade from a class C to a class B must follow the class B behind the wheel training curriculum defined in C.F.R. Appendix B to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Fourteen hours of street driving training;
- (ii) Eight hours of training in backing maneuvers;
- (iii) Eight hours of proficiency development; and
- (iv) Ten hours of combined lab training, range training, and observation.

(g) **Passenger endorsement - Minimum requirements:** A course of instruction for students seeking a passenger endorsement must follow the passenger endorsement training curriculum defined in C.F.R. Appendix C to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Four hours of classroom/theory instruction;
- (ii) Ten hours of proficiency development.

(h) **School bus endorsement - Minimum requirements:** A course of instruction for students seeking a school bus endorsement must follow the school bus endorsement training curriculum defined in C.F.R. Appendix D to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Twenty hours of classroom/theory instruction;
- (ii) Ten hours of proficiency development.

(i) **Passenger and school bus endorsement - Minimum requirements:** A course of instruction for students seeking a passenger and school bus endorsement must follow the passenger and school bus endorsement training curriculum defined in C.F.R. Appendix C and D to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Twenty hours of classroom/theory instruction;
- (ii) Ten hours of proficiency development.

(j) **Hazardous material endorsement - Minimum requirements:** A course of instruction for students seeking a HAZMAT endorsement must follow the hazardous material endorsement training curriculum defined in C.F.R. Appendix E to Part 380 as it existed on the (effective date of the WAC). The course must include not less than: (~~Twenty~~) Sixteen hours of classroom/theory instruction;

(k) In addition to the class A, B, and C curriculum as defined above, each class room training must include a minimum thirty minute section on "Truckers Against Trafficking."

(2) Students must complete all portions of the training within one year of completing the first portion.

WSR 19-20-091
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed October 1, 2019, 8:15 a.m.]

Title of Rule and Other Identifying Information: WAC 458-20-177 Sales of motor vehicles, campers, and trailers to nonresident consumers.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-20-177 is being amended to incorporate language from ESSB 5997 (Part I) (2019), narrowing the nonresident sales and use tax exemption. WAC 458-20-177 is also being amended to modernize the structure and language of the rule.

Reasons Supporting Proposal: The rule is being updated to amend and incorporate changes resulting from new legislation, ESSB [5997] (Part I) (2019).

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.08.0264, 82.08.-0269, 82.08.0273.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Koontz, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1529; Implementation and Enforcement: John Ryser, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1603.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington

state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is applicable to this rule update because the department is incorporating changes resulting from 2019 legislation, and to modernize the language and structure of the rule for readability purposes without changing the substance of the rule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Katie Koontz, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1529, fax 360-534-1606, email katieko@dor.wa.gov, AND RECEIVED BY December 2, 2019.

October 1, 2019

Atif Aziz

Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-106, filed 12/18/14, effective 1/18/15)

WAC 458-20-177 Sales of motor vehicles, campers, and trailers to nonresident consumers. (1) Introduction. This rule applies to any sale of a vehicle to a consumer who is not a resident of the state, including nonresident military personnel temporarily stationed in Washington. The rule describes the different business and occupation (B&O) and retail sales tax consequences that result from vehicle sales to nonresidents, particularly the sales tax exemption provided by RCW 82.08.0264. It also describes the documentation a seller must retain to demonstrate that a sale is exempt.

(a) For information on use tax liability associated with vehicles, see WAC 458-20-178(;) Use tax and the use of tangible personal property.

(b) For the collection of use tax by county auditors and the department of licensing, see WAC 458-20-17802 Collection of use tax by county auditors and department of licensing—Measure of tax.

(c) For sales of vehicles to Indians or Indian tribes and required documentation, see WAC 458-20-192((c)) Indians—Indian country.

(d) Questions regarding vehicle licensing or registration requirements should be directed to the department of licensing.

(2) ~~((What is a))~~ **Definition of "vehicle."**~~((?))~~ For the purposes of this rule, a "vehicle" is any vehicle of a type that may be lawfully licensed under chapter 46.16A RCW for operation on a public highway in this state, except that the term does not include any machinery and implements for use in conducting a farming activity subject to RCW 82.08.0268. The term "vehicle" includes, but is not limited to, a car, truck, camper, trailer, bus, motorhome, and motorcycles equipped for road use. It does not include farm tractors, bicycles, mopeds, motorized scooters, snowmobiles, or vehicles that are manufactured for exclusively off-road use.

(3) ~~((What are the))~~ **Tax consequences when a vehicle sold to a nonresident is delivered in-state**~~((?))~~. A sale of a vehicle to a nonresident where the vehicle is delivered in-state is exempt from retail sales tax if the sale meets the requirements of RCW 82.08.0264. In all other cases where the vehicle is delivered to the buyer in this state, the retail sales tax applies and must be collected at the time of sale, unless otherwise exempt by law. The mere fact that the buyer may be or claims to be a nonresident or that the buyer intends to, and actually does, use the vehicle in some other state does not, by itself, entitle the buyer to the exemption. In any case where the seller licenses or registers the vehicle in Washington on the buyer's behalf, the retail sales tax applies.

In computing the B&O tax liability of persons engaged in the business of selling vehicles, no deduction is allowed for a sale made to a nonresident for use outside this state if the nonresident buyer takes delivery in Washington. This is true even if the buyer is entitled to an exemption from the retail sales tax.

(a) **Exemption requirements.** If a vehicle is delivered within this state to a nonresident buyer, retail sales tax does not apply if the vehicle is purchased for use outside this state and, immediately upon delivery, the vehicle:

(i) Is removed from the state under the authority of a trip permit issued by the department of licensing pursuant to RCW 46.16A.320 or any agency of another state that has authority to issue similar permits; or

(ii) Is registered and licensed in the state of the buyer's residence, will not be used in this state more than three months, and will not be legally required to be registered and licensed in this state.

If the vehicle bears Washington state license plates, the seller must remove the Washington plates before delivering the vehicle and retain evidence of that removal to avoid liability for collection and payment of the retail sales tax.

(b) **Seller obligations; documentation required from natural person buyers.** The seller must retain the following documents, which must be made available upon request by the department of revenue (department):

(i) A copy of the buyer's currently valid out-of-state driver's license or other official picture identification issued by a jurisdiction other than Washington state;

(ii) A copy of any one of the following documents, on which there is an out-of-state address for the buyer:

(A) A current residential rental agreement;

(B) A property tax statement from the current or previous year;

(C) A utility bill, dated within the previous two months;

(D) A state income tax return from the previous year;

(E) A voter registration card;

(F) A current credit report; or

(G) Any other document determined by the department to be acceptable, with buyer's street address, such as:

(I) A bank statement issued within the previous two months;

(II) A government check issued within the previous two months;

(III) A pay check issued within the previous two months;

(IV) Mortgage documents of current personal residence;

(V) Current vehicle insurance card;

(VI) Letter or other documentation issued by the postmaster within the previous two months; or

(VII) Other government document issued within the previous two months;

(iii) A completed witnessed declaration in the form designated by the department, signed by the buyer, and stating that the buyer's purchase meets the requirements of this section (buyer's affidavit); and

(iv) A seller's certification, in the form designated by the department, that either a vehicle trip permit was issued or the vehicle was immediately registered and licensed in another state as required by RCW 82.08.0264.

To comply with these requirements, the seller must retain a properly completed buyer's affidavit and seller's certificate (in-state delivery). See the department's web site dor.wa.gov for affidavit and certificate forms.

(c) **Seller obligations; documentation required from corporate buyers.** Sales tax does not apply to sales of vehicles to nonresident corporations for use outside of this state. The sale must meet the requirements stated in (b) of this subsection pertaining to qualified nonresident natural persons. Some documents listed in (b)(ii) of this subsection, such as residential rental agreement, voter registration card, or mortgage documents for a personal residence, do not pertain to corporate purchases. In addition to the applicable requirements in (b) of this subsection, the seller must establish that the corporation is the purchaser (i.e., paid for by corporate check and registered in the corporation's name). A distinction exists between the corporation and its employees or officers. The exemption still applies, for example, when an officer or employee, purchasing on behalf of the corporation, is a Washington resident when all other requirements are met.

A corporation with places of business in one or more other states outside Washington ~~((is))~~ may qualify as a "nonresident" for purposes of RCW 82.08.0264. A Washington corporation purchasing a vehicle for out-of-state use by a nonresident salesperson or out-of-state office qualifies for this exemption if the vehicle leaves the state with a valid one-transit permit or with foreign state license plates attached at the time of delivery, and nonresident affidavits are completed. If the vehicle is subsequently used in Washington, use tax is due on the value of the vehicle at the time of its first use

in Washington. See the department's web site dor.wa.gov for affidavit and certificate forms.

(d) ~~((What are the))~~ **Consequences for noncompliance(?)**.

(i) Any seller that makes sales without collecting the tax ~~((to))~~ **from** a person who does not provide the documents required under (b) of this subsection, and any seller who fails to retain the documents required under (b) of this subsection for the period prescribed by RCW 82.32.070 is personally liable for the amount of tax due.

(ii) Any seller that makes sales without collecting the retail sales tax pursuant to RCW 82.08.0264 and who has actual knowledge that the buyer's documentation required by (b) of this subsection is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the buyer and the seller are liable for any penalties and interest assessable under chapter 82.32 RCW.

(4) ~~((What are the tax consequences when))~~ **Tax consequences of a vehicle sold to a nonresident ((is)) and delivered out-of-state(?)**. A sale of a vehicle to a nonresident where the seller delivers the vehicle out-of-state is exempt from retail sales tax. If the vehicle is delivered to the buyer outside the state, the seller may also deduct the sale amount from the gross proceeds of sales for B&O tax purposes. The deductible amount must be included in the gross income reported on the excise tax return and then deducted on the return to determine the amount of taxable income. The deduction must be identified on the deduction detail page of the return as an "interstate and foreign sales" deduction.

(a) **Requirements.** If a vehicle is delivered outside the state to a nonresident buyer, retail sales tax does not apply if:

(i) The seller, as required by the contract of sale, delivers possession of the vehicle to the buyer at a point outside Washington; and

(ii) The vehicle is not licensed or registered in this state. If the vehicle bears Washington state license plates, the seller must remove the Washington plates before delivery and retain evidence of that removal to avoid liability for collection and payment of the retail sales tax.

(b) **Seller obligations; documentation.** The seller must properly document the following facts:

(i) The buyer's out-of-state address;

(ii) The vehicle is not licensed or registered in this state or the Washington state license plates have been removed from the vehicle before delivery;

(iii) Under the terms of the sales agreement, the seller is required to deliver the vehicle to the buyer at a point outside this state; and

(iv) The out-of-state delivery was actually made by the seller or by a common carrier acting as the seller's agent.

To comply with these requirements, the seller must retain a properly completed buyer's certificate and seller's certificate (out-of-state delivery). The seller's certificate must be signed by the person who actually delivers the vehicle to the buyer at the out-of-state location and may be completed only after delivery occurs.

(5) ~~((What))~~ **Forms ((should be used)) required to document an exempt sale(?)**. Where the vehicle is deliv-

ered determines which two properly completed documents: "Buyer's Affidavit" and "Seller's Certificate In-State Delivery," or "Buyer's Certificate Out-of-State Delivery" and "Seller's Certificate Out-of-State Delivery" are necessary to substantiate exempt sales to nonresidents. Do not send the documents to the department; keep them as part of the seller's permanent records for five years. Without this documentation, claims that a transaction was exempt from tax will be disallowed.

Copies of the forms can be obtained:

- From the department's web site at dor.wa.gov or
- By writing to:

Taxpayer Services
Washington State Department of Revenue
P.O. Box 47478
Olympia, Washington 98504-7478

Documents in substantially the same form as the department's forms will be accepted in lieu of the department's documents.

(a) **In-state delivery.** A sale with in-state delivery requires a completed buyer's affidavit and seller's certificate-in-state delivery.

(b) **Delivery out-of-state by seller.** A sale with out-of-state delivery by a seller requires a completed buyer's certificate and seller's certificate-out-of-state.

(c) **Delivery out-of-state by common carrier.** When a vehicle is delivered outside the state by common carrier acting as the seller's agent, the seller must retain:

(i) Evidence that the vehicle's license plates (if licensed in Washington) were removed; and

(ii) A signed copy of the bill of lading issued by the carrier. The bill of lading must show the seller as the consignor and indicate that the carrier agrees to transport the vehicle to a point outside the state; or

(iii) A seller's certificate out-of-state delivery signed by the person who delivers the vehicle and provides the name of the hauling company.

(6) ~~((What are a))~~ **Seller's obligations to verify a buyer's statements on nonresidency(?)**.

(a) The seller must exercise a reasonable degree of care in accepting statements regarding a buyer's nonresidence. If delivery occurs in-state, the seller must examine and retain a copy of at least one form of documentary evidence showing the buyer's out-of-state residence. Lack of good faith on the part of the seller or lack of the exercise of the degree of care required is indicated, for example, in the following circumstances:

(i) If the seller knows that the buyer is living in Washington;

(ii) If the buyer gives a Washington address for the purpose of financing the purchase of the vehicle;

(iii) If, at the time of sale, arrangements are made for future servicing of the vehicle in the seller's shop and a Washington address or telephone number is shown for the shop customer; or

(iv) If the seller has ready access to any other information that discloses that the buyer is a resident of Washington.

(b) ~~((What if the department))~~ **Questions about the authenticity of the information provided by the buyer(?)**. If the department has information indicating the buyer is a Washington resident, or if the addresses for the buyer shown on the documentation provided under subsection (3)(b) or (c) of this rule are not the same, the department may contact the buyer to verify the buyer's eligibility for the exemption provided by RCW 82.08.0264. If the department subsequently determines the buyer was not eligible for an exemption, the department will pursue collection of the retail sales tax from the buyer. The seller will not be liable for the retail sales tax except as provided in subsection (3)(d) of this rule.

(7) ~~((Do))~~ **Military personnel ((qualify)) qualifications for the nonresident exemptions((?))**. A member of the armed services who is temporarily stationed in Washington is presumed to be a nonresident, unless that person was a resident of this state when enlisted or inducted. This presumption does not apply to a civilian employee of the armed services. ~~((Nonetheless))~~ A sale to a nonresident member of the armed forces must meet all of the statutory requirements for a retail sales tax exemption or B&O tax deduction. If a vehicle sold to a member of the armed forces will remain in Washington for more than three months, retail sales tax is due on the sale, even if the vehicle is registered in the home state of the armed forces member.

(a) **Military temporary license**. In addition to the exemptions provided under RCW 82.08.0264, a member of the armed forces may alternatively qualify for the retail sales tax and use tax exemptions provided by RCW 46.16A.340 if the member obtains a forty-five day nonresident military temporary permit from the department of licensing and satisfies the requirements of RCW 46.16A.340.

(b) **Additional documentation required**. In addition to the documentation otherwise required by this rule, for a sale to a member of the armed forces a seller must retain a copy of military orders showing that the buyer:

(i) Is temporarily stationed in Washington and will leave within three months of the date of purchase; or

(ii) Is permanently reassigned to a new duty station outside Washington and will leave within three months of the date of purchase.

(c) **Military personnel of NATO-member nations**. Pursuant to treaty, a member of the armed forces of any NATO-member nation who is stationed in Washington is considered to be a nonresident for purposes of the RCW 82.08.0264 retail sales tax exemption. The buyer must meet all otherwise applicable requirements for exemption. In addition, the seller must retain proof of the buyer's military assignment in Washington as a member of a NATO-member nation's armed forces.

(8) ~~((Are))~~ **Sales to residents of noncontiguous states are exempt from Washington retail sales tax((?))**. RCW 82.08.0269 exempts purchases of tangible personal property from the retail sales tax if the property is purchased for use in states, territories, and possessions of the United States that are not contiguous with any other state. However, the exemption only applies if, as a necessary incident to the contract of sale, the seller delivers the property to the purchaser or the purchaser's designated agent at the usual receiving terminal

of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in a noncontiguous state, territory, or possession.

RCW 82.08.0269 applies to the sale of motor vehicles when the requirements stated above are met. Therefore, in addition to being exempt from retail sales tax under RCW 82.08.0264 (discussed above), a sale of a motor vehicle to a resident of a noncontiguous state, territory, or possession may qualify for exemption under RCW 82.08.0269. If so, the sale is exempt from retail sales tax but does not qualify for a B&O tax deduction. For more information on the requirements of the RCW 82.08.0269 exemption, including the documentation requirements, see WAC 458-20-193, Inbound and outbound interstate sales of tangible personal property.

(9) ~~((Are sales to nonresidents of this state exempt from))~~ **Washington retail sales tax((?)) exemption for qualified nonresidents**. RCW 82.08.0273 ~~((exempts))~~ **provides an exemption, in the form of a remittance from the department, of the state portion of the retail sales tax on purchases of tangible personal property ((from the retail sales tax)), digital goods, and digital codes**, if the purchaser is a resident of another state or possession or a province of Canada that does not impose a retail sales tax or use tax of three percent or more. That statute does not apply to purchases of vehicles. Because RCW 82.08.0264 more specifically applies to the sale of vehicles, it takes precedence over RCW 82.08.0273. A nonresident of this state may purchase and take delivery of a vehicle in Washington free of retail sales tax only if the person meets the requirements of RCW 82.08.0264. For sales to residents of noncontiguous states, territories, and possessions see RCW 82.08.0269.

(10) **Examples**. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances. In each example concluding that the sale qualifies for a retail sales tax and/or B&O tax exemption, the Dealer must retain the documents required in subsection (3)(b) or (c) of this rule.

(a) Buyer purchases a vehicle from Dealer. Buyer provides identification indicating that Buyer is a resident of California and provides California license plates for the vehicle. However, Buyer also states that he intends to use the vehicle in the state of Washington for four months before returning to California. Buyer does not qualify for a sales tax exemption because Buyer will use the vehicle for more than three months in the state.

(b) Buyer provides proof of residency in Idaho; there are no contrary facts regarding Buyer's residency. Buyer completes the buyer's affidavit, stating that the vehicle is for use out-of-state. Buyer obtains and uses a trip permit issued under authority of RCW 46.16A.320 to remove the vehicle from Washington. The Dealer completes a seller's certificate and certifies that the Dealer removed the Washington license plates before delivering the vehicle to Buyer. This sale qualifies for the retail sales tax exemption but not the B&O tax deduction.

(c) Buyer is a Washington resident, employed by out-of-state Corporation X. On behalf of Corporation X, Buyer pur-

chases and accepts in-state delivery of a vehicle from Dealer. The vehicle will be used as a company car out-of-state and will not be used or garaged in Washington. Payment is made by corporate check. Buyer provides a trip permit for transport of the vehicle out of Washington. This sale qualifies for the retail sales tax exemption (but not for the B&O tax deduction) notwithstanding the Washington residency of its employee.

(d) Buyer is a resident of Alaska and purchases a vehicle from Dealer in Washington. The sales contract requires Dealer to deliver the vehicle to Buyer in Anchorage, Alaska. Before shipping the vehicle, Dealer removes the vehicle's Washington state license plates and retains a photocopy of the plates as evidence of the removal. Seller ships the vehicle to Alaska by common carrier. Seller retains a signed copy of the bill of lading, indicating the Seller as consignor and the Buyer as consignee. This sale qualifies for the retail sales tax exemption and a B&O tax deduction.

(e) Buyer is a resident of Alaska and purchases a vehicle from Dealer in Washington. Dealer delivers the vehicle to the Buyer at dockside in Seattle to be shipped to Anchorage, Alaska by common carrier. Before shipping the vehicle, Dealer removes the vehicle's Washington state license plates and retains a photocopy of the plates as evidence of the removal. Dealer retains the exemption certificate and documentation required by WAC 458-20-193. This sale qualifies for the retail sales tax exemption provided by RCW 82.08.-0269 but not for a B&O tax deduction.

(f) Buyer is a member of the armed forces and provides a copy of her orders showing that she is temporarily stationed in Washington. Before entering military service, buyer resided in another state. Buyer purchases a vehicle from Dealer and licenses it in her home state, but intends to keep the vehicle in this state for over three months. This sale does not qualify for any exemption or deduction. If the vehicle were to be removed from the state within three months, the sale would qualify for the RCW 82.08.0264 retail sales tax exemption but not for a B&O tax deduction.

(g) Buyer owns homes in Washington and Arizona, spending summers in Washington and winters in Arizona. In October, Buyer purchases a vehicle from Dealer, asserting that he will immediately drive the vehicle to Arizona and license it in that state. Buyer presents an Arizona driver's license for identification and provides a trip permit to remove the vehicle from Washington. Dealer is aware that Buyer lives in Washington for a significant portion of each year. In such a case, the sale would not qualify for the retail sales tax exemption. Under these facts, Buyer is not a nonresident of Washington for tax purposes because the buyer has dual residency in Washington and Arizona ((for tax purposes)).

(h) Buyer purchases a motorcycle from Dealer in Vancouver, Washington. The motorcycle is equipped for use on public highways. Buyer provides an Oregon driver's license and asserts that the motorcycle will be licensed in Oregon. Buyer also states that the motorcycle will only be used outside of Washington. Buyer places the motorcycle in the back of a truck for transport to Oregon. This sale does not qualify for any exemption or deduction. To qualify for the sales tax exemption, RCW 82.08.0264 requires the Buyer to obtain a

trip permit or provide license plates from another state before removing the vehicle from Washington.

(11) **Buyer obligations when claiming exemption.** It is the buyer's responsibility to provide the seller with valid identification that entitles the buyer to purchase a motor vehicle, trailer, or camper exempt from retail sales tax as provided by RCW 82.08.0264.

(a) A buyer making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a seller, to purchase without paying retail sales tax a motor vehicle, trailer, or camper is guilty of perjury under chapter 9A.72 RCW.

(b) Any buyer making tax exempt purchases under RCW 82.08.0264 by displaying proof of identification not (~~his or her~~) the buyer's own, or counterfeit identification, with intent to violate the provisions of RCW 82.08.0264 is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.

WSR 19-20-107
EXPEDITED RULES
APPLE COMMISSION

[Filed October 2, 2019, 7:26 a.m.]

Title of Rule and Other Identifying Information: Chapter 24-12 WAC, Apple commission and chapter 24-20 WAC, Washington apple commission public records.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington apple commission proposes to add public records disclosure procedures to its rules as required by RCW 42.56.040. In addition, the commission proposes to amend WAC 24-12-010, to bring the apple container types and their corresponding net shipping weights in line with the Washington state department of agriculture (WSDA) for the purpose of computing the mandatory assessments; WAC 24-12-011, to update the procedures for referendum voting eligibility addressed in the revised RCW 15.24.090; and WAC 24-12-012, to update the procedure for collecting any potential past due assessments.

Reasons Supporting Proposal: To bring rules up to date with current RCW and WAC policies and procedures.

Statutory Authority for Adoption: RCW 15.24.070, 15.24.090, and 42.56.040.

Statute Being Implemented: Chapters 15.24 and 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington apple commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Robin Mooney, 2900 Euclid Avenue, Wenatchee, 509-663-9600; and Enforcement: Todd Fryhover, 2900 Euclid Avenue, Wenatchee, 509-663-9600.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is appropriate because these proposed rules cover internal procedures of the Washington apple commission.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, WSDA, P.O. Box 42560, Olympia, WA 98504, phone 360-902-2043, fax 360-902-2092, email tnorman@agr.wa.gov, AND RECEIVED BY December 3, 2019.

October 2, 2019
 Todd M. Fryhover
 President

AMENDATORY SECTION (Amending WSR 09-19-074, filed 9/16/09, effective 10/17/09)

WAC 24-12-010 Amount of assessments. (1) There is hereby levied upon all fresh apples grown annually in this state, and upon all apples packed as Washington apples, including fresh sliced, an assessment of eight and seventy-five one-hundredths cents per one hundred pounds of apples, based on net shipping weight or reasonable equivalent net product assessment measurement as determined by the commission.

(2) Assessments shall be payable as provided in WAC 24-12-012, whether in bulk or loose in boxes or any other container, or packed in any style package. The net shipping weights for the following containers shall apply for the purpose of computing the assessments:

DESCRIPTION OF CONTAINER	NET SHIPPING WEIGHT RANGE
Tray Carton	37-52 lbs.
Cell Carton	37-52 lbs.
1 Layer Carton AKA Euro Carton	10-15 lbs.
2 Layer Carton AKA Euro Carton	20-30 lbs.
3 Layer Carton AKA Euro Carton	30-40 lbs.
Euro Carton 1-3 Layers	10-45 lbs.
Master Carton (Bags in Box/Clamshell)	((10-50)) 13-45 lbs.
Master Bin (Bags in Bin/Clamshell)	300-600 lbs.
Bin (Loose/Jumble/Bulk)	((500-900)) 500-950 lbs.

DESCRIPTION OF CONTAINER	NET SHIPPING WEIGHT RANGE
Loose Carton (Jumble/Bulk)	((10-40)) 8-40 lbs.
Carton (2/3 Bushel)	((25-35)) 25-40 lbs.
1/2 Carton	18-25 lbs.
1/3 Bushel Carton	10-15 lbs.
Overwrap Carton	30-40 lbs.
<u>RPC Tray Carton</u>	<u>37-52 lbs.</u>
<u>RPC Master Carton</u>	<u>25-45 lbs.</u>

AMENDATORY SECTION (Amending WSR 09-19-074, filed 9/16/09, effective 10/17/09)

WAC 24-12-011 Referendum mail ballot voting eligibility. (1) In the conduct of a referendum mail ballot pursuant to the provisions of RCW 15.24.090 the commission shall require that each returned ballot be accompanied by a completed apple grower eligibility certificate in substantially the following form:

WASHINGTON APPLE COMMISSION
 APPLE GROWER ELIGIBILITY CERTIFICATE

(Note: All appropriate spaces on this certificate must be completed to properly qualify your vote.)

I HEREBY CERTIFY THAT:

1. My name and address are as follows (please print):
 Name:
 Mailing Address:
 Orchard Address:
 City: State:
2. I am qualified to vote for one of the following reasons (please check the appropriate space):
 a I am an individual owner-operator or an individual lessee-operator of commercially producing apple orchard/orchards.
 b I am a member of and have been designated to cast the single ballot for (please fill in name), a partnership, joint venture or corporation owning/leasing and operating commercially producing apple orchard/orchards.
3. ~~((The orchard/orchards for which I am casting a vote represents acres of commercially producing apple trees situated in the county/counties of within the state of Washington. (Please combine the total commercially producing apple acreage for which you are voting in the space above.))~~ I take my fresh apple crop to the following dealer organizations to pack/ship my fruit. (Please list all that apply to this orchard.)

By signing this certificate, I grant the commission permission to contact dealer(s) listed above to verify total net lbs. fresh apples shipped in the two prior crop years.

.....
Signature of Voter
Name (print)
Date

Note: A completed apple grower eligibility certificate must accompany each ballot.

(2) The commission shall contact each dealer listed on the apple grower eligibility certificate to verify total net lbs. fresh apples shipped in the last two crop years by voting grower.

(3) The commission and the director of the department of agriculture may, in counting and validating ballots, rely on and accept the representations of eligibility to vote and the representations of ~~((acreage as set forth in the certificate))~~ total net lbs. fresh apples shipped by grower as certified by dealer.

~~((3))~~ (4) Apple growers entitled to vote in a referendum mail ballot pursuant to the provisions of RCW 15.24.090 are defined to be each grower who operates a commercial producing apple orchard, whether an individual proprietor, partnership, joint venture, or corporation, being entitled to one vote. As to bona fide leased or rented orchards, only the lessee-operator, if otherwise qualified, shall be entitled to vote. Individual commercial orchard operator, if otherwise qualified, shall be entitled to vote as such, even though he is also a member of a partnership or corporation that votes for other apple acreage.

~~((4))~~ (5) A commercial producing apple orchard means an apple orchard currently producing or growing apples in sufficient quantity so that the apples are or will be marketed through prevailing commercial channels and are or will be subject to assessment pursuant to the provisions of chapter 15.24 RCW.

AMENDATORY SECTION (Amending WSR 09-19-074, filed 9/16/09, effective 10/17/09)

WAC 24-12-012 Collection of accounts. (1) The commission shall obtain from the department of agriculture a record of all shipments of fresh apples, including fresh apples designated for slices, and shall from this record periodically invoice all apple dealers and handlers shown thereon for assessments on apples levied pursuant to WAC 24-12-010. The date of the invoice shall be known as the billing date.

(2) ~~((For fresh apples designated for slices:~~

~~(a) The department of agriculture does not require a certificate of compliance for fresh apples designated for slicing that are moved and produced internally by a shipper.~~

~~(b) All shippers (first handlers) with internal fresh apple slicing operations will be required to remit and report quarterly the net weight in pounds of all fresh apples packed or~~

~~unpacked designated for slicing. The reporting period dates and forms will be determined and created by the commission.~~

~~(e) All payments and reports are due thirty five days from the end of the reporting period established by the commission.~~

~~(3))~~ If the assessments are not paid within thirty-five days from the billing date, a notice of delinquency shall be sent to the dealer or handler involved, ~~((with a copy to the district))~~ requesting them to bring their account current within ten days from the date of the letter. At forty-five days from the billing date, a second notice of delinquency shall be sent to the dealer with a copy to the regional inspection office of the department of agriculture. The notice shall state that if the delinquent assessments are not paid within ((forty-five)) sixty days from the billing date, the department of agriculture will notify the dealer or handler involved ((will thereafter be put on a cash basis until the delinquent assessments are paid, and that the Compliance Certificate Book will be removed by the department of agriculture)) that the department of agriculture will deny service if the account is not paid in full within the next thirty days. The notice shall also advise that if the delinquent assessments are not paid within ~~((sixty))~~ ninety days from the billing date, the inspection service may be withdrawn.

~~((If at any time an account thereafter is again unpaid in the same crop year shipping season for more than thirty five days from the billing date, the commission may place the dealer or handler on a cash basis for the remainder of the crop year shipping season, or such shorter period as the commission may at its option specify, and the Compliance Certificate Book may be removed by the department of agriculture. If the subsequent delinquency shall continue more than sixty days from the billing date, inspection service may be withdrawn.))~~

Once withdrawn, inspection service will be reinstated only upon mutual agreement of the department of agriculture and the commission and after all delinquent assessments have been paid.

~~((4) Delinquent))~~ (3) If assessments are not paid within ~~((thirty five))~~ forty-five days of the billing date ~~((shall bear)),~~ the commission reserves the right to charge interest at the maximum legal rate, not to exceed ((1-1/2%)) one and one-half percent per month, and in case of suit to collect the delinquent assessments, the prevailing party shall, in addition to any other relief granted, be allowed an attorneys fee in such amount as the court in its discretion deems reasonable, together with costs of suit.

Chapter 24-20 WAC

WASHINGTON APPLE COMMISSION PUBLIC RECORDS

NEW SECTION

WAC 24-20-010 Purpose. The purpose of this chapter is to ensure compliance by the Washington apple commission with the provisions of the Public Records Act, chapter 42.56 RCW. These rules provide information to persons requesting access to the commission's public records and establish procedures for both requestors and commission staff.

NEW SECTION

WAC 24-20-020 Public record. A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the commission regardless of physical form or characteristics.

NEW SECTION

WAC 24-20-030 Public records officer. (1) The commission's public records shall be in the charge of the public records officer designated by the commission.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

(3) The commission or its president may appoint a temporary public records officer to serve during the absence of the designated records officer. The public records officer shall be responsible for implementing the commission's rules regarding disclosure of public records, coordination of staff regarding disclosure of public records, and generally ensuring compliance by staff with public records disclosure requirements.

NEW SECTION

WAC 24-20-040 Requests for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail at:

Washington Apple Commission
2900 Euclid Avenue
Wenatchee, WA 98801
email: publicrecords@waapple.org

The written request should include:

(a) The name of the person requesting the record and their contact information;

(b) The calendar date on which the request is made; and

(c) Sufficient information to readily identify the records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection.

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee.

(c) Public records may not be marked or altered in any manner during inspection.

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at

the commission office and the availability of authorized staff to operate that equipment.

NEW SECTION

WAC 24-20-050 Response to public records request.

(1) The public records officer shall respond to public records requests within five business days by:

(a) Providing the record;

(b) Providing a link or address for a record available on the internet under RCW 42.56.520;

(c) Acknowledging receipt of the request and providing a reasonable estimate of the time the commission will require to respond to the request; or

(d) Denying the public records request. Responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of how the exemption applies to the record(s) withheld or to any redactions in records produced.

(2) Additional time to respond to the request may be based upon the need to:

(a) Clarify the intent of the request;

(b) Locate and assemble the information requested;

(c) Notify third persons or agencies affected by the request; or

(d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public records request that is unclear, the public records officer may ask the requestor to clarify what records the requestor is seeking. The public records officer is not obligated to provide further response if the requestor fails to clarify the request.

NEW SECTION

WAC 24-20-060 Costs of disclosure. (1) No fee shall be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120.

(4) The public records officer may waive the fee when the expenses of processing payment exceeds the costs of providing copies.

NEW SECTION

WAC 24-20-070 Exemptions. The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. Requestors should be aware of the following exemptions to

public disclosure specific to commission records. This list is not exhaustive and other exemptions may apply:

(1) Production or sales records required to determine assessment levels and actual assessment payments the commission under chapter 15.24 RCW (reference RCW 42.56.380(3)).

(2) Financial and commercial information and records supplied by persons:

(a) To the commission for the purpose of conducting a referendum for the establishment of the commission; or

(b) To the commission under chapter 15.24 RCW, with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070).

(4) Records which are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the commission and the office of the attorney general privileged under RCW 5.60.060(2).

(5) Personal information in any files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy (reference RCW 42.56.230(3)).

(6) Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, dates of birth, Social Security numbers and emergency contact information of employees, dependents of employees, or volunteers of a public agency that are held by any agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency (reference RCW 42.56.250(3)).

NEW SECTION

WAC 24-20-080 Review of denials of public records requests. (1) Any person who objects to the denial of a request to copy or inspect public records may petition the commission for review of such decision by submitting a written request to the commission. The request shall specifically refer to the statement which constituted or accompanied the denial.

(2) The commission's president or designee shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within ten business days following receipt of the written request for review of the original denial.

(3) Under RCW 42.56.530, if the commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter.

(4) Any person may obtain court review of a denial of a public records request under RCW 42.56.550.

NEW SECTION

WAC 24-20-090 Records index. The commission shall establish a records index, which shall be made available for public review. The records index may be accessed on the commission's web site at www.bestapples.com.

The index includes the following records:

(1) Washington apple commission statute, chapter 15.24 RCW.

(2) Washington apple commission rules, Title 24 WAC.

(3) Commission policy and procedure manuals.

WSR 19-20-124
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 2, 2019, 11:15 a.m.]

Title of Rule and Other Identifying Information: Proposed amendments to the elevator rules in WAC 296-96-00800, 296-96-00902, 296-96-00903, 296-96-00906, 296-96-00912, and 296-96-00922.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of labor and industries (L&I) is proposing amendments to the elevator rules as required by SSB 5471 (chapter 151, Laws of 2019). SSB 5471 was L&I agency request legislation that took effect on July 28, 2019. The bill increases the number of elevator safety advisory committee (ESAC) members, extends the validity of temporary elevator mechanic licenses to one year, and allows homeowners to remove stair[way] chairlifts (also known as wheelchair lifts) and platform lifts from their private residences. Rule making is necessary to amend the rules for clarity and consistency with the new statutory changes.

The proposed rules will:

- Increase the number of ESAC members from seven to nine.
- Amend the requirements for temporary elevator mechanic licenses by:
 - Making a temporary elevator mechanic license valid for one year from the date of issuance; and
 - Amending the existing fees and establishing new fees for temporary elevator mechanic licenses as per RCW 70.87.030, which gives L&I the authority to establish fees to pay the costs incurred by the department for work related to administration.
- Amend the licensing exception rules to allow for permanent removal of stairway chairlifts and platform lifts by homeowners in their private residences or by a certified contractor.

Reasons Supporting Proposal: Rule changes are necessary to implement chapter 151, Laws of 2019 (SSB 5471).

Statutory Authority for Adoption: Chapter 70.87 RCW, Elevators, lifting devices, and moving walks.

Statute Being Implemented: Chapter 151, Laws of 2019 (SSB 5471).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Wayne Molesworth, Acting Program Manager, Spokane, Washington, 509-850-6942; Implementation and Enforcement: David Puente, Assistant Director, Tumwater, Washington, 360-902-6348.

This notice meets the following criteria to use the expedited adoption process for these rules:

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process incorporates changes resulting from 2019 legislation.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Alicia Curry, Management Analyst, L&I, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, AND RECEIVED BY December 2, 2019.

October 2, 2019
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-00800 Advisory committee on conveyances. (1) The purpose of the advisory committee is to advise the department on the adoption of regulations that apply to conveyances; methods of enforcing and administering the elevator law, chapter 70.87 RCW; and matters of concern to the conveyance industry and to the individual installers, owners and users of conveyances.

(2) The advisory committee consists of not less than seven ((members)) persons nor more than nine persons appointed by the director or his or her authorized representative.

(3) The committee members shall serve four years. However, if a member is unable to fulfill his or her obligations, a new member may be appointed to fill the remainder of the unexpired term.

(4) The committee shall meet on the third Tuesday of February, May, August, and November of each year, and at other times at the discretion of the chief of the elevator section.

(5) The chief of the elevator section shall be the secretary for the advisory committee.

(6) An advisory committee member may appoint an alternate to attend meetings in case of conflict or illness.

AMENDATORY SECTION (Amending WSR 18-18-068, filed 8/31/18, effective 10/1/18)

WAC 296-96-00902 Exceptions to elevator mechanic license requirements. (1) An elevator mechanic license issued under chapter 70.87 RCW and this chapter is not required for:

(a) Individuals who install signal systems, fans, electric light fixtures, illuminated thresholds, finished cab flooring materials that are identical to existing materials and feed wires to the terminals on the elevator main line control provided that the individual does not require access to the pit, hoistway, or top of the car for the installation of these items.

(b) An owner or regularly employed employee of the owner performing only maintenance work of conveyances in accordance with RCW 70.87.270.

(c) Permanent removal of a stairway chairlift or platform lift in a private residence in accordance with RCW 70.87.270 when performed by:

(i) Homeowners;

(ii) Persons employed by homeowners who are registered as required by chapter 18.27 RCW.

"Permanent removal" means to take away and not replace a stairway chairlift or platform lift.

(2) Elevator mechanic licenses may not be required for certain types of incidental work that is performed on conveyances when the appropriate lockout and tagout procedures have been performed by a licensed elevator mechanic in the appropriate category. The department shall be notified in writing and shall approve the scope of work prior to it being performed.

(3) An elevator mechanic license in accordance with RCW 70.87.230, is not required when dismantling or removing a conveyance, if the building or structure is secure from public and unauthorized access, and:

(a) The entire building or portion thereof containing the conveyance(s) is completely demolished down to and including the foundation; or

(b) The entire building or portion thereof containing the conveyance(s) is returned to the basic supporting walls, floors, and roof.

Otherwise, the work is to be performed by a licensed elevator mechanic who works for a licensed elevator contractor.

(4) For license categories (01), (02), (03), (05), (06), (07), and (08) an individual is not required to be licensed if the individual is employed as a helper/apprentice working under the general direction of a licensed elevator mechanic provided the licensed mechanic:

(a) Is working in the same license category or as a category (01) mechanic; and

(b) Is on the same job site as the helper/apprentice at least seventy-five percent of each working day when performing installations, alterations, repairs and callbacks;

There shall not be more than one helper/apprentice assigned to a licensed elevator mechanic at any time;

(c) Provides the necessary education, assistance and supervision to ensure that the maintenance work is performed safely and to code.

(5) For license category (04), an individual is not required to be licensed if the helper/apprentice is working under the general direction of a licensed elevator mechanic provided the mechanic:

(a) Is working in the same license category or as a category (01) mechanic; and

(b) Is on the same job site as the helper/apprentice at least one hundred percent of each working day when performing installation, alterations, repairs and callbacks.

There shall not be more than three helpers/apprentices assigned to a licensed elevator mechanic at any time.

AMENDATORY SECTION (Amending WSR 18-18-068, filed 8/31/18, effective 10/1/18)

WAC 296-96-00903 Exceptions to elevator contractor license requirements. Elevator contractor licenses issued under chapter 70.87 RCW and this chapter are not required for:

(1) An owner or regularly employed employee of the owner performing only maintenance work of conveyances in accordance with RCW 70.87.270.

(2) Permanent removal of a stairway chairlift or platform lift located in a private residence in accordance with RCW 70.87.270 performed by:

(a) Homeowners;

(b) Persons hired by homeowners, who are registered as required by 18.27 RCW.

(3) A public agency that employs licensed elevator mechanics to perform maintenance.

~~((3))~~ (4) Demolition of a conveyance as outlined in RCW 70.87.230 and WAC 296-96-00902.

AMENDATORY SECTION (Amending WSR 18-18-068, filed 8/31/18, effective 10/1/18)

WAC 296-96-00906 License requirements for elevator mechanics. (1) Any person wishing to engage in the installation, alteration, service, replacement or maintenance of equipment covered by this chapter within the state of Washington shall apply for a license with the department of labor and industries.

(2) Applicants for a category (01) license as identified under WAC 296-96-00910 shall demonstrate at least one of the following qualifications in order to obtain a license without an exam:

(a) Successfully completed an apprenticeship training program for elevator mechanics and have passed the final examination required by such program; or

(b) Performed at least five thousand four hundred hours of acceptable work experience in construction, installation, maintenance, service or repair of elevators or other conveyances subject to this chapter, as verified by current and prior employers, and have passed a nationally recognized elevator mechanic's examination, such as that administered by the National Elevator Industry Education Program or as approved by the department; or

(c) Possess an elevator mechanic's license from another state that has standards substantially equal to those established in this chapter.

(3) Any person wishing to obtain a category (01) license coming from another state without licensing may obtain a license with examination by paying the required fee and submitting an application with documentation demonstrating the applicant has worked as an elevator mechanic without supervision for at least five thousand four hundred hours.

(4) Conditions for temporary elevator mechanics: In the event an elevator contractor encounters a verifiable shortage of licensed mechanics, an elevator contractor may request that the department issue temporary elevator mechanic licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Each license shall recite that it is valid for ~~((thirty days))~~ one year to the holder as long as he or she is employed by the licensed elevator contractor that certified the individual as qualified.

As part of the initial licensing process the applicant shall: Have seventy-five percent of both education and training hours to obtain a license (see WAC 296-96-00908).

(5) Conditions for emergency elevator mechanics: If the governor should declare a state of emergency due to a disaster, or an act of God, or other extenuating circumstances and the number of persons in the state holding valid licenses is insufficient to cope with the emergency, an elevator contractor may request emergency elevator mechanic licenses for persons who are not licensed to perform work subject to this chapter but are certified by the elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Each such license shall be valid for a period of thirty days and renewable as long as the emergency exists.

(6) The department may deny renewal or application, or suspend an individual's license if they have an outstanding final judgment.

(7) Qualify for licensing:

(a) For conveyance work covered by all categories identified in WAC 296-96-00910 except personnel hoists (04), material lifts (05), residential conveyances (06), residential inclined elevators (07) and temporary licenses (09), the applicant shall comply with the applicable mechanic licensing requirements as follows:

(i) Test.

(A) The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than three years' work experience in the elevator industry under the general direction of a licensed elevator mechanic performing conveyance work in the same category as verified by current and previous employers licensed to do business in this state or as an employee of a public agency;

Acceptable proof may include department-approved forms documenting years of experience, affidavits, letters from previous employers, declarations of experience, education credits, copies of contractor registration information, etc. Additional documentation may be requested by the depart-

ment to verify the information provided on the application; and

(B) Pass an examination administered by the department on chapter 70.87 RCW and this chapter; or

(ii) National exam/education.

(A) Have obtained a certificate of completion and successfully passed the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program or its equivalent; or

(B) Have obtained a certificate of completion of an apprenticeship program for an elevator mechanic, having standards substantially equal to those of chapter 70.87 RCW and this chapter, and registered with the Washington state apprenticeship and training council under chapter 49.04 RCW; or

(iii) Reciprocity. The applicant shall provide acceptable proof to the department that shows that the applicant is holding a valid license from a state having entered into a reciprocal agreement with the department and having standards substantially equal to those of chapter 70.87 RCW and this chapter.

(b) For conveyance work performed on personnel hoists as identified in WAC 296-96-00910(4):

(i) Test. The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than one year's work experience in the elevator industry or not less than three years (for the purpose of this category one year will be equivalent to seven hundred hours) documented experience and education credits in conveyance work under the general direction of a licensed elevator mechanic as described in category (04) performing conveyance work in the same category as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW, A10.4 and this chapter.

(iii) Reciprocity. The applicant shall provide acceptable proof to the department that shows the applicant is holding a valid license from a state having entered into a reciprocal agreement with the department and having standards substantially equal to those of chapter 70.87 RCW and this chapter.

(c) For conveyance work performed on material lifts as identified in WAC 296-96-00910(5):

(i) Test. The applicant and the licensed elevator contractor/employer shall comply with the provisions of RCW 70.87.245; and

(ii) The applicant shall pass an examination administered by the department on chapter 70.87 RCW and this chapter;

(d) For residential conveyance work covered by category (06) as identified in WAC 296-96-00910:

(i) Test. The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than two years' work experience in the elevator industry performing conveyance work as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW and this chapter.

(e) For residential inclined conveyance work covered by category (07) as identified in WAC 296-96-00910;

(i) Test. The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than one year's work experience in the elevator industry or not less than three years' documented experience and education credits in conveyance work as described in category (01) performing conveyance work as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW and this chapter.

(f) For temporary mechanic licenses as identified in WAC 296-96-00910 category (09) the applicant shall provide acceptable proof from a licensed elevator contractor that attests that the individual is competent to perform work under chapter 70.87 RCW and this chapter.

(8) Complete and submit a department-approved application.

An applicant who is required to take an examination under the provisions of this section may not perform the duties of a licensed elevator mechanic until the applicant has been notified by the department that he/she has passed the examination.

(9) Pay the fees specified in WAC 296-96-00922.

(10) The department may deny application of a license under this section if the applicant owes outstanding final judgments to the department or does not meet the minimum criteria established in the elevator laws and rules.

AMENDATORY SECTION (Amending WSR 18-18-068, filed 8/31/18, effective 10/1/18)

WAC 296-96-00912 License renewal requirements.

(1) An elevator contractor or elevator mechanic license issued pursuant to this chapter shall be valid for a period of two years and may be renewed by submission of a renewal application to the department, payment of a renewal fee as specified in WAC 296-96-00922 and proof of compliance with the requirements of this chapter.

(a) Elevator contractor licenses expire on the calendar date two years from issuance.

Upon renewal the elevator contractor shall verify the primary point of contact information is correct.

(b) Elevator mechanic licenses expire on the licensee's birth date in the calendar year two years from the year of application. It is noted that the initial license term may be valid for a longer or shorter period of time depending on when the licensee's birthday falls compared to the date on which the initial license was issued.

(i) If a license is issued in an even-numbered year, the license will expire on the license holder's birth date in the next even-numbered year.

(ii) If a license is issued in an odd-numbered year, the license will expire on the license holder's birth date in the next odd-numbered year.

(c) Renewal of an elevator mechanic license shall be conditioned upon completion of not less than eight hours of instruction within one year immediately preceding a license renewal application and submission of a certificate of completion for the course. Continuing education courses and instructors shall be approved by the department.

(2) Temporary elevator mechanics (category (09)). ~~((The renewal is limited to no greater than twelve times in a twelve-month period. The limitation))~~ A temporary elevator mechanic license may be ~~((extended))~~ renewed at the discretion of the department. Examples include, but are not limited to, abnormally high rate of construction or natural disaster.

(a) The renewal period is ~~((thirty days))~~ one year from the date of issuance.

(b) As part of the renewal process the applicant shall:

(i) Complete and submit a department-approved application.

(ii) Pay the fees specified in WAC 296-96-00922.

(iii) Have seventy-five percent of both education and training hours to obtain a license (see WAC 296-96-00908).

Note: The department may require the applicant demonstrate more than seventy-five percent of education hours if multiple temporary licenses are requested.

(3) The department may deny renewals of licenses under this section if the applicant owes outstanding final judgments to the department. Final judgment also includes any penalties assessed against an individual or firm owed the department because of an unappealed civil penalty or any outstanding fees due under chapter 70.87 RCW and this chapter.

(4) Renewals will be considered timely when the renewal application is received on or prior to the expiration date of the license.

(5) Renewals are considered late if the renewal applications are received after the expiration date of the license but no later than ninety days after the expiration of the licenses. If the application is not received within ninety days from license expiration, the licensee must reapply and pass the competency examination.

(6) A mechanic licensed in the state of Washington may take a withdrawal if they are no longer working for a company licensed in the state or no longer performing work that requires a license. A mechanic holding a valid license that wishes to withdraw their license shall submit their request, in writing, to the department of labor and industries elevator section prior to the license expiration date. To cancel a withdrawal request and be reinstated, the mechanic shall submit their request in writing, reapply, complete the required continuing education, and pay the renewal licensing fee.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-00922 Licensing fees. The following are the department's elevator license fees:

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Elevator contractor/mechanic application fee (not required for renewal of valid license)	Per application	\$66.80
Elevator contractor/mechanic examination fee	Per application	\$201.30***
Reciprocity application fee	Per application*	\$66.80
Elevator mechanic license	2 years	\$134.10
Elevator contractor license	2 years	\$134.10
<u>Temporary elevator mechanic license application fee (not required for renewal)</u>	<u>Per application</u>	<u>\$66.80</u>
Temporary elevator mechanic license	((30 days)) <u>1 year</u>	((33.20)) <u>\$134.10</u>
Emergency elevator mechanic license	30 days	\$33.20
Elevator mechanic/contractor timely renewal fee	2 years	\$134.10
Elevator mechanic/contractor late renewal fee	2 years	\$268.60
<u>Temporary elevator mechanic timely renewal fee</u>	<u>1 year</u>	<u>\$134.10</u>
<u>Temporary elevator mechanic late renewal fee</u>	<u>1 year</u>	<u>\$268.60</u>
Training provider application/renewal fee	2 years	\$134.10
Continuing education course fee by approved training provider	1 year**	Not applicable
Replacement of any licenses		\$19.90
Refund processing fee		\$40.00

* Reciprocity application is only allowed for applicants who are applying for licensing based upon possession of a valid license that was obtained in state(s) with which the department has a reciprocity.

** This fee is paid directly to the continuing education training course provider approved by the department.

***This fee may be collected by an outside vendor for some exams and may differ from the fee shown above.