

**WSR 08-10-009**  
**PERMANENT RULES**  
**BOARD OF REGISTRATION**  
**FOR PROFESSIONAL ENGINEERS**  
**AND LAND SURVEYORS**

[Filed April 24, 2008, 1:13 p.m., effective July 1, 2008]

Effective Date of Rule: July 1, 2008.

Purpose: Amendments are necessary to address the stamp/seal usage of professional engineers and/or professional land surveyors in their everyday practice. Professional engineers and/or professional land surveyors are taking advantage of current technology by sending their work product electronically.

Citation of Existing Rules Affected by this Order: Amending chapter 196-23 WAC.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 07-23-067 on November 19, 2007.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 21, 2008.

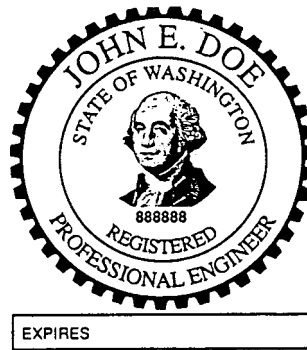
George A. Twiss  
Executive Director

AMENDATORY SECTION (Amending WSR 06-22-036, filed 10/25/06, effective 11/25/06)

**WAC 196-23-010 Seals.** All individuals licensed in accordance with chapter 18.43 RCW (~~shall procure~~) must utilize a seal/stamp that conforms to the design as authorized by the board. It is the responsibility of the licensee to maintain control over the use of his/her stamp/seal. The impression or image of the seal/stamp (~~shall~~) must conform to the below-illustrated design and be of a size that assures full legibility of the following required information:

- (1) State of Washington;
- (2) Registered professional engineer or registered professional land surveyor;
- (3) Certificate number;
- (4) Licensee's name as shown on wall certificate(;
- (5) ~~Date of license expiration. (Expiration date to be handwritten by licensee.))~~.

~~((STRICKEN GRAPHIC~~



~~STRICKEN GRAPHIC))~~



AMENDATORY SECTION (Amending WSR 06-22-036, filed 10/25/06, effective 11/25/06)

**WAC 196-23-020 Seal/stamp usage.** The use of the seal/stamp (~~(shall)~~) must be in accordance with chapter 18.43 RCW or as otherwise described herein:

(1) Final documents are those documents that are prepared and distributed for filing with public officials, use for construction, final agency approvals or use by clients. Any final document must contain the seal/stamp, (~~(handwritten license expiration date by the licensee, (,))~~) signature and date of signature of the licensee who prepared or directly supervised the work. For the purpose of this section "document" is defined as plans, specifications, plats, surveys(~~(,))~~), as-built documents prepared by the licensee(~~(,))~~), and reports.

(2) Preliminary documents are those documents not considered final as defined herein, but are released or distributed by the licensee. Preliminary documents must be clearly identified as "PRELIMINARY" or contain such wording so it may be differentiated from a final document. Preliminary documents must be stamped, but need not be signed or dated by the licensee.

(3) Plan sets: Every page of a plan set must contain the seal/stamp, signature of the licensee(s) who prepared or who had direct supervision over the preparation of the work, and date of signature.

(a) Plans/plats containing work prepared by or under the direct supervision of more than one licensee should be sealed/stamped(~~(,))~~) and dated by each licensee and shall clearly note the extent of each licensee's responsibility.

(b) As provided for in subsections (1) and (2) of this section, each page of a plan set must contain the seal/stamp of the licensee who prepared or who had direct supervision over the preparation of the work.

(c) Plan/plat sheets containing and/or depicting background and/or supporting information that is duplicated from other plans need only be sealed/stamped by the licensee(s) who prepared or was in direct supervision of the design. The origin of the background information shall be noted on the plan sheet.

(d) All design revisions to final plan/plat sheets shall (~~(shall)~~) clearly identify on each sheet; the revisions made and shall contain the name and seal of the licensee, and signature of the licensee with the date the sheet was sealed.

(4) Specifications: Specifications that are prepared by or under the direct supervision of a licensee shall contain the seal/stamp, signature of the licensee and the date of signature. If the specifications prepared by a licensee are a portion of a bound specification document that contains specifications other than that of an engineering or land surveying nature, the licensee need only seal/stamp that portion or portions of the documents for which the licensee is responsible. Nothing herein should be construed to require that each page of an engineering or land surveying specification be sealed/stamped by the licensee.

(5) Document review: When a licensee is required to review work prepared by another professional engineer or land surveyor, the reviewing licensee shall fully review those documents and shall prepare a report that discusses the findings of the review with any supporting calculations and sketches. The reviewing licensee would then seal/stamp, sign

and date the report. The report would make reference to and/or be attached to the subject document(s) reviewed.

AMENDATORY SECTION (Amending WSR 06-22-036, filed 10/25/06, effective 11/25/06)

**WAC 196-23-070 Signature.** The terms "signature or signed," as used in chapter 18.43 RCW and/or Title 196 WAC, shall mean the following:

(1) A handwritten identification that represents the act of putting one's name on a document to attest to its validity. The handwritten identification must be:

- (a) Original and written by hand;
- (b) Permanently affixed to the document(s) being certified;
- (c) Applied to the document by the identified licensee(~~(,))~~);
- (d) Placed directly over the seal/stamp of the licensee.

(2) A digital identification that is an electronic authentication process attached to or logically associated with an electronic document. The digital identification may include a scanned or digitized signature. The digital identification must be:

- (a) Unique to the licensee using it;
- (b) Capable of independent verification;
- (c) Under the exclusive control of the licensee using it;
- (d) Linked to a document in such a manner that the digital identification is invalidated if any data in the document is changed.

## WSR 08-10-012

### PERMANENT RULES

#### TRANSPORTATION IMPROVEMENT BOARD

[Filed April 24, 2008, 5:42 p.m., effective May 25, 2008]

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

Purpose: Amending WAC 479-05-040 Value engineering study requirements, to clarify internal governmental operations, making the language more specific and understandable for local agencies.

Citation of Existing Rules Affected by this Order: Amending WAC 479-05-040.

Statutory Authority for Adoption: Chapters 47.26 and 47.66 RCW.

Adopted under notice filed as WSR 08-05-017 on February 12, 2008.

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

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

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

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

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

Date Adopted: April 22, 2008.

Stevan Gorcester  
Executive Director

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 24, 2008.

Dr. Terry Bergeson  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

**WAC 479-05-040 Value engineering study requirements.** A value engineering study is required for urban projects with total cost exceeding two and one-half million dollars or when determined by the executive director to be in the best interest of the project.

The value engineering study requirement is completed when the local agency submits the recommendation report to TIB. TIB may consider what recommendations are accepted or rejected when evaluating any funding increase or scope change request.

**WSR 08-10-015**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed April 25, 2008, 10:12 a.m., effective May 26, 2008]

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

Purpose: The purpose of the rules is to comply with the legislative directive to implement an alternative assessment method that shall be an evaluation of a collection of work samples prepared and submitted by an applicant, as provided for in RCW 28A.655.065, to demonstrate achievement of the state content areas in which the student has not yet met standard on the high school Washington assessment of student learning (WASL).

Citation of Existing Rules Affected by this Order: Amending chapter 392-501 WAC.

Statutory Authority for Adoption: RCW 28A.655.061, 28A.665.065.

Adopted under notice filed as WSR 08-01-118 on December 18, 2007.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 9, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

NEW SECTION

**WAC 392-501-300 General description.** A collection of evidence (COE) is a high school graduation alternative assessment option authorized under RCW 28A.655.065 that evaluates a set of work samples in a specific content area (mathematics, reading, and/or writing) based on classroom work prepared by a student. Students may prepare a COE for one or more content areas.

NEW SECTION

**WAC 392-501-310 Eligibility.** A student who has taken the Washington assessment of student learning (WASL) at least once and has not met standard in one or more of the content areas is eligible to submit a collection for each content area in which they have not met standard as an alternative assessment to the WASL if:

(1) The student has sat for and generated a valid scale score during the administration of the WASL.

(2) The student has met any applicable attendance and remediation or supplemental instruction requirements contained in the student's student learning plan developed under RCW 28A.655.061, unless such attendance and/or remediation criteria have been waived by a school district representative for special unavoidable circumstances.

NEW SECTION

**WAC 392-501-320 Application process.** (1) The superintendent of public instruction shall make available to students and school district personnel a COE submission application for documenting that a student has met the eligibility requirements as set forth in WAC 392-501-310.

(2) It is the responsibility of the school district to determine whether the student is eligible for the COE option. If the student is eligible, the school district is required to inform the student of the COE alternative assessment option.

(3) If the student is eligible, the student, with the assistance of school district personnel, shall submit an application to the superintendent of public instruction via the Washington assessment management system (WAMS).

(4) The superintendent of public instruction will publish an annual calendar established before each school year setting forth the timelines for the twice yearly registration, submission, scoring, and student and district reporting for the COE.

NEW SECTION

**WAC 392-501-330 Guidelines and protocols.** (1) Specific guidelines for types and numbers of work samples for mathematics, reading, or writing will be published and made available to students, guardians, schools, and districts. The

guidelines will be published on the office of the superintendent of public instruction (OSPI) web site at: <http://www.k12.wa.us/assessment/default> as approved by the state board of education in an open and public process.

(2) Protocols for submission of work samples will include a Student Information Form, a Work Sample Documentation Form, and Work Sample Sign-Off Forms. Protocols for submission of work samples will be published on the OSPI web site at <http://www.k12.wa.us/assessment/default> as approved by the state board of education in an open and public process.

#### NEW SECTION

**WAC 392-501-340 Sufficiency process for all content areas.** The following process will be utilized in determining sufficiency for a collection of evidence for one or more of the content areas submitted by a student. Upon receipt by OSPI, a collection of evidence will be reviewed to determine whether the protocols for submission have been met. OSPI will notify a school district of any missing paperwork or signatures. If the school district does not provide the missing paperwork or signatures within the time frame provided, the collection of evidence will be returned without a score.

#### NEW SECTION

**WAC 392-501-350 Scoring process for all content areas.** The following process will be utilized to determine a score for a submitted collection for one or more of the content areas.

(1) Collections shall be scored at the state level by a panel of educators screened, selected, and trained by OSPI. To be selected as a scorer, a person must be a certificated educator in the content area, provide teacher leadership at the building and/or district level, and work with high school students in the content area in which they teach.

(2) A submitted collection of evidence shall be scored in a rigorous process that aligns with state content standards and comparable WASL performance.

(3) Uniform scoring criteria will be published on the OSPI web site at <http://www.k12.wa.us/assessment/default> as approved by the state board of education in an open and public process.

#### NEW SECTION

**WAC 392-501-360 Standard setting process for all content areas for the collection of evidence.** (1) A neutral committee of educators, business people, and students will be trained on the state content standards in mathematics, reading, and writing. They will be led by an expert facilitator trained in standard setting processes. The facilitator assists the standard setting committees in order to determine the cut score which all collections must attain in order to meet standard in one or more of the content areas.

(2) The standard setting committee will recommend a cut score for each content area to the state board of education for graduation purposes.

(3) The state board of education shall have the responsibility of accepting or not accepting the standard setting results, using an open and public process.

#### NEW SECTION

**WAC 392-501-370 Reporting process for all content areas for the collection of evidence.** Each student who prepared a collection of evidence will receive a report of his or her results within ninety days following scoring. The report will provide a detailed description of the level of performance on the state content standards found in the student collection. The report will state whether or not the student has met standard in the content area. The results shall be used for state high school graduation purposes.

#### NEW SECTION

**WAC 392-501-380 Collection of evidence adherence to national standards.** National Standards for Educational and Psychological Testing (AERA, NCME, APA, 1999) will be applied in all stages of the development and implementation of the collection of evidence in order to ensure reliability and validity of the alternative assessment option. The National Technical Advisory Committee for the superintendent of public instruction shall also provide ongoing technical assistance for the COE.

### WSR 08-10-022

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 25, 2008, 1:58 p.m., effective May 26, 2008]

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

Purpose: The department is revising sections within chapter 388-106 WAC to amend the in-home classifications to allow for the additional consideration of hours for clients with complex behavioral and cognitive issues and for clients with extremely high needs for assistance with activities of daily living.

Citation of Existing Rules Affected by this Order: Amending WAC 388-106-0100, 388-106-0110, and 388-106-0125.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Other Authority: Chapter 522, Laws of 2007 (SHB 1128).

Adopted under notice filed as WSR 08-02-027 on December 24, 2007.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: April 21, 2008.

Stephanie E. Schiller  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

**WAC 388-106-0100 How does the CARE tool measure mood and behaviors?** (1) When you do not meet the criteria for the clinically complex classification group, or the criteria for exceptional care, or for in-home only have a cognitive performance scale score of five or six, then the mood and behavior criteria listed in subsections (3) and (4) below determines your classification group. If you are eligible for more than one "B" group classification based on the two methodologies, CARE will place you in the highest group for which you qualify.

(2) For each behavior that the CARE tool has documented, the department will determine a status as "current" or "past" as defined in WAC 388-106-0010.

(3) CARE places you in the mood and behavior classification group only if you have one or more of the behavior/moods that also meets the listed status, frequency, and alterability as identified in the following chart (~~No other moods or behaviors documented by CARE will qualify you for the mood and behavior classification.~~):

Behavior/Mood	AND Status, Frequency & Alterability
Assaultive	Current
Combative during personal care	Current
Combative during personal care	In past and addressed with current interventions
Crying tearfulness	Current, frequency 4 or more days per week
Delusions	In past, addressed with current interventions
Depression score (( <u>≥</u> 14)) of 14 or greater	N/A
Disrobes in public	Current and not easily altered
Easily irritable/agitated	Current and not easily altered
Eats nonedible substances	Current
Eats nonedible substances	In past, addressed with current interventions

Behavior/Mood	AND Status, Frequency & Alterability
Hallucinations	Current
Hiding items	In past, addressed with current interventions
Hoarding/collecting	In past, addressed with current interventions
Mental health therapy/program	Need
Repetitive complaints/questions	Current, daily
Repetitive complaints/questions	In past, addressed with current interventions
Repetitive movement/pacing	Current, daily
Resistive to care	Current
Resistive to care	In past, addressed with current interventions
Sexual acting out	Current
Sexual acting out	In past, addressed with current interventions
Spitting	Current and not easily altered
Spitting	In past, addressed with current interventions
Breaks/throws items	Current
Unsafe smoking	Current and not easily altered
Up at night and requires intervention	Current
Wanders exit seeking	Current
Wanders exit seeking	In past, addressed with current interventions
Wanders not exit seeking	Current
Wanders not exit seeking	In past, addressed with current interventions
Yelling/screaming	Current, frequency 4 or more days per week
((Key: <del>≥</del> means greater than. <del>≥</del> means greater than or equal to.))	

or

(4) CARE places you in the mood and behavior classification group if you have a behavior point score greater than 1, your CPS score (as defined in WAC 388-106-0090) is greater than 2, and your ADL score (as defined in WAC 388-106-0105) is greater than 1.

Status	Intervention	Frequency	Weight
Past	No Intervention	N/A	0
Past	With Intervention	N/A	0.25
Current	N/A	1-3 days/wk	0.5

Status	Intervention	Frequency	Weight
Current	N/A	4-6 days/wk	0.75
Current	N/A	Daily	1

Each current behavior (as shown in the table below) has a value from .5 to 6 depending on the severity and alterability. Each status combination (shown in the table above) has a weight from 0 to 1. Behavior points are determined by multiplying the value of each current behavior (from the list below) by the weight of the status combination (above). Behavior points for past behaviors will be determined by multiplying the easily altered value of the behavior from the table below by the appropriate weight from the table above (0 or .25).

The list of behaviors below is divided into categories. Each category has a point limit of how many points can be counted toward the total behavior point score as detailed below. The total behavior point score is determined by totaling the weight-adjusted values for each category below.

Behavior	Value	
	Easily Altered/Past	Not Easily Altered
1. Crying and Tearfulness	.5	1
2. Easily Irritable/Agitated	.5	1
3. Obsessive about health or body functions	.5	1
4. Repetitive Physical Movement	.5	1
5. Hiding Items	.5	1
6. Hoarding/Collecting	.5	1
7. Inappropriate Verbal Noise	.5	1
8. Wanders, not exit seeking	.5	1
Maximum total points after adjusting for status for behaviors 1-8= 2		
9. Repetitive anxious complaints/questions	1	2
10. Rummaging through or takes others belongings	1	2
11. Verbally Abusive	1	2
12. Yelling/Screaming	1	2
13. Spitting	1	2
14. Unrealistic Fears	1	2
15. Accuses others of stealing	1	2
Maximum total points after adjusting for status for behaviors 9-15= 3		
16. Resistant to care with words/gestures	2	3

Behavior	Value	
	Easily Altered/Past	Not Easily Altered
17. Up at night, requires intervention	2	3
18. Unsafe cooking	2	3
19. Inappropriate toilet-ing/menses activity	2	3
20. Unsafe smoking	2	3
21. Left home and became lost	2	3
22. Disrobes in public	2	3
Maximum total points after adjusting for status for behaviors 16-22= 4		
23. Injures self	4	5
24. Wanders/Exit seeking	4	5
25. Sexual acting out	4	5
26. Intimidating	4	5
27. Assaultive	4	5
28. Breaks, throws items	4	5
Maximum total points after adjusting for status for behaviors 23-28= 10		
29. Fire setting	5	6
30. Combative during care	5	6
31. Pica	5	6
32. Seeks vulnerable partners	5	6
Maximum total points after adjusting for status for behaviors 29-32= 12		

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

**WAC 388-106-0110** How does the CARE tool evaluate me for the exceptional care classification of in-home care? CARE places you in the exceptional care classifications for the in-home setting when the following criteria are met in either diagram 1 or 2:

Diagram 1
((You have one of the following diagnoses: <ul style="list-style-type: none"> <li>■ Quadriplegia;</li> <li>■ Paraplegia;</li> <li>■ ALS (Amyotrophic Lateral Sclerosis);</li> <li>■ Parkinson's Disease; ■ Multiple Sclerosis;</li> <li>■ Comatose;</li> <li>■ Muscular Dystrophy;</li> <li>■ Cerebral Palsy;</li> <li>■ Post Polio Syndrome; or</li> <li>■ TBI (traumatic brain injury)-))</li> </ul>

Diagram 1
(( <del>AND</del> ))
You have an ADL score of greater than or equal to 22.
AND
You need a Turning/repositioning program.
AND
You require at least one of the following:
<ul style="list-style-type: none"> <li>■ External catheter;</li> <li>■ Intermittent catheter;</li> <li>■ Indwelling catheter care;</li> <li>■ Bowel program; (<del>(or)</del>)</li> <li>■ Ostomy care; or</li> <li>■ Total in Self Performance for Toilet Use.</li> </ul>
AND
You need one of the following services provided by an individual provider, agency provider, a private duty nurse, or through self-directed care:
<ul style="list-style-type: none"> <li>■ Active range of motion (AROM); or</li> <li>■ Passive range of motion (PROM).</li> </ul>

Diagram 2
You have an ADL score of greater than or equal to 22.
AND
You need a Turning/repositioning program.
AND
You need one of the following services provided by an individual provider, agency provider, a private duty nurse, or through self-directed care:
<ul style="list-style-type: none"> <li>■ Active range of motion (AROM); or</li> <li>■ Passive range of motion (PROM).</li> </ul>
AND
All of the following apply:
<ul style="list-style-type: none"> <li>■ You require IV nutrition support or tube feeding;</li> <li>■ Your total calories received per IV or tube was greater than 50%; and</li> <li>■ Your fluid intake by IV or tube is greater than 2 cups per day.</li> </ul>
AND
You need assistance with one of the following, provided by an individual provider, agency provider, a private duty nurse, or through self-directed care:
<ul style="list-style-type: none"> <li>■ Dialysis; or</li> <li>■ Ventilator/respirator.</li> </ul>

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

**WAC 388-106-0125** How does CARE use ~~((the))~~ criteria ~~((of cognitive performance as determined under WAC 388-106-0090, clinical complexity as determined under WAC 388-106-0095, mood/behaviors as determined under WAC 388-106-0100, ADLs as determined under WAC 388-106-0105, and exceptional care as determined under WAC 388-106-0110,))~~ to place me in a clas-

**sification group for in-home care?** CARE uses the criteria of cognitive performance score as determined under WAC 388-106-0090, clinical complexity as determined under WAC 388-106-0095, mood/behavior and behavior point score as determined under WAC 388-106-0100, ADLs as determined under WAC 388-106-0105, and exceptional care as determined under WAC 388-106-0110 to place you into one of the following ~~((fourteen))~~ seventeen in-home groups. CARE classification is determined first by meeting criteria to be placed into a group, then you are further classified based on ADL score or behavior point score into a classification sub-group following a classification path of highest possible base hours to lowest qualifying base hours.

(1) If you meet the criteria for exceptional care, then CARE will place you in **Group E**. CARE then further classifies you into:

(a) **Group E High** with 420 base hours if you have an ADL score of 26-28; or

(b) **Group E Medium** with 350 base hours if you have an ADL score of 22-25.

(2) If you meet the criteria for clinical complexity and have cognitive performance score of 4-6 or you have cognitive performance score of 5-6, then you are classified in **Group D** regardless of your mood and behavior qualification or behavior points. CARE then further classifies you into:

(a) **Group D High** with 280 base hours if you have an ADL score of 25-28; or

(b) **Group D Medium-High** with 240 base hours if you have an ADL score of 18-24; or

(c) **Group D Medium** with 190 base hours if you have an ADL score of 13-17; or

(d) **Group D Low** with 145 base hours if you have an ADL score of 2-12.

(3) If you meet the criteria for clinical complexity and have a CPS score of less than 4, then you are classified in **Group C** regardless of your mood and behavior qualification or behavior points. CARE then further classifies you into:

(a) **Group C High** with 200 base hours if you have an ADL score of 25-28; or

(b) **Group C Medium-High** with 180 base hours if you have an ADL score of 18-24; or

(c) **Group C Medium** with 140 base hours if you have an ADL score of 9-17; or

(d) **Group C Low** with 95 base hours if you have an ADL score of 2-8.

(4) If you meet the criteria for mood and behavior qualification and do not meet the classification for C, D, or E groups, then you are classified into **Group B**. CARE further classifies you into:

(a) **Group B High** with 155 base hours if you have an ADL score of 15-28; or

(b) **Group B Medium** with 90 base hours if you have an ADL score of 5-14; or

(c) **Group B Low** with 52 base hours if you have an ADL score of 0-4; or

(5) If you meet the criteria for behavior points and have a CPS score of greater than 2 and your ADL score is greater than 1, and do not meet the classification for C, D, or E groups, then you are classified in **Group B**. CARE further classifies you into:

(a) **Group B High** with 155 base hours if you have a behavior point score 12 or greater; or

(b) **Group B Medium-High** with 110 base hours if you have a behavior point score greater than 6; or

(c) **Group B Medium** with 90 base hours if you have a behavior point score greater than 4; or

(d) **Group B Low** with 52 base hours if you have a behavior point score greater than 1.

(6) If you are not clinically complex and your CPS score is less than 5 and you do not qualify under either mood and behavior criteria, then you are classified in **Group A**. CARE further classifies you into:

(a) **Group A High** with 78 base hours if you have an ADL score of 10-28; or

(b) **Group A Medium** with 62 base hours if you have an ADL score of 5-9; or

(c) **Group A Low** with 29 base hours if you have an ADL score of 0-4.

((Classification))	((ADL Score))	((Group))	((Base Hours of Group))
((Group E)) ((Exceptional care = yes and Mood and behavior = yes or no and Cognitive performance score = 0-6))	((ADL Score 26-28))	((E High (14))	((420))
	((ADL Score 22-25))	((E Med (13))	((350))

((Classification))	((ADL Score))	((Group))	((Base Hours of Group))
((Group D)) ((Cognitive performance score = 4-6 and Clinically complex = yes and Mood and behavior = yes or no))	((ADL Score 18-28))	((D High (12))	((240))
	((ADL Score 13-17))	((D Med (11))	((190))
	((ADL Score 2-12))	((D Low (10))	((145))
((OR)) ((Cognitive performance score = 5-6 and Clinically complex = no and Mood and behavior = yes or no))			

((Classification))	((ADL Score))	((Group))	((Base Hours of Group))
((Group C)) ((Cognitive performance score = 0-3 and Clinically complex = yes and Mood and behavior = yes or no))	((ADL Score 18-28))	((C High (9))	((180))
	((ADL Score 9-17))	((C Med (8))	((140))
	((ADL Score 2-8))	((C Low (7))	((83))

((Classification))	((ADL Score))	((Group))	((Base Hours of Group))
((Group B)) ((Mood and behavior = yes and Clinically complex = no and Cognitive performance score = 0-4))	((ADL Score 15-28))	((B High (6))	((155))
	((ADL Score 5-14))	((B Med (5))	((90))
	((ADL Score 0-4))	((B Low (4))	((52))

((Classification))	((ADL Score))	((Group))	((Base Hours of Group))
((Group A)) ((Mood and behavior = no and Clinically complex = no and Cognitive performance score = 0-4))	((ADL Score 10-28))	((A High (3))	((78))
	((ADL Score 5-9))	((A Med (2))	((62))
	((ADL Score 0-4))	((A Low (1))	((29))



**WSR 08-10-025**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed April 25, 2008, 4:54 p.m., effective May 26, 2008]

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

Purpose: The department needs to update rules in Title 415 WAC that contain technical errors, including references to repealed and nonexistent rules, and outdated meeting information. The substance and the meaning of the rules are not changing.

Citation of Existing Rules Affected by this Order: Amending WAC 415-02-550, 415-112-015, 415-112-505, and 415-200-020.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: For WAC 415-02-550 is RCW 41.50.500, 41.50.670, 41.50.710, and 41.50.790; for WAC 415-112-015 is RCW 41.32.010 and chapter 41.32 RCW; for WAC 415-112-505 is RCW 41.32.785, 41.32.851, and 41.32.790; and for WAC 415-200-020 is RCW 41.50.086.

Adopted under notice filed as WSR 08-05-028 on February 12, 2008.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

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

Date Adopted: April 25, 2008.

Sandra J. Matheson  
 Director

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

**WAC 415-02-550 What happens to my defined contributions if I transfer to Plan 3 after the department of retirement systems accepts my property division dissolution order? (1) Who may use this section?** You may use this section if you were a member of PERS Plan 2, SERS Plan 2, or TRS Plan 2 and *first* obtained a property division dissolution order using the language in RCW 41.50.670(2) and WAC 415-02-510 or 415-02-520, and *then* transfer to Plan 3.<sup>1</sup>

**(2) What happens if the property division dissolution order (using the language in RCW 41.50.670(2) and WAC 415-02-510) did not split my account?** Refer to WAC ((415-03-530 [WAC 415-03-530])) 415-02-530 for information about your defined benefit account and about your and

your ex-spouse's defined contribution accounts after you transfer to Plan 3.

**(3) What happens if the property dissolution order used the language in WAC 415-02-520 and did split my account?**

(a) Your *ex-spouse's account will remain in Plan 2*. Your ex-spouse is ineligible to transfer to Plan 3.

(b) The balance of your accumulated contributions remaining in your Plan 2 account after it was split will be transferred to your Plan 3 defined contributions account. (Refer to chapter 415-111 WAC for information about your defined contribution account.)

**(4) How will gainsharing be applied to my account?** Gainsharing is not applied to Plan 2 member accounts. If gainsharing is applied after you have transferred to Plan 3, only you will receive the gainsharing amount.

**(5) Terms used:**

(a) Dissolution order - RCW 41.50.500.

(b) Ex-spouse - WAC 415-02-030.

(c) Gainsharing - Chapter 41.31 RCW (Plan 1); chapter 41.31A RCW (Plan 3); WAC 415-02-030; 415-111-440.

(d) PERS - Public employees' retirement system.

(e) Plan 3 retirement systems - WAC 415-111-100.

(f) SERS - School employees' retirement system.

(g) Split accounts - WAC 415-02-030.

(h) TRS - Teachers' retirement system.

Footnote to section:

<sup>1</sup> The section does not apply to retirees, because retirees cannot transfer to Plan 3.

AMENDATORY SECTION (Amending WSR 05-12-042, filed 5/25/05, effective 6/25/05)

**WAC 415-112-015 Definitions.** All definitions in RCW 41.32.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.32 RCW are defined in this chapter.

(1) **Accrual date** means the first date from which a member's or beneficiary's benefit is calculated. See WAC 415-112-520, RCW 41.32.795 and 41.32.855.

(2) **Annual leave** means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not usually include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work. However, if an employer authorizes only one type of leave, covering paid leave for vacation, illness, and any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

(3) **Dual member** means a person who:

(a) Is or becomes a member of a retirement system, as defined in RCW 41.50.030 or 41.54.010(6), on or after July 1, 1988;

(b) Has been a member of one or more other systems; and

(c) Has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or 41.54.010(6). See WAC 415-113-041.

(4) **Ineligible position** means a position that does not meet the requirements of an eligible position as stated in RCW 41.32.010(37).

(5) **Pension benefit** means that portion of a retiree's monthly retirement allowance that is funded by the state of Washington and the retiree's former employer or employers.

(6) **Public educational institution** means a school district, the state school for the deaf, the state school for the blind, educational service districts, institutions of higher education, or community or technical colleges.

(7)(a) **Public school** as defined in RCW 41.32.010 includes school districts, educational service districts, the state school for the deaf, and the state school for the blind but does not include the office of the superintendent of public instruction.

(b) As applied to TRS employers other than those listed in (a) of this subsection, "public school" means an institution, fifty percent or more of whose employees are "qualified to teach," whose primary function is to educate students. See subsection (8) of this section.

(8) **Qualified to teach** as used under RCW 41.32.-010(29) means:

(a) Having a valid certificate issued by the office of the superintendent of public instruction pursuant to WAC ((~~180-79A-140~~)) 181-79A-140;

(b) Having a valid permit to teach issued by a lawful authority of this state pursuant to WAC ((~~180-79A-128~~)) 181-79A-128; or

(c) Being employed under a contract to teach with an institution of higher education as defined in RCW 28B.10.016.

(9) **Service in an administrative or supervisory capacity** as used under RCW 41.32.010 and in this chapter:

(a) Means:

(i) Service in a managerial role relating to the administration of a public school; or

(ii) Service involving the exercise of direction over employees of the public school.

(b) Includes, but is not limited to, service as: Principal, assistant principal, superintendent, assistant superintendent, personnel manager and business manager.

(10) **Spousal consent** requires written evidence that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on the retirement application, duly executed and filed with the department, constitutes "written evidence."

(11) **System acronyms** used in this chapter are defined as follows:

- "PERS" means the public employees' retirement system.

- "SERS" means the school employees' retirement system.

- "TRS" means the teachers' retirement system.

**AMENDATORY SECTION** (Amending WSR 05-23-062, filed 11/14/05, effective 12/15/05)

**WAC 415-112-505 What are the benefit options for Plan 2 and 3 members?** Upon retirement for service under RCW 41.32.765 or 41.32.875, or disability under RCW 415-

112-790 or 415-112-880, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(c) ((~~through (e)~~)) and (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) **What are my benefit options?**

(a) **Option one: Standard allowance for service retirement (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance** (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must submit your spouse's notarized signature indicating consent to the retirement option you selected. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.32.785(2) and 41.32.851(2). If your survivor beneficiary has been designated by a dissolution order under RCW 41.50.790, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death

to the department. The increase will begin accruing the first day of the month following the death.

(a) **Members who retire on or after January 1, 1996:** Your increased monthly allowance will be:

(i) The amount you would have received had you chosen the standard allowance option; plus

(ii) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

**Example:**

Agnes retires from TRS Plan 2 in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55
1999		1,838.55	.025	45.96
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	—	—
			Total COLAs	191.05
Original Monthly Allowance		+ Total COLAs	= New Monthly Allowance	
\$2000		+\$191.05	= \$2,191.05*	

\* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) **Members who retired before January 1, 1996:** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.32.785(3).

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement. See RCW 41.32.044.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) **Plan 2:**

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(8) For more information, see RCW 41.32.785 and 41.32.790 (Plan 2) and RCW 41.32.851 (Plan 3).

AMENDATORY SECTION (Amending WSR 96-23-025, filed 11/13/96, effective 12/14/96)

**WAC 415-200-020 Regular board meetings.** The regular meetings of the employee retirement benefits board are held (~~on the fourth Tuesday of each month beginning~~) quarterly at (~~(9:00 a.m. at)~~) the offices of the State Investment Board, (~~(2424 Heritage Court S.W.)~~) 2100 Evergreen Park Drive Southwest, Olympia, Washington (~~(98504-0916)~~).

**WSR 08-10-026**  
**PERMANENT RULES**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**

[Filed April 28, 2008, 1:00 p.m., effective May 29, 2008]

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

Purpose: To better define and establish new rules for the county ferry capital improvement program.

Citation of Existing Rules Affected by this Order: Amending WAC 136-400-010, 136-400-020, 136-400-030, 136-400-040, 136-400-050, 136-400-060, 136-400-070, 136-400-080, 136-400-090, 136-400-100, 136-400-110 and 136-400-120; and new sections WAC [136-400-045] and 136-400-065.

Statutory Authority for Adoption: Chapter 36.79 RCW.

Adopted under notice filed as WSR 08-06-051 on February 28, 2008.

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

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

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

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

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

Date Adopted: April 17, 2008.

Jay P. Weber  
Executive Director

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-010 Purpose and authority.** RCW 47.56.725(4) provides that the county road administration board may evaluate requests for county ferry capital improvement funds by Pierce, Skagit, Wahkiakum, and Whatcom counties, and, if approved by the board, submit said requests to the legislature for funding. This chapter describes the manner in which the county road administration board will implement the provisions of the act.

AMENDATORY SECTION (Amending Order 85, filed 10/23/91, effective 11/23/91)

**WAC 136-400-020 County and project eligibility.** (1) Counties eligible to apply for county ferry capital improvement funds are Pierce, Skagit, Wahkiakum, and Whatcom.

(2) For the project to be eligible it must be included in both the county's six-year transportation program and its ferry system fourteen-year long range capital improvement plan as described in WAC 136-400-040.

(3) Any county holding an approved and executed county ferry capital improvement program contract is ineligible to submit a project funding application for additional ferry capital improvement funds until the existing contract is fully performed or has been mutually terminated.

AMENDATORY SECTION (Amending Order 85, filed 10/23/91, effective 11/23/91)

**WAC 136-400-030 Definition of ferry capital improvement projects.** County ferry capital improvement projects shall include the following:

- (1) Purchase of new vessels;
- (2) Major vessel refurbishment (e.g., engines, structural steel, controls) that substantially extends the life of the vessel;
- (3) Facility refurbishment/replacement (e.g., complete replacement, major rebuilding or redecking of a dock) that substantially extends the life of the facility;
- (4) Installation of items that substantially improve ferry facilities or operations; and/or
- (5) Construction of infrastructure that provides new or additional access or increases the capacity of terminal facilities(~~(; and/or~~
- (6) ~~Emergency repairs to correct damage to vessels or facilities caused by accidents or natural phenomena)).~~

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-040 Six-year transportation program and ferry system fourteen-year plan submittal.** (1) Each county's six-year transportation program and ferry system fourteen-year long range (~~(ferry)~~) capital improvement plan shall be prepared and adopted in accordance with RCW 36.81.121 and 36.54.015, respectively, and one copy shall be forwarded to the county road administration board no later than December 31(~~(st)~~) of each year.

(2) Any proposed county ferry capital improvement project must be included in both the county's six-year transportation program and ferry system fourteen-year (~~(ferry)~~) capital improvement plan ((submitted in each odd-numbered year shall include all projects for which the county may request ferry capital improvement funds during the biennium beginning on July 1st of that year. Project cost estimates shall be considered preliminary until a project application is submitted-)) and must remain on both during all of the phases of the project including:

- (a) At the time a county requests a call for projects;
- (b) At the time the county submits a project funding application; and
- (c) Until the project is completed or the project is otherwise terminated.

(3) The county ferry capital improvement project cost estimates that are included in the county's six-year transportation programs and ferry system fourteen-year plans shall be considered preliminary and are not binding on actual county ferry capital improvement project applications.

NEW SECTION

**WAC 136-400-045 Call for projects.** Beginning at the 2009 regular spring county road administration board meeting, and continuing once every four years thereafter, one or more of the WAC 136-400-010 named counties are invited to attend said meeting and request the county road administration board issue a call for projects. Based on the information provided by the counties and no later than the regular summer meeting the same year, the county road administration board, and at their sole discretion, may issue a call for projects and may include in the call additional or clarifying terms consistent with all other rules governing the county ferry capital improvement program.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-050 Project application.** Upon a call for projects by the county road administration board, each application by a county for county ferry capital improvement funds shall be made no later than ((January 1st of even-numbered years for the biennium beginning on July 1st of the next odd-numbered year. The information submitted to the county road administration board shall include the application form and sufficient engineering drawings to accurately describe the project)) December 31 of the same year.

Project applications shall be submitted on application forms supplied by the county road administration board and shall include the following information:

- (1) Project description and scope;
- (2) Engineering drawings accurately describing the complete project;
- (3) Engineering analysis and cost estimate;
- ~~((3))~~ (4) Evidence ((of application for outside)) the applicant first sought funding through the public works trust fund or any other available revenue source; and
- ~~((4))~~ Plan for utilization of outside funding that has been, will be, or may be awarded; and
- (5) Comprehensive project financial plan including match funding amounts and sources as required by WAC 136-400-065 and amortization and cash flow schedules.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-060 Technical review committee.** (1) A technical review committee shall be created to review project applications for county ferry capital improvement funds and present recommendations to the county road administration board for approval, denial or further action on the applications.

(2) The committee shall be composed of the following members or their designees:

- (a) Executive director of the county road administration board(~~(, WSDOT assistant secretary for transaid, WSDOT))~~;
- (b) Washington state department of transportation highways and local programs director;
- (c) A Washington state department of transportation marine ((division)) engineer((, and));

(d) One public works department representative((s)) from each of the ((four participating)) WAC 136-400-010 named counties((-

The county representatives)), each of whom shall serve as an ex officio, nonvoting member((s)) of the technical review committee.

(3) The technical review committee shall ((recommend approval of projects that have been submitted in a timely manner and that)) ensure that the project applications:

- ~~((1))~~ (a) Meet the applicable statutes and the standards of this chapter; ~~((and~~
- ~~(2))~~ (b) Adhere to commonly held engineering practices and cost effectiveness; and

(c) Are complete and meet the project application requirements listed in WAC 136-400-050, including evidence the applicant first sought funding through the public works trust fund, or other available revenue source.

(4) The technical review committee shall ((recommend an appropriate local match on a project-by-project basis based upon the availability of local matching funds)) also develop a written report on each project application. The written report will include the following elements:

- (a) A project summary;
- (b) A committee evaluation; and
- (c) A committee recommendation based upon WAC 136-400-065 guidance and including any additional or clarifying terms established by the county road administration board's call for projects.

(5) The technical review committee's written report((s)) on each project ((recommended for approval)) application shall be submitted to the county road administration board no later than thirty days prior to ((its)) the next regularly scheduled spring meeting after the project application deadline.

(6) Technical review committee meetings shall be convened on an "as needed" basis by the executive director of the county road administration board, who shall serve as chairperson.

NEW SECTION

**WAC 136-400-065 Project financing.** (1) The maximum contribution by the county ferry capital improvement program is ten million dollars for any one project and five hundred thousand dollars total annual reimbursement to one county.

(2) Depending on whether a county applicant has formed a ferry district pursuant to RCW 36.54.110 and generated revenue to finance the project, project cost sharing for each applicant shall be as follows:

(a) If ferry district revenues finance greater than thirty percent of the proposed project costs, the ferry capital improvement program may contribute up to the remaining project cost, subject to the maximum described in subsection (1) of this section;

(b) If ferry district revenues finance greater than five percent but less than or equal to thirty percent of the proposed project costs, the ferry capital improvement program may contribute up to fifty percent of the project cost, subject to the maximum described in subsection (1) of this section;

(c) If ferry district revenues finance less than or equal to five percent of the project costs, or the county has not formed a ferry district, the ferry capital improvement program may contribute up to thirty percent of the project cost, subject to the maximum described in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-070 County road administration board action.** (1) The county road administration board shall review project applications, along with the ~~((recommendations))~~ reports of the technical review committee, at its next regular spring meeting ((in even-numbered years)) following the project application deadline.

(2) At that time ~~((it shall approve those projects which it finds:~~

~~(1) Meet the applicable statutes and the standards of this chapter; and~~

~~(2) Adhere to commonly held engineering practices and cost effectiveness, specifying the amount of approved funding which it recommends for such projects.~~

~~The board shall determine a local matching percentage on a case-by-case basis, considering the availability of local matching funds and the recommendation of the technical review committee. Emergent projects may be considered by the county road administration board at any time upon recommendation by the executive director. The board shall require evidence that each applicant has first sought funding through the public works trust fund, and other available revenue sources), the county road administration board may approve, deny or return the application to the technical review committee for further review.~~

~~(3) If the county road administration board returns the application to the technical review committee, the board may develop supplemental questions and criteria for the technical review committee to address.~~

~~(4) Final action by the county road administration board on project applications must occur no later than at the next regularly scheduled summer meeting following project application deadline.~~

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-080 Funding by the legislature.**

County ferry capital improvement project requests approved by the county road administration board shall be submitted to the legislature for funding out of amounts available under RCW ~~((46.68.100(3)))~~ 46.68.090 (2)(h) as part of the biennial or supplemental budget request of the county road administration board.

The county road administration board shall, within ten days of the signing of the transportation budget, notify each county having an approved project of such approval and of the amount of county ferry capital improvement funding allocated to each approved project. The county road administration board shall offer each county a contract for each approved project setting forth the terms and conditions under which funds will be provided.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-090 Limitation on use of county ferry capital improvement funds.** County ferry capital improvement funds may be used for project design, construction, and right of way costs incurred after legislative approval. ~~((Emergency project costs may be eligible for retroactive payment upon approval by the county road administration board.))~~

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-100 Terms of ((CRAB)) county road administration board/county contract.** The ~~((CRAB))~~ county road administration board/county contract shall include, but not be limited to, the following provisions:

(1) Such ~~((contract shall be valid and binding (and the county shall be entitled to receive ferry capital improvement funds) only if such))~~ contract ~~((is))~~ must be signed and returned to the county road administration board within forty-five days of its mailing by the county road administration board.

(2) The project will be constructed in accordance with:

(a) The information furnished to the county road administration board; and

(b) The plans and specifications prepared under the supervision of the county engineer.

(3) The county will notify the county road administration board when a contract has been awarded ~~((and)),~~ when construction has started, and when the project has been completed.

(4) The county road administration board will reimburse counties based on ~~((the basis of))~~ progress vouchers received and approved on individual projects, subject to the availability of county ferry capital improvement funds appropriated by the legislature.

(5) The county will reimburse the county road administration board in the event that a project post audit reveals ineligible expenditure of county ferry capital improvement funds. Said funds will be returned to the ~~((county-wide))~~ county fuel tax account for distribution in accordance with RCW 46.68.120.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-110 Voucher approval and payment.**

The county road administration board shall prepare and distribute to all counties with approved county ferry capital improvement projects, voucher forms for use in requesting ~~((progress and final))~~ annual payments for each approved county ferry capital improvement project.

~~((The county constructing each ferry capital improvement project may submit vouchers monthly as the work progresses and shall submit a final voucher after completion of each project for payment of the approved and funded share of the project cost.))~~

The county road administration board shall approve such vouchers for payment to the county submitting the voucher. County ferry capital improvement fund warrants shall be

transmitted directly to each county submitting a voucher. In the event that project funds remain unspent after the final project payment has been made, the unspent balance will be returned to the county-wide fuel tax account for distribution in accordance with RCW 46.68.120.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-400-120 Audit requirements.** Audits of county ferry capital improvement projects may be conducted by the state auditor's office and will normally be conducted in conjunction with the county audits required by RCW 43.09.260 and 36.80.080. Special audits of specific county ferry capital improvement projects not required by these statutes may be accomplished at the request, and at the expense, of the county road administration board.

An audit of any county ferry capital improvement project shall include, but not be limited to, a review of the county's compliance with the provisions of the statute and these rules. The audit shall also include a review of the financial accounting and reporting of those funds associated with and received for the county ferry capital improvement project.

In the event that an exception is noted in the audit report, the county road administration board shall evaluate the noted discrepancy. Discrepancies may be cause for the county road administration board to order the payback of improperly expended county ferry capital improvement funds as provided in the county road administration board/county contract. Any such funds returned by a county to the county road administration board shall be returned to the (~~county-wide~~) county fuel tax account for distribution in accordance with RCW 46.68.120.

**WSR 08-10-028**  
**PERMANENT RULES**  
**GROWTH MANAGEMENT**  
**HEARINGS BOARDS**

[Filed April 28, 2008, 2:55 p.m., effective May 29, 2008]

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

Purpose: Repeal of nonmandatory language pertaining to procedures for filing of a petition for declaratory ruling and its subsequent disposition.

Citation of Existing Rules Affected by this Order: Repealing WAC 242-02-910, 242-02-920, and 242-02-930.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Adopted under notice filed as WSR 08-02-078 on January 16, 2008 [December 31, 2007].

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 3.

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

Date Adopted: April 24, 2008.

James J. McNamara  
Chair, Rules Committee

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 242-02-910	Petitions for declaratory ruling.
WAC 242-02-920	Declaratory ruling—Notice to other persons.
WAC 242-02-930	Declaratory ruling—Disposition of petition.

**WSR 08-10-029**  
**PERMANENT RULES**  
**GROWTH MANAGEMENT**  
**HEARINGS BOARDS**

[Filed April 28, 2008, 2:56 p.m., effective May 29, 2008]

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

Purpose: Amendments are needed to update contact information (address, web site, e-mail), modify methods of filing to reflect current technology, update required number of copies, update meeting information, and provide internal consistency of verbiage.

Citation of Existing Rules Affected by this Order: Amending WAC 242-02-072, 242-02-074, 242-02-230, 242-02-240, 242-02-250, 242-02-320, 242-02-52001, 242-02-530, 242-02-570, and 242-02-832.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Adopted under notice filed as WSR 08-02-077 on January 16, 2008 [December 31, 2007].

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 10, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 24, 2008.

James J. McNamara  
Chair, Rules Committee

AMENDATORY SECTION (Amending WSR 03-15-047, filed 7/11/03, effective 8/11/03)

**WAC 242-02-072 Principal offices.** The principal offices of each board are as follows:

- (1) Eastern Washington Growth Management Hearings Board  
15 West Yakima Avenue, Suite 102  
Yakima, Washington 98902  
509-574-6960  
509-574-6964 fax  
e-mail: (~~aaandreas476@ew.gmhb.wa.gov~~)  
AAndreas@EW.GMHB.WA.GOV  
web site: www.gmhb.wa.gov/eastern
- (2) Western Washington Growth Management Hearings Board  
(~~(905 24th Way S.W. Suite B-2)~~)  
319 - 7th Avenue S.E. (as of June 2008)  
Olympia, WA 98501  
P.O. Box 40953  
Olympia, Washington 98504-0953  
(360) 664-8966  
(360) 664-8975 fax  
e-mail: western@ww.gmhb.wa.gov  
web site: www.gmhb.wa.gov/western
- (3) Central Puget Sound Growth Management Hearings Board  
(~~(900 Fourth Avenue, Suite 2470)~~)  
800 Fifth Avenue, Suite 2356  
Seattle, Washington (~~(98164)~~) 98104  
(206) 389-2625  
(206) 389-2588 fax  
e-mail: central@cps.gmhb.wa.gov  
web site: www.gmhb.wa.gov/central

AMENDATORY SECTION (Amending WSR 06-12-019, filed 5/26/06, effective 6/26/06)

**WAC 242-02-074 Regular meetings.** (1) Regular meetings of each board will be held at its principal office or designated location at the following times:

(a) Eastern Washington board - on the first Wednesday of each month at 10:00 a.m. or following any scheduled hearing on that date.

(b) Western Washington board - on the second (~~and fourth~~) Wednesday(~~s~~) of each month at 11:00 a.m. or following any scheduled hearing on that date.

(c) Central Puget Sound board - on the first Monday of each month at 10:00 a.m. or following any scheduled hearing on that date.

(2) The joint boards shall meet annually at a time and location to be announced.

AMENDATORY SECTION (Amending WSR 06-12-019, filed 5/26/06, effective 6/26/06)

**WAC 242-02-230 Petition for review—Service and filing.** (1) The original and four copies of the petition for review shall be filed with a board personally, or by first class, certified, or registered mail. Filings may also be made with a board by electronic mail or telefacsimile transmission as provided in WAC 242-02-240. A copy of the petition for review shall be personally served upon all other named parties or deposited in the mail and postmarked on or before the date filed with the board. When a county is a party, the county auditor shall be served in noncharter counties and the agent designated by the legislative authority in charter counties. The mayor, city manager, or city clerk shall be served when a city is a party. When the state of Washington is a party, the office of the attorney general shall be served at its main office in Olympia unless service upon the state is otherwise provided by law. Proof of service may be filed with the board pursuant to WAC 242-02-340.

(2) A board may dismiss a case for failure to substantially comply with subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 04-21-046, filed 10/15/04, effective 11/15/04)

**WAC 242-02-240 Date of filing—Facsimile and electronic mail.** (1) The date of filing shall be the date of actual receipt by a board at its office. The date stamp placed on the petition shall be presumptive evidence of the date of receipt.

(2) Filing of any documents with a board by electronic mail or telefacsimile transmission is at the risk of the sender and shall not be deemed complete unless the following procedures are strictly observed:

(a) An electronic mail or (~~facsimile~~) telefacsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's (~~facsimile~~) telefacsimile machine or receiving computer shall be presumptive evidence of the date and time of receipt of transmission.

(b) The original document and (~~three~~) four copies must be mailed and postmarked or otherwise transmitted to the board on or before the date of sending the (~~facsimile~~) telefacsimile transmission or electronic mail.

(c) Documents over fifteen pages in length may not be filed by (~~fax~~) telefacsimile without prior approval of the presiding officer.

(3) A (~~fax~~) telefacsimile or electronic mail copy shall constitute an original solely for the purpose of establishing the date a document was filed.

AMENDATORY SECTION (Amending WSR 04-21-046, filed 10/15/04, effective 11/15/04)

**WAC 242-02-250 Notice of appearance and answer.** (1) The respondent shall file a notice of appearance with the board and serve a copy on the petitioner and all other parties promptly after having been served with a petition for review.



The notice of appearance shall be dated, signed and contain the respondent's address, telephone and fax numbers, and e-mail address.

(2) The respondent, at its option, may file an answer to the petition for review. The respondent shall file the original and ~~((three))~~ four copies with the board and serve a copy on the petitioner. Answers shall be filed no later than twenty days from the date of service of the petition for review. Answers shall be verified in the same manner as the petition for review.

AMENDATORY SECTION (Amending WSR 04-21-046, filed 10/15/04, effective 11/15/04)

**WAC 242-02-320 Method of service.** Service of papers, specified in WAC 242-02-310(1), shall be made personally or by first class, registered or certified mail, or by ~~((facsimile))~~ telefacsimile transmission. The board may be served by ~~((e-mail))~~ electronic mail filings, provided that an original and ~~((three))~~ four copies are deposited in the mail and postmarked no later than the same day. Exhibits shall not be served electronically but shall be deemed timely filed if included in the mailed copies.

AMENDATORY SECTION (Amending WSR 04-21-046, filed 10/15/04, effective 11/15/04)

**WAC 242-02-52001 Exhibits.** (1) Except as otherwise provided in these rules, the evidence in a case shall consist of the exhibits cited in the briefs and attached thereto. A copy of any document cited in a brief shall be served on the opposing party or parties by the time specified by the board or presiding officer and an original and ~~((three))~~ four copies of the exhibits shall be filed with the board.

(2) Respondents may charge for the cost of copies of documents requested by other parties in accordance with RCW 42.17.300, as amended.

AMENDATORY SECTION (Amending WSR 06-12-019, filed 5/26/06, effective 6/26/06)

**WAC 242-02-530 Motions—Requirements.** (1) A motion is an application for an order or ruling. Every motion shall be in writing, unless made during a hearing; shall state with particularity the grounds; and shall set forth the relief or order sought. An original and ~~((three))~~ four copies of the motion shall be filed with a board and a copy served on each opposing party or that party's attorney or other authorized representative.

(2) All motions shall be properly captioned and signed by the moving party or that party's attorney or other authorized representative.

(3) The motion shall specify the amount of time required for argument, whether appearance by telecommunication is requested, and the names and telephone numbers of all parties served with the motion.

(4) Dispositive motions on a limited record, similar to a motion for summary judgment in superior court or a motion on the merits in the appellate courts, are permitted. Time frames for making and responding to such a motion shall be established by the presiding officer.

(5) Motions to disqualify a hearing examiner acting as the presiding officer, or a board member, for bias, prejudice, interest or other cause, with supporting affidavit(s), may be filed with a board.

(6) Any party may bring a motion for the board to decide a challenge to compliance with the notice and public participation requirements of the act raised in the petition for review, provided that the evidence relevant to the challenge is limited. If such a motion is timely brought, the presiding officer or the board shall determine whether to decide the notice and public participation issue(s) on motion or whether to continue those issues to the hearing on the merits.

AMENDATORY SECTION (Amending WSR 97-04-008, filed 1/24/97, effective 3/1/97)

**WAC 242-02-570 Briefs.** (1) A petitioner, or a moving party when a motion has been filed, shall submit a brief on each legal issue it expects a board to determine. Failure by such a party to brief an issue shall constitute abandonment of the unbrieffed issue. Briefs shall enumerate and set forth the legal issue(s) as specified in the prehearing order if one has been entered.

(2) The original and ~~((three))~~ four copies of briefs and exhibits not previously filed with the board in the pending case and that are cited in the brief shall be filed with a board at least five business days prior to the hearing unless otherwise provided by a board or presiding officer. When briefs and exhibits are filed, a copy shall also be served on each party, unless otherwise directed by a board or presiding officer. A board or presiding officer may permit or require the filing of additional briefs.

(3) Clarity and brevity are expected to assist a board in meeting its statutorily imposed time limits. A presiding officer may limit the length of a brief and impose format restrictions.

AMENDATORY SECTION (Amending WSR 00-09-094, filed 4/19/00, effective 5/20/00)

**WAC 242-02-832 Reconsideration.** (1) After issuance of a final decision any party may file a motion for reconsideration with a board in accordance with subsection (2) of this section. Such motion must be filed within ten days of service of the final decision. The original and ~~((three))~~ four copies of the motion for reconsideration shall be filed with the board. At the same time, copies shall be served on all parties of record. Within five days of filing the motion for reconsideration, a party may file an answer to the motion for reconsideration without direction or request from the board. A board may require other parties to supply an answer. All answers to motions for reconsideration shall be served on all parties of record.

(2) A motion for reconsideration shall be based on at least one of the following grounds:

(a) Errors of procedure or misinterpretation of fact or law, material to the party seeking reconsideration;

(b) Irregularity in the hearing before the board by which such party was prevented from having a fair hearing; or

(c) Clerical mistakes in the final decision and order.

(3) In response to a motion for reconsideration, the board may deny the motion, modify its decision, or reopen the hearing. A motion is deemed denied unless the board takes action within twenty days of filing the motion for reconsideration. A board order on a motion for reconsideration is not subject to a motion for reconsideration.

(4) A decision in response to the petition for reconsideration shall constitute a final decision and order for purposes of judicial review. Copies of the final decision and order shall be served by the board on each party or the party's attorney or other authorized representative of record.

**WSR 08-10-030**  
**PERMANENT RULES**  
**GROWTH MANAGEMENT**  
**HEARINGS BOARDS**

[Filed April 28, 2008, 2:57 p.m., effective May 29, 2008]

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

Purpose: Amendments are needed to update contact information (address, web site, e-mail).

Citation of Existing Rules Affected by this Order:  
Amending WAC 242-04-050.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Adopted under notice filed as WSR 08-02-077 on January 16, 2008 [December 31, 2007].

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

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

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

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

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

Date Adopted: April 24, 2008.

James J. McNamara  
Chair, Rules Committee

AMENDATORY SECTION (Amending WSR 03-15-047, filed 7/11/03, effective 8/11/03)

**WAC 242-04-050 Communications with each board or the joint boards.** (1) All communications with a board, including but not limited to the submission of materials pertaining to its operations and/or administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of each board's decisions and other matters, shall be addressed to the appropriate board's office as follows:

- (a) Eastern Washington Growth  
Management Hearings Board

15 West Yakima Avenue, Suite 102  
Yakima, Washington 98902  
509-574-6960  
509-574-6964 fax  
e-mail: (([andreas476@ew-gmhb.wa.gov](mailto:andreas476@ew-gmhb.wa.gov)))  
[AAndreas@EW.GMHB.WA.GOV](mailto:AAndreas@EW.GMHB.WA.GOV)  
web site: [www.gmhb.wa.gov/eastern](http://www.gmhb.wa.gov/eastern)

- (b) Western Washington Growth  
Management Hearings Board  
(~~905 24th Way S.W. Suite B-2~~)  
319 - 7th Avenue S.E. (as of June 2008)  
Olympia, WA 98501  
P.O. Box 40953  
Olympia, Washington 98504-0953  
(360) 664-8966  
(360) 664-8975 fax  
e-mail: [western@ww.gmhb.wa.gov](mailto:western@ww.gmhb.wa.gov)  
web site: [www.gmhb.wa.gov/western](http://www.gmhb.wa.gov/western)
- (c) Central Puget Sound Growth  
Management Hearings Board  
(~~900 Fourth Avenue, Suite 2470~~)  
800 Fifth Avenue, Suite 2356  
Seattle, Washington (~~98164~~) 98104  
(206) 389-2625  
(206) 389-2588 fax  
e-mail: [central@cps.gmhb.wa.gov](mailto:central@cps.gmhb.wa.gov)  
web site: [www.gmhb.wa.gov/central](http://www.gmhb.wa.gov/central)

(2) All communications with the joint boards shall be addressed in care of the Western Washington board.

**WSR 08-10-039**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed April 30, 2008, 10:21 a.m., effective May 31, 2008]

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

Purpose: This rule-making order amends chapter 16-324 WAC, Rules for the certification of seed potatoes, by repealing the requirement for PVY testing for Generation 1 lots.

Citation of Existing Rules Affected by this Order:  
Amending WAC 16-324-385.

Statutory Authority for Adoption: Chapters 15.14 and 34.05 RCW.

Adopted under notice filed as WSR 08-07-082 on March 19, 2008.

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

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

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

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

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

Date Adopted: April 30, 2008.

Valoria H. Loveland  
Director

AMENDATORY SECTION (Amending WSR 07-11-010, filed 5/3/07, effective 6/3/07)

**WAC 16-324-385 Production requirements.** (1) A grower is not eligible to produce nuclear, generation 1, or generation 2 seed potatoes, if ring rot has been detected on his or her farm during the previous two years.

(2) Prenuclear class.

(a) Prenuclear seed lots must be derived from disease tested micropropagated plants. All testing methods and laboratories must be approved by the department.

(b) A minimum of one percent (and not less than twenty samples) of prenuclear seed produced in a greenhouse must be tested and found free of potato virus X (PVX), potato virus Y (PVY), potato virus S (PVS), potato leafroll virus (PLRV), *Erwinia carotovora* ssp. *carotovora* (soft rot), *Erwinia carotovora* ssp. *atroseptica* (black leg), and *Clavibacter michiganense* ssp. *sependonicum* (ring rot).

(c) The department will inspect all facilities used in the production of prenuclear class seed potatoes on a periodic basis. Department approval is necessary in order to utilize these facilities.

(3) Nuclear class.

(a) Nuclear class seed potatoes must be propagated entirely from prenuclear plants.

(b) Each nuclear class seed lot must be distinctly separated in storage and in the field.

(c) If a ground rig is used for spraying, wide enough spacing between rows must be left, so that tires will not touch plants during the growing season.

(d) Growers must plant cut seed and single drop seed separately, with single drop seed identified.

(4) Generations 1, 2, 3, 4 and 5.

(a) Growers must leave a distinct separation of at least six feet unplanted or planted to some other crop between lots of seed potatoes from different classes. A similar separation must be left between different varieties, unless the varieties are readily distinguishable by visual observation.

(b) When more than one lot of seed potatoes is planted in the same field, growers must stake or mark the identity of each lot.

~~((e) All generation 1 lots must be sampled and tested under the department's supervision for PVY at a rate of four hundred plants for every ten lots. For farms with fewer than ten generation 1 lots, a minimum of four hundred plants must be sampled and tested.))~~

## WSR 08-10-041

### PERMANENT RULES DEPARTMENT OF EARLY LEARNING

[Filed April 30, 2008, 2:04 p.m., effective May 31, 2008]

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

Purpose: The department of early learning (DEL) is adopting new chapter 170-06 WAC, DEL background check rules, and revising related DEL child care licensing rules in chapters 170-151, 170-295, and 170-296 WAC. When effective, permanent chapter 170-06 WAC will replace and supersede emergency background check rules filed under WSR 08-04-060.

New DEL background check rules are needed to implement chapter 265, Laws of 2006, and chapter 387, Laws of 2007. When DEL was established in 2006 as an independent agency, department of social and health services (DSHS) background check rules became obsolete for child care that is now licensed or certified by DEL. The new and revised rules being adopted: Consolidate background check requirements from the three current child care licensing WAC chapters into chapter 170-06 WAC; clarify DEL's existing process for evaluating background check information, provide clearer appeal rights; and put into rule the current DEL director's list of crimes and negative actions that are used, in part, to determine whether an applicant may obtain a DEL background clearance.

Citation of Existing Rules Affected by this Order: Repealing WAC 170-296-150, 170-296-0190, 170-296-0195, 170-296-0205; and amending WAC 170-151-070, 170-151-090, 170-151-180, 170-151-440, 170-151-470, 170-295-0010, 170-295-0060, 170-295-0070, 170-295-0100, 170-295-6060, 170-295-7050, 170-296-0020, 170-296-0180, 170-296-0200, 170-296-0210, 170-296-0215, 170-296-0220, 170-296-0450, 170-296-0550, 170-296-1410, and 170-296-1450.

Statutory Authority for Adoption: Chapter 43.215 RCW and RCW 43.43.832.

Other Authority: Chapter 265, Laws of 2006 and chapter 387, Laws of 2007.

Adopted under notice filed as WSR 08-06-101 on March 5, 2008.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made to the rules proposed as WSR 08-06-101 as a result of comments or for clarity:

I. CHANGES TO SECTIONS OF ADOPTED NEW CHAPTER 170-06 WAC, DEL BACKGROUND CHECK RULES COMPARED TO THE PROPOSAL:

#### A. WAC 170-06-0020 Definitions.

The proposed definition of "negative action" in subsection (9) is changed as follows:

In subsection (9)(b), the phrase "not subject to further review" is deleted for clarity.

In subsection (9)(c) the phrase "An adverse agency action, including" is added before "termination, revocation...". This change is to indicate "adverse agency action" means termination, revocation, or denial of a license, or surrender of a license if done in lieu of a pending adverse action.

**B. WAC 170-06-0040 Background check requirements.**

The proposed rule is changed as follows:

In subsection (2)(b) the department deleted "arrests and the subsequent dispositions of such arrests" and inserted in its place the phrase "pending criminal charges." This change makes the rule consistent with RCW 43.43.832 regarding the criminal information that DEL may investigate in a background check.

In subsection (5), the phrase "care for or" is deleted after "An individual may not...". If left in the adopted rule, the deleted phrase would have prevented a person who had not yet completed the background clearance process from working *under supervision* or having *supervised access* to children in child care licensed or certified by DEL. This was not the intent of the rule.

**C. WAC 170-06-0050 Department action following completion of a background check.**

In subsection (1)(f), the proposed rule is changed to include "certification of rehabilitation." This proposed subsection was also revised for clarity and to be consistent with the definition of "conviction record" in RCW 43.43.830. Regarding what will not be considered a conviction under this rule, the following wording was deleted:

"it [has been] pardoned or a court of law acts to expunge, dismiss, or vacate the conviction record, or if an order of dismissal has been entered following a period of probation, suspension or deferral of sentence."

The deleted language was replaced with:

"the conviction [has been] the subject of an expungement, pardon, annulment, certification of rehabilitation, or other equivalent procedure based on a finding of rehabilitation of the person convicted, or the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence."

**D. WAC 170-06-0060 Additional information the department may consider.**

Proposed subsection (2) is changed to delete "DEL-approved evaluator" and replace the wording with "an evaluator who is licensed or certified under RCW 18.130.040." This change requires that an individual who provides a health evaluation under subsection (1) of this rule must be licensed or certified by the department of health or the appropriate health profession board or commission. The list of these professions is in RCW 18.130.040.

**E. WAC 170-06-0070 Disqualification.**

The caption of the proposed rule is changed to "**Disqualification and reconsideration**" to more clearly reflect the rule content. The following changes to the rule content were made:

Three new subheadings were added to help clarify the rule. These subheadings are:

- "Background information that will disqualify an applicant" inserted before subsections (1) through (3).
- "Background information that may disqualify an applicant" inserted before subsections (4) through (7).
- "Reconsideration of disqualification" inserted before subsection (8).

Subsections (1) and (2) were revised for clarity to refer to the appropriate subsections "(1)" and "(2)," respectively, of WAC 170-06-0120 when describing the crimes that disqualify a person from a DEL background clearance.

In subsection (3), "as defined in WAC 170-06-0020(9)" was added to be consistent with a similar reference in the term "negative action" in subsection (4) of this section.

In subsection (7)(c), "reasonably" was added for clarity before the phrase "should have known that the illegal act occurred or would occur."

**F. WAC 170-06-0120 Director's list.**

This section includes a table that describes the crimes that disqualify an applicant from receiving a DEL background clearance. In column (a) of the table, "Commercial sexual abuse of a minor" was added to the list of crimes that permanently disqualify an applicant, and "Patronizing a juvenile prostitute" was deleted. Both changes make the rule consistent with the recent amendment of RCW 9.68A.100 (see chapter 368, Laws of 2007) that changed the name of this crime.

II. CHANGES TO AMENDED SECTIONS OF CHAPTER 170-151 WAC, SCHOOL AGE CHILD CARE COMPARED TO THE PROPOSAL.

**WAC 170-151-470 What personnel policies and records must I develop and maintain?**

In subsection (1)(c), the word "lived" is changed to "resided" to be consistent with other rules in the proposal and with RCW.

III. CHANGES TO AMENDED SECTIONS OF CHAPTER 170-296 WAC, FAMILY HOME CHILD CARE COMPARED TO THE PROPOSAL.

**A. WAC 170-296-0200 Will my license be denied or revoked if I have been disqualified from providing licensed child care?**

The phrase "licensed child" is deleted before "care." And after the word "care" the following phrase was added for clarity, "...for or having unsupervised access to children in child care." This makes the phrasing of this rule consistent with other rules being adopted.

**B. WAC 170-296-0220 Must I keep the results of the background checks on family members, staff and volunteers?**

The WAC caption is changed to "**Must I keep a record of submitted background check forms and the results of the background checks on family members, staff and volunteers?**"

The WAC content is also changed. After "You must keep" was added the phrase "documentation of background check forms submitted...". The affect of this change is that licensees must document that they submitted background check applications, as well as keep a copy of the DEL background clearance authorization for persons covered by this rule.

**C. WAC 170-296-0450 When will my license be denied, suspended or revoked?**

The content of current subsection (1)(b) [(2)(b)] was inadvertently deleted in the proposed rule and is being reinserted in its entirety. The subsection will read that the department must deny, suspend or revoke a license if you (the licensee) "(b) Have been found to have committed or allowed others to commit child abuse, child neglect or exploitation, or

you or others you supervise treat, permit or assist in treating children in your care with cruelty, or indifference;"

IV. THERE ARE NO CHANGES TO AMENDED SECTIONS OF CHAPTER 170-295 WAC AS PROPOSED IN WSR 08-06-101.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 12, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 21, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 12, Amended 21, Repealed 4.

Date Adopted: April 30, 2008.

Amie Lapp Payne, PhD  
Deputy Director

## Chapter 170-06 WAC

### DEL BACKGROUND CHECK RULES

#### NEW SECTION

**WAC 170-06-0010 Purpose and scope.** (1) The purpose of this chapter is to establish rules for background checks conducted by the department of early learning (DEL or department). The department does background checks on individuals who are authorized to care for or have unsupervised access to children in child care agencies or in facilities that are certified by DEL. Background checks are conducted to find and evaluate any history of criminal convictions, pending charges, negative actions, or other information that raises concerns about an individual's character, suitability and competence to care for or have unsupervised access to children in child care.

(2) This chapter applies to all individuals who are applying for a new or renewal license or certification, applying for authorization to care for or have unsupervised access to children in child care and to persons who are licensed, certified by DEL or authorized to care for or have unsupervised access to children in child care.

(3) If any provision of this chapter conflicts with any provision in any chapter containing a substantive rule relating to background checks and qualifications of persons who are authorized to care for or have unsupervised access to children in child care, the provisions in this chapter shall govern.

(4) These rules implement chapters 43.215 and 43.43 RCW, including DEL responsibilities in RCW 43.215.200, 43.215.205, 43.215.215, 43.43.830, and 43.43.832.

(5) Effective date: These rules are initially effective July 3, 2006, and apply prospectively.

#### NEW SECTION

**WAC 170-06-0020 Definitions.** The following definitions apply to this chapter:

(1) **"Agency"** has the same meaning as "agency" in RCW 43.215.020(2).

(2) **"Appellant"** means only those with the right of appeal under this chapter.

(3) **"Applicant"** means an individual who is seeking a DEL background check authorization as part of an application for a child care agency license or DEL certification or who seeks DEL authorization to care for or have unsupervised access to children in child care.

(4) **"Authorized"** or **"authorization"** means approval by DEL to care for or have unsupervised access to children in child care or to work in or reside on the premises of a child care agency or certified facility.

(5) **"Certification"** or **"certified by DEL"** means an agency that is legally exempt from licensing that has been certified by DEL as meeting minimum licensing requirements.

(6) **"DEL"** or **"department"** means the department of early learning.

(7) **"Director's list"** means a list of crimes, the commission of which disqualifies an individual from being authorized by DEL to care for or have unsupervised access to children in child care, WAC 170-06-0120.

(8) **"Disqualified"** means DEL has determined that a person's background information prevents that person from being licensed or certified by DEL or from being authorized by DEL to care for or have unsupervised access to children in child care.

(9) **"Negative action"** means a court order, court judgment or an adverse action taken by an agency, in any state, federal, tribal or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability and competence to care for or have unsupervised access to children in child care. This may include but is not limited to:

(a) A decision issued by an administrative law judge.

(b) A final determination, decision or finding made by an agency following an investigation.

(c) An adverse agency action, including termination, revocation or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification or contract in lieu of the adverse action.

(d) A revocation, denial or restriction placed on any professional license.

(e) A final decision of a disciplinary board.

(10) **"Unsupervised access"** means:

(a) An individual will or may have the opportunity to be alone with a child in child care at any time for any length of time; and

(b) Access that is not within constant visual or auditory range of the licensee, an employee authorized by DEL, nor a relative or guardian of the child in child care.

#### NEW SECTION

**WAC 170-06-0030 Reason for background checks.** The department does background checks to reduce the risk of

harm to children from caregivers or others who have been convicted of certain crimes or who pose a risk to children. The department's rules and state law require the evaluation of background information to determine the character, suitability and competence of persons who will care for or have unsupervised access to children in child care.

#### NEW SECTION

**WAC 170-06-0040 Background clearance requirements.** (1) At the time of application for a license or certification or for authorization to care for or have unsupervised access to children in child care, the applicant shall submit to the department a completed background check form and fingerprint card, if required. A fingerprint card is required for a Federal Bureau of Investigation check if the applicant has resided in the state of Washington for less than three years. This requirement applies to:

(a) Each individual applicant for a license or certification;

(b) All staff of the licensed child care agency or certified facility, whether they provide child care or not, including but not limited to:

(i) Primary staff persons;

(ii) Assistants;

(iii) Volunteers;

(iv) Interns;

(v) Contracted providers;

(vi) Each person residing on the premises of a licensed facility who is sixteen years of age or older; and

(vii) All individuals who are sixteen years of age or older who will care for or have unsupervised access to children in child care.

(2) Each person identified in this section must complete a DEL background check form, disclosing:

(a) Whether he or she has been convicted of any crime;

(b) All pending criminal charges; and

(c) Negative actions, to which he or she has been subject, as defined by WAC 170-06-0020(9).

(3) An agency, licensee, or certified facility shall require an applicant to submit to the licensee or facility a completed background check form:

(a) By the date of hire of new staff, assistants, volunteers, interns or contracted providers;

(b) By the date a person age sixteen or older moves onto the premises; or

(c) By the date a person who resides on the premises turns sixteen years old.

(4) The licensee or certified facility must submit the background check form to the department within seven days of the staff, assistant, volunteer, intern or contracted provider's first day of employment, date the person moves on the premises or turns sixteen years old, as applicable.

(5) An individual shall not have unsupervised access to children in child care unless he or she has obtained a DEL authorization under this chapter.

(6) Agencies, licensees and facilities shall not permit any individual to care for or have unsupervised access to children in child care, unless the individual has been authorized by

DEL to care for or have unsupervised access to children in child care.

(7) An individual who has been disqualified by DEL shall not be present on the premises of a licensed or certified facility.

#### NEW SECTION

**WAC 170-06-0050 Department action following completion of background inquiry.** After the department receives the background information it will conduct a character, suitability and competence assessment as follows:

(1) Compare the background information with the DEL director's list, WAC 170-06-0120, to determine whether the applicant must be disqualified under WAC 170-06-0070 (1) and (2). In doing this comparison, the department will use the following rules:

(a) A pending charge for a crime or a deferred prosecution is given the same weight as a conviction.

(b) If the conviction has been renamed it is given the same weight as the previous named conviction. For example, larceny is now called theft.

(c) Convictions whose titles are preceded with the word "attempted" are given the same weight as those titles without the word "attempted."

(d) The term "conviction" has the same meaning as the term "conviction record" as defined in RCW 10.97.030 and shall include convictions or dispositions for crimes committed as either an adult or a juvenile. It shall also include convictions or dispositions for offenses for which the person received a deferred or suspended sentence, unless the record has been expunged according to law.

(e) Convictions and pending charges from other states or jurisdictions will be treated the same as a crime or pending charge in Washington state. If the elements of the crime from the foreign jurisdiction are not identical or not substantially similar to its Washington equivalent or if the foreign statute is broader than the Washington definition of the particular crime, the defendant's conduct, as evidenced by the indictment or information, will be analyzed to determine whether the conduct would have violated the comparable Washington statute.

(f) The crime will not be considered a conviction for the purposes of the department when the conviction has been the subject of an expungement, pardon, annulment, certification of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(2) Evaluate any negative action information to determine whether the applicant has any negative actions requiring disqualification under WAC 170-06-0070(3).

(3) If the applicant is not disqualified under WAC 170-06-0070 (1), (2) or (3), evaluate any negative action information and any other pertinent background information, including nondisqualifying criminal convictions, to determine whether disqualification is warranted under WAC 170-06-0070 (4), (5) or (7).

(4) Notify the child care agency, licensee, or certified facility whether or not the department is able to authorize the

applicant to care for or have unsupervised access to children in child care.

(5) The department will discuss the result of the criminal history and background check information with the licensee or management staff of a licensed or certified facility, when applicable.

#### NEW SECTION

**WAC 170-06-0060 Additional information the department may consider.** (1) If DEL has reason to believe that additional information is needed to determine the character, suitability and competence of the applicant to care for or have unsupervised access to children in child care, additional information will be requested. Upon request, the applicant must provide to the department any additional reports or information requested. This additional information may include, but is not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance abuse evaluations;
- (c) Psychiatric evaluations; and
- (d) Medical evaluations.

(2) Any evaluation requested under this section must be conducted by an evaluator who is licensed or certified under RCW 18.130.040. The evaluation will be at the expense of the person being evaluated.

(3) The applicant must give the department permission to speak with the evaluator in subsection (1)(a) through (d) of this section prior to evaluation, to establish the need for and scope of the evaluation, and after the evaluation to discuss the results.

#### NEW SECTION

**WAC 170-06-0070 Disqualification and reconsideration.**  
**Background information that will disqualify an applicant.**

(1) An applicant who has a background containing any of the permanent convictions on the director's list, WAC 170-06-0120(1), shall be permanently disqualified from providing licensed child care, caring for children or having unsupervised access to children in child care.

(2) An applicant who has a background containing any of the nonpermanent convictions on the director's list, WAC 170-06-0120(2), shall be disqualified from providing licensed child care, caring for children or having unsupervised access to children in child care for five years after the conviction date.

(3) An applicant shall be disqualified when their background contains a negative action, as defined in WAC 170-06-0020(9) that relates to:

(a) An act, finding, determination, decision, or the commission of abuse or neglect of a child as defined in chapters 26.44 RCW and 388-15 WAC.

(b) An act, finding, determination, decision, or commission of abuse or neglect or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW.

**Background information that may disqualify an applicant.**

(4) An applicant may be disqualified for other negative action(s), as defined in WAC 170-06-0020(9) which reasonably relate to the applicant's character, suitability and competence to care for or have unsupervised access to children in child care.

(5) An applicant may be disqualified from caring for or having unsupervised access to children if the individual is the subject of a pending child protective services (CPS) investigation.

(6) An applicant who has a "founded" finding for child abuse or neglect will not be authorized to care for or have unsupervised access to children during the administrative hearing and appeals process.

(7) The department may also disqualify an applicant if the applicant has other nonconviction background information that renders the applicant unsuitable to care for or have unsupervised access to children in child care. Among the factors the department may consider are:

(a) The applicant attempts to obtain a license, certification, or authorization by deceitful means, such as making false statements or omitting material information on an application.

(b) The applicant used illegal drugs or misused or abused prescription drugs or alcohol that either affected their ability to perform their job duties while on the premises when children were present or presented a risk of harm to any child in child care.

(c) The applicant attempted, committed, permitted, or assisted in an illegal act on the premises. For purposes of this subsection, an applicant attempted, committed, permitted, or assisted in an illegal act if he or she knew or reasonably should have known that the illegal act occurred or would occur.

(d) The applicant lacks sufficient physical or mental health to meet the needs of children in child care.

(e) The applicant had a license or certification for the care of children or vulnerable adults terminated, revoked, suspended or denied.

**Reconsideration of disqualification.**

(8) If an applicant who has been disqualified can demonstrate by clear and convincing evidence that he or she has the character, suitability and competence to care for or have unsupervised access to children in child care, the department may consider authorizing the applicant to care for or have unsupervised access to children in child care.

#### NEW SECTION

**WAC 170-06-0080 Notification of disqualification.**

(1) The department will notify the applicant in writing if the applicant is disqualified by the background check.

(2) If the department sends a notice of disqualification, the applicant will not be authorized to care for or have unsupervised access to children in child care.

(3) Any decision by the department disqualifying an applicant under this chapter is effective immediately upon receipt of notice by the applicant.

NEW SECTION

**WAC 170-06-0090 Administrative hearing to contest disqualification.** (1) An applicant may request an administrative hearing to contest the department's disqualification decision.

(2) The employer or prospective employer cannot contest the department's decision on behalf of any other person, including a prospective employee.

(3) The administrative hearing will take place before an administrative law judge employed by the office of administrative hearings, pursuant to chapter 34.05 RCW, and chapter 170-03 WAC.

NEW SECTION

**WAC 170-06-0100 Request for administrative hearing.** (1) Any person who has a right to contest the disqualification under this chapter must request a hearing within twenty-eight days of receipt of the decision.

(2) A request for a hearing must meet the requirements of chapter 170-03 WAC.

(3) Any decision by the department disqualifying a person under this chapter shall remain in effect pending the outcome of the administrative hearing or review under chapter 170-03 WAC, notwithstanding any provision of chapter 170-03 WAC to the contrary.

NEW SECTION

**WAC 170-06-0110 Limitations on challenges to disqualifications.** (1) If the disqualification is based on a criminal conviction, the appellant cannot contest the conviction in the administrative hearing.

(2) If the disqualification is based on a finding of child abuse or neglect, or a finding of abandonment, abuse, neglect, exploitation, or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW, the appellant cannot contest the finding if:

(a) The appellant was notified of the finding by the department of social and health services (DSHS) and failed to request a hearing to contest the finding; or

(b) The appellant was notified of the finding by DSHS and requested a hearing to contest the finding, but the finding was upheld by final administrative order or superior court order.

(3) If the disqualification is based on a court order finding the applicant's child to be dependent as defined in chapter 13.34 RCW, the applicant cannot contest the finding of dependency in the administrative hearing.

(4) If the disqualification is based upon a negative action as defined in WAC 170-06-0020(9) the appellant cannot contest the underlying negative action in the administrative hearing if the appellant was previously afforded the right of review or hearing right and a final decision or finding has been issued.

NEW SECTION

**WAC 170-06-0120 Director's list.** (1) An applicant's conviction for any crimes listed in column (a) in the table

below shall permanently disqualify the applicant from authorization to care for or have unsupervised access to children in child care.

(2) An applicant's conviction for any crime listed in column (b) in the table below shall disqualify the applicant from authorization to care for or have unsupervised access to children in child care for a period of five years from the date of conviction.

(a) Crimes that permanently disqualify an applicant	(b) Crimes that disqualify an applicant for five years from date of conviction
Abandonment of a child	Abandonment of a dependent person not against child
Arson	Assault 3 not domestic violence
Assault 1	Assault 4/simple assault
Assault 2	Burglary
Assault 3 domestic violence	Coercion
Assault of a child	Custodial assault
Bail jumping	Custodial sexual misconduct
Carnal knowledge	Extortion 2
Child buying or selling	Forgery
Child molestation	Harassment
Commercial sexual abuse of a minor	
Communication with a minor for immoral purposes	Identity theft
Controlled substance homicide	Leading organized crime
Criminal mistreatment	Malicious explosion 3
Custodial interference	Malicious mischief
Dealing in depictions of minor engaged in sexually explicit conduct	Malicious placement of an explosive 2
Domestic violence (felonies only)	Malicious placement of an explosive 3
Drive-by shooting	Malicious placement of imitation device 1
Extortion 1	Patronizing a prostitute
Harassment domestic violence	Possess explosive device
Homicide by abuse	Promoting pornography
Homicide by watercraft	Promoting prostitution 1
Incendiary devices (possess, manufacture, dispose)	Promoting prostitution 2
Incest	Promoting suicide attempt
Indecent exposure/public indecency (felonies only)	Prostitution
Indecent liberties	Reckless endangerment



<b>(a) Crimes that permanently disqualify an applicant</b>	<b>(b) Crimes that disqualify an applicant for five years from date of conviction</b>
Kidnapping	Residential burglary
Luring	Stalking
Malicious explosion 1	Theft
Malicious explosion 2	Theft-welfare
Malicious harassment	Unlawful imprisonment
Malicious mischief domestic violence	Unlawful use of a building for drug purposes
Malicious placement of an explosive 1	Violation of the Imitation Controlled Substances Act (manufacture/deliver/intent)
Manslaughter	Violation of the Uniform Controlled Substances Act (manufacture/deliver/intent)
Murder/aggravated murder	Violation of the Uniform Legend Drug Act (manufacture/deliver/intent)
	Violation of the Uniform Precursor Drug Act (manufacture/deliver/intent)
Possess depictions minor engaged in sexual conduct	
Rape	
Rape of child	
Robbery	
Selling or distributing erotic material to a minor	
Sending or bringing into the state depictions of a minor	
Sexual exploitation of minors	
Sexual misconduct with a minor	
Sexually violating human remains	
Use of machine gun in felony	
Vehicular assault	
Vehicular homicide (negligent homicide)	
Violation of child abuse restraining order	
Violation of civil anti-harassment protection order	
Violation of protection/contact/restraining order	
Voyeurism	

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-151-070 How do I apply or reapply for a license?** (1) You must comply with the department's application procedures and submit to the department:

(a) A completed department-supplied application for school-age child care center license, including attachments, ninety or more days before the:

- (i) Expiration of your current license;
- (ii) Opening date of your center;
- (iii) Relocation of your center; or
- (iv) Change of the licensee.

(b) A completed ~~((criminal history and))~~ background ~~((inquiry))~~ check form for each staff person or volunteer having unsupervised or regular access to the child in care; and

(c) The annual licensing fee. The fee is forty-eight dollars per year for the first twelve children plus four dollars for each additional child over the licensed capacity of twelve children.

(2) In addition to the required application materials specified under subsection (1) of this section, you must submit to the department:

(a) An employment and education resume of the person responsible for the active management of the center and of the site coordinator;

(b) Copies of diplomas or education transcripts of the director and site coordinator; and

(c) Three professional references each for you, the director, and the site coordinator.

(3) You, as the applicant for a license under this chapter must be twenty-one years of age or older.

~~(4) ((The department may, at any time, require additional information from you, any staff person, any volunteer, members of the household of any of these individuals, and other persons having access to the children in care. The additional information includes, but is not limited to:~~

- ~~(a) Sexual deviancy evaluations;~~
- ~~(b) Substance and alcohol abuse evaluations;~~
- ~~(c) Psychiatric evaluations;~~
- ~~(d) Psychological evaluations; and~~
- ~~(e) Medical evaluations.~~

~~(5) The department may perform investigations of you, staff persons, volunteers, members of the households of these individuals, and other persons having access to the child in care as the department deems necessary, including accessing criminal histories and law enforcement files.~~

~~(6))~~ You must conform to rules and regulations approved or adopted by the:

(a) State department of health and relating to the health care of children at school-age child care centers;

(b) State fire marshal's office, establishing standards for fire prevention and protection of life and property from fire, under chapter ~~((212-56A))~~ 212-12 WAC.

~~((7))~~ (5) The department must not issue a license to you until the ~~((department of health and the))~~ state fire marshal's office ~~((have))~~ has certified or inspected and approved the center.

~~((8))~~ (6) The department may exempt a school site possessing a fire safety certification signed by the local fire official within six months prior to licensure from the requirement

to receive an additional fire safety inspection by the state fire marshal's office.

~~((9))~~ (7) You must submit a completed plan of deficiency correction, when required, to the department of health and the department licenser before the department will issue you a license.

~~((10))~~ (8) You, your director and site coordinator must attend department-provided orientation training.

**AMENDATORY SECTION** (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-151-090 When can my license application be denied and when can my license be suspended or revoked?** (1) We must deny your license application, or suspend or revoke your license if you do not meet the requirements outlined this chapter.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility, we will consider qualifications separately and together. We may deny your license application, or suspend or revoke your license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, or sexually exploited a child as defined in chapters 26.44 RCW and 388-15 WAC (~~(388-15-130)~~);

(b) Have a disqualifying criminal history (~~(as listed in)~~ under chapter (~~(388-06)~~) 170-06 WAC;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. The exception: If you can demonstrate by clear and convincing evidence that you have taken enough correction action or rehabilitation to justify the public trust and to operate the center according to the rules of this chapter, we may issue you a license;

(d) Commit or allow an illegal act on the licensed premises;

(e) Allow a child in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs, or use alcohol excessively;

(g) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office to inspect the premises; or

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office access to records related to the center's operation or to interview staff or a child in care.

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get a license by deceitful means, such as making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with a child in care;

(d) Fail to provide adequate supervision to a child in care;

(e) Are not able to exercise fiscal responsibility and accountability while operating the center;

(f) Knowingly allow an employee or volunteer on the premises who has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information reasonably requested by the department; or

(h) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter (~~(74-15)~~) 43.215 RCW.

**AMENDATORY SECTION** (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-151-180 What staff patterns and qualifications does the department require?** (1) General qualifications. You, your staff, volunteers, and other persons associated with the operation of the center who have access to the child in care must:

(a) Be of good character;

(b) Demonstrate the understanding, ability, personality, emotional stability, and physical health suited to meet the cultural, emotional, mental, physical, and social needs of the children in care; (~~and~~)

(c) Not have committed or been convicted of child abuse or any crime involving harm to another person; and

(d) Be authorized by DEL to care for or have unsupervised access to children in child care or to work or reside on the premises of a child care agency or certified facility as defined in chapter 170-06 WAC.

(2) The department may, at any time, require additional information from you, any staff person, any volunteer, members of the household of any of these individuals, and other persons having access to children in care. The additional information includes, but is not limited to:

(a) Sexual deviancy evaluations;

(b) Substance and alcohol abuse evaluations;

(c) Psychiatric evaluations;

(d) Psychological evaluations; and

(e) Medical evaluations.

(3) Any evaluation requested under subsection (2)(a) through (e) of this section will be at the expense of the person being evaluated.

(4) The person being evaluated must give the department permission to speak with the evaluator(s) in subsection (2)(a) through (e) of this section prior to and after the evaluation.

(5) Program director. You must serve as or employ a director responsible for the overall management of the center's facility and operation. The director must:

(a) Be twenty-one years of age or older;

(b) Serve as administrator of the center, ensuring compliance with licensing requirements;

(c) Have knowledge of development of school-age children as evidenced by professional references, education, experience, and on-the-job performance;

(d) Have the management and supervisory skills necessary for the proper administration of the center, including:

(i) Record maintenance;

(ii) Financial management; and

(iii) Maintenance of positive relationships with staff, children, parents, and the community.

(e) Employ, provide, or arrange for fulfillment of clerical, accounting, maintenance, transportation, and food service responsibilities so the child care staff is free to concentrate on program implementation and maintaining the required staff-to-child ratio;

(f) Have completed thirty or more college quarter credits or combination of one-third clock hours and two-thirds college credits, in early childhood education/child development, elementary education, social work, other child-related field, including, but not limited to, art, music, dance, recreation, physical education, education, home economics, psychology, social services, child development associate (CDA), or nutrition;

(g) Have two or more years of successful experience working with school-age children as evidenced by professional references and on-the-job performance;

(h) Have planning, coordination, and supervisory skills to implement a high quality, developmentally appropriate program; and

(i) Have completed one of the following prior to or within the first six months of licensure or employment except as provided in subsection (2)(i) of this section:

(i) Twenty clock hours or two college quarter credits of basic training. The Washington state training and registry system (STARS) must approve the training; or

(ii) Current CDA or equivalent credential or twelve or more college quarter credits in a child development associate sequence; or

(iii) Forty-five or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or

(iv) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.

~~((3))~~ (6) Site coordinator. You may employ a site coordinator responsible for being on site with children, program planning and program implementation. The program director must provide regular supervision of the site coordinator.

~~((4))~~ (7) The same person may serve as the site coordinator and program director when qualified for both positions. The site coordinator must:

(a) Be twenty-one years of age or older;

(b) Have completed thirty or more college quarter credits or combination of one-third clock hours and two-thirds college credits in early childhood education/child development, elementary education social work, other child-related field including, but not limited to, art, music, dance, relevant to school age children, recreation, physical education, education, music, art, psychology, social services, home economics, CDA, or nutrition;

(c) Serve as staff supervisor;

(d) Have demonstrated knowledge in:

(i) Behavior management skills specific to school-age children;

(ii) Program management skills; and

(iii) School-age child activity planning and coordinating skills.

(e) Have a minimum of two years experience working with school-age children, or possess equivalent experience.

(f) Have completed one of the following prior to or within the first six months of licensure or employment:

(i) Twenty clock hours or two college quarter credits of initial training. STARS must approve the training; or

(ii) Current CDA or twelve or more college quarter credits in child development, associate sequence;

(iii) Forty-five or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or

(iv) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.

~~((5))~~ (8) The program director or site coordinator must normally be on the premises while children are in care. If temporarily absent from the center, the director and site coordinator must leave a competent, designated staff person in charge.

~~((6))~~ (9) The director and site coordinator may also serve as child care staff when that role does not interfere with the director's or site coordinator's management and supervisory responsibilities.

~~((7))~~ (10) Center staffing. You may employ a lead school-age child care staff person to be in charge of a child or a group of children. Lead school-age child care staff must:

(a) Be eighteen years of age or older;

(b) Possess a high school education or equivalent;

(c) Have school-age child development knowledge and experience; and

(d) Have the ability to implement the activity program.

~~((8))~~ (11) You may use a child care assistant, volunteer, or trainee. The assistant, volunteer, or trainee must support staff. The school age child care assistant, volunteer, or trainee must:

(a) Be sixteen years of age or older; and

(b) Care for children only under direct supervision.

~~((9))~~ (12) You must ensure that you and your program director or site coordinator assigns no person under eighteen years of age sole responsibility for a group of children. You, your program director, or your site coordinator may assign the assistant, eighteen years of age or older, sole responsibility for a child or group of children for a brief period of time.

~~((10))~~ (13) You may count the assistant, volunteer, or trainee in the staff-to-child ratio when that person meets staff requirements.

~~((11))~~ (14) The licensee may utilize youth volunteers fourteen to fifteen years of age. The youth volunteers:

(a) Must not be counted as staff at any time.

(b) Must not count in the staff-child ratio;

(c) Must meet all requirements in WAC ~~((388-151-470(4) [170-151-470(4)])~~ 170-151-470(4); and

(d) Must be under the direct supervision of a lead staff person.

~~((12))~~ (15) The lead staff person must not supervise more than one youth volunteer at one time.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-151-440 What are the department's limitations regarding persons on premises?** (1) During ~~((center))~~ operating hours or while ~~((children are))~~ a child is in care, ~~((only))~~ individuals allowed to have unsupervised access to children in care are:

(a) You ~~((your))~~;

(b) An employee ~~((s, and your))~~ or volunteer ~~((s, or an))~~ who has been authorized by DEL to care for or have unsupervised access to children in child care;

(c) A representative of a school district; and

(d) A representative of a governmental agency ~~((school district, or an approved adult related to the child in care may have unsupervised access to the children in care))~~ who has specific, verifiable authority supported by documentation for the access.

(2) ~~((You must allow the))~~ A parent ~~((of a))~~ can have unsupervised access only to his or her own child ~~((in care))~~. A parent may sign an authorization for an individual to have unsupervised access ~~((only))~~ to the parent's own child (for example a therapist).

(3) You must not allow anyone else to have unsupervised access to a child in child care.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-151-470 What personnel policies and records must I develop and maintain?** (1) Each employee and volunteer having unsupervised or regular access to the child in care must complete and submit to you or your director by the date of hire:

(a) An application for employment on a department-prescribed form or its equivalent; and

(b) A ~~((criminal history and))~~ background ~~((inquiry))~~ check form:

(i) You must submit this form to the department for each employee and volunteer, within seven calendar days of the employee's first day of employment so that the department may complete a ~~((criminal and))~~ background ~~((history))~~ check; and

(ii) The department must discuss the inquiry information with you or your director, when applicable.

(c) A Federal Bureau of Investigation (FBI) check, for you or any employee, or volunteer, if you, the employee, or volunteer has ~~((lived))~~ resided in the state for less than three years.

(2) Each employee serving as a program director, site coordinator, or staff person required to complete training under WAC ~~((388-151-190))~~ 170-151-190(8) must complete and submit a Washington state training and registry system (STARS) profile form to you or your director by the date of hire. You must submit this form to STARS within seven calendar days of the employee's first day of employment, so that the department may track the employee's compliance with training requirements.

(3) You must have written personnel policies describing staff benefits, if any, duties, qualifications, grievance procedures, pay dates, and nondiscrimination policies.

(4) You must maintain on the premises a personnel record keeping system, including a file for you and each staff person and volunteer containing:

(a) An employment application including work and education history;

(b) Documentation of ~~((criminal history and))~~ background ~~((inquiry))~~ check form submission, or FBI fingerprint check, if applicable;

(c) A copy of the department notification of background clearance authorization;

(d) A record of Mantoux method tuberculin skin test results, X ray, or an exemption to the skin test or X ray;

~~((e))~~ (e) Documentation on HIV/AIDS education and training;

~~((e))~~ (f) A record of participation in staff development training;

~~((f))~~ (g) Documentation of orientation program completion;

~~((g))~~ (h) Documentation of a valid food handler permit, when applicable;

~~((h))~~ (i) Documentation of current first-aid and CPR training, when applicable; and

~~((i))~~ (j) Documentation of basic and annual training required under WAC ~~((388-151-180))~~ 170-151-180 (2)(i) and (4)(f), ~~((388-151-190))~~ 170-151-190(8) and ~~((388-151-200))~~ 170-151-200(7).

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-295-0010 What definitions under this chapter apply to licensed child care providers? "American Indian child"** means any unmarried person under the age of eighteen who is:

(1) A member or eligible for membership in a federally recognized Indian tribe, or who is Eskimo, Aleut, or other Alaska Native and a member of an Alaskan native regional corporation or Alaska Native Village;

(2) Determined or eligible to be found Indian by the Secretary of the Interior, including through issuance of a certificate of degree of Indian blood, or by the Indian health service;

(3) Considered to be Indian by a federally recognized or nonfederally recognized Indian tribe; or

(4) A member or entitled to be a member of a Canadian tribe or band, Metis community, or nonstatus Indian community from Canada.

"Anti-bias" is an approach that works against biases and recognizes when others are treated unfairly or oppressively based on race, color, national origin, marital status, gender, sexual orientation, class, religion, creed, disability, or age.

"Capacity that you are licensed for" means the maximum number of children that you are authorized to have on the premises of the child care at any one time.

"Center" means the same as "child care center."

"Certification" means department approval of a person, home, or facility that does not legally need to be licensed, but wants evidence that they meet the minimum licensing requirements (also see "Tribal certification").

**"Child abuse or neglect"** means the physical abuse, sexual abuse, sexual exploitation, abandonment or negligent treatment or maltreatment of a child by any person indicating the child's health, welfare, and safety is harmed.

**"Child-accessible"** means areas where children regularly have access such as: Entrances and exits to and from the center, classrooms or child care areas, playground area including equipment and fencing, parking areas, walkways, decks, platforms, stairs and any items available for children to use in these areas.

**"Child care center"** means the same as a **"child day care center"** or a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours.

**"Clean"** means to remove dirt and debris from a surface by scrubbing and washing with a detergent solution and rinsing with water. This process must be accomplished before sanitizing a surface.

**"CACFP"** means child and adult care food program established by congress and funded by the United States Department of Agriculture (USDA).

**"Commercial kitchen equipment"** means equipment designed for business purposes such as restaurants.

**"Communicable disease"** means a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as a louse, or mosquito) or environmental object (such as a table surface).

**"Cultural relevancy"** creates an environment that reflects home cultures, communities and lives of children enrolled in the program.

**"Department," "we," "us," or "our"** refers to and means the state department of early learning (DEL) and its predecessor agency the department of social and health services (DSHS) (~~(, including but not limited to the division of child care and early learning (DCCEL) licensors and health specialists)~~).

**"Developmentally appropriate practice":**

(1) Means that the provider should interact with each child in a way that recognizes and respects the child's chronological and developmental age;

(2) Is based on knowledge about how children grow and learn; and

(3) Reflects the developmental level of the individual child, and interactions and activities must be planned with the needs of the individual child in mind.

**"Director"** means the person responsible for the overall management of the center's facility and operation, except that "DEL director" means the director of the department of early learning.

**"Disinfect"** means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents.

**"Domestic kitchen"** means a kitchen equipped with residential appliances.

**"External medication"** means a medication that is not intended to be swallowed or injected but is to be applied to the external parts of the body, such as medicated ointments, lotions, or liquids applied to the skin or hair.

**"I," "you," and "your"** refer to and mean the licensee or applicant for a child care license.

**"Inaccessible to children"** means stored or maintained in a manner preventing children from reaching, entering, or using potentially hazardous items or areas. Examples include but are not limited to: Quantities of water, sharp objects, medications, chemicals, electricity, fire, mechanical equipment, entrapment or fall areas.

**"Individual plan of care"** means that the center's health policies and procedures do not cover the needs of the individual child so an individual plan is needed. Examples may include children with allergies, asthma, Down syndrome, tube feeding, diabetes care such as blood glucose monitoring, or nebulizer treatments.

**"Infant"** means a child one-month through eleven months of age.

**"Lead teacher"** means the person who is the lead child care staff person in charge of a child or group of children and implementing the activity program.

**"License"** means a permit issued by the department authorizing you by law to operate a child care center and certifying that you meet the minimum requirements under licensure.

**"Licensee" or "you"** means the person, organization, or legal entity responsible for operating the center.

**"Maximum potential capacity based on square footage"** is the maximum number of children you can be licensed for based on the amount of useable space (square footage) in your center. You may be licensed for less than the maximum potential capacity. You may not be licensed for more than the maximum potential capacity.

**"Moisture impervious" or "moisture resistant"** means a surface incapable of being penetrated by water or liquids.

**"Parent"** means birth parent, custodial parent, foster parent, legal guardian, those authorized by the parent or other entity legally responsible for the welfare of the child.

**"Pesticides"** means chemicals that are used to kill weeds, pests, particularly insects.

**"Potentially hazardous food"** means any food or ingredient that requires temperature control because it supports rapid growth of infectious or toxin forming microorganisms.

**"Potable water"** means water suitable for drinking by the public as determined by the state department of health or local health jurisdiction.

**"Premises"** means the building where the center is located and the adjoining grounds over which you have control.

**"Preschool age child"** means a child thirty months through five years of age not attending kindergarten or elementary school.

**"Program supervisor"** means the person responsible for planning and supervising the center's learning and activity program.

**"Sanitize"** means a surface must be clean and the number of germs reduced to a level that disease transmissions by that surface are unlikely. This procedure is less vigorous than disinfection.

"**Satellite kitchen**" means a food service establishment approved by a local health jurisdiction where food is stored, prepared, portioned or packaged for service elsewhere.

"**School-age child**" means a child not less than five years through twelve years of age who has begun attending kindergarten or elementary school.

"**Staff**" means a child care giver or group of child care givers employed by the licensee to supervise children served at the center who are authorized by DEL to care for or have unsupervised access to children under chapter 170-06 WAC.

"**Supervised access**" refers to those individuals at a child care center who have no responsibility for the operation of the center and do not have unsupervised access to children. These individuals are not required to submit a ((~~criminal history authorization~~)) background check form. This includes those persons on the premises for "time limited" activities whose presence is supervised by a center employee and does not affect provider/child ratios or the normal activities or routine of the center. Examples include:

(1) A person hired to present an activity to the children in care such as a puppet show, cooking activity, and story telling;

(2) Parent participation as part of a special theme; or

(3) A relative visiting a child on the premises.

((~~"Staff" means a child care giver or group of child care givers employed by the licensee to supervise children served at the center.~~))

"**The Washington state training and registry system (STARS)**" means the entity approved by the department to determine the classes, courses, and workshops licensees and staff may take to satisfy training requirement.

"**Toddler**" means a child twelve months through twenty-nine months of age.

"**Terminal room cleaning**" means thorough cleaning of walls, ceiling, floor and all equipment, and disinfecting as necessary, in a room which has been used by a person having a communicable disease before it is occupied by another person.

"**Tribal certification**" means that the department has certified the tribe to receive state payment for children eligible to receive child care subsidies.

"**Unsupervised access**" refers to those individuals at a child care center who can be left alone with children in the child care center. These individuals must have received a full ((~~criminal history and~~)) background authorization clearance under chapter 170-06 WAC.

"**Useable space**" means the areas that are available at all times for use by the children that do not cause a health or safety hazard.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-295-0060 What are the requirements for applying for a license to operate a child care center?** (1) To apply or reapply for a license to operate a child care center you must:

(a) Be twenty-one years of age or older;

(b) The applicant, director and program supervisor must attend the orientation programs that we provide, arrange or approve;

(c) Submit to us a completed and signed application for a child care center license or certification using our forms (with required attachments).

(2) The application package must include the following attachments:

(a) The annual licensing fee. The fee is based on your licensed capacity, and is forty-eight dollars for the first twelve children plus four dollars for each additional child;

(b) If the center is solely owned by you, a copy of your:

(i) Photo identification issued by a government entity; and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(c) If the center is owned by a corporation, verification of the corporation's employer identification number;

(d) An employment and education resume for:

(i) The person responsible for the active management of the center; and

(ii) The program supervisor.

(e) Diploma or education transcript copies of the program supervisor;

(f) Three professional references each, for yourself, the director, and the program supervisor;

(g) Articles of incorporation if you choose to be incorporated;

(h) List of staff (form is provided in the application);

(i) Written parent communication (child care handbook);

(j) Copy of transportation insurance policy (liability and medical);

(k) In-service training program (for facilities employing more than five persons);

(l) A floor plan of the facility drawn to scale;

(m) A copy of your health care plan reviewed and signed by an advisory physician, physician's assistant, or registered nurse;

(n) A copy of your policies and procedures that you give to parents; and

(o) A copy of your occupancy permit.

(3) You must submit to the department((~~s background check central unit~~)) a completed ((~~criminal history and~~)) background ((~~inquiry~~)) check form for ((~~yourself and for each staff person or volunteer who has regular or~~)) all persons required to be authorized by DEL to care for or have unsupervised access to the children in care under chapter 170-06 WAC; and

(4) You must submit your application and reapplication ninety or more calendar days before the date:

(a) You expect to open your new center;

(b) Your current license is scheduled to expire;

(c) You expect to relocate your center;

(d) You expect to change licensee; or

(e) You expect a change in your license category.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-295-0070 What personal characteristics do my volunteers, all staff and I need to provide care to children?** (1) You, your staff and volunteers must have the following personal characteristics in order to operate or work in a child care facility:

(a) The understanding, ability, physical health, emotional stability, good judgment and personality suited to meet the physical, intellectual, mental, emotional, and social needs of the children in care;

(b) Be ~~((qualified by our background inquiry check prior to having))~~ authorized by DEL to care for or have unsupervised access to children~~((To "be qualified" means not having been convicted of, or have charges pending for, crimes posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/decel/policy.shtml>. This includes not having committed or been convicted of child abuse or any crime involving harm to another person))~~ in child care under chapter 170-06 WAC; and

(c) Be able to furnish the child in care with a healthy, safe, nurturing, respectful, supportive, and responsive environment.

(2) If we decide it is necessary, you must provide to us any additional reports or information regarding you, any assistants, volunteers, members of your household, or any other person having access to ~~((the child))~~ children in care if any of those individuals may be unable to meet the requirements ~~((in))~~ of chapter ~~((388-295))~~ 170-295 WAC. This could include:

- (a) Sexual deviancy evaluations;
- (b) Substance abuse evaluations;
- (c) Psychiatric evaluations; ~~((and))~~
- (d) Psychological evaluations; and
- (e) Medical evaluations.

(3) Any evaluation requested under ~~((WAC 388-295-0070))~~ subsection (2)(a) through ~~((d))~~ (e) of this section will be at the expense of the person being evaluated.

(4) ~~((You must give us permission to speak with the evaluator in WAC 388-295-0070 (2)(a) through (d) prior to and after the evaluation.~~

~~((5) We investigate staff and volunteers, including accessing criminal histories and law enforcement files.~~

~~((6) We can also investigate members of your household and members of your staffs and volunteers households. This includes accessing criminal histories and law enforcement files.~~

~~((7) We can investigate any other person who has access to a child in care, including accessing criminal history and law enforcement files.))~~ The person being evaluated must give us permission to speak with the evaluator(s) in subsection (2)(a) through (e) of this section prior to and after the evaluation.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-295-0100 When can my license application be denied and when can my license be suspended or**

**revoked?** (1) If you do not meet the requirements in chapter ~~((388-295))~~ 170-295 WAC we deny your license application or suspend or revoke your license.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility:

- (a) We consider qualifications separately and together.
- (b) We deny the license application, or suspend or revoke the license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, sexually exploited, abandoned a child or allowed such persons on the premises as defined in chapter 26.44 RCW;

(b) Have been convicted of, or have charges pending for, crimes ~~((posted))~~ on the ~~((DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/decel/policy.shtml>))~~ DEL director's list under WAC 170-06-0120;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. However, if you demonstrate by clear and convincing evidence that you have taken enough corrective action and rehabilitation to justify the public trust to operate the center according to the rules of this chapter, we consider issuing you a license;

(d) Commit or allow an illegal act to be committed on the licensed premises;

(e) Allow children in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs;

(g) Use alcohol to the extent that it interferes with your ability to provide care for the children as required by this chapter;

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office with official identification to:

- (i) Inspect the premises;
- (ii) Access your records related to the centers operation;

or

(iii) Interview staff or children in care.

(i) Refuse to provide us a copy of your:

(i) Photo identification issued by a government entity;

and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get or keep a license by making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with children in care;

(d) Fail to provide adequate supervision to children in care;

(e) Do not exercise fiscal responsibility and accountability while operating the center;

(f) Knowingly allow an employee or volunteer on the premises that has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information requested by us;

(h) Fail to pay fees when due;

(i) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter ~~((74.15))~~ 43.215 RCW; or

(j) Provide care on the premises for children of an age different from the ages for which the center is licensed.

**AMENDATORY SECTION** (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-295-6060 Who is allowed to have unsupervised access to children in care?** (1) During operating hours or while ~~((the))~~ a child is in care, ~~((the only persons))~~ individuals allowed to have ~~((regular or))~~ unsupervised access to the child in care are:

(a) ~~((The child's parent;~~

~~((b)))~~ You;

~~((c)))~~ (b) An employee or volunteer who has ~~((received a Washington state patrol background check clearance))~~ been authorized by DEL to care for or have unsupervised access to children in child care; and

~~((d)))~~ (c) A representative of a governmental agency who has specific, verifiable authority supported by documentation for the access.

(2) ~~((You must not allow anyone else unsupervised access to a child in care.))~~ A parent can ~~((only))~~ have unsupervised access only to his or her own child ~~((unless the parent))~~. A parent may sign ~~((s))~~ an authorization for an individual to have unsupervised access to ~~((their))~~ his or her own child ~~((-))~~ (for example a therapist(-)).

(3) You must not allow anyone else to have unsupervised access to a child in child care.

**AMENDATORY SECTION** (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-295-7050 What personnel records and policies must I have?** (1) Each employee and volunteer who has unsupervised access to a child in care must complete the following forms on or before their date of hire:

(a) An application for employment on a form prescribed by us, or on a comparable form approved by the department; and

(b) A ~~((criminal history and))~~ background ~~((inquiry))~~ check form.

(2) You must submit the ~~((criminal history and))~~ background ~~((inquiry))~~ check form to us within seven calendar days of the employee's first day of work. The form authorizes a criminal history background inquiry for that person.

(3) Until the ~~((criminal))~~ background ~~((inquiry))~~ check results are returned and show the employee to not be disqualified, you must not leave the employee unsupervised with the children.

(4) We discuss the information on the ~~((criminal history))~~ background ~~((inquiry))~~ check form with you, the direc-

tor, or other person responsible for the operation of the center, such as a human resources professional, if applicable.

(5) If you employ five or more people you must have written personnel policies. These policies must describe staff benefits, if any, and duties and qualifications of staff.

(6) You must maintain a system of record keeping for personnel. In addition to the other requirements in this chapter, you must keep the following information on file on the premises for yourself, each staff person and volunteer:

(a) An employment application, including work and education history;

(b) Documentation that a ~~((criminal history and))~~ background ~~((inquiry))~~ check form was submitted;

(c) A copy of the department notification of background clearance authorization.

~~((d))~~ (d) Written documentation of trainings and meetings such as but not limited to:

(i) Orientation;

(ii) On-going trainings;

(iii) Bloodborne pathogen training (including HIV/AIDS);

(iv) CPR/first aid;

(v) Food handler's cards (if applicable);

(vi) STARS;

(vii) Staff meetings; and

(viii) Child abuse and neglect.

~~((e))~~ (e) Documentation of the results of Tuberculosis (TB) testing by the Mantoux skin test prior to starting work.

(7) You must keep the following information on file for the owner of the facility:

(a) If the center is solely owned by you:

(i) A photocopy of your Social Security card that is valid for employment or verification of your employer identification number (EIN); and

(ii) A photocopy of your photo identification issued by a government entity.

(b) If the center is owned by a corporation, verification of the corporation's EIN.

(8) Training documentation must include a certificate, card, or form with a copy placed in each individual employees file that contains the:

(a) Topic presented;

(b) Number of clock hours;

(c) Date and names of persons attending; and

(d) Signature and organization of the person conducting the training.

**AMENDATORY SECTION** (Amending WSR 07-24-028, filed 11/28/07, effective 12/29/07)

**WAC 170-296-0020 What definitions do I need to know to understand this chapter?** For the purpose of this chapter:

"**Accessible to children**" means areas of the facility and materials that children can easily get to on their own.

"**Age appropriate**" means the developing stages of growth typical of children within a given age group.

"**American Indian child**" means any unmarried person under the age of eighteen who is:



(1) A member of or eligible for membership in a federally recognized Indian tribe, or who is Eskimo, Aleut or other Alaska Native and a member of an Alaskan native regional Corporation or Alaska Native Village;

(2) Determined or eligible to be found to be Indian by the Secretary of the Interior, including through issuance of a certificate of degree of Indian blood;

(3) Considered to be Indian by a federally recognized Indian tribe; or

(4) A member or entitled to be a member of a Canadian tribe or band, Metis community, or nonstatus Indian community from Canada.

**"Antibias"** is an approach that recognizes when others are treated unfairly or oppressively based on race, color, national origin, marital status, sexual orientation, gender, class, religion, creed, disability, or age.

**"Assistant"** means a person fourteen years or older (whether a volunteer or an employee) who assists a licensed home provider in the operation of the family home child care and is not solely responsible for the supervision of children.

**"Capacity"** means the highest number of children you can care for at any time, as written on your license.

~~("Character, competence, and suitability assessment" means a determination of whether an applicant should be allowed access to vulnerable people if that applicant has a conviction record, pending charges and/or findings of abuse, neglect, exploitation or abandonment of a child or vulnerable adult and child protective services (CPS) adverse referral history.)~~

**"Child"** means a person who has not yet reached the age of twelve years.

**"Child care"** means the developmentally appropriate care, protection and supervision of children that is designed to promote positive growth and educational experiences for children outside of their home for periods of less than twenty-four hours a day.

**"Child abuse and neglect"** means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by any person indicating that the child's health, welfare, and safety is harmed.

**"Communicable disease"** means an illness that can be spread from one person to another, in the child care setting, by either direct or indirect contact.

**"Conditions of the license"** means what you must do to keep a license.

**"Confidentiality"** means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.

**"Corporal punishment"** means the infliction of pain by any means for the purpose of punishment, correction, discipline, instruction or any other reason.

**"Cultural relevancy"** means an environment in which the learning experiences, play materials and activities are meaningful, inclusive and respectful for the participating children, their families and the community at large.

**"Department," "we," "us," or "our"** refers to and means the state department of early learning (DEL), and its predecessor agency the department of social and health services (DSHS)~~((including but not limited to the division of child care and early learning (DCCEL))~~).

**"Department of health"** means the state department of health.

**"Developmentally appropriate"** means activities and interactions that recognize and address how children learn and what they can do at each stage of development - socially, emotionally, cognitively, and physically.

**"Discipline"** means a process of guiding children to develop internal, positive social behaviors through methods that include consistent use of the following: Modeling appropriate behavior, positive reinforcement, active listening, limit setting, redirecting and modifying the environment.

~~("Division" or "DCCEL" means the division of child care and early learning within the department of social and health services (DSHS).)~~

**"Facility licensing compliance agreement"** means a written notice of rule violations and the intention to initiate enforcement, including a corrective action plan.

**"Family home"** means a single dwelling unit and accessory buildings occupied for living purposes by a family which provides permanent provisions for living, sleeping, eating, cooking, and sanitation.

**"Family home child care"** means a facility licensed to provide direct care, supervision and early learning opportunities for twelve or fewer children, in the home of the licensee where the licensee resides and is the primary provider.

**"Family home child care provider"** means a person who provides direct care, supervision, behavior management, and early learning opportunities for twelve or fewer children in their family home living quarters for periods of less than twenty-four hours.

**"I," "you," and "your"** refer to and mean the licensee or applicant for a child care license.

**"Inaccessible to children"** means areas kept or items stored in a manner that makes it impossible for children to reach, enter, or use potentially hazardous items or areas. Examples of how this can be accomplished are through the use of locks, gates, or other means that are effective to prevent access by the children in your care.

**"Infant"** means a child birth through eleven months of age.

**"License"** means an official document that certifies you have been granted permission by the department to operate a family home child care in compliance with the rules.

**"Licensed space,"** means the indoor and outdoor space approved by the department as useable space where children in care may be present, or space that is otherwise accessible to children.

**"Licensee"** means the person or persons named on the license as having been issued the license and who are responsible for maintaining compliance with the regulations.

**"Licensor"** means the person with authority to grant licenses.

**"Parent"** means a child's parent or legal guardian.

**"Premises"** means the buildings where the home is located and the adjoining grounds (at the same address) over which the licensee has control.

**"Preschool age child"** means a child thirty months through five years of age not attending kindergarten or elementary school.

**"Primary staff person"** means a person who has been ~~((approved))~~ authorized by ((the department)) DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC, age eighteen years or older, who has responsibilities for the operation of the program and the direct supervision, behavior management and care of children.

**"Provider"** means the same as licensee.

**"Repeatedly"** means a violation of a licensing regulation that is written on a facility licensing compliance agreement that occurs more than once during a twelve-month time frame.

**"Reportable communicable disease"** means an illness that can be spread from one person to another by either direct or indirect contact, and is of the type that is required by law to be reported to the department of health. Examples include Hepatitis, measles, smallpox, and tuberculosis.

**"Revocation"** means the formal act of closing your child care business and taking your license from you due to your failure to follow the rules.

**"Sanitize"** means a surface must be clean and the number of germs reduced to a level where disease transmissions by that surface are unlikely.

**"Staff"** means a child care giver or group of child care givers employed by the licensee to assist with or supervise children served at the family home child care who have been authorized by DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC.

**"STARS"** (Washington state training and registry system) means the entity approved by the department to determine the classes, courses, and workshops that licensees and staff may take to satisfy training requirements.

**"Summary suspension"** means the formal act of immediately stopping your license for a certain time because the health, safety or well being of a child is at risk.

**"Supervision of children,"** means the knowledge of and responsibility for the activity and whereabouts of each child in care and assuring immediate intervention of staff to safeguard a child from harm.

**"Terms of the license"** means the address, number and ages of children, and the beginning and ending dates listed on the license issued by the department.

**"Toddler"** means a child twelve months through twenty-nine months of age.

~~("Unsupervised access" means not in the absence of the licensed child care provider or primary staff person. (Anyone sixteen years or older who lives at the same address as the provider must pass a complete criminal history background check.))~~

**"Useable space"** means the space actually available for children to engage in developmentally appropriate activities, that has been inspected and approved by the department for providing child care.

**"Weapons"** means an instrument or device of any kind that is designed to be used to inflict harm on another person. For example, BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, shotguns, knives.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-296-0180 Am I required to have a criminal history background check?** ~~((4))~~ At the time you apply for a license you must submit a completed background check form and finger print card if required to the ~~((background check central unit (BCCU)))~~ department for each person ~~((who will have unsupervised access to children in your care))~~ required to have a background check under chapter 170-06 WAC. ~~((This includes:~~

- ~~(a) You;~~
- ~~(b) Members of your household sixteen years and older;~~
- ~~(c) Staff;~~
- ~~(d) Volunteers; and~~
- ~~(e) Other persons living at the same address as you.~~

~~(2) When you plan to have new staff or volunteers, you must require each person to complete and submit to you by the date of hire a criminal history and background check form:~~

~~(a) You must submit this form to the BCCU for the employee and volunteer, within seven calendar days of the employee's or volunteer's first day of work, permitting a criminal and background history check.~~

~~(b) The employee and volunteer must not have unsupervised access to the children in care until they have been cleared by a full background check.~~

~~(c) We must discuss the result of the criminal history and background check information with you, when applicable.))~~

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-296-0200 Will my license be denied or revoked if I have been disqualified from providing licensed child care?** Your license will be denied or revoked if you are disqualified from providing ~~((licensed child))~~ care for or having unsupervised access to children in child care under chapter 170-06 WAC.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-296-0210 What are my responsibilities if I am notified that a family member, staff person, volunteer, or anyone else ((living)) residing at the same address as me has been disqualified?** If we inform you that a family member, staff person, volunteer, or anyone else ~~((living))~~ residing at the same address as you has been disqualified, you must ensure that the disqualified person does not have access to children in the licensed facility.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-296-0215 Will my license be denied, suspended, or revoked if a family member, or someone else ((living)) residing at the same address as me has been disqualified from having unsupervised access to children?** Your license will be denied or revoked if your family member or any other person who is ~~((living))~~ residing at the same

address as you have been disqualified from ~~((have))~~ having unsupervised access to children.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-296-0220 Must I keep a record of submitted background check forms and the results of the background checks on family members, staff and volunteers?** You must keep documentation of background check forms submitted and a copy of the department notification of background clearance authorization, for a period of three years, for all persons required to have a background ~~((check results for you, your family, staff, volunteers and any other persons required to have a background check))~~ authorization under chapter 170-06 WAC.

AMENDATORY SECTION (Amending WSR 07-24-028, filed 11/28/07, effective 12/29/07)

**WAC 170-296-0450 When will my license be denied, suspended or revoked?** (1) When you demonstrate that you cannot provide the required care for children in a way that promotes their safety, health and well-being we must deny, suspend or revoke your license.

(2) We must deny, suspend or revoke your license if you:

(a) Have been disqualified by your background check ~~((see DSHS secretary's list of disqualifying convictions for ESA at [http://www1.dshs.wa.gov/esa/deccl/pdf/Crime\\_and\\_Backg\\_Chex.pdf](http://www1.dshs.wa.gov/esa/deccl/pdf/Crime_and_Backg_Chex.pdf);~~

~~((b) Have been found to have committed or have allowed others to commit child abuse, child neglect or exploitation, or you or others you supervise treat, permit or assist in treating children in your care with cruelty, or indifference))~~ under chapter 170-06 WAC;

(b) Have been found to have committed or allowed others to commit child abuse, child neglect or exploitation, or you or others you supervise treat, permit or assist in treating children in your care with cruelty, or indifference;

(c) Fail to report instances of alleged child abuse, child neglect and exploitation to the DSHS children's administration intake or law enforcement when an allegation of abuse, neglect or exploitation is reported to you;

~~((d))~~ (c) Or anyone residing at the same address as you had a license denied or revoked by an agency that provided care to children or vulnerable adults;

~~((e))~~ (d) Try to get or keep a license by deceitful means, such as making false statements or leaving out important information on the application;

~~((f))~~ (e) Commit, permit or assist in an illegal act at the address of your child care business;

~~((g))~~ (f) Use illegal drugs, or excessively use alcohol or abuse prescription drugs;

~~((h))~~ (g) Knowingly allow employees or volunteers with false statements on their applications to work at your facility;

~~((i))~~ (h) Repeatedly lack the required number of qualified staff to care for the number and types of children under your care;

~~((j))~~ (i) Repeatedly fail to provide the required level of supervision for a child in care;

~~((k))~~ (j) Repeatedly care for more children than your license allows;

~~((l))~~ (k) Refuse to allow our authorized staff and inspectors requested information or access to your licensed space, child and program files, or staff and children in care during times when licensed activities are conducted; or

~~((m))~~ (l) Are unable to manage the property, fiscal responsibilities, or staff in your facility.

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

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-296-0550 What change of circumstance must I report to my licensor?** (1) Before making any change to your licensed space you must report to your licensor any changes you plan to make. Examples of changes include but are not limited to:

(a) Planned use of space not previously approved by us; and

(b) Plans for remodeling the home.

(2) You must also report any of the following changes to your licensor within twenty-four hours:

(a) The number and qualifications of you, your staff and volunteers that may affect the ability to carry out the specified activities and routines of the family home child care or meet the requirements of ~~((the WAC))~~ this chapter, such as a change in a person's criminal history;

(b) A marriage, separation or divorce;

(c) Persons moving in or out of the household;

(d) Your phone number;

(e) Occurrence of a fire, structural change, or damage to the premises from any cause; and

(f) The serious illness or incapacity of you and any other member of your household.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-296-1410 What are the required staffing qualifications for child care?** (1) You, a primary staff person, assistant, volunteer, and other person associated with the operation of the business who has access to the child in care must:

(a) Meet the qualifications in WAC ~~((388-296-0140))~~ 170-296-0140;

~~((b))~~ ~~((Not have committed or been convicted of child abuse or any crime involving physical harm to another person))~~ Be authorized by DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC; and

(c) Not have been disqualified from working in a licensed child care setting or have had a license revoked.

(2) If we have reason to believe that you, any staff, volunteers, assistants, or members of your household may be unable to meet the requirements in chapter 170-296 WAC, we may require any of the following evaluations:

(a) Substance and alcohol abuse evaluations and documentation of treatment;

(b) Psychiatric and psychological evaluations;

(c) Psycho-sexual evaluations; and

(d) Medical evaluations.

(3) Any evaluation requested under subsection (2)(a) through (d) of this section will be at the expense of the person being evaluated.

(4) The person being evaluated must give us permission to speak with the evaluator(s) in subsection (2)(a) through (d) of this section prior to and after the evaluation.

(5) The licensee must:

(a) Be eighteen years of age or older;

(b) Be the primary child care provider;

(c) Ensure compliance with minimum licensing requirements under this chapter; and

(d) Have completed one of the following prior to or within the first six months of obtaining an initial license:

(i) Twenty clock hours or two college quarter credits of basic training approved by the Washington state training and registry system (STARS);

(ii) Current child development associate (CDA) or equivalent credential or twelve or more college quarter credits in early childhood education or child development; or

(iii) Associate of arts or AAS or higher college degree in early childhood education, child development, school age care, elementary education or special education.

~~((3))~~ (6) Child care staff must be:

(a) Fourteen years of age or older if an assistant; or

(b) Eighteen years of age or older if a primary worker and assigned sole responsibility for the child in care.

~~((4))~~ (7) You and your staff must meet the following qualifications:

Position	Qualifications	Background <del>((Check))</del> <u>Authorization</u>	TB Test	STARS Training	First Aid and CPR	HIV/AIDS and bloodborne pathogens training
Licensee	Eighteen years of age	X	X	X	X	X
Primary child care staff	Eighteen years of age	X	X	X Basic 20 hour training to be completed within the first six months of employment	X	X
Child care assistant/ volunteer	Fourteen years of age; (directly supervised by the licensee or a primary staff)	X	X	Recommended	If counted in staff to child ratio	X

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

**WAC 170-296-1450 What personnel records must I have?** You, the primary staff, assistant, and volunteer must have on file at the home:

(1) An application, including work and education history (resume);

(2) Documentation of ~~((criminal history and))~~ background ~~((inquiry))~~ check form submission;

(3) A copy of the department notification of background clearance authorization;

(4) A record of the tuberculin skin test results, X ray, or an exemption to the skin test or X ray;

~~((4))~~ (5) Documentation of HIV/AIDS training and bloodborne pathogen information;

~~((5))~~ (6) Documentation of current CPR and first-aid training, when applicable; and

~~((6))~~ (7) Documentation of basic and annual STARS training when applicable.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 170-296-0150 What personal information may I be required to provide to be licensed?
- WAC 170-296-0190 What happens after we receive the background information?
- WAC 170-296-0195 When will I be disqualified from providing licensed child care?
- WAC 170-296-0205 When will my family members, staff, volunteer, and other people who live at the same address [as] me be disqualified from having access to children in a family home child care?

**WSR 08-10-048**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Health and Recovery Services Administration)  
[Filed May 1, 2008, 11:37 a.m., effective June 1, 2008]

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

Purpose: The department is amending WAC 388-538-063 to meet requirements of the 2007-2009 state omnibus operating budget which provides for funding to add a mental health service component to the general assistance unemployable (GAU) medical care services care management project. GAU clients enrolled in a managed care plan in designated counties may receive mental health services and care coordination on a limited basis, subject to available funding from the legislature and an appropriate delivery system. The rule does not change the GAU scope of care and GAU medical/financial eligibility requirements.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-538-063.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: 2007-2009 state omnibus operating budget (section 209 (13)-(14), chapter 522, Laws of 2007).

Adopted under notice filed as WSR 08-07-085 on March 19, 2008.

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

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

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

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

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

Date Adopted: April 29, 2008.

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-24-036, filed 11/30/06, effective 1/1/07)

**WAC 388-538-063** ~~((Mandatory enrollment in managed care for GAU clients))~~ **GAU clients residing in a designated mandatory managed care plan county.** (1) ~~((The purpose of this section is to describe the department's managed care requirement for general assistance unemployable (GAU) clients mandated by the Laws of 2003, chapter 25, section 209(15))~~ In Laws of 2007, chapter 522, section 209 (13) and (14), the legislature authorized the department to provide coverage of certain medical and mental health benefits to clients who:

(a) Receive medical care services (MCS) under the general assistance unemployable (GAU) program; and

(b) Reside in a county designated by the department as a mandatory managed care plan county.

(2) The only sections of chapter 388-538 WAC that apply to GAU clients described in this section are incorporated by reference into this section.

(3) ~~((To receive department-paid medical care,))~~ GAU clients who reside in a county designated by the department as a mandatory managed care plan county must enroll in a managed care plan as required by WAC 388-505-0110(7) ((when they reside in a county designated as a mandatory managed care plan county)) to receive department-paid medical care. A GAU client enrolled in an MCO plan under this section is defined as a GAU enrollee.

(4) GAU clients are exempt from mandatory enrollment in managed care if they(=

~~((a))~~ are American Indian or Alaska Native (AI/AN)((=) and

~~((b))~~ meet the provisions of 25 U.S.C. 1603 (c)-(d) for federally recognized tribal members and their descendants.

(5) ~~((In addition to subsection (4),))~~ The department ((will)) exempts a GAU client from mandatory enrollment in managed care ((or end an enrollee's enrollment in managed care in):

(a) If the GAU client resides in a county that is not designated by the department as a mandatory MCO plan county; or

(b) In accordance with WAC 388-538-130(3) ((and 388-538-130(4)).

(6) The department ends a GAU enrollee's enrollment in managed care in accordance with WAC 388-538-130(4).

(7) On a case-by-case basis, the department may grant a GAU client's request for exemption from managed care or a GAU enrollee's request to end enrollment when, in the department's judgment:

(a) The client or enrollee has a documented and verifiable medical condition; and

(b) Enrollment in managed care could cause an interruption of treatment that could jeopardize the client's or enrollee's life or health or ability to attain, maintain, or regain maximum function.

~~((7))~~ (8) The department enrolls GAU clients in managed care effective on the earliest possible date, given the requirements of the enrollment system. The department does not enroll clients in managed care on a retroactive basis.

~~((8))~~ (9) Managed care organizations (MCOs) that contract with the department to provide services ((for)) to GAU clients must meet the qualifications and requirements in WAC 388-538-067 and 388-538-095 (3)(a), (b), (c), and (d).

~~((9))~~ (10) The department pays MCOs capitated premiums for GAU enrollees based on legislative allocations for the GAU program.

~~((10))~~ (11) GAU enrollees are eligible for the scope of care as described in WAC 388-501-0060 for medical care services (MCS) programs. ((Other scope of care provisions that apply:))

(a) A ((client)) GAU enrollee is entitled to timely access to medically necessary services as defined in WAC 388-500-0005;

(b) MCOs cover the services included in the managed care contract for GAU enrollees. MCOs may, at their discre-

tion, cover services not required under the MCO's contract for GAU enrollees;

(c) The department pays providers on a fee-for-service basis for the medically necessary, covered medical care services not covered under the MCO's contract for GAU enrollees; ~~((and))~~

(d) A GAU enrollee may obtain:

(i) Emergency services in accordance with WAC 388-538-100; and

(ii) Mental health services in accordance with this section.

~~((H1))~~ (12) The department does not pay providers on a fee-for-service basis for services covered under the MCO's contract for GAU enrollees, even if the MCO has not paid for the service, regardless of the reason. The MCO is solely responsible for payment of MCO-contracted ~~((health care))~~ healthcare services that are:

(a) Provided by an MCO-contracted provider; or

(b) Authorized by the MCO and provided by nonparticipating providers.

~~((H2))~~ (13) The following services are not covered for GAU enrollees unless the MCO chooses to cover these services at no additional cost to the department:

(a) Services that are not medically necessary;

(b) Services not included in the medical care services scope of care, unless otherwise specified in this section;

(c) Services, other than a screening exam as described in WAC 388-538-100(3), received in a hospital emergency department for nonemergency medical conditions; and

(d) Services received from a nonparticipating provider requiring prior authorization from the MCO that were not authorized by the MCO.

~~((H3))~~ (14) A provider may bill a GAU enrollee for uncovered services described in subsection (12) of this section, if the requirements of WAC 388-502-0160 and 388-538-095(5) are met.

(15) Mental health services and care coordination are available to GAU enrollees on a limited basis, subject to available funding from the legislature and an appropriate delivery system.

(16) A care coordinator (a person employed by the MCO or one of the MCO's subcontractors) provides care coordination to a GAU enrollee in order to improve access to mental health services. Care coordination may include brief, evidenced-based mental health services.

(17) To ensure a GAU enrollee receives appropriate mental health services and care coordination, the department requires the enrollee to complete at least one of the following assessments:

(a) A physical evaluation;

(b) A psychological evaluation;

(c) A mental health assessment completed through the client's local community mental health agency (CMHA) and/or other mental health agencies;

(d) A brief evaluation completed through the appropriate care coordinator located at a participating community health center (CHC);

(e) An evaluation by the client's primary care provider (PCP); or

(f) An evaluation completed by medical staff during an emergency room visit.

(18) A GAU enrollee who is screened positive for a mental health condition after completing one or more of the assessments described in subsection (17) of this section may receive one of the following levels of care:

(a) **Level 1.** Care provided by a care coordinator when it is determined that the GAU enrollee does not require Level 2 services. The care coordinator will provide the following, as determined appropriate and available:

(i) Evidenced-based behavioral health services and care coordination to facilitate receipt of other needed services.

(ii) Coordination with the PCP to provide medication management.

(iii) Referrals to other services as needed.

(iv) Coordination with consulting psychiatrist as necessary.

(b) **Level 2.** Care provided by a contracted provider when it is determined that the GAU enrollee requires services beyond Level 1 services. A care coordinator refers the GAU enrollee to the appropriate provider for services:

(i) A regional support network (RSN) contracted provider; or

(ii) A contractor-designated entity.

(19) Billing and reporting requirements and payment amounts for mental health services and care coordination provided to GAU enrollees are described in the contract between the MCO and the department.

(20) The total amount the department pays in any biennium for services provided pursuant to this section cannot exceed the amount appropriated by the legislature for that biennium. The department has the authority to take whatever actions necessary to ensure the department stays within the appropriation.

(21) Nothing in this section shall be construed as creating a legal entitlement to any GAU client for the receipt of any medical or mental health service by or through the department.

(22) An MCO may refer enrollees to the department's patient review and coordination (PRC) program according to WAC 388-501-0135.

~~((H4))~~ (23) The grievance and appeal process found in WAC 388-538-110 applies to GAU enrollees described in this section.

~~((H5))~~ (24) The hearing process found in chapter 388-02 WAC and WAC 388-538-112 applies to GAU enrollees described in this section.

## WSR 08-10-075

### PERMANENT RULES

### DEPARTMENT OF

### LABOR AND INDUSTRIES

[Filed May 6, 2008, 10:05 a.m., effective June 6, 2008]

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

Purpose: The purpose of this rule making is to update the definitions of WAC 296-150R-0020. Currently, the rule references the American National Standards Institute

(ANSI), however, ANSI no longer regulates recreational vehicles except for low voltage systems in conversion and recreational vehicles and uniform plan approval for recreational vehicles. Recreational vehicles are regulated by the National Fire Protection Association (NFPA). The rules are being updated to reflect the change.

Citation of Existing Rules Affected by this Order: Amending WAC 296-150R-0020.

Statutory Authority for Adoption: Chapter 43.22 RCW.

Adopted under notice filed as WSR 08-05-116 on February 19, 2008.

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

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

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

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

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

Date Adopted: May 6, 2008.

Judy Schurke  
Director

**AMENDATORY SECTION** (Amending WSR 03-12-044, filed 5/30/03, effective 6/30/03)

**WAC 296-150R-0020 What definitions apply to this chapter? "Alteration"** is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, plumbing systems, fuel systems and equipment or electrical systems of a recreational vehicle.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"**Alteration insignia**" is an insignia which indicates a vehicle alteration was approved by the department.

"**ANSI**" is the American National Standards Institute, Inc., and the institute's rules applicable to Low Voltage Systems in Conversion and Recreational Vehicles and Uniform Plan Approval for Recreational Vehicles. For the purposes of this chapter, references to ANSI mean ((ANSI A119.2 ~~Recreational Vehicles, 2002 edition~~)) ANSI/RVIA 12V Low Voltage Systems 2008 Edition and ANSI/RVIA UPA-1 Standard on Uniform Plan Approval for Recreational Vehicles 2003 Edition.

"**Approved**" is approved by the department of labor and industries.

"**Audit**" by the department can be either a comprehensive audit or a performance audit. A comprehensive audit is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and vehicles. A performance audit is the department's review of the manufacturer's audit performed by the industry association or other independent auditor.

"**Comprehensive design plan**" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each vehicle.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150R-0330 and 296-150R-0820.)

"**Consumer**" is a person or organization who buys or leases recreational vehicles.

"**Dealer**" is a person or organization whose business is offering recreational vehicles for sale or lease.

"**Department**" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"**Equipment**" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational vehicles or park trailers.

"**Manual**" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational vehicle manufacturer.

"**National Electrical Code**" see Chapter 2 of ((ANSI A119.2)) NFPA 1192 Standard on Recreational Vehicles, 2008 Edition, for reference to the appropriate edition to use for compliance.

"**NFPA**" is National Fire Protection Association, and the institute's rules applicable to recreation vehicles. For the purpose of this chapter, references to NFPA means NFPA 1192 Standard on Recreational Vehicles, 2008 Edition.

"**Quality control**" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter, ANSI, and ((ANSI)) NFPA.

"**Recreational vehicle**" is a vehicular type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers.

"**Self-certification insignia**" is an insignia which is obtained under the self-certification approval process.

"**State-plan insignia**" is an insignia which is obtained under the state design-plan approval process.

"**System**" is a part of a recreational vehicle that is designed to serve a particular function such as plumbing, electrical, heating, or mechanical system.

"Vehicle" for the purposes of this chapter, is a recreational vehicle.

**WSR 08-10-091**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed May 6, 2008, 6:30 p.m., effective June 6, 2008]

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

Purpose: ESB 6194, passed in 2006 and codified as RCW 43.70.615, requires that each education program with a curriculum to train persons for a health profession credential under chapter 18.130 RCW must integrate multicultural health education into its training by July 1, 2008. The proposed rule requires EMS training programs to include a multicultural health education component to comply with the law.

Citation of Existing Rules Affected by this Order: Amending WAC 246-976-021.

Statutory Authority for Adoption: RCW 18.71.205, 18.73.081, and 43.70.615.

Adopted under notice filed as WSR 08-01-134 on December 19, 2007.

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

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

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

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

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

Date Adopted: May 5, 2008.

Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 03-20-107, filed 10/1/03, effective 11/1/03)

**WAC 246-976-021 Training course requirements. (1)**

**Department responsibilities:** The department will publish procedures for agencies to conduct EMS training courses, including:

- (a) The registration process;
- (b) Requirements, functions, and responsibilities of course instructional and administrative personnel;
- (c) Necessary information and administrative forms to conduct the course;

**(2) Training agency responsibilities:**

(a) **General.** Agencies providing initial training of certified EMS personnel at all levels (except advanced first aid) must:

- (i) Have MPD approval for the course content;
- (ii) Have MPD approval for all instructional personnel, who must be experienced and qualified in the area of training;
- (iii) Have local EMS/TC council recommendation for each course;
- (iv) Have written approval from the department to conduct each course;
- (v) Approve or deny applicants for training consistent with the prerequisites for applicants in WAC 246-976-041 and 246-976-141.

(b) **Basic life support** (first responder, EMT). Agencies providing initial training of basic life support personnel must identify a senior EMS instructor to be responsible for the quality of instruction and the conduct of the course.

(c) **Intermediate life support** (IV, airway and ILS technicians). Agencies providing initial training of intermediate life support personnel must:

- (i) Have a written agreement with the clinical facility, if it is separate from the academic facility;
- (ii) Ensure that clinical facilities provide departments or sections, personnel, and policies, including:
  - (A) Written program approval from the administrator and chief of staff;
  - (B) A written agreement to participate in continuing education;
  - (C) Supervised clinical experience for students during the clinical portion of the program;
  - (D) An orientation program.

(d) **Paramedics.** Agencies training paramedics must be accredited by a national accrediting organization approved by the department.

(3) **Course curriculum.** The department recognizes the following National Standard EMS training courses published by the United States Department of Transportation as amended by the department:

(a) **First responder:** The first responder training course published 1996, amended by the department March 1998;

(b) **EMT:** The emergency medical technician—Basic training course published 1994, amended by the department September 1996;

(c) **IV technician:** Those sections and lessons identified in the emergency medical technician—Intermediate course published 1999, amended by the department April 2000;

(d) **Airway technician:** Those sections and lessons identified in the emergency medical technician—Intermediate course published 1999, amended by the department April 2000;

(e) **ILS technician:** Those sections and lessons identified in the emergency medical technician—Intermediate course published 1999, amended by the department April 2000 which includes the following medications:

- (i) Epinephrine for anaphylaxis administered by a commercially preloaded measured-dose device;
- (ii) Albuterol administered by inhalation;
- (iii) Dextrose 50% and 25%;
- (iv) Nitroglycerine, sublingual and/or spray;
- (v) Naloxone;
- (vi) Aspirin PO (oral), for suspected myocardial infarction;



(f) Paramedic: The emergency medical technician—Paramedic training course published 1999, as amended by the department January 2000.

(4) Initial training for first responders and EMTs must also include approved infectious disease training that meets the requirements of chapter 70.24 RCW.

(5) By July 1, 2008, a multicultural health education and awareness instructional component or curriculum shall be included in each initial preparation training course for all EMS personnel. All multicultural health education and awareness trainings, instruction, and curricula shall meet the requirements set forth in RCW 43.70.615.

(6) Specialized training. The department, in conjunction with the advice and assistance of the L&C committee, may approve specialized training for certified EMS personnel to use skills, techniques, or equipment that is not included in standard course curricula. Agencies providing specialized training must have MPD and department approval of:

- (a) Course curriculum;
- (b) Lesson plans;
- (c) Course instructional personnel, who must be experienced and qualified in the area of training;
- (d) Student selection criteria;
- (e) Criteria for satisfactory completion of the course, including student evaluations and/or examinations;
- (f) Prehospital patient care protocols that address the specialized skills.

~~((6))~~ (7) Local government agencies: The department recognizes county agencies established by ordinance and approved by the MPD to coordinate EMS training. These agencies must comply with the requirements of this section.

**WSR 08-10-095**

**PERMANENT RULES**

**DEPARTMENT OF HEALTH**

[Filed May 7, 2008, 9:10 a.m., effective June 7, 2008]

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

Purpose: In 2007, HB 1331 changed the credential level of veterinary technicians from registration to licensure. Amendments to WAC 246-935-990 change the references from "registrations" and "registration" to "licenses" or "license" when referring to veterinary technician fees and renewal cycle. The amendments will not change the fees charged for applications or renewals.

Citation of Existing Rules Affected by this Order: Amending WAC 246-935-990.

Statutory Authority for Adoption: RCW 43.70.250 and HB 1331 (chapter 235, Laws of 2007).

Adopted under notice filed as WSR 08-01-136 on December 19, 2007.

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

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

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

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

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

Date Adopted: May 7, 2008.

Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

**WAC 246-935-990 Veterinary technician fees and renewal cycle.** (1) ~~((Registrations))~~ Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

<b>Title of Fee</b>	<b>Fee</b>
State examination (initial/retake)	\$100.00
Initial <del>((registration))</del> <u>license</u>	75.00
Renewal	65.00
Late renewal penalty	50.00
Expired <del>((registration))</del> <u>license</u> reissuance	50.00
Duplicate <del>((registration))</del> <u>license</u>	15.00
Certification of <del>((registration))</del> <u>license</u>	15.00