

WSR 08-23-011
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed November 6, 2008, 2:19 p.m., effective December 7, 2008]

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

Purpose: The department is amending WAC 388-106-0130 to clarify that reducing base hours for informal supports, or other paid services that meet some of an individual's need for personal care services, includes adult day health.

Citation of Existing Rules Affected by this Order: Amending WAC 388-106-0130.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 08-15-138 on July 22, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: November 3, 2008.

Stephanie E. Schiller
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-03-111, filed 1/22/08, effective 2/22/08)

WAC 388-106-0130 How does the department determine the number of hours I may receive for in-home care? (1) The department assigns a base number of hours to each classification group as described in WAC 388-106-0125.

(2) The department will deduct from the base hours to account for (~~your~~) informal supports, as defined in WAC 388-106-0010, or other paid services that meet some of an individual's need for personal care services, including adult day health, as follows:

(a) The CARE tool determines the adjustment for informal supports by determining the amount of assistance available to meet your needs, assigns it a numeric percentage, and reduces the base hours assigned to the classification group by the numeric percentage. The department has assigned the following numeric values for the amount of assistance available for each ADL and IADL:

Meds	Self Performance	Status	Assistance Available	Value Percentage
Self administration of medications	Rules for all codes apply except independent is not counted	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
1/2 to 3/4 time	.5			
>3/4 time	.3			
Unscheduled ADLs	Self Performance	Status	Assistance Available	Value Percentage
Bed mobility, transfer, walk in room, eating, toilet use	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider = 1; Did not occur/client declined and independent are not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
1/2 to 3/4 time	.5			
>3/4 time	.3			

Scheduled ADLs	Self Performance	Status	Assistance Available	Value Percentage
Dressing, personal hygiene, bathing	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider = 1; Did not occur/client declined and independent are not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.75
			1/4 to 1/2 time	.55
	1/2 to 3/4 time	.35		
	>3/4 time	.15		
IADLs	Self Performance	Status	Assistance Available	Value Percentage
Meal preparation, Ordinary housework, Essential shopping((*))	Rules for all codes apply except independent is not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.3
			1/4 to 1/2 time	.2
1/2 to 3/4 time	.1			
>3/4 time	.05			
IADLs	Self Performance	Status	Assistance Available	Value Percentage
Travel to medical	Rules for all codes apply except independent is not counted.	Unmet	N/A	1
		Met	N/A	0
		Decline	N/A	0
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
			1/2 to 3/4 time	.5
			>3/4 time	.3
Key: > means greater than < means less than ((*Results in 5% deduction for each IADL from the base hours. Remaining hours may be used for completion of household and personal care tasks.))				

(b) To determine the amount of reduction for informal support, the value percentages are totaled and divided by the number of qualifying ADLs and IADLs needs. The result is value A. Value A is then subtracted from one. This is value B. Value B is divided by three. This is value C. Value A and Value C are summed. This is value D. Value D is multiplied by the "base hours" assigned to your classification group and the result is the number of in-home hours reduced for informal supports.

(3) Also, the department will adjust in-home base hours when:

(a) There is more than one client receiving ADSA-paid personal care services living in the same household, the status under subsection (2)(a) of this section must be met or partially met for the following IADLs:

- (i) Meal preparation;
- (ii) Housekeeping;
- (iii) Shopping; and
- (iv) Wood supply.

(b) You are under the age of eighteen, your assessment will be coded according to age guidelines codified in WAC 388-106-0213.

(4) In addition to any determination of unmet need in (2)(a) when you are not affected by (3) above, the department will score the status for meal preparation as unmet when you adhere to at least one of the following special diets:

- (a) ADA (diabetes);
- (b) Autism diet;
- (c) Calorie reduction;
- (d) Low sodium;
- (e) Mechanically altered;
- (f) Planned weight change program;
- (g) Renal diet; or
- (h) Needs to receive nutrition through tube feeding or receives greater than twenty-five percent of calories through tube or parenteral feeding.

(5) In addition to any determination of unmet need in (2)(a) when you are not affected by (3) above, the department will score the status for housework as unmet when you are incontinent of bladder or bowel, documented as:

- (a) Incontinent all or most of the time;
- (b) Frequently incontinent; or
- (c) Occasionally incontinent.

(6) After deductions are made to your base hours, as described in subsections (2) and (3), the department may add on hours based on your living environment:

Condition	Status	Assistance Available	Add On Hours
Offsite laundry facilities, which means the client does not have facilities in own home and the caregiver is not available to perform any other personal or household tasks while laundry is done.	(Unmet) N/A	N/A	8
Client is >45 minutes from essential services (which means he/she lives more than 45 minutes one-way from a full-service market).	Unmet	N/A	5
	Met	N/A	0
	Partially met	<1/4 time	5
		between 1/4 to 1/2 time	4
		between 1/2 to 3/4 time	2
>3/4 time		2	
Wood supply used as sole source of heat.	Unmet	N/A	8
	Met	N/A	0
	Declines	N/A	0
	Partially met	<1/4 time	8
		between 1/4 to 1/2 time	6
		between 1/2 to 3/4 time	4
		>3/4 time	2

(7) In the case of New Freedom consumer directed services (NFCDS), the department determines hours as described in WAC 388-106-1445.

(8) The result of actions under subsections (2), (3), (4), (5) and (6) is the maximum number of hours that can be used to develop your plan of care. The department must take into account cost effectiveness, client health and safety, and program limits in determining how hours can be used to meet your identified needs. In the case of New Freedom consumer directed services (NFCDS), a New Freedom spending plan (NFSP) is developed in place of a plan of care.

(9) You and your case manager will work to determine what services you choose to receive if you are eligible. The hours may be used to authorize:

(a) Personal care services from a home care agency provider and/or an individual provider.

(b) Home delivered meals (i.e. a half hour from the available hours for each meal authorized).

(c) Adult day care (i.e. a half hour from the available hours for each hour of day care authorized).

(d) A home health aide if you are eligible per WAC 388-106-0300 or 388-106-0500.

(e) A private duty nurse (PDN) if you are eligible per WAC 388-71-0910 and 388-71-0915 or WAC 388-551-3000 (i.e. one hour from the available hours for each hour of PDN authorized).

(f) The purchase of New Freedom consumer directed services (NFCDS).

**WSR 08-23-017
PERMANENT RULES
DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed November 6, 2008, 5:03 p.m., effective December 7, 2008]

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

Purpose: WAC 246-817-130, 246-817-135, and 246-817-140 amendments clarify the acceptance of all state and regional examinations to be adequate to meet Washington's license without examination requirements. The adopted rule accurately reflects national standards, meets the intent of the law, and reduces licensing barriers for dentists that hold an active dental license in another state and want to become licensed in Washington state.

Citation of Existing Rules Affected by this Order: Amending WAC 246-817-130, 246-817-135, and 246-817-140.

Statutory Authority for Adoption: RCW 18.32.0365.

Other Authority: RCW 18.32.215.

Adopted under notice filed as WSR 08-16-129 on August 6, 2008.

A final cost-benefit analysis is available by contacting Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov.

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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: September 11, 2008.

Padmaraj Angolkar, DDS, Chair
Dental Quality
Assurance Commission

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-130 Licensure without examination for dentists—Eligibility. The DQAC may grant licensure without an examination to dentists licensed in other states if they meet the requirements of RCW 18.32.215 and WAC 246-817-110 and:

~~(1) ((Hold an active license, registration or certificate to practice dentistry, without restrictions, in another state, obtained by successful completion of an examination, if the other state's current licensing standards are substantively equivalent to the licensing standards of the state of Washington. The DQAC shall determine if the other state's current licensing standards are substantively equivalent to licensing standards in this state, pursuant to WAC 246-817-140.~~

~~(2) Are currently practicing clinical dentistry in another state pursuant to WAC 246-817-135(5).~~

~~(3)) Hold a valid license in another state;~~

~~(2) Are currently engaged in the practice of dentistry in another state;~~

~~(3) Are a graduate of a dental college, school, or dental department of an institution approved by the DQAC under RCW 18.32.040(1);~~

~~(4) Pay the applicable fees as defined in WAC 246-817-990;~~

~~(5) Agree to participate in a personal interview with the DQAC, if requested.~~

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-135 Licensure without examination for dentists—Application procedure. The applicant is responsible for obtaining and furnishing to the DQAC all materials required to establish eligibility for a license without examination. In addition to the requirements defined in WAC 246-817-110 the following documentation must be provided:

(1) A statement by the applicant as to whether ~~((he/she))~~ the applicant has been the subject of any disciplinary action in the state(s) of licensure and whether ~~((he/she))~~ the applicant has engaged in unprofessional conduct as defined in RCW 18.130.180.

(2) A statement by the applicant that ~~((he/she is))~~ they are not an impaired practitioner as defined in RCW 18.130-170.

(3) A certification by the state board(s) of dentistry (or equivalent authority) that~~((based on successful completion~~

~~of an examination,))~~ the applicant was issued a license, registration, certificate or privilege to practice dentistry, without restrictions, and whether ~~((he/she))~~ the applicant has been the subject of final or pending disciplinary action.

(4) Documentation to substantiate that standards defined in WAC 246-817-140 have been met.

(5) Proof that the applicant is currently engaged in the practice of ~~((clinical, direct patient care))~~ dentistry, in another state~~((, and has been practicing for a minimum of five years within the seven years immediately preceding application,))~~ as demonstrated by the following information:

(a) Address of practice location(s);

(b) Length of time at the location(s);

~~(c) ((Certification of a minimum of twenty hours per week in clinical dental practice;~~

~~(d))~~ A letter from all malpractice insurance carrier(s) defining years when insured and any claims history;

~~((e))~~ (d) Federal or state tax numbers;

~~((f))~~ (e) DEA numbers if any;

Dentists serving in the United States federal services as described in RCW 18.32.030(2), for the period of such service, need not provide (a) through ~~((f))~~ (e) of this subsection, but must provide documentation from their commanding officer regarding length of service, duties and responsibilities including any adverse actions or restrictions. Such dental service, including service within the state of Washington, shall be credited toward the dental practice requirement.

Dentists employed by a dental school approved by the DQAC for the period of such dental practice, need not provide (a) through ~~((f))~~ (e) of this subsection, but must provide documentation from the dean or appropriate administrator of the institution regarding the length and terms of employment and their duties and responsibilities, and any adverse actions or restrictions. Such dental practice, including practice within the state of Washington, shall be credited toward the dental practice requirement. Dental practice within a residency program shall be credited toward the dental practice requirement. A license may be revoked upon evidence of misinformation or substantial omission.

All information must be completed and received within one hundred eighty days of receipt of the initial application. Only completed applications will be reviewed by the DQAC, or its designee(s) at the next scheduled DQAC meeting or at other intervals as determined by the DQAC.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-140 Licensure without examination for dentists—Licensing examination standards. ~~((A# applicant is deemed to have met Washington state examination standards if either subsection (1) or (2) of this section is met:~~

~~(1) The state in which the applicant received a license, following successful completion of an examination, currently administers or subscribes to an examination, which includes all components listed in subsection (2)(a) of this section and at least two of the components listed in subsection (2)(b) of this section.~~

~~(2) The applicant provides documentation that he/she has successfully completed an examination in another state which included all of the components listed in (a) of this subsection and at least two of the components listed in (b) of this subsection.~~

~~(a) The applicant must have successfully completed an examination which included/includes the following components:~~

~~(i) Oral diagnosis and treatment planning, written or clinical test.~~

~~(ii) Class II amalgam test on a live patient.~~

~~(iii) Cast gold test on a live patient restoring at least one proximal surface, from a Class II inlay up to and including a full cast crown.~~

~~(iv) Periodontal test on a live patient to include a documentation and patient evaluation as well as sealing and root planing of at least one quadrant.~~

~~(v) Use of a rubber dam during restorative procedures.~~

~~(vi) Removable prosthodontics written or clinical test.~~

~~(b) The examination included/includes at least two of the following characteristics or components:~~

~~(i) Standardization and calibration of examiners.~~

~~(ii) Anonymity between candidates and grading examiners.~~

~~(iii) Endodontic test which requires the obturation of at least one canal.~~

~~(iv) Other clinical procedures (i.e., composite, gold foil).~~

~~The DQAC shall publish a list of states or regional licensing examinations which on the date of publication of the list are considered to be substantively equivalent to the Washington state dental licensing standard. The list shall be updated periodically and available upon request.)) The DQAC has determined that the licensing and examination standards of all regional testing agencies, as defined in WAC 246-817-010, and all states with independent licensing examinations are adequate to meet the standards for licensure without examination in the state of Washington. The DQAC shall periodically review these standards.~~

WSR 08-23-018

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed November 6, 2008, 5:04 p.m., effective December 7, 2008]

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

Purpose: WAC 246-817-155 amendments establish licensure qualification, in lieu of a practical exam, for dental residents successfully completing a dental residency training program in a community clinic serving low income patients, or in a health care shortage area. The rule creates an alternative for obtaining a full dental license when dental students successfully complete a postdoctoral residency program accredited by the Commission on Dental Accreditation.

Statutory Authority for Adoption: RCW 18.32.0365.

Other Authority: RCW 18.32.040.

Adopted under notice filed as WSR 08-16-127 on August 6, 2008.

Changes Other than Editing from Proposed to Adopted Version: The adopted rule was changed in three areas: Subsection (3)(d) was changed for consistency across the state to include all the regional examinations listed in WAC 246-817-120 rather than just the western region. Subsection (3)(f) and (g) was changed by moving the spelled out title of ADA/CODA from (g) to (f). Subsection (5) was deleted because RCW 18.32.195(4) indicates that an additional application fee is not required.

A final cost-benefit analysis is available by contacting Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov.

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Date Adopted: September 11, 2008.

Padmaraj Angolkar, DDS, Chair
Dental Quality
Assurance Commission

NEW SECTION

WAC 246-817-155 Dental resident license to full dental license—Conditions. To be eligible for full Washington state dental licensure, a postdoctoral dental resident must:

(1) Meet the initial application and eligibility requirements in WAC 246-817-110;

(2) Provide a completed application on forms provided by the secretary;

(3) Provide evidence of successful completion of a full-time postdoctoral dental residency program. The residency program must:

(a) Be one to three years in duration;

(b) Be located in Washington state;

(c) Be located in a community health clinic that serves predominantly low-income patients or located in a dental care health professional shortage area in this state;

(d) Include an outcome assessment evaluation, other than the clinical examinations assessing the resident's competence to practice dentistry listed in WAC 246-817-120;

(e) Provide a certificate of completion, signed and submitted directly to the department of health by the director of the dental residency program;

(f) Use standards of the American Dental Association's Commission on Dental Accreditation (ADA/CODA), for community clinics to use when sponsoring students in a resi-

dency program under RCW 18.32.040 (3)(c), including the ADA/CODA guidelines for proper supervision of residents and measurement of the resident's competency to practice dentistry;

(g) Be accredited by the ADA/CODA in the following programs:

(i) For advanced education programs general dentistry (AEGD); or

(ii) For advanced education programs general practice residency (GPR); or

(iii) For advanced specialty education programs.

(4) Provide evidence of successful completion of the jurisprudence examination;

(5) Provide any other information determined by the DQAC.

WSR 08-23-019

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed November 6, 2008, 5:05 p.m., effective December 7, 2008]

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

Purpose: The purpose of adopting WAC 246-817-010, 246-817-110, and 246-817-120 is to amend the licensing requirements to update the definition section to include new terminology used, update the list of approved schools and examinations, update licensure requirements for dentists licensed in other states, which includes the approval of post-graduate residency programs, and clarify what is meant by background inquiries.

Citation of Existing Rules Affected by this Order: Amending WAC 246-817-010, 246-817-110, and 246-817-120.

Statutory Authority for Adoption: RCW 18.32.0365.

Other Authority: RCW 18.32.040.

Adopted under notice filed as WSR 08-16-126 on August 6, 2008.

A final cost-benefit analysis is available by contacting Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov.

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Date Adopted: September 11, 2008.

Padmaraj Angolkar, DDS, Chair
Dental Quality
Assurance Commission

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-010 Definitions. The following general terms are defined within the context used in this chapter.

"Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

"Clinics" are locations situated away from the School of Dentistry on the University of Washington campus, as recommended by the dean in writing and approved by the DQAC.

"CITA" means Council of Interstate Testing Agencies, a regional dental testing agency that provides clinical dental testing services.

"CRDTS" means Central Regional Dental Testing Services, a regional testing agency that provides clinical dental testing services.

"Department" means the department of health.

"DQAC" means the dental quality assurance commission as established by RCW 18.32.0351.

"Facility" is defined as the building housing the School of Dentistry on the University of Washington campus, and other buildings, designated by the dean of the dental school and approved by the DQAC.

~~("HPQAD" means the health professions quality assurance division of the department of health.)~~

"NERB" means the Northeast Regional Board, a regional testing agency that provides clinical dental testing services.

"Office on AIDS" means that section within the department of health or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

"Secretary" means the secretary of the department of health or the secretary's designee.

"SRTA" means the Southern Regional Testing Agency, a regional testing agency that provides clinical dental testing services.

"WREB" means the Western Regional Examining Board, a ((regional)) national testing agency that provides clinical dental testing services.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-817-110 Dental licensure—Initial eligibility and application requirements. To be eligible for Washington state dental licensure, the applicant ~~((shall complete an application provided by the dental HPQAD of the department of health, and shall include written documentation to meet the eligibility criteria for the license for which he/she is applying. Each applicant shall))~~ must provide:

(1) A completed application and fee. The applicant ~~((shall))~~ must submit a signed, notarized application and

required fee ~~((Refer to WAC 246-817-990 for fee schedule.))~~ as defined in WAC 246-817-990;

(2) Proof of graduation from a dental school approved by the DQAC ~~((The DQAC adopts those standards of the American Dental Association's Commission on Accreditation which were relevant to accreditation of dental schools and current in May 1993 and has approved all and only those dental schools which were accredited by the commission as of May 1993.))~~;

(a) DQAC recognizes only those applicants who are students or graduates of dental schools in the United States or Canada, approved, conditionally or provisionally, by the Commission on Dental Accreditation of the American Dental Association. The applicant must have received, or will receive, a Doctor of Dental Surgery (DDS) or Doctor of Dental Medicine (DMD) degree from that school;

(b) Other dental schools which apply for DQAC approval and which meet these adopted standards to the DQAC's satisfaction may be approved, but it is the responsibility of a school to apply for approval and of a student to ascertain whether or not a school has been approved ~~((:))~~;

(3) ~~((Certification))~~ Proof of successful completion of the National Board Dental Examination Parts I and II, or the Canadian National Dental Examining Board Examination. An original scorecard or a certified copy of the scorecard shall be accepted. Exception: Dentists who obtained initial licensure in a state prior to that state's requirement for successful completion of the national boards, may be licensed in Washington, provided that the applicant provide proof that their original state of licensure did not require passage of the national boards at the time they were initially licensed. Applicants need to meet all other requirements for licensure;

(4) Proof of graduation from an approved dental school. The only acceptable proof is an official, posted transcript sent directly from such school, or in the case of recent graduates, a verified list of graduating students submitted directly from the dean of the dental school. Graduates of nonaccredited dental schools must also meet the requirements outlined in WAC 246-817-160 ~~((:))~~;

(5) A complete listing of professional education and experience including college or university (predental), and a complete chronology of practice history from the date of dental school graduation to present, whether or not engaged in activities related to dentistry ~~((:))~~;

(6) ~~((Applicants must complete))~~ Proof of completion of seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8 ~~((:))~~;

(7) ~~((Certification))~~ Proof of malpractice insurance if available, including dates of coverage and any claims history ~~((:))~~;

(8) Written certification of any licenses held, submitted directly from another licensing entity, and including license number, issue date, expiration date and whether applicant has been the subject of final or pending disciplinary action ~~((:))~~;

(9) Proof of successful completion of an approved:

(a) Practical/clinical examination ~~((and a written jurisprudence examination or any other examination))~~; or

(b) A qualifying postgraduate residency program, approved by ~~((and))~~ or administered under the direction of the DQAC ~~((:))~~;

(10) ~~((Photograph))~~ Proof of successful completion of an approved written jurisprudence examination;

(11) A recent 2" x 2" photograph, signed ~~((and))~~, dated, ~~((shall be))~~ and attached to the application ~~((:))~~;

~~((H))~~ (12) Authorization for background inquiries ~~((from))~~ to other sources may be conducted as determined by the DQAC, including but not limited to the national practitioner data bank and drug enforcement agency. Applicants are responsible for any fees incurred in obtaining verification of requirements ~~((:))~~;

~~((H))~~ (13) Any other information for each license type as ~~((further defined))~~ determined by the DQAC.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-120 Examination content. An applicant seeking licensure in Washington by examination, must successfully complete a written and practical examination approved by the DQAC.

(1) The examination will consist of:

(a) A written ~~((:))~~ examination. Only the national board exam will be accepted, except as provided in (c) of this subsection.

(b) A practical/practice ~~((:))~~ examination.

(i) The DQAC will accept ~~((s))~~ the Western Regional Examining Board's (WREB) clinical examination as meeting its examination standard after January 1, 1995. The results of the WREB examination ~~((shall))~~ will be accepted for five years immediately preceding application for state licensure; or

(ii) The DQAC accepts the Central Regional Dental Testing Services (CRDTS) clinical examination as meeting its examination standard as of November 2001. The results of the CRDTS examination will be accepted for five years immediately preceding application for state licensure; or

(iii) The DQAC accepts the results of the Northeast Regional Board (NERB) and the Southern Regional Testing Agency (SRTA) clinical examinations as meeting its examination standard as of January 2006. The results of the NERB and SRTA examinations will be accepted for five years immediately preceding application for state licensure; or

(iv) The DQAC will consider acceptance of the examination results from candidates who pass the final portions of the Council of Interstate Testing Agency's (CITA) clinical examination after January 1, 2006; or

(v) The DQAC will consider acceptance of the examination results of those states with individual state board examinations after September 30, 2006.

(c) The DQAC may, at its discretion, give or require an examination in any other subject under (a) ~~((or))~~ and (b) of this subsection, whether in written ~~((and))~~ or practical form or both written and practical. ~~((The applicant shall receive information concerning such examination.))~~

(2) An applicant for the ~~((clinical))~~ practical/practice examination may obtain an application directly from the ~~((Western Regional Examining Board))~~ relevant regional testing agency, or individual state board.

WSR 08-23-022
PERMANENT RULES
SPOKANE REGIONAL
CLEAN AIR AGENCY

[Filed November 7, 2008, 7:40 a.m., effective May 1, 2009]

Effective Date of Rule: May 1, 2009.

Purpose: In general, the proposed revisions are intended to streamline the outdoor burning program: Alleviates written permits and reduces the fee for firefighting instruction and fire extinguisher training fire permits; allows the Spokane County Noxious Weed Control Board to issue noxious weed control burn permits directly; and removes Spokane clean air as the agency that implements residential (yard and garden) burning. In addition, it prohibits residential land clearing burning permitted by Spokane Clean Air after December 31, 2010.

Citation of Existing Rules Affected by this Order: Repealing SRCAA Regulation I, Section 6.01; and amending SRCAA Regulation I, Section 10.13.

Statutory Authority for Adoption: RCW 70.94.141, 70.94.380(2), 70.94.755, chapter 173-425 WAC.

Adopted under notice filed as WSR 08-21-003 on October 2, 2008.

A final cost-benefit analysis is available by contacting Matt Holmquist, 1101 West College Avenue, Suite 403, Spokane, WA 99201, phone (509) 477-4727, fax (509) 477-6828, e-mail mholmquist@spokanecleanair.org. This is a local agency rule and RCW 34.05.328 does not apply pursuant to RCW 70.94.141(1).

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

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

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

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: November 6, 2008.

Matt Holmquist
 Compliance Administrator

REPEALER

REGULATION I, ARTICLE VI, SECTION 6.01 - OUTDOOR BURNING

NEW SECTION

SECTION 6.01 OUTDOOR BURNING

A. Purpose.

This Section establishes controls for outdoor burning in Spokane County in order to:

1. Minimize outdoor burning to the greatest extent practicable, consistent with the laws and regulations of the State of Washington.

2. Minimize the impact of emissions from outdoor burning by burning only when weather and ventilation conditions are favorable.

3. Define conditions under which outdoor burning may be conducted.

4. Encourage the development and specify the use of reasonable alternatives to outdoor burning.

5. Geographically limit outdoor burning in order to assure continued attainment of the National Ambient Air Quality Standards for carbon monoxide and fine particulate matter (PM_{2.5}).

B. Applicability.

This Section applies to outdoor burning in all areas of Spokane County. This Section does not apply to Silvicultural Burning (see Chapter 332-24 WAC) or Agricultural Burning (see Section 6.11).

1. The provisions of Chapter 173-425 WAC (Outdoor Burning) are herein incorporated by reference. It shall be unlawful for any person to not comply with Chapter 173-425 WAC, this Section, and applicable permit conditions.

2. The provisions of this Section are severable. If any phrase, sentence, paragraph, or provision is held invalid, the application of such phrase, sentence, paragraph, or provision to other circumstances and the remainder of this Section shall not be affected.

3. Nothing contained in this Section shall apply to burning of combustible material in a multiple-chambered unit, such as in a multiple-chambered incinerator, as long as the unit is registered with the Agency pursuant to Article IV or the operator possesses a valid Notice of Construction approval issued pursuant to Article V and the unit complies with all applicable regulations.

4. Nothing contained in this Section shall relieve any person from obtaining permits required by any state or local fire protection agency or from compliance with the Uniform Fire Code.

C. Definitions.

Words and phrases used in this Section shall have the meaning defined in Chapter 173-425 WAC, unless a different meaning is clearly required by context or is otherwise defined in this Section.

1. Agricultural Burning means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, necessary to destroy weeds or crop residue along farm fence rows, irrigation ditches, or farm drainage ditches, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

2. Permitting Agency means the Spokane Regional Clean Air Agency (Spokane Clean Air), or one or more of the following entities, whenever the Agency and an entity have signed an agreement regarding a permitting program or the Agency has delegated administration of the permitting pro-

gram, pursuant to RCW 70.94.654, to one or more of the referenced entities, provided such delegation of authority has not been withdrawn: Spokane County, any fire protection agency within Spokane County, Department of Natural Resources, or the Spokane County Conservation District.

3. Person means any individual(s), firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency. It includes any person who has applied for and received a permit for outdoor burning; any person allowing, igniting or attending an outdoor fire; or any person who owns or controls property on which an outdoor fire occurs.

4. Silvicultural Burning means burning on unimproved land the Department of Natural Resources protects pursuant to RCW 70.94.030(20), 70.94.660, and 70.94.690, and pursuant to Chapter 76.04 RCW.

D. Areas Where Outdoor Burning is Prohibited.

The permitting agency shall not permit/allow any outdoor burning if it determines that the proposed burning will cause or is likely to cause a nuisance. Except for recreational fires and other outdoor burning (as defined in Chapter 173-425 WAC and when authorized by Spokane Clean Air), outdoor burning shall not be allowed in the following areas:

1. Within the No Burn Area as defined by Resolution of the Board of Directors of Spokane Clean Air.

2. Within any Urban Growth Area or any area completely surrounded by any Urban Growth Area (e.g., "islands" of land within Urban Growth Areas).

3. Within any area where outdoor burning is otherwise prohibited by ordinance, regulation, or law.

E. Outdoor Burning Permitted by Others.

Outdoor burning permitted by permitting agencies other than Spokane Clean Air is limited to the following:

1. Fire hazard abatement burning. A written permit is required.

2. Residential (yard and garden) burning. A verbal, electronic, written, or general permit established by rule may be used (Chapter 173-425 WAC).

3. Weed abatement fires for noxious weed control. A written permit is required.

F. Outdoor Burning Permitted by Spokane Clean Air.

Outdoor burning permitted by Spokane Clean Air includes, but is not limited to, the following:

1. Land clearing burning (limited to residential land clearing burning). Residential land clearing burning may be allowed prior to January 1, 2011, provided the fire consists of natural vegetation cleared from less than one acre of forested land on a five acre or larger parcel of land in non-commercial ownership. A written permit is required.

2. Recreational fires (including those for social events) with a total fuel area greater than 3 feet in diameter and/or greater than 2 feet in height. A written permit is required.

3. Storm or flood debris burning. A written permit is required.

G. Requirements for Written Outdoor Burning Permits.

In addition to the prohibitions/requirements in WAC 173-425-050 that apply to all outdoor burning, outdoor burning requiring a written permit is subject to the following requirements:

1. It shall be unlawful for any person to cause or allow an outdoor fire unless an application for a written permit, including the required nonrefundable fee specified by the permitting agency and any additional information requested by the permitting agency, has been submitted to the permitting agency on approved forms, in accordance with the advance application period as specified by the permitting agency.

2. The permitting agency may deny an application or revoke a previously issued permit if it is determined by the permitting agency that the application contained inaccurate information, or failed to contain pertinent information, which information is deemed by the permitting agency to be significant enough to have a bearing on the permitting agency's decision to grant a permit.

3. No permit for outdoor burning shall be granted on the basis of a previous permit history.

4. A copy of the permit must be kept at the permitted burn site during the permitted burn, and made available for review upon request of the permitting agency.

5. Unless otherwise approved by the permitting agency, applications will be accepted no more than 180 days prior to the first proposed burn date; and written permits shall expire 29 consecutive calendar days after the first proposed burn date indicated on the permit.

6. A separate application must be completed and submitted to the appropriate permitting agency for each outdoor burn permit requested.

H. Fire Extinguisher Training.

Fire extinguisher training fires of short-duration for instruction on the proper use of hand-held fire extinguishers may be conducted provided all of the following requirements are met:

1. Training shall not occur during any stage of an air pollution episode or period of impaired air quality.

2. Flammable or combustible materials used during the fire extinguisher training shall be limited to:

a. Less than 2 gallons of clean kerosene or diesel fuel oil per training exercise, provided that gasoline or gasoline mixed with diesel or kerosene may be used only by local fire departments, fire protection agencies, fire marshals, or fire districts;

b. As much gaseous fuel (propane or natural gas) as required for the training exercise; or

c. Less than 0.5 cubic yards of clean, solid combustible materials per training exercise. Examples of solid combustible materials are seasoned wood, untreated scrap lumber and unused paper.

3. All training must be conducted by local fire officials or a qualified instructor. Instructor qualifications and a training plan must be made available to Spokane Clean Air upon request.

4. Prior to the training, the person(s) conducting the exercise must notify the local fire department, fire marshal, or fire district and meet all applicable local ordinances and permitting requirements.

5. Person(s) conducting hand-held fire extinguisher training shall be responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

6. The permitting agency shall not permit/allow burning if it determines that the proposed burning will cause or is likely to cause a nuisance.

I. Fire Fighting Instruction Fires.

1. A fire protection agency may conduct structural fire training provided all of the following requirements are met:

a. Fire training shall not occur during any stage of an air pollution episode or period of impaired air quality.

b. The owner and fire protection agency must meet the requirements in SRCAA Regulation I, Article IX and Section 10.09 prior to conducting the training.

c. The fire protection agency conducting the fire training must have a fire-training plan available to Spokane Clean Air upon request, and the purpose of the structural fire must be to train fire fighters.

d. Composition roofing, asphalt roofing shingles, asphalt siding materials, miscellaneous debris from inside the structure, carpet, linoleum, and floor tile, shall not be burned unless such materials are identified by the fire protection agency as being an essential part of the fire training exercise and are described as such in the fire-training plan. Materials removed from the structure(s) must be disposed of in a lawful manner prior to the training exercise.

e. The fire protection agency conducting the training fire shall obtain any permits, licenses, or other approvals required by any entity for such training fires. All permits, licenses, and approvals must be kept on-site and available for inspection.

f. Structural fire training shall be performed in accordance with RCW 52.12.150.

g. The permitting agency shall not permit burning if it determines that the proposed burning will cause or is likely to cause a nuisance.

h. Nuisance complaints or citizen inquiries relating to any training fire shall be resolved by the fire protection agency conducting the fire training.

2. A fire protection agency may conduct aircraft crash rescue training fires if performed in accordance with RCW 70.94.650(5).

AMENDATORY SECTION

SECTION 10.13 OUTDOOR BURNING PERMIT FEES

For outdoor burning permit applications, submitted to the Authority pursuant to Section 6.01 of this Regulation, a nonrefundable fee shall accompany the application. Fees shall be paid without regard to whether the associated request(s) are approved or denied. The applicant shall pay a fee at the time of application (except for hourly fees, which will result in a billing invoice being sent to the applicant from the Agency) pursuant to the fee schedule as indicated in the table below and shall submit a complete application pursuant to the advance application period indicated in the table below. ((The fee is as follows:

A. A \$10 fee shall be submitted with each 30-day permit application.

B. A \$25 fee shall be submitted with each annual permit application.

~~C. Fees shall be paid without regard to whether the request(s) associated with this Section are approved or denied.))~~

<u>Type of Outdoor Burning</u>	<u>Advance Application Period</u>	<u>Fee</u>
<u>Residential Land Clearing</u>	<u>10 working days</u>	<u>\$200</u>
<u>Recreational (>3' in diameter or >2' in height)</u>	<u>3 working days</u>	<u>\$50</u>
<u>Storm or Flood Debris</u>	<u>5 working days</u>	<u>\$200</u>
<u>Other Outdoor Burning as defined in Chapter 173-425 WAC</u>	<u>10 working days</u>	<u>\$65/hr</u>

WSR 08-23-044

PERMANENT RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed November 13, 2008, 9:09 a.m., effective December 14, 2008]

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

Purpose: Modify existing rules to comply with current administrative practices.

Citation of Existing Rules Affected by this Order: Repealing WAC 106-168-010, 106-168-095 and 106-168-097; and amending WAC 106-168-008, 106-168-009, and 106-168-065.

Statutory Authority for Adoption: RCW 28B.10.528 and 28B.35.120(12).

Adopted under notice filed as WSR 08-20-030 on September 22, 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 3, 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: November 4, 2008.

Jerilyn S. McIntyre
President

AMENDATORY SECTION (Amending Order 50, filed 12/10/82)

WAC 106-168-008 Violation of library ((regulations)) policies. Violators of library ((regulations)) policies may be subject to appropriate disciplinary action, including assessment of service charges and revocation of library privileges.

AMENDATORY SECTION (Amending WSR 06-23-104, filed 11/16/06, effective 12/17/06)

WAC 106-168-009 (~~(Food, beverages, smoking-)~~) **Library user conduct.** Users are expected to maintain appropriate public behavior while using the library facilities. ~~The library ((policies regarding eating food or drinking beverages and tobacco use are included in the library conduct))~~ user policy is available on-line at <http://www.lib.cwu.edu/info/policies/conduct.html>. This policy is reviewed and updated annually. The current policy is posted in the entry-way and at all public service desks in the library building.

AMENDATORY SECTION (Amending Order CWU AO 77, filed 10/6/94, effective 11/6/94)

WAC 106-168-065 Borrower identification cards. In order to (~~(borrow library))~~ check out materials, borrowers must present an authorized university library identification card.

~~((1) University library identification cards are issued to all members of the university community.~~

~~(2) Individuals outside the university community may purchase library identification cards which permit limited use of resources and services.~~

~~(3) A library identification card is authorized for use only by the individual whose name appears on the card.~~

~~(4) Cards used in an unauthorized manner may be confiscated.~~

~~(5) Each borrower is responsible for notifying the appropriate university office of changes of address or loss of card.)~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 106-168-010	Circulation records.
WAC 106-168-095	Service charges for late return or loss of materials.
WAC 106-168-097	Payment of charges.

WSR 08-23-047

PERMANENT RULES

UTILITIES AND TRANSPORTATION

COMMISSION

[Docket UE-080111, General Order R-553—Filed November 14, 2008, 8:29 a.m., effective December 15, 2008]

In the matter of adopting WAC 480-100-405, 480-100-415, 480-100-425, and 480-100-435, relating to greenhouse gas emissions.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 08-17-106, filed with the code reviser on August 20, 2008. The commission brings this

proceeding pursuant to RCW 80.01.040, 80.04.160, and 80.80.060.

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

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

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

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order, including Appendix A (*i.e.*, the rules adopted by this order), as its concise explanatory statement, supplemented by the October 23, 2008, staff memorandum preceding the adoption hearing, insofar as that memorandum is pertinent to, and is consistent with, the requirements of the rules adopted by this order. Together, these documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 The rules establish the information required to be included in electrical company filings requesting determination by the commission that new long-term financial commitments for base-load electric generation comply with the greenhouse gases emissions performance standard (EPS), and the process by which these requests will be considered. In addition, the rules establish the information required to be included in requests electrical companies may make to be exempted from the EPS under certain circumstances. Finally, the rules specify reports required to be filed by electrical companies using the cost deferral accounting authorized under RCW 80.80.060(6).

7 The reason the commission is adopting these rules is to comply with ESSB 6001, chapter 307, Laws of 2007, with the title Climate change—Mitigating impacts (codified as chapter 80.80 RCW).

8 REFERENCE TO AFFECTED RULES: This order adopts WAC 480-100-405 Electrical company generation resource compliance with the greenhouse gases emissions performance standard, 480-100-415 Electrical company applications for commission determination outside of a general rate case of electric generation resource compliance with greenhouse gases emissions performance standard, 480-100-425 Electrical company applications for exemption from the greenhouse gas emissions performance standard, and 480-100-435 Electrical company deferral of costs associated with long-term financial commitments—Notice and reporting.

9 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on February 5, 2008, at WSR 08-04-087. The statement advised interested persons that the

commission was required to initiate a rule making to implement the requirements of RCW 80.80.060 regarding electrical company compliance with the greenhouse gases emissions performance standard contained in RCW 80.80.040. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), the commission's lists of all registered electrical companies, interested persons listed in Docket UE-061895¹, and by sending notices to the commission's lists of regulatory attorneys. The commission posted the relevant rule-making information on its internet web site at <http://www.utc.wa.gov>. Pursuant to the notice, the commission received written comments.

¹ In this docket the commission considered and adopted chapter 480-109 WAC concerning utility compliance with renewable energy and conservation targets in accordance with chapter 19.285 RCW.

10 MEETINGS OR WORKSHOPS: The commission held a workshop on August 5, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. Participants in the workshop included Puget Sound Energy (PSE), NW Energy Coalition, Avista Corporation, PacifiCorp, and public counsel.

11 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on August 20, 2008, at WSR 08-17-106. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 08-17-106 at 10:00 a.m., Thursday, October 23, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

12 WRITTEN COMMENTS: The commission received written comments from PSE with proposed language changes to WAC 480-100-405 Electrical company generation resource compliance with the greenhouse gases emissions performance standard.

13 RULE-MAKING HEARING: The commission considered the proposed rules for adoption at a rule-making hearing on October 23, 2008, before Chairman Mark H. Sidran and Commissioner Patrick J. Oshie. The commission heard oral comments from Tom DeBoer, representing PSE. Mr. DeBoer agreed with the disposition of PSE's written comments as described below.

14 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should adopt the rules as proposed in the CR-102 at WSR 08-17-106, changed as described below in this order.

15 SUGGESTIONS FOR CHANGES THAT ARE ACCEPTED OR REJECTED: Written comments suggested certain changes to the proposed rules. The suggested changes and the commission's reason for rejecting or accepting the suggested changes are described below.

16 CHANGES FROM PROPOSAL: The commission addressed the written comments submitted by PSE for changes to WAC 480-100-405 as follows:

WAC 480-100-405(1).

17 PSE recommends that the following language be deleted from proposed WAC 480-100-405(1): Electrical companies bear the burden to prove compliance with the greenhouse gases emissions performance standard under the requirements of WAC 480-100-405 or as part of a general rate case. For electrical companies that fail to carry their burden of proof, the commission may disallow recovery of some or all costs in rates, impose penalties, or take such other action as is consistent with law.

PSE contends that requiring electrical companies to bear the burden of proving compliance with the greenhouse gases emissions performance standard is contrary to chapter 80.80 RCW.

18 The commission rejects the proposed rule change. Being clear in the proposed rule that the burden to prove compliance with the EPS rests with the utility is reasonable for the following reasons:

- The statute makes specific reference to commission review in the context of general rate cases, proceedings in which PSE concedes it bears the burden of proof. It is also reasonable to clarify the utility's burden as the moving party in any special single-issue proceeding to determine compliance.
- Compliance with the law is a characteristic of prudent utility management. PSE concedes it bears the burden to prove its resource choices are prudent.
- Utilities - not the department of ecology or the commission - will possess the information necessary to prove compliance with the EPS.

WAC 480-100-405 (2)(e)(ii).

19 PSE recommends the proposed definition of "new ownership interest" be modified to read: "New ownership interest" means the acquisition by an electric utility of more than 50% of the assets, or more than 50% of the equity interests in the owner of the assets, of a baseload power plant or a cogeneration facility or the electrical generation portion of a cogeneration facility. In no event shall any direct or indirect change in ownership of an electric utility constitute a new ownership interest.

PSE suggested that the word "ownership" as used in the term "new ownership interest" means that the provisions of chapter 80.80 RCW apply to changes in a controlling interest of a generation asset, rather than change in a minority interest. PSE contends that the 5% ownership threshold included in the rule adopted by department of ecology at WAC 173-407-110 and proposed in the commission's rule will "create a substantial administrative burden on all parties and does not reflect the intent of chapter 80.80 RCW."

20 The statute provides no specific definition of ownership interest. Nonetheless, PSE's proposal is at odds with the express terms of the statute. If the intent was to limit the meaning of new ownership interest to only a controlling interest the statute could have said simply "new ownership." Further, adopting the same definition for this term that is included in WAC 173-407-110 will lessen administrative burden by avoiding inconsistency with the department of ecology's regulations. We reject the proposed rule change to limit the scope of the term new ownership interest.

21 We believe the final sentence in PSE's proposal is a reasonable and constructive clarification of the statutory purpose to regulate utility actions regarding base-load power facilities and contracts, rather than the ownership of utilities themselves. Consequently, the commission accepts a portion of PSE's recommendation with modifications, by adding the following language at WAC 480-100-405 (2)(e)(ii) (the new language is italicized and underlined):

(ii) Five percent of the electrical output of the power plant or cogeneration facility.

The above thresholds apply to each unit within a multi-unit generation facility. *A direct or indirect change in ownership of an electrical company does not constitute a new ownership interest in baseload electric generation.*

WAC 480-100-405(2).

22 The reference to WAC 480-100-415 was inadvertently omitted from WAC 480-100-405(2). We consider this an inadvertent, ministerial error. The application of the definitions to all four new sections of rule was clearly stated in the memorandum and oral presentation of the proposed rules at the adoption hearing. The revised language correcting the omission is italicized and underlined:

(2) The following definitions apply for purposes of this section, *WAC 480-100-415*, ~~WAC~~ 480-100-425 and 480-100-435:

23 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that WAC 480-100-405, 480-100-415, 480-100-425, and 480-100-435 should be adopted to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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 4, Amended 0, Repealed 0.

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

ORDER

24 THE COMMISSION ORDERS:

25 The commission adopts WAC 480-100-405, 480-100-415, 480-100-425, and 480-100-435 to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after the date of filing with the code reviser.

26 This order and the rule set out below, after being recorded in the register of the Washington utilities and trans-

portation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01, 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, November 14, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

Mark H. Sidran, Chairman
Patrick J. Oshie, Commissioner
Philip B. Jones, Commissioner

Appendix A

**PART VII—(~~ADOPTION BY REFERENCE~~)
GREENHOUSE GAS EMISSIONS**

NEW SECTION

WAC 480-100-405 Electrical company generation resource compliance with the greenhouse gases emissions performance standard. (1) No electrical company may enter into a long-term financial commitment after June 30, 2008, for the supply of baseload generation unless such generation complies with the greenhouse gases emissions performance standard. Electrical companies bear the burden to prove compliance with the greenhouse gases emissions performance standard under the requirements of WAC 480-100-415 or as part of a general rate case. For electrical companies that fail to carry their burden of proof, the commission may disallow recovery of some or all costs in rates, impose penalties, or take such other action as is consistent with law. Electrical companies seeking to prove compliance with the greenhouse gases emissions standard as part of a general rate case must submit all of the information specified in WAC 480-100-415.

(2) The following definitions apply for purposes of this section, WAC 480-100-415, 480-100-425, and 480-100-435:

(a) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(b) "Electricity from unspecified sources" means electricity that is to be delivered in Washington pursuant to a long-term financial commitment entered into by an electrical company and whose sources or origins of generation and expected average annual deliveries cannot be ascertained with reasonable certainty.

(c) "Greenhouse gases emissions performance standard" means the standard established in RCW 80.80.040, WAC 173-407-120 and 173-407-130, and the verification and measurement procedures contained in WAC 173-407-140, 173-407-230, and 173-407-300.

(d) "Long-term financial commitment" means either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or a new or renewed contract for baseload electric generation with a term of five or more years for provision of retail power or wholesale power to end-use customers in this state.

(e) "New ownership interest" means a change in the ownership structure of a baseload power plant or a cogenera-

tion facility or the electrical generation portion of a cogeneration facility affecting at least:

- (i) Five percent of the market value of the power plant or cogeneration facility; or
- (ii) Five percent of the electrical output of the power plant or cogeneration facility.

The above thresholds apply to each unit within a multi-unit generation facility. A direct or indirect change in ownership of an electrical company does not constitute a new ownership interest in baseload electric generation.

(f) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt hours.

(g) "Power plant" means a facility for the generation of electricity that is permitted as a single plant by the energy facility site evaluation council or a local jurisdiction.

(h) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility or unit. Upgrade does not include:

- (i) Routine or necessary maintenance;
- (ii) Installation of emission control equipment;
- (iii) Installation, replacement, or modification of equipment that improves the heat rate of the facility; or
- (iv) Installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in existing generation air quality permits as of July 22, 2007, but may result in incidental increases in generation capacity.

NEW SECTION

WAC 480-100-415 Electrical company applications for commission determination outside of a general rate case of electric generation resource compliance with greenhouse gases emissions performance standard. (1) An electrical company may apply for determination by the commission outside of a general rate case of whether an electric generation resource it proposes to acquire as a long-term financial commitment complies with the greenhouse gases emissions performance standard, including whether the resource is baseload electric generation, whether the company has a need for the resource, and whether the proposed resource is appropriate to meet that need. Such an application must include the following information:

(a) The electrical company's most recent integrated resource plan filed under WAC 480-100-238 and a description of how the proposed electric generation resource meets the resource need, resource investment strategies and other factors identified in the integrated resource plan.

(b) If the proposed electric generation resource is a specific power plant:

- (i) The plant technology, design, fuel and fuel consumption;
- (ii) Any site certificate or other permits necessary for operation of the power plant, including, for power plants located in Washington, any determination made by the

department of ecology or the energy facility site evaluation council regarding compliance with the greenhouse gases emissions performance standard;

(ii) Such other information as is available concerning the exhaust emissions characteristics of the plant; and

(iv) The expected cost of the power generation to be acquired from the plant.

(c) If the proposed electric generation resource is a power purchase contract including contracts for delivery of electricity from unspecified sources:

- (i) The proposed contract;
- (ii) The technology, location, design, fuel and fuel consumption of any power plant, or plants, identified in the contract as the source of the contracted power deliveries, including such information as is knowable regarding the proportionate share each power source, or type of plant, will contribute to deliveries on an annual basis over the life of the contract;
- (iii) Such other information as is available concerning the exhaust emissions characteristics of the plant(s) supporting contracted power deliveries; and
- (iv) The contract term and expected cost of the power to be acquired through the power purchase agreement.

(2) The commission will consider the application pursuant to chapter 34.05 RCW (Part IV) following the procedures established in chapter 480-07 WAC. The schedule for a proceeding under this subsection will take into account both:

- (a) The needs of the parties to the proposed resource acquisition or power purchase agreement for timely decisions that allow transactions to be completed; and
- (b) The procedural rights to be provided to parties in chapter 34.05 RCW (Part IV), including intervention, discovery, briefing, and hearing.

(3) The commission will not decide in a proceeding under this section, issues involving the actual costs to construct and operate the selected resource, cost recovery, or other issues reserved by the commission for decision in a general rate case or other proceeding authorized by the commission for recovery of the resource or contract costs.

NEW SECTION

WAC 480-100-425 Electrical company applications for exemption from the greenhouse gas emissions performance standard. (1) An electrical company may apply to the commission for a case-by-case exemption from the greenhouse gases emissions performance standard to address:

- (a) Unanticipated electric system reliability needs; or
- (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(2) An electrical company's application under subsection (1)(a) of this section must include:

(a) A description of the electric system reliability needs including an explanation of why these needs were not anticipated, and why they cannot be addressed with other baseload electric generation that complies with the greenhouse gases performance standard.

(b) The estimated duration of the exemption necessary to address the reliability need.

(c) A description of any long-term financial commitment the company proposes to enter into to address the reliability need including all of the information specified in WAC 480-100-415.

(3) An electrical company's application under subsection (1)(b) of this section must include:

(a) A description of the catastrophic event or threat of significant financial harm and an explanation of why the circumstances from which the event or harm arose were not foreseen including:

(i) An explanation of why the circumstances cannot be addressed with baseload generation that complies with the greenhouse gases performance standard;

(ii) What the anticipated negative financial impact would be to the company if such exemption were denied;

(b) The estimated duration of the exemption necessary to address the catastrophic event or threat of significant financial harm.

(c) A description of any long-term financial commitment the company proposes to enter into to address the catastrophic event or threat of significant financial harm including all of the information specified in WAC 480-100-415.

(4) An electrical company may propose recovery of costs associated with an application under this rule as part of a general rate case.

NEW SECTION

WAC 480-100-435 Electrical company deferral of costs associated with long-term financial commitments—Notice and reporting. (1) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with a long-term financial commitment for baseload electric generation, including operating and maintenance costs, depreciation, taxes, and cost of invested capital.

(2) An electrical company deferring costs under subsection (1) of this section must:

(a) Notify the commission within ten business days of its intent to defer such costs; and

(b) File quarterly with the commission a report documenting the balances of costs deferred in a form specified by the commission.

(3) The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed twenty-four months; provided that if during such period the company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such proceeding. Creation of such a deferral account does not by itself determine the actual costs of the long-term financial commitment, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding authorized by the commission for recovery of these costs.

PART VIII—ADOPTION BY REFERENCE

WSR 08-23-055

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed November 14, 2008, 11:52 a.m., effective December 15, 2008]

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

Purpose: This rule-making order creates a "quality timothy seed program" whereby the producers and distributors of timothy seed will have a mechanism to properly test and screen timothy seed lots. Consumers of timothy seed will be able to identify high quality seed lots suitable for producing export quality timothy hay. This voluntary program will reduce redundant testing, streamline the marketing process, and allow the timothy hay growers to purchase the highest quality seed lots available.

Statutory Authority for Adoption: Chapters 15.49 and 34.05 RCW.

Adopted under notice filed as WSR 08-19-116 on September 17, 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 4, 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 4, Amended 0, Repealed 0.

Date Adopted: November 14, 2008.

Robert W. Gore
Acting Director

NEW SECTION

WAC 16-302-740 What are the standards for quality timothy seed certification? (1) The general seed certification definitions and standards found in WAC 16-302-005 through 16-302-130, the grass seed certification standards found in WAC 16-302-320 through 16-302-390, and the requirements found in WAC 16-302-745 through 16-302-755 constitute the standards for quality timothy seed certification.

(2) Fees for quality timothy seed certification are assessed by the certifying agency as established in chapter 16-303 WAC.

NEW SECTION

WAC 16-302-745 Seed certification requirements. (1) In order for a seed lot to be eligible for quality timothy seed certification it must meet field and seed certification

standards as defined in WAC 16-302-330 through 16-302-385.

(2) For a timothy seed lot that has already been certified, a copy of the certification tag must be submitted as proof of certification.

NEW SECTION

WAC 16-302-755 Standards for quality timothy seed. (1) Seed standards for quality timothy grass seed are as follows:

	Minimum Purity	Minimum Viability by Germination or TZ Test	Maximum Other Crop*	Maximum Weed**
Timothy seed	97%	85%	0.2%	.02%
Purity component percentages are based on 1 gram sample size as prescribed by the AOSA rules.				

*	Must be free of ryegrass, orchardgrass, <i>Agrostis</i> sp., <i>Poa</i> sp., brome, reed canarygrass, tall fescue, and meadow foxtail.
Must be free of the above listed contaminants based upon a 50 gram examination.	

**	Must be free of alfilaria (redstem filaree), bromus sp., Chickweed, Henbit, <i>Poa</i> sp., wild carrot, and prohibited noxious weeds listed in WAC 16-301-045 and restricted noxious weeds listed in WAC 16-301-050.
Must be free of the above listed contaminants based upon a 50 gram examination.	

(2) A quality timothy seed analysis certificate is the basis of determining if a lot meets the quality timothy seed standards. This certificate is issued by the certifying agency and represents a purity test, a 50 gram noxious, all weed, all crop exam, and a viability test.

(3) Seed meeting quality timothy seed standards will be tagged with a "quality timothy seed" tag.

**WSR 08-23-061
PERMANENT RULES
GAMBLING COMMISSION**

[Order 632—Filed November 14, 2008, 4:56 p.m., effective January 1, 2009]

Effective Date of Rule: January 1, 2009.

Purpose: At the request of the Recreational Gaming Association, nickels and dimes will be allowed for use in any card game that charges a commission. Currently, nickels and dimes are only allowed in Pai Gow games.

Citation of Existing Rules Affected by this Order: Amending WAC 230-15-145.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 08-11-065 filed on May 16, 2008, and published on June 4, 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

NEW SECTION

WAC 16-302-750 Official sampling requirements.

The seed test for the quality timothy seed program must be conducted on an officially drawn sample taken in accordance with WAC 16-302-090.

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, 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: November 14, 2008.

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

WAC 230-15-145 Making wagers with chips or coin.

Players in card games must make all wagers and pay fees to play card games with chips, except that:

(1) Players may use half dollars or quarters in house-banked card games;

(2) Players may use dimes and nickels in (~~Pai Gow poker~~) any game that allows a commission to be charged.

**WSR 08-23-071
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed November 18, 2008, 9:00 a.m., effective December 19, 2008]

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

Purpose: The purpose of this rule-making order is to adopt changes to WAC 415-104-111 How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement? The department received a request to clarify this rule with regard to the benefit options available to retirees of the law enforcement officers' and firefighters' retirement system (LEOFF) Plan 2 who reretire after working in a department of retirement systems covered position subsequent to their

LEOFF retirement. The department clarified language describing the actuarial calculation that occurs for a LEOFF Plan 2 retiree's benefit upon separation from post-retirement employment.

Citation of Existing Rules Affected by this Order: Amending WAC 415-104-111.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: RCW 41.26.500.

Adopted under notice filed as WSR 08-20-038 on September 23, 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 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: November 18, 2008.

Sandra J. Matheson
Director

AMENDATORY SECTION (Amending WSR 08-02-048, filed 12/27/07, effective 1/27/08)

WAC 415-104-111 How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement? This rule applies to you if you are a LEOFF 2 retiree who returns to work in an eligible LEOFF, public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), or teachers' retirement system (TRS) position.

(1) If you return to employment in a LEOFF eligible position, you must reenter membership and your retirement allowance will stop. When you separate from service, the department will calculate your retirement allowance according to this subsection.

(a) If you previously retired before age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to RCW 41.26.420 using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance:

(A) Based on the present value of the retirement allowance payments you received during your initial retirement;

(B) To reflect the difference in the number of years between your current age and the attainment of age fifty-three, if you are not yet fifty-three; and

(C) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(b) If you previously retired at or after age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to RCW 41.26.420 using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(c) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

(2) If you enter employment in a PERS, PSERS, SERS, or TRS eligible position, you have two options:

(a) You may ~~((choose not to become a member of))~~ decline membership in the PERS, PSERS, SERS, or TRS retirement system ~~((and))~~. Under this option, you will continue to receive your monthly LEOFF Plan 2 retirement allowance; or

(b) You may choose to become a member of the PERS, PSERS, SERS, or TRS retirement system. Under this option, your LEOFF Plan 2 retirement allowance will be suspended while you earn ((service credit and make contributions toward another)) a retirement benefit in the other system. When you ~~((leave))~~ terminate employment in the PERS, PSERS, SERS, or TRS eligible position, you will resume receiving your LEOFF Plan 2 retirement allowance, along with a retroactive payment~~((s))~~ of your LEOFF Plan 2 retirement allowance for the time you were employed. ~~((You may choose to have your retroactive payments in a lump sum or actuarially computed into your LEOFF Plan 2 retirement allowance.))~~

(i) Your ongoing LEOFF Plan 2 retirement allowance will include any cost of living adjustments (COLAs) that you would have received if your LEOFF allowance had not been suspended during the period of non-LEOFF employment.

(ii) Your retroactive payment will equal the sum of your suspended LEOFF Plan 2 retirement allowances, including COLAs, during the period of non-LEOFF employment. You may choose to receive your retroactive payment in either of the following forms:

(A) A lump sum; or

(B) An increase in your ongoing LEOFF Plan 2 retirement allowance on an actuarial basis. The amount of the increase is calculated by taking the lump sum amount and multiplying it by an actuarial factor that is determined by your age at the time your retirement allowance is resumed. See the table in WAC 415-02-340 for the actuarial factors.

WSR 08-23-077
PERMANENT RULES
GAMBLING COMMISSION

[Order 636—Filed November 18, 2008, 9:40 a.m., effective January 1, 2009]

Effective Date of Rule: January 1, 2009.

Purpose: This rule outlines the notice of hearing timeline and the requirements for any extensions. In some circumstances, the current version of the rule provides a shorter timeline than what the Administrative Procedure Act (APA) requires. RCW 34.05.419, APA, requires, in part, for the agency to commence an adjudicative proceeding after receipt of the application for an adjudicative proceeding. During the rules simplification project, we rewrote this rule to clarify that we must issue a notice of hearing within ninety days of the request/application for a hearing or get an extension. The extension must be in writing and made a part of the permanent record of the proceeding. Case law has interpreted the ninety-day requirement as satisfied by scheduling a prehearing conference or a hearing. The current version of the rule adds more stringent requirements beyond the APA because it does not recognize the prehearing conferences satisfy the APA requirement. Subsections (4)(a) and (b) will be removed from this rule to make it consistent with the APA.

Citation of Existing Rules Affected by this Order: Amending WAC 230-17-010.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 08-19-098 filed on October 14 [September 16], 2008, and published October 1, 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 1, 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: November 18, 2008.

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 615, filed 10/24/07, effective 1/1/08)

WAC 230-17-010 Requesting and scheduling a hearing. (1) Applicants, licensees, or permittees may request a hearing using the form we provide.

(2) We must receive the request from the applicant, licensee, or permittee at our administrative office within:

(a) Twenty-three days after we mail by regular mail the notice of administrative charges; or

(b) Twenty days after they receive by certified mail the notice of administrative charges; or

(c) Twenty days after we personally serve the notice of administrative charges.

(3) If applicants, licensees, or permittees do not file requests in the time required, then they waive their right to a hearing. They are in default, as defined in RCW 34.05.440, and the commissioners may take action against them up to the maximum penalty stated in the notice of administrative charges.

(4) The director, director's designee, or the presiding officer of the hearing must issue a notice of hearing which meets the requirements of RCW 34.05.434(2).

~~((a) The notice must be issued within ninety days from the date on which we receive the request from the licensee, applicant, or permittee, unless all parties agree to or the presiding officer orders an extension beyond the ninety days.~~

~~(b) Any change of the ninety-day requirement must be:~~

~~(i) In writing; and~~

~~(ii) Made a part of the permanent record of the proceeding.))~~

WSR 08-23-079
PERMANENT RULES
GAMBLING COMMISSION

[Order 637—Filed November 18, 2008, 9:45 a.m., effective January 1, 2009]

Effective Date of Rule: January 1, 2009.

Purpose: At their May 2008 meeting, the commission filed a petition for rule change from the Recreational Gaming Association (RGA) to increase the number of players at a card table to:

(1) Seven to nine at house-banked games, unless limited by manufacturer's rule; and

(2) Ten to twelve at nonhouse-banked games.

At the August 2008 meeting, the RGA amended their petition to request only an increase in the number of players a [at] house-banked games and withdrew their request to increase the number of players at nonhouse-banked card games. After much discussion, the amended petition was adopted.

Citation of Existing Rules Affected by this Order: Amending WAC 230-15-055.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 08-17-122 filed on August 20, 2008, and published September 3, 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 1, 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: November 18, 2008.

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

WAC 230-15-055 Limit on number of players at each table. Card game licensees must only allow:

(1) Up to ~~((seven))~~ nine players or areas for wagering at any table in house-banked card games.

(2) Up to ten players at any table in nonhouse-banked card games.

WSR 08-23-080

PERMANENT RULES

GAMBLING COMMISSION

[Order 638—Filed November 18, 2008, 9:54 a.m., effective January 1, 2009]

Effective Date of Rule: January 1, 2009.

Purpose: The Recreational Gaming Association's request that house-banked card game licensees not be required to have a staffed surveillance room when they operate *only* nonhouse-banked card games was approved. Licensees that choose to operate an unstaffed surveillance room must set wager limits for nonhouse-banked card games at \$40 or less. The \$40 wager limit must be documented in their internal controls and the wager limit applies whether the surveillance room is staffed or unstaffed.

Citation of Existing Rules Affected by this Order: Amending WAC 230-15-320.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 08-19-096 filed on September 16, 2008, and published October 1, 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 1, 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: November 18, 2008.

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 611, filed 4/24/07, effective 1/1/08)

WAC 230-15-320 Surveillance room requirements for house-banked card game licensees. House-banked card game licensees must maintain one or more surveillance rooms. They must:

(1) Control access to the surveillance room so that only surveillance department employees use the room. Owners or their approved supervisory or management personnel may also enter the surveillance room to monitor activities. Licensees may allow authorized personnel to escort any other person into the surveillance room for educational, investigative, or maintenance purposes; and

(2) Ensure that surveillance room entrances are not easily observed from the gambling floor; and

(3) Ensure that a surveillance employee is present in the room and monitoring activities using the equipment any time the card room is conducting gambling and during the count process. However, subject to subsection (4) of this section, licensees may operate the surveillance room without staff:

(a) For routine breaks that are less than thirty minutes per shift; ~~(and)~~ or

(b) When only nonhouse-banked card games are operated with wager limits of forty dollars or less and such limits are documented in their internal controls.

(4) Ensure that any time a winning wager, a jackpot, or bonus pay out greater than one thousand dollars is won, they use pan-tilt-zoom (PTZ) cameras to verify:

(a) Winning hands; and

(b) Amounts of the wager; and

(c) Amounts of the pay out; and

(d) Players who won the prize.

WSR 08-23-082

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed November 18, 2008, 12:58 p.m., effective January 1, 2009]

Effective Date of Rule: January 1, 2009.

Purpose: Chapter 296-127 WAC, Prevailing wage, prevailing wage rates on public work projects are determined and enforced according to the trade, occupation, or "classification" of work actually performed. The purpose of this rule making is to write scope of work descriptions for job classifications that have wage rates but no written scope of work descriptions in the Washington Administrative Code. This rule making will include scope of work descriptions for construction site surveyors, industrial power vacuum cleaners, and divers/diver tenders.

Statutory Authority for Adoption: Chapter 39.12 RCW and RCW 43.22.270.

Adopted under notice filed as WSR 08-19-070 on September 16, 2008.

A final cost-benefit analysis is available by contacting Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail yous235@lni.wa.gov.

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

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

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

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

Date Adopted: November 18, 2008.

Judy Schurke
Director

NEW SECTION

WAC 296-127-01316 Diver and diver tender. For the purpose of the Washington state public works law, chapter 39.12 RCW, divers perform a variety of underwater applications and operations such as structural repair and demolition, underwater welding and cutting, dredging, debris removal and excavation. Diver tenders aid and assist divers by coordinating activities. By classification, this work includes, but is not limited to:

(1) Diving master/supervisor. Is the designated person in charge (per Occupational Safety and Health Act (OSHA) regulations) during operations requiring multiple divers in the water/liquid medium. Is in charge of and responsible for all aspects of the diving operation and supervising all personnel in the dive team.

(2) Diver. A person who wears a type of diving gear that directly supplies compressed air or other gasses for breathing purposes and who personally enters and descends below the surface of the water or other liquid medium to work at ambient pressures encountered therein; including a person working in a one atmosphere bell/vehicle; to inspect, repair, remove, or install equipment or structures. The diver:

- Descends into water with the aid of diver tender and communicates with surface by signal line or telephone; and
- Inspects docks; and hulls, fittings, and propellers of ships; or
- Repairs vessels below waterline, replacing fastenings and adding or repairing hull fittings; or
- Caulks leaks in ships or caissons; or
- Guides placement of pilings for structures, such as docks, bridges, cofferdams, oil drilling platforms, and storm water/sewerage outfalls; or
- Lays, inspects, and repairs underwater pipelines, cables and sewers, using hand tools; or
- Cuts and welds steel; uses air bladder lifting devices for working underwater; or
- Cleans debris from intake and discharge strainers; or
- Places rigging around objects and hooks rigging to crane lines; or

- Rigs explosives for underwater demolitions; or
- Places recording instruments below surface of water preparatory to underwater tests or experiments; or
- Sets sheet piling for cofferdams; or
- Drills holes in rock for blasting purposes at bottom of liquid medium; or

- Photographs underwater structures; or
- Places sandbags around pipelines or base of cofferdam to provide structural support.

(3) Diver tender. A person who works from above the surface of the water or liquid medium to:

- Aid and assist the diver by coordinating topside activity;
- Aid in dressing and undressing the diver;
- Maintain communications with the diver; or
- Generally maintain the diving equipment on the job site.

(4) Assistant tender. A person who acts as an extra tender available to assist the diver's regular tender.

(5) RCV/ROV pilot-controller. A person who uses remote controls to fly/drive remotely controlled vehicle(s) during underwater functions, and performs routine field maintenance of the RCV/ROV.

(6) RVC/ROV tender. A person who assists the RCV/ROV pilot-controller.

NEW SECTION

WAC 296-127-01334 Industrial power vacuum cleaner. For the purpose of the Washington state public works law, chapter 39.12 RCW, the industrial power vacuum cleaner performs duct cleaning work that normally requires the utilization of a specialized truck or trailer with power vacuum equipment that removes or cleans out mold, fungi, dust and other contaminants from HVAC systems.

(1) Work includes, but is not limited to:

- Source removal methods that employ vacuum units and compressed air to loosen dirt and debris in HVAC systems and convey it to a containment device for proper disposal; and
- Work that involves the attachment of the vacuum system to an existing port.

(2) Work performed under this scope does not include:

- Creating service openings in the system as necessary in order to accommodate cleaning of otherwise inaccessible areas or the sealing of those service openings; nor
- Removing and installing ceiling sections to gain access to HVAC systems during the cleaning process.

Openings that are created for access and then sealed will utilize HVAC sheet metal rates of wage.

Work utilizing mechanical or hand brushes and other tools to loosen dirt and debris for removal from HVAC systems will use the appropriate general laborer or mechanic wages.

NEW SECTION

WAC 296-127-01396 Construction site surveyor. For the purpose of the Washington state public works law, chapter 39.12 RCW, construction site surveyors perform survey work which requires the use or utilization of transits, tripod

mounted levels, lasers, electrotape and other electronic measuring devices or theodolites to establish a location, an elevation or grade, distances, and other measurements.

(1) The work of the construction site surveyor includes, but is not limited to:

- Survey work performed after the contract is awarded and during the actual construction in direct support of construction crews when the worker is in the employ of and working under the direction of a construction contractor to survey check points of location and grade on a construction site using a variety of measurement tools, instruments, and procedures.

(2) The construction site surveyor scope of work does not include surveying services not within the description in subsection (1) of this section that are required by specification or contract or state law to be performed under the direct supervision of individuals registered under chapter 18.43 RCW.

WSR 08-23-085
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 18, 2008, 1:39 p.m., effective December 19, 2008]

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

Purpose: On November 30, 2007, the elevator program adopted several changes to their rules. The new rules have been in effect for several months and the program has found some sections that need further clarification or updating. For example, several notes will be added to clarify requirements from the adopted American National Standards Institute (ANSI) code. The changes to the elevator rules will:

- Clarify requirements from the American National Standards Institute (ANSI);
- Clarify wording for ease of use;
- Delete outdated requirements; and
- Update references.

Citation of Existing Rules Affected by this Order:
 Amending WAC 296-96-00650 Which National Elevator Codes and Supplements has the department adopted?, 296-96-02475 What are the requirements for sprinklers in hoistways and machine rooms?, 296-96-02515 What is required for car controls?, 296-96-02560 What are the requirements for submersible pumps or sumps?, 296-96-02570 How do we enforce hoistway ventilation?, 296-96-02575 How do we enforce hoistway pressurization?, 296-96-02590 When does the department require a local building official to sign off for the installation of LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts?, 296-96-08200 What are the requirements for the activation and operation of an inclined private residence conveyances for transporting property?, 296-96-13157 What requirements apply to car safeties?, 296-96-14080 What additional requirements apply to the installation and operation of hand powered manlifts?, and 296-96-23610 What requirements apply to routine periodic inspections and tests?

Statutory Authority for Adoption: Chapter 70.87 RCW.

Adopted under notice filed as WSR 08-19-069 on September 16, 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 11, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 11, Repealed 0.

Date Adopted: November 18, 2008.

Judy Schurke
 Director

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-00650 Which National Elevator Codes and Supplements has the department adopted?

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators	American Standard Safety Code (ASA) ((A17.1-13)) A17.1, 1962	11/1/1963	12/29/1967	Adopted Standard
Moving Walks	American Safety Association A17.1.13, 1962	11/1/1963	12/29/1967	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	U.S.A. Standards (USAS) USAS A17.1, 1965; Supplements A17.1a, 1967; A17.1b, 1968; A17.1c, 1969;	12/30/1967	2/24/1972	Adopted Standard USAS 1965 includes revision and consolidation of A17.1-1, 1960, A17.1a, 1963, and A17.1-13, 1962. Adopted code and supplements, excluding Appendix E and ANSI 17.1d, 1970.

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators, and Moving Walks	American National Standard Institute ANSI A17.1, 1971	2/25/1972	6/30/1982	Adopted Standard as amended and revised through 1971.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1971; A17.1a, 1972	2/25/1972	6/30/1982	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1981	7/1/1982	1/9/1986	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a, 1982	3/1/1984	1/9/1986	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b, 1983	12/1/1984	1/9/1986	Adopted Supplement, except portable escalators covered by Part VIII of A17.1b, 1983.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1984	1/10/1986	12/31/1988	Adopted Standard Except Part XIX. After 11/1/1988 Part II, Rule 211.3b was replaced by WAC 296-81-275.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a, 1985	1/10/1986	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b, 1985; A17.1c, 1986; A17.1d, 1986; and A17.1e, 1987	12/6/1987	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1987	1/1/1989	12/31/1992	Adopted Standard Except Part XIX and Part II, Rule 211.3b. WAC 296-81-275 replaced Part II, Rule 211.3b.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1990	1/1/1993	2/28/1995	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1993	3/1/1995	6/30/1998	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1996	6/30/1998	6/30/2004	Adopted Standard Except Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 2000; A17.1a, 2002; A17.1b, 2003	7/1/2004	1/1/2008	Adopted Standards and Addenda Except Rules 2.4.12.2, 8.6.5.8 and Sections 5.4, 7.4, 7.5, 7.6, 7.9, 7.10, 8.10.1.1.3 and 8.11.1.1.
Safety Standards for Platform Lifts and Stairway Chairlifts	ASME A18.1, 1999; A18.1a, 2001; A18.1b, 2001	7/1/2004	1/1/2008	Adopted Standards and Addenda.
Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose	ASME A17.1-2004; A17.1a-2005	1/1/2008	Current	Adopted Standards and Addenda Except Rules 2.4.12.2, marked car top clearance space, 8.6.5.8, Maintenance of safety bulkhead, 5.4, Private residence incline elevators, 7.4 & 7.5 & 7.9 & 7.10 Material lifts, 8.10.1.1.3 and 8.11.1.1, QEI-1 inspector.
Safety Code for Platform Lifts and Stairway Chairlifts	ASME A18.1-2005	1/1/2008	Current	
Safety Code for Belt Manlifts	ASME A90.1-2003	1/1/2008	Current	
Safety Code for Personnel Hoists, Retroactive	ANSI A10.4-2004	1/1/2008	Current	

Note: Copies of codes and supplements can be obtained from The American Society of Mechanical Engineers, Order Department, 22 Law Drive, Box 2900, Fairfield, New Jersey, 07007-2900 or by visiting www.asme.org.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02475 What are the requirements for sprinklers in hoistways and machine rooms? (1) The machine room sprinkler piping must terminate in the machine room. The sprinkler piping must not run through the machine room to other spaces.

(2) The hoistway must not be used to supply sprinkler piping to more than one floor.

(3) The pit will be considered as a floor level.

(4) Sprinkler heads at the top of the shaft must terminate in the shaft. The sprinkler must not run through the hoistway to other spaces. ("Other spaces" includes the machine room.)

(5) All risers and returns must be located outside of the hoistway and machine room.

(6) See requirements in ASME A17.1.

(7) If a sprinkler system is added to an existing installation, the conveyance will be required to:

(a) Install shunt trip per WAC ((~~296-96-02277~~) 296-96-02480).

(b) If the conveyance was permitted to install on or after 1/1/1989 (A17.1-1987 code), then the fire service must operate to the code enforced per the original installation permit. A controller alteration will require fire and sprinkler system installation to the current adopted code.

(c) If the permit is prior to 12/31/1988, the fire service shall operate per current adopted standard in effect at the time of the alteration permit. (See A17.1-2.27.3.)

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02515 What is required for car controls? (1) Car controls shall be located within one of the reach ranges specified in ANSI 117.1 section 308. In no instance shall the car call buttons or other device(s) used in addition to or in lieu of, be lower than thirty-six inches from the cab floor height.

((EXCEPTION))

EXEMPTION: Where the elevator panel serves more than sixteen openings and a parallel approach to the controls is provided, buttons with floor designations shall be permitted to be fifty-four inches maximum above the floor.

(2) Elevator car call sequential step scanning shall be provided where car control buttons are provided more than forty-eight inches above the floor.

(3) Floor selection shall be accomplished by applying momentary or constant pressure to the up or down scan button. The up scan button shall sequentially select floors above the current floor. The down scan button shall sequentially select floors above the current floor. When pressure is removed from the up and down scan button for more than two seconds, the last floor selected shall be registered as a car call. The up and down scan button shall be located adjacent to or immediately above the emergency control buttons. (new requirement)

(4) Car control buttons with floor designations shall be raised or flush.

(5) Buttons shall be three-fourth inch minimum in their smallest dimension.

(6) Buttons shall be arranged with numbers in ascending order. When two or more columns of buttons are provided they shall read from left to right.

(7) Control buttons shall be identified by tactile characters complying with ANSI 117.1 section 703.

(8) Tactile characters and Braille designations shall be placed immediately to the left of the control button to which the designations apply.

(9) Car control keypads shall be a standard telephone keypad arrangement.

(10) Keypads shall be identified by visual characters complying with ANSI A117.1 and shall be centered on the keypad button. The number five key shall have a single raised dot.

(11) The dot shall have a base diameter of 0.188 inch minimum to 0.120 inch maximum, and a height of 0.025 inch minimum and 0.037 inch maximum.

(12) Emergency controls shall have their centerlines thirty-five inches minimum above the floor.

(13) Emergency controls including the emergency alarm shall be grouped at the bottom of the panel.

(14) The control buttons for emergency stop, alarm, door open, door close, main entry floor, and phone shall be tactile symbols. Per ANSI table 407.4.7.1.3.

(15) Buttons with floor designations shall be provided with visible indicators to show that a call has been registered. The visible indicator shall extinguish when the car arrives at the designated floor.

((EXCEPTION))

EXEMPTION: Special purpose and residential elevators are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02560 What are the requirements for submersible pumps or sumps? Sump pumps and drains are not required in elevator pits. Sump holes must be installed and measure a minimum of eighteen inches by eighteen inches by eighteen inches. If drains or sump pumps are installed, they must not be directly connected to sewers and/or storm drains. P-traps and check valves are not allowed. All installations must meet the NEC and all plumbing codes. Drains meeting the above requirements may be installed in lieu of sump holes.

Sump hole covers must be designed to withstand a load of three hundred pounds per square foot.

EXEMPTION: Residential elevators, vertical platform lifts, and special purpose lifts are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02570 How do we enforce hoistway ventilation? (1) Area of vents. ((~~Except as provided for in Section 3004.3.1~~)) As required in International Building Code (IBC) 3004.3.1 and chapter 51-50 WAC, the area of the vents shall not be less than 3-1/2 percent of the area of the hoistway nor less than three square feet (0.28 m²) for each elevator car, and not less than 3-1/2 percent nor less than one-half square foot (0.047 m²) for each dumbwaiter car in the

hoistway, whichever is greater. The total required vent area shall be equipped with dampers that remain powered closed until activated open by the fire alarm system panel. The dampers shall open upon loss of power.

(2) Activation of the powered vent must not be from the same device that activates the phase one fire recall.

EXEMPTION: Special purpose and residential elevators are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02575 How do we enforce hoistway pressurization? Pressurization requirements. Elevator hoistways shall be pressurized to maintain a minimum positive pressure of 0.10 inches of water column with respect to adjacent occupied space on all floors and a maximum pressure so as to not prevent the automatic operation of the elevator doors, as well as accounting for the stack and wind effect expected on the mean low temperature January day. This pressure shall be measured at the midpoint of each hoistway door, with all hoistway doors open at the designated primary recall level and all other hoistway doors closed. The supply air intake shall be from an outside, uncontaminated source located a minimum distance of twenty feet from any air exhaust system or outlet.

(1) Elevator doors. Each elevator door shall operate properly when hoistway pressurization is in effect.

(2) Hoistway venting. Hoistway venting required by Section 3004 need not be provided for pressurized elevator shafts.

(3) Machine rooms. Elevator machine rooms shall be pressurized in accordance with this section unless separated from the hoistway shaft by construction in accordance with the International Building Code, Section 707.

(4) Special inspection. Special inspection for performance shall be required in accordance with the International Building Code, Section 909.18.8. System acceptance shall be in accordance with the International Building Code, Section 909.19.

(a) The elevator department must observe the operation of the doors and insure proper documentation and tags are on site.

(b) Devices shall have an approved identifying tag or mark on them consistent with the other required documentation and shall be dated indicating the last time they were successfully tested and by whom.

EXEMPTION: Special purpose and residential elevators are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-02590 When does the department require a local building official to sign off for the installation of LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts? In existing buildings where LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts are to be installed, the local building official

must signify that he/she is allowing this type of conveyance on a form provided by the department.

EXEMPTION: Residential conveyances are exempt from this section.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-08200 What are the requirements for the activation and operation of an inclined private residence conveyances for transporting property? (1) If activation of the conveyance is by key switch, key pad or swipe card, the activation and operation must conform to the requirements of (a) and (b) of this subsection. The department may approve alternative methods of equal security.

(a) The key or code must be entered each time to move the conveyance.

(b) Key-operated switches must be of the spring return type and must be operated by a weatherproof cylinder type lock having not less than five pin or five disc combination with the key removable only when the switch is in the off position.

(2) If activation is provided by a timing circuit that only permits the circuits to be initiated or unlocked for a sufficient amount of time to allow the loading of materials, the operating circuits must automatically relock:

(a) If the conveyance is not activated within its preset period of time;

(b) When any landing stop button is activated; or

(c) When the car has completed transit to another landing or returns to the departure landing.

(3) Emergency stop switches must be provided on or adjacent to the operating station. Stop switches:

(a) May be of a momentary type;

(b) Must have red handles or buttons and be conspicuously marked "STOP"; and

(c) Must open even if springs fail when springs are used.

(4) After initiation of stopping, the car may not automatically restart. Run condition must be manually initiated.

(5) Design and installation of control and operating circuits must meet the following:

(a) Control systems based upon the completion or maintenance of an electric circuit must not be used for interrupting power and applying machine brakes at terminals, stopping elevators when an emergency stop switch is open or when any electrical protective device operates, or for stopping a machine when the safety applies.

(b) If springs are used to activate switches, contact, or circuit breaking relays to stop the elevator at a terminal, the springs must be a restrained compression type.

(6) Hand rope operation must not be used.

~~((7) For inclined private residence conveyances installed before January 1, 2008, radio controls may be used in lieu of wiring for all car controls provided:~~

~~(a) The system is set up so that it is fail safe (if radio contact is lost, the unit will stop);~~

~~(b) In such installations, the stop button in the car shall interrupt the circuit of frequency; and~~

~~(c) The controls are permanently mounted and comply with the applicable rules.)~~

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-13157 What requirements apply to car safeties? All cars suspended or operated from overhead machinery must be equipped with an approved car safety capable of stopping and holding the car while carrying its rated load.

(1) Car safeties must be mechanically operated and not be affected by any interruptions in the electrical circuit.

(2) Car safeties and governor controlled safeties must operate automatically and the control circuit must be broken in the event of cable breakage.

(3) A no-load annual safety test must be performed and a tag with the date and company conducting the test must be attached to the governor with a wire and seal. A safety tag must also be permanently affixed to the inside of the car.

(4) A five-year full load test must be performed and a safety tag with the date and company conducting the test must be permanently attached to the governor with a wire and seal. A safety tag must also be permanently affixed to the inside of the car. Documentation must be submitted to the department.

Qualified people will conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(b) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance and who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

(5) Separate safety tags must be used to distinguish the no-load annual safety test and the five-year full load test.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-14080 What additional requirements apply to the installation and operation of hand powered manlifts? (1) Only employees and other authorized personnel may ride in a lift car.

(2) Escape ladders must be installed extending the full length of the hoistway and must be located in a position so that in an emergency a person can safely transfer from the car platform to the ladder. Transfer is considered safe when a person can maintain three points of contact while making the transfer. An "IMPAIRED CLEARANCE" sign must be posted at the bottom of a ladder when the face of the ladder is less than 30 inches from any structure.

(3) An automatic safety device which will prevent the car from leaving the landing until manually released by the operator must be installed at the bottom landing.

(4) A fire extinguisher in proper working condition must be available in the car.

(5) A five-year full load test must be performed and a tag indicating the date and the company conducting the test must be permanently attached with a wire and a seal. Documentation of the test submitted to the department. Manlifts with

wooden rails must have a no-load drop test performed on the equipment.

Qualified people will conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(b) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance and who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular ((~~material lift~~)) conveyance who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

(6) A no load annual safety test must be performed and a tag indicating the date and company conducting the test must be attached to the conveyance with a wire and seal. A safety tag must also be permanently affixed to the inside of the car.

AMENDATORY SECTION (Amending WSR 07-24-041, filed 11/30/07, effective 1/1/08)

WAC 296-96-23610 What requirements apply to routine periodic inspections and tests? The owner or the owner's agent must ensure that her/his conveyances are inspected and tested on a periodic annual basis by a person qualified to perform such services. All conveyances must be tested to the applicable code(s) by an elevator mechanic licensed in the appropriate category for the conveyance being tested. (See appendix N in ASME A17.1.)

(1) For annual testing of electric, hydraulic, and roped hydraulic elevators, a log indicating the date of testing with all pertinent data included must be posted in the machine room. The log must be completed by the qualified person performing the test.

(a) A log indicating the date of testing with all pertinent data included must be posted in the machine room. The log must be completed by the licensed elevator mechanic performing the test.

(b) It is the responsibility of the owner or the owner's representative to install an updated log sheet in the machine room; the outdated log shall remain posted in the machine room.

(2) Required for fire fighters' service portion of the log. It is the owner's responsibility to test fire fighters' service operation of Phase I and Phase II key switches quarterly and annually perform the smoke detector test.

Note: The fire service key switch(es) and smoke detector testing may be performed and logged by the building owner.

(3) For five-year testing:

(a) A full-load safety test must be performed with weights on all conveyances except hydraulic elevators.

(b) For roped hydraulic elevators a static load test with the full load on the car must also be performed.

(c) For tests administered under this subsection:

(i) A safety tag with the date and company conducting the test must be permanently attached to the governor, safeties, and the rupture valves with a wire and seal.

(A) For vertical platform lifts and stair chairs the tag must be located at the disconnecting means.

(B) Separate safety tags must be used to distinguish the no-load annual safety test and the five-year full load test.

(ii) Documentation must be submitted to the department on the approved state form.

(d) Qualified people will conduct the test. A qualified person is either:

(i) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(ii) The representative of a firm that manufactured the particular ~~((material lift))~~ conveyance, and who holds a current temporary mechanic's license in this state; or

(iii) The representative of a firm that manufactured the particular ~~((material lift))~~ conveyance who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

Escalators shall be tested and cleaned annually. Upon completion of this work, the appropriate form indicating that the work was done must be submitted to the department.

(4) All other conveyances requiring annual testing must have tags indicating the date and the name of the company who performed the test. When the required location for mounting the tag is not readily accessible, the tag may be mounted on the main line disconnect.

WSR 08-23-094

PERMANENT RULES

SECRETARY OF STATE

[Filed November 19, 2008, 9:53 a.m., effective December 20, 2008]

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

Purpose: To reflect changes made to the address confidentiality program (ACP) by SHB 1421 and SSB 6339, passed by the legislature in 2008.

SHB 1421 specifies procedures for issuance of participant information and conditions under which a court order should be issued.

SSB 6339 adds "trafficking" to the list of crimes qualifying an applicant for program participation.

Additionally, protected records voter provisions have been updated and sections pertaining to voting procedures have been repealed and will be more appropriately placed with election WACs.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-840-320, 434-840-330, 434-840-340, 434-840-350, 434-840-360 and 434-840-370; and amending WAC 434-840-005, 434-840-010, 434-840-060, 434-840-100, 434-840-110, 434-840-230, and 434-840-310.

Statutory Authority for Adoption: RCW 40.24.090.

Adopted under notice filed as WSR 08-18-027 on August 27, 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 2, 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 4, Repealed 6.

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: November 19, 2008.

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 05-13-059, filed 6/9/05, effective 7/10/05)

WAC 434-840-005 Definitions. For the purposes of this chapter:

(1) "Address" means any physical locations where the participant resides, works, or attends school, for which the participant is requesting confidentiality.

(2) "Address confidentiality program (ACP)" means the agency employee designated by the secretary of state with responsibility for developing and administering the program that implements the provisions of chapter 40.24 RCW.

~~((2))~~ (3) "Agency" means an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of that agency.

~~((3))~~ (4) "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides advocacy, counseling, referral, or shelter services to victims of sexual assault, domestic violence, trafficking, or stalking who has been designated by the respective agency, and has been accepted by the secretary of state to assist individuals with threat assessment, safety planning, determining whether the program's services can help keep the victim safe, and the completion and submission of the ACP application.

~~((4))~~ (5) "Authorization card form" means the incomplete form for an authorization card on which no identifying program participant information has been entered.

~~((5))~~ (6) "Authorized personnel" means an employee of a county auditor's office, a county recording office, the Washington state department of health, or the office of the secretary of state who has been designated by the chief executive officer of the respective agency, to process and have access to voter application, voting records, marriage applications and records pertaining to program participants.

~~((6))~~ (7) "Bona fide statutory or administrative requirement" means that without possession of an individual's actual residential address the agency is incapable of fulfilling its statutory duties and obligations.

~~((7))~~ (8) "Protected records voter" means a program participant who has applied and qualified as ~~((a service))~~ an ongoing absentee voter, as provided under RCW ~~((29A.04.163, with ongoing absentee ballot voter status, as provided under RCW 29A.40.140))~~ 40.24.060.

~~((8))~~ (9) "Record" means any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

~~((9))~~ (10) "Substitute mailing address" means the mailing address designated by the secretary of state which shall not be the program participant's residential address as documented on her or his application for program participation.

~~((10))~~ "Residential address" means the physical location where the participant resides for which the participant is requesting confidentiality.)

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-010 Application and certification process. (1) The program applicant shall provide all the information required on the certification application and date and sign the form. An applicant shall specify ~~((a))~~ any Washington state residential ~~((address))~~ addresses, work, and school addresses, if any, for which confidentiality is requested. The standard application form shall also include the application preparation date, and the signature of the application assistant as provided in RCW 40.24.080.

(2) An individual who has filed a properly completed application shall be certified as a program participant and issued a program participant authorization card. The authorization card shall include the program participant's name, authorization code, substitute mailing address, certification expiration date, and applicant's signature.

(3) A properly completed application shall be effective on the day it is received by the address confidentiality program.

(4) The term of a program participant's certification shall be four years following the effective date of her or his application unless the certification is withdrawn or invalidated before that date.

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-060 Information release to law enforcement agency. A request from a law enforcement agency for release of records in a program participant's file containing no indication the participant has reason to believe he or she is a victim of domestic violence, sexual assault, trafficking, or stalking perpetrated by an employee of a law enforcement agency, shall be in writing, on agency letterhead stationery, and shall contain the signature of the agency's chief law enforcement officer or his or her designee as defined in RCW 10.98.040, the request date, and the name of the program participant.

A request from a law enforcement agency for release of records in a program participant's file in which the participant's application affirmatively indicates that the applicant has reason to believe he or she is a victim of domestic violence, sexual assault, trafficking, or stalking perpetrated by an employee of a law enforcement agency, must be accompanied by a court order for release of records in the program participant's file.

NEW SECTION

WAC 434-840-063 Issuance of a court order for address confidentiality program participant information.

A court order for address confidentiality program participant information may only be issued upon a probable cause finding by a judicial officer that release of address confidentiality program participant information is legally necessary:

(1) In the course of a criminal investigation or prosecution; or

(2) To prevent immediate risk to a minor and meet the statutory requirements of the Washington child welfare system. Any court order so issued will prohibit the release of the information to any other agency or person not a party to the order.

NEW SECTION

WAC 434-840-065 Information release to nonlaw enforcement agency. A request from a nonlaw enforcement agency for release of records in a program participant's file must be accompanied by a court order for release of records in the program participant's file.

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-100 Acknowledgement for marriage and voting record confidentiality. (1) When a program participant requests confidentiality for marriage records, both the program participant and her or his intended spouse shall sign and date a statement provided by the secretary of state, that describes access limitations on confidential marriage records.

(2) When a program participant requests confidentiality for voting records, she or he shall sign a statement provided by the secretary of state~~((s))~~ that documents the date of this request and the ongoing absentee ballot voting process to be used.

(3) The authorized personnel shall ~~((keep))~~ receive the original copy of this signed acknowledgement, ~~((forward one copy to))~~ the address confidentiality program shall have one copy and ~~((give one copy to))~~ the program participant shall have one copy.

AMENDATORY SECTION (Amending WSR 05-13-059, filed 6/9/05, effective 7/10/05)

WAC 434-840-110 Proof of program participant's authority. (1) When a program participant requests name and address confidentiality for a marriage ~~((or voting))~~ record~~((s))~~, authorized personnel shall check the authorization card to confirm that the term of program participation has not expired and that the program participant's signature on the authorization card matches that on the acknowledgement form.

(2) Authorized personnel may make a photocopy of the program participant's authorization card. The authorization card shall be immediately returned to the program participant. The photocopy shall be kept with the confidential marriage ~~((or voting))~~ record~~((s))~~ for this program participant during the time the record~~((s are))~~ is filed and maintained by the county auditor or county recording officer. The authorized personnel may call the program to verify an individual's current participation status in the program.

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-230 Marriage record transmission to department of health. The county authorized personnel shall transmit a completed marriage certificate containing the name and address of a program participant((s)) to the department of health in an envelope distinctly marked "confidential records."

AMENDATORY SECTION (Amending WSR 05-13-059, filed 6/9/05, effective 7/10/05)

WAC 434-840-310 Protected records voter (~~(application)~~) status. (1) A program participant shall (~~(notify the appropriate county authorized personnel of her or his request for confidentiality in voting records)~~) apply for protected records voter status by appearing in person before the appropriate county authorized personnel or requesting an application from the address confidentiality program. The program participant shall: (a) (~~(Present her or his program authorization card;~~ (b)) Cancel any previously existing voter registration; and ((e) apply to vote by providing) (b) provide all the information required on the (~~(address confidentiality program ongoing absentee ballot)~~) protected records voter registration application.

(2) The program participant shall disclose to the authorized personnel the actual address of her or his residence only for the purpose of determining the proper precinct (~~(and district designations~~).

(3) ~~An application for protected records voter status and an absentee ballot to be issued to the participant in person, may be made no later than the day before an election. An application for protected records voter status and an absentee ballot to be mailed to the substitute mailing address shall be made no later than twenty working days before the first election in which the program participant wishes to vote).~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 434-840-320 Maintaining protected records voter information.
- WAC 434-840-330 Mailing protected records voter ballots.
- WAC 434-840-340 Processing protected records voter ballot.
- WAC 434-840-350 Canvassing procedure for a special ballot of a protected records voter.
- WAC 434-840-360 Undeliverable ballot.
- WAC 434-840-370 Election challenges.

**WSR 08-23-101
PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed November 19, 2008, 11:31 a.m., effective December 20, 2008]

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

Purpose: The purpose of the rule is to strike the duplicative word "other" in WAC 388-475-0300(4), and correct a cross-reference in WAC 388-475-0300(6) from "in chapters 388-531 and 388-515 WAC" to "in chapters 388-513 and 388-515 WAC." The rule remains unchanged.

Citation of Existing Rules Affected by this Order: Amending WAC 388-475-0300.

Statutory Authority for Adoption: RCW 74.04.057, 74.08.090.

Other Authority: RCW 74.04.050, 74.09.500.

Adopted under notice filed as WSR 08-17-111 on August 20, 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 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: November 17, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-14-048, filed 6/24/08, effective 7/25/08)

WAC 388-475-0300 SSI-related medical—Resources eligibility. (1) At 12:00 a.m. on the first day of the month a client's countable resources must be at or below the resource standard to be eligible for noninstitutional medical benefits for that month. If the total of the client's countable resources is above the resource standard at 12:00 a.m. on the first day of the month, the client is ineligible for noninstitutional medical benefits for that entire month regardless of resource status at the time of application during that month. For resource eligibility relating to long-term care eligibility see chapter 388-513 WAC.

(2) An excluded resource converted to another excluded resource remains excluded.

(3) Cash received from the sale of an excluded resource becomes a countable resource the first of the month following conversion unless the cash is;

(a) Used to replace the excluded resource; or

(b) Invested in another excluded resource in the same month or within the longer time allowed for home sales under WAC 388-475-0350; or

(c) Spent.

(4) The unspent portion of a nonrecurring lump sum payment is counted as a resource on the first of the month following its receipt with the following exception: The unspent portion of any Title II (SSA) or Title XVI (SSI) retroactive payment is excluded as a resource for nine months following the month of receipt. These exclusions apply to lump sums received by the client, client's spouse or (~~other~~) any other person who is financially responsible for the client.

(5) Clients applying for SSI-related medical coverage for long-term care (LTC) services must meet different resource rules. See chapter 388-513 WAC for LTC resource rules.

(6) The transfer of a resource without adequate consideration does not affect medical program eligibility except for LTC services described in chapters (~~388-514~~) 388-513 and 388-515 WAC. In those programs, the transfer may make a client ineligible for medical benefits for a period of time. See WAC 388-513-1363 through 388-513-1366 for LTC rules.