

WSR 13-23-007**PERMANENT RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed November 7, 2013, 12:07 p.m., effective December 8, 2013]

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

Purpose: The amended rule clarifies that the \$25.00 penalty for submitting late tax reports also applies to employers who file late quarterly wage reports.

Citation of Existing Rules Affected by this Order: Amending WAC 192-310-030.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 13-19-076 on September 17, 2013.

A final cost-benefit analysis is available by contacting Juanita Myers, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 902-9665, fax (360) 902-9799, e-mail jmyers@esd.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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 7, 2013.

Nan Thomas
Deputy Commissioner

AMENDATORY SECTION (Amending WSR 10-23-064, filed 11/12/10, effective 12/13/10)

WAC 192-310-030 What are the report and tax payment penalties and charges? (RCW 50.12.220.) (1) Penalty for late tax and wage reports. An employer who does not file a tax or wage report within the time frame required by WAC 192-310-010 (3)(d) must pay a penalty of twenty-five dollars for each violation, unless the penalty is waived by the department.

(2) Definition of incomplete or incorrect format tax or wage report. An employer must file ((#)) tax and wage reports that ((#)) are complete and in the format required by the commissioner.

(a) An "incomplete report" is any report filed by any employer or their agent where:

- (i) The entire wage report is not filed on time; or
 - (ii) A required element is not reported (Social Security number, name, hours worked, or wages paid); or
 - (iii) A significant number of employees are not reported;
- or

(iv) A significant number of any given element is not reported, for example, missing Social Security numbers, names, hours, or wages; or

(v) Either the ((~~employer reference~~)) employment security department number or Unified Business Identifier (UBI) number is not included with the tax or wage report; or

(vi) The report includes duplicate Social Security numbers, or impossible Social Security numbers as shown by the Social Security Administration (such as 999-99-9991, 999-99-9992, etc.).

(b) An "incorrect format" means any report that is not filed in the format required by the commissioner under WAC 192-310-010 (3)(c). Agency forms include "drop-out ink" that cannot be copied. Therefore, photocopies are considered incorrectly formatted reports and forms.

(c) For purposes of this section, the term "significant" means an employer who has:

(i) One employee and reports incomplete wage elements for the one employee; or

(ii) Two to nineteen employees and reports incomplete wage elements for two or more employees; or

(iii) Twenty to forty-nine employees and reports incomplete wage elements for three or more employees; or

(iv) Fifty or more employees and reports incomplete wage elements for four or more employees.

(3) Penalty for filing an incomplete or ((~~incorrect format~~)) incorrectly formatted tax or wage report. An employer who files an incomplete or incorrectly formatted tax and wage report will receive a warning letter for the first occurrence. For subsequent occurrences of either an incomplete or incorrectly formatted report within five years of the date of the last occurrence (whether or not the last occurrence was before the effective date of this amendatory section), the employer must pay a penalty as follows:

(a) When quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter: Ten percent of the quarterly contributions for each occurrence, up to a maximum of \$250.00, but not less than:

(i)	2nd occurrence	\$75.00
(ii)	3rd occurrence	\$150.00
(iii)	4th and subsequent occurrences	\$250.00

(b) When no quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter:

(i)	2nd occurrence	\$75.00
(ii)	3rd occurrence	\$150.00
(iii)	4th and subsequent occurrences	\$250.00

(c) After five years without an occurrence, prior occurrences will not count and the employer shall receive a warning letter instead of a penalty on the next occurrence.

(4) Penalty for knowingly misrepresenting amount of payroll. If an employer knowingly (on purpose) misrepresents to the department the amount of his or her payroll that

is subject to unemployment taxes, the penalty is up to ten times, in the discretion of the department, the difference between the taxes paid, if any, and the amount of taxes the employer should have paid for the period. This penalty is in addition to the amount the employer should have paid. The employer must also pay the department for the reasonable expenses of auditing his or her books and collecting taxes and penalties due as provided in WAC 192-340-100.

(5) **Late tax payments.** All employers must file a tax and wage report every quarter, including employers who have no payroll for a given quarter. If an employer does not report on time, it will be charged a late fee of \$25.00 for each report. If the payment is late, the employer will be charged interest at a rate of one percent of taxes due per month. A late payment penalty is also charged for overdue taxes:

(a) First month: Five percent of the total taxes due or \$10.00, whichever is greater;

(b) Second month: An additional five percent of total taxes due or \$10.00, whichever is greater; and

(c) Third month: An additional ten percent of total taxes due or \$10.00, whichever is greater.

(6) **Nonsufficient funds (NSF).** The department shall charge \$25.00 for checks dishonored by nonacceptance or nonpayment. This is considered a commercial charge under the Uniform Commercial Code (RCW 62A.3-515).

(7) **Waivers of late filing and late payment penalties.** The department may, for good cause, waive penalties for late filing of a report and late payment of taxes that are due with a report. The commissioner must decide if the failure to file reports or pay taxes on time was not the employer's fault.

(a) The department may waive late penalties when there are circumstances beyond the control of the employer. These circumstances include, but may not be limited to, the following:

(i) The return was filed on time with payment but inadvertently mailed to another agency;

(ii) The delinquency was caused by an employee of the department, such as providing incorrect information to the employer, when the source can be identified;

(iii) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, a member of the employer's immediate family, the employer's accountant, or a member of the accountant's immediate family;

(iv) The delinquency was caused by the unavoidable absence of the employer or key employee before the filing deadline. "Unavoidable absence" does not include absences because of business trips, vacations, personnel turnover, or terminations;

(v) The delinquency was caused by the accidental destruction of the employer's place of business or business records;

(vi) The delinquency was caused by fraud, embezzlement, theft, or conversion by the employer's employee or other persons contracted with the employer, which the employer could not immediately detect or prevent. The employer must have had reasonable safeguards or internal controls in place; or

(vii) The employer, before the filing deadline, requested proper forms from the department's central office or a district tax office, and the forms were not supplied in enough time to

allow the completed report to be filed and paid before the due date. The request must have been timely, which means at least three days before the filing deadline.

(b) The department may waive late penalties if it finds the employer to be out of compliance during an employer-requested audit, but the department decides the employer made a good faith effort to comply with all applicable laws and rules;

(c) The department may waive late penalties for failure to file a "no payroll" report for one quarter if a new business initially registered that it would have employees that quarter, but then delayed hiring its first employees until after that quarter; and

(d) The department will not waive late penalties if the employer has been late with filing or with payment in any of the last eight consecutive quarters immediately preceding the quarter for which a waiver is requested. If an employer has been in business for fewer than the eight preceding quarters, then all preceding quarters must have been filed and paid on time and a one-time only waiver may be granted.

(8) **Incomplete reports or incorrect format penalty waivers.** For good cause, the department may waive penalties or not count occurrences for incomplete reports or reports in an incorrect format when the employer can demonstrate that the incomplete or incorrectly formatted report was not due to the fault of the employer.

(9) **Missing and impossible Social Security numbers.** When a Social Security number is impossible or missing, the department may waive penalties for incomplete reports only once for each worker and only when:

(a) The report was incomplete because it included impossible Social Security numbers, but the employer can show that the impossible Social Security numbers were provided to the employer by the employees; or

(b) The report was incomplete because of missing Social Security numbers, but the employer can show that the employee did not work for the employer after failing to provide a valid Social Security card or application for Social Security number within seven days of employment.

(10) **Penalty waiver requests.**

(a) An employer must request a waiver of penalties in writing, include all relevant facts, attach available proof, and file the request with a tax office. In all cases the burden of proving the facts is on the employer.

(b) At its discretion, the department may waive penalties on its own motion without requiring a request from the employer if it finds that the penalty was caused by the department's own error or for other good cause.

(11) **Extensions.** The department, for good cause, may extend the due date for filing a report. If granted, the employer must make a deposit with the department in an amount equal to the estimated tax due for the reporting period or periods. This deposit will be applied to the employer's debt. The amount of the deposit must be approved by the department.

WSR 13-23-008**PERMANENT RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed November 7, 2013, 12:11 p.m., effective December 8, 2013]

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

Purpose: WAC 192-320-085 provides that an employer's account will be credited, based on a benefit overpayment decision, in the quarter in which the benefits were originally paid rather than the quarter the eligibility decision was written. This reduces the chance an employer will pay a higher tax rate in a previous quarter when it is later determined they deserved a credit.

WAC 192-310-010 establishes a \$25.00 penalty for employers who fail to provide required ownership information when registering with the department. It provides an incentive for employers to provide complete information, reducing processing time.

Citation of Existing Rules Affected by this Order: Amending WAC 192-10-010 and 192-320-085.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 13-19-077 on September 17, 2013.

A final cost-benefit analysis is available by contacting Juanita Myers, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 902-9665, fax (360) 902-9799, e-mail jmyers@esd.wa.gov.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

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

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

Date Adopted: November 7, 2013.

Nan Thomas
Deputy Commissioner

AMENDATORY SECTION (Amending WSR 11-21-015, filed 10/7/11, effective 11/7/11)

WAC 192-310-010 What reports are required from an employer? ((RCW 50.12.070.)) (1) Business license application.

Every person or unit with one or more individuals performing services for it in the state of Washington must file a business license application with the department of revenue.

(2) Employer registration:

(a) Every employer shall register with the department and obtain an employment security account number. Registration shall include the names, Social Security numbers,

mailing addresses, telephone numbers, and the effective dates in that role of natural persons who are spouses or domestic partners of owners and owners, partners, members, or corporate officers of an employer. Registration of corporations shall include the percentage of stock ownership for each corporate officer, delineated as zero percent, less than ten percent, or ten percent or more, and the family relationship of corporate officers to other corporate officers who own ten percent or more. Every employer shall report changes in owners, partners, members, corporate officers, and percentage of ownership of the outstanding stock of the corporation by corporate officers. The report of changes is due each calendar quarter at the same time that the quarterly tax and wage report is due.

(b) A nonprofit corporation that is an employer shall register with the department, but is not required to provide names, Social Security numbers, mailing addresses, or telephone numbers for corporate officers who receive no compensation from the nonprofit corporation with respect to their services for the nonprofit corporation.

(c) An employer who omits required information when registering with the department, or fails to provide the department with the required information within thirty days of registration, must pay a penalty of twenty-five dollars for each violation unless the penalty is waived by the department.

(d) For purposes of this subsection:

(i) "Owner" means the owner of an employer operated as a sole proprietorship;

(ii) "Partner" means a general partner of an employer organized as a partnership, other than limited partners of a limited partnership who are not also general partners of the partnership;

(iii) "Member" means a member of an employer organized as a limited liability company, other than members who, pursuant to applicable law or the terms of the limited liability company's operating agreement or other governing documents, have no right to participate in the management of the limited liability company; and

(iv) "Corporate officer" means an officer described in the bylaws or appointed or elected by the board of directors in accordance with the bylaws or articles or certificates of incorporation of an employer organized as a for-profit or nonprofit corporation.

(3) Quarterly tax and wage reports:

(a) Tax report. Each calendar quarter, every employer must file a tax report with the commissioner. The report must list the total wages paid to every employee during that quarter.

(b) Report of employees' wages. Each calendar quarter, every employer must file a report of employees' wages with the commissioner. This report must list each employee by full name, Social Security number, and total hours worked and wages paid during that quarter.

(i) Social Security numbers are required for persons working in the United States;

(ii) If an individual has a Social Security card, he or she must present the card to the employer at the time of hire or shortly after that. This does not apply to agricultural workers who, under federal rules, may show their Social Security card on the first day they are paid;

(iii) If the individual does not have a Social Security card, Internal Revenue Service rules allow an employer to hire the individual with the clear understanding that the individual will apply for a Social Security number within seven calendar days of starting work for the employer. The individual must give the employer a document showing he or she has applied for a Social Security card. When the card is received, the individual must give the employer a copy of the card itself. An employer should keep copies of the document(s) for his or her records; and

(iv) If the employee does not show his or her Social Security card or application for a card within seven days and the employer continues to employ the worker, the employer does not meet the reporting requirements of this section. The department will not allow waiver of the incomplete report penalty (see WAC 192-310-030).

(c) Format. Employers must file the quarterly tax and wage reports in one of the following formats:

(i) Electronically, using the current version of employer account management services (EAMS), *UIFastTax*, *UIWebTax*, or ICESA Washington; or

(ii) Paper forms supplied by the department (or an approved version of those forms). Agency forms include "drop-out ink" that cannot be copied. Therefore, photocopies are considered incorrectly formatted reports and forms.

(d) Due dates. The quarterly tax and wage reports are due by the last day of the month following the end of the calendar quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. So, reports are due by April 30, July 31, October 31, and January 31, in that order. If these dates fall on a Saturday, Sunday, or a legal holiday, the reports will be due on the next business day. Reports submitted by mail will be considered filed on the postmarked date. The commissioner must approve exceptions to the time and method of filing in advance.

(e) Termination of business. Each employer who stops doing business or whose account is closed by the department must immediately file:

(i) A tax report for the current calendar quarter which covers tax payments due on the date the account is closed; and

(ii) A report of employees' wages for the current calendar quarter which includes all wages paid as of the date the account is closed.

AMENDATORY SECTION (Amending WSR 10-23-064, filed 11/12/10, effective 12/13/10)

WAC 192-320-085 When is an overpayment of benefits credited to an employer's account? Benefits paid shall be recoverable to the extent allowable pursuant to RCW 50.20.190 in the event that the decision allowing benefits is ultimately modified or reversed. ~~((Reversal or modification shall not affect previous benefit charges ultimately modified or reversed; however,))~~ Benefit credits in an amount equal to the erroneous charges shall be applied to the employer's account for the quarter in the calendar year in which ~~((the decision is ultimately modified or reversed))~~ benefits were originally charged.

WSR 13-23-019

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Behavioral Health and Service Integration Administration)

[Filed November 13, 2013, 8:30 a.m., effective December 31, 2013]

Effective Date of Rule: December 31, 2013.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The legislature did not appropriate funds for the psychiatric indigent inpatient (PII) program beyond December 31, 2013. Individuals eligible under the PII program may be considered newly eligible under the Patient Protection and Affordable Care Act (ACA) rules beginning January 1, 2014.

Purpose: The department is repealing WAC 388-865-0217 because the legislature did not appropriate funds for the PII program beyond December 31, 2013. Individuals eligible for the PII program may be considered newly eligible under the federal ACA rules beginning January 1, 2014.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-865-0217.

Statutory Authority for Adoption: RCW 71.05.560, 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Other Authority: Patient Protection and Affordable Care Act established under Public Law 111-148.

Adopted under notice filed as WSR 13-19-061 on September 17, 2013.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 1; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: November 5, 2013.

Katherine I. Vasquez

Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-865-0217 Psychiatric indigent inpatient program.

WSR 13-23-032
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed November 13, 2013, 11:24 a.m., effective December 14, 2013]

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

Purpose: This rule making amends chapter 208-544 WAC (and repeals WAC 208-512-045) to (1) provide for semi-annual assessments of nondepository trust companies, (2) adjust the hourly examination fee schedule and other charges for all of the division of banks' regulated institutions, (3) establish and/or clarify miscellaneous service charges, and (4) make technical changes for purposes of clarity (including plain-language amendments and additions).

Citation of Existing Rules Affected by this Order: Repealing WAC 208-512-045; and amending WAC 208-544-005, 208-544-010, 208-544-020, 208-544-030, and 208-544-060.

Statutory Authority for Adoption: RCW 43.320.040, 30.04.030, 30.04.070.

Adopted under notice filed as WSR 13-20-125 on October 1, 2013.

Changes Other than Editing from Proposed to Adopted Version: WAC 208-544-010 contained one internal chapter reference error. Changed the incorrect reference from "208-544-050" to "208-544-055."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 5, Repealed 3.

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 5, Amended 5, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 5, Amended 5, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 13, 2013.

Richard M. Riccobono
 Division of Banks Director

NEW SECTION

WAC 208-544-001 Scope. This chapter establishes the rules mandated by RCW 30.04.070 for the collection of authorized fees and charges from regulated institutions. These rules apply unless the director makes a finding that their application in a specific case would be inconsistent with the division's mission to foster sound economic growth and sustainable economic prosperity in the state of Washington or with the principles of collection found in WAC 208-544-005.

NEW SECTION

WAC 208-544-002 Definitions. Unless the context clearly requires otherwise, the definitions used in this section apply throughout this chapter.

(1) "Agricultural lender" has the definition given in RCW 31.35.020(1).

(2) "Alien bank" has the definition given in RCW 30.42.020(1).

(3) "Bank" has the definition given in RCW 30.04.-010(2).

(4) "Bank holding company" has the definition given in RCW 30.04.010(3).

(5) "Branch" has the definition given in RCW 30.04.-010(5).

(6) "Business development company" has the definition given in RCW 31.24.010(6).

(7) "Commercial bank" is a bank as defined under subsection (3) of this section.

(8) "Department" means the department of financial institutions.

(9) "Development credit corporation" means an entity organized under chapter 31.20 RCW.

(10) "Director" means the director of the division of banks of the department of financial institutions.

(11) "Division" means the division of banks of the department of financial institutions.

(12) "Financial holding company" has the definition given in RCW 30.04.010(8).

(13) "Foreign bank" has the definition given in RCW 30.04.010(9).

(14) "OCC" means the Office of the Comptroller of the Currency, as created under the National Bank Act of 1863.

(15) "OFM" means the office of financial management created by RCW 43.41.050.

(16) "Regulated institution" means an alien bank, agricultural lender, bank, bank holding company, business development company, commercial bank, financial holding company, foreign bank, savings bank, small business administration 7(a) lender, thrift holding company, trust company, or other institution over which the department of financial institutions has regulatory authority over.

(17) "Report of condition" includes the FDIC Call Report, or a regulated institution's quarterly balance sheet and income statement.

(18) "Savings bank" has the definition given in RCW 32.04.020(9), which includes a mutual savings bank and stock savings bank.

(19) "Small business administration 7(a) lender" means an entity licensed under chapter 31.40 RCW.

(20) "Thrift holding company" has the definition given in RCW 32.04.020(10).

(21) "Trust company" has the definition given in RCW 30.04.010(14).

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-544-005 Determination of collection method—Principles. When determining ~~((a revision to))~~ the collection method for authorized fees and charges, the direc-

tor shall consider, but not be limited to, the following principles(-):

(1) The revenue ((to be)) collected shall be sufficient to allow the division ((of banks to achieve its statutory mission)) to examine institutions within all required time periods(-):

(2) Regulatory costs shall be apportioned in a manner consistent with the ((state of Washington's overall policy commitments to rural and economically distressed areas, promoting)) division's statutory mission to promote and provide the delivery of financial services to ((those)) rural and economically distressed areas(-):

(3) No industry or regulated institution shall bear a disproportionate share of regulatory costs(-):

(4) ((There shall be a significant correlation between assessments and examination costs across institutions.

~~(5))~~ The division ((of banks)) shall have sufficient resources to maintain a competent and motivated staff((-

~~(6) Such))~~; and

(5) Any other principles ((as)) the director ((may)) deems relevant.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-544-010 Collection of examination costs—
Collection method. The ((requirement of RCW 30.04.070 and 30.08.095 that the director)) division shall collect ((from each bank, mutual savings bank, stock savings bank, trust company, or industrial loan company, the costs of the division, shall be met in accordance with the procedures established in this chapter. Costs shall be recouped by)) the following ((methods)):

(1) A semiannual assessment based on asset ((charges)) size in order to recoup ((nondirect bank examination)) the indirect costs related ((expenses (RCW 30.08.095, giving the director the authority to charge for other services rendered), and)) to the examination of regulated institutions as specified in WAC 208-544-020;

(2) An hourly charge for the ((estimated actual)) direct cost of examinations determined by ((a)) the rate specified ((herein times the number of hours spent by division personnel in regular or extraordinary examinations)) in WAC 208-544-030; and

(3) Fees for services as specified in WAC 508-544-040, 208-544-045, and 208-544-055.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-544-020 Semiannual asset charge—
Assessment. ((A semiannual charge for assets will be used to recoup nondirect bank examination related expenses (RCW 30.08.095).)) (1) The semiannual ((charge for assets will)) assessment shall be computed ((upon)) using the asset value reflected in the most recent report of condition. The director may adjust such rates if the director determines that a disproportionate amount of revenue is being collected. The rate of ((such)) charge ((shall be as)) is set forth in the following schedules:

~~((1))~~ (a) Commercial banks, ~~((mutual))~~ savings banks, ~~((and stock))~~ savings associations, and alien banks.

~~((The rate of such charge shall be based on the total asset value as reflected in the report of condition due for that period provided, the director may adjust such rates if the director determines that a disproportionate amount of revenue is being collected by such rate. In no event shall the amount of revenue collected from any one bank exceed one hundred thirty-three thousand four hundred ninety dollars per assessment period.~~

If the bank's total assets are:		The assessment is:		
Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	500	0	.00001408	0
500	1000	7040	.0000135	500
1000	—	13,790	.0000133	1000

(2) Alien banks.

The rate of such charge shall be .000035189 of the total asset value as reflected in the report of condition due for that period provided, the director may adjust such rate if the director determines that a disproportionate amount of revenue is being collected by such rate.

(3) The director's office shall forward by United States mail a notice to each financial institution showing the manner of calculating the asset charge due and a worksheet for such purposes. The notices shall be mailed each June and December. The asset charge shall be calculated by the financial institution and forwarded to the division of banks with the applicable report. A completed copy of the worksheet shall be included with the assessment. An additional two hundred dollar penalty shall be assessed if the amount is not paid by the time such report of condition or notice of assessment is due.))

If the institution's total assets are:		The semiannual assessment is:		
Over this amount (in millions)	But less than this amount (in millions)	This amount	Plus the excess over (in millions)	Multiplied by this rate
\$0	\$500	----	----	.000017464
\$500	\$1,000	\$8,732	\$500	.000016746
\$1,000	\$10,000	\$17,105	\$1,000	.000016495
\$10,000	----	\$165,560	\$10,000	.000
The semiannual assessment is capped at \$165,560.				

(b) Trust companies.

Total assets under management	Semiannual assessment charge
\$0-125 million	\$125
\$125-250 million	\$250
\$250-500 million	\$500
\$500 million - 1 billion	\$1,000

Total assets under management	Semiannual assessment charge
\$1-2 billion	\$2,000
\$2-3 billion	\$3,000
\$3-4 billion	\$4,000
\$4-5 billion	\$5,000

Trust companies pay \$1,000 for each additional \$1 billion under management. Annual assessments are capped at \$100,000.

(2) Assessments and statements of condition shall be remitted to the division in accordance with the following:

(a) The division shall provide an official notice of assessment to each financial institution in the months of June and December of each calendar year.

(b) The financial institution shall calculate the assessment amount due using the most recent statement of condition.

(c) The assessment payment shall be remitted to the division in accordance within the dates specified by the notice along with the statement of condition used to calculate the assessment.

(d) A fifty dollar fee shall be charged for each day a regulated institution fails to file the assessment payment and statement of condition after the deadline to file has passed, as set out under RCW 30.08.190(3).

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-544-030 Hourly fees and charges—Regular, including extraordinary examination and special examinations. (1) Each ~~((bank, mutual savings bank, trust company, alien bank, or industrial loan company))~~ regulated institution shall pay to the ~~((director the following fees:~~

~~(1) For regular examinations, including extraordinary examinations for the express purpose of examining unusual conditions or circumstances, including extensions of regular examinations wherein conditions may warrant extension of time required in the examination beyond normal allotted time and such other reviews as determined by the director; sixty-five dollars per hour. The director may charge the actual cost of examinations performed under personal service contracts by third parties.~~

~~(2) For electronic data processing examination, trust examination, or other examination requiring specialized expertise, ninety dollars per hour. Electronic data processing centers and trust companies are exempt from the asset assessment provisions of WAC 208-544-020(1) if such centers or companies are not a part of the assets of the bank as reported in the report of condition.))~~ division hourly fees in the amount of eighty-three dollars for regular examinations. This includes safety and soundness, information technology, trust, and any other examination requiring specialized expertise.

(a) The hourly rate applies to extraordinary examinations for the purpose of examining unusual conditions or circumstances, extensions of regular examinations, and any other reviews as determined by the director.

(b) The division may charge the actual cost of examinations performed under personal service contracts by third parties.

(2) The division may collect examination fees for out-of-state banks doing business in the state of Washington (host state) through a cooperative agreement with the home state under RCW 30.04.060.

(a) Fees may be collected directly from the out-of-state institution or may be collected from the home state.

(b) Such fees shall be agreed upon before the examination begins.

(3) The ~~((director))~~ division shall ~~((submit a))~~ provide to the institution an itemized statement ~~((for the foregoing))~~ outlining the charges ~~((following the))~~ upon completion of any applicable examination~~((and))~~. The charges contained in the statement shall be paid ~~((not))~~ no later than thirty days after ~~((submission))~~ the billing date of such statement.

(4) ~~((These charges shall become effective for invoicing that occurs after the effective date of this rule, provided such invoicing relates to examinations occurring on or after July 1, 1991.))~~ The division may require a lump sum payment in advance to cover the anticipated cost of review and investigation of the activities described in this section. In no event shall the lump sum payment required under this section exceed the actual cost incurred under those subsections.

NEW SECTION

WAC 208-544-040 Certificate and secretary of state filing fees. (1) The division shall collect one hundred dollars for issuing each of the following:

- Branch certificates;
- Certificates of increase or decrease of capital stock;
- Certificates of authority;
- Certificates of corporate existence; and
- Any other certificates issued by the division.

(2) The division shall collect the following for filing documents with the secretary of state:

- One hundred dollars for filing articles of incorporation, amendments thereof, or any other documents filed with the secretary of state.
- Any amounts billed directly to the division by the secretary of state relating to subsection (2)(a) of this section.

NEW SECTION

WAC 208-544-045 Additional services fees. (1) The division shall collect hourly fees in the amount of eighty-three dollars plus actual expenses for all services attendant to:

- The chartering of a new regulated institution;
- The conversion of an existing nonstate chartered institution to a Washington state chartered institution;
- The establishment of an office or bureau by an alien bank in Washington state;

(d) The acquisition and control of more than five percent of the shares of voting stock or substantially all of the assets of a bank, trust company, national banking association, or bank holding company, where the principal operations are conducted within this state by an out-of-state bank holding company;

(e) The issuance or filing of a notice of change of control;

(f) Requests for division approval to use words indicating bank or trust company in a company name under RCW 30.04.020;

(g) Meeting attendance by division personnel with the board of directors or senior management of a regulated institution;

(h) Off-site monitoring of a regulated institution;

(i) Voluntary or involuntary liquidation under chapter 30.44 RCW;

(j) Acting as conservator of a bank or trust company under chapter 30.46 RCW;

(k) Investigation into, and the resolution of, consumer complaints;

(l) Any inquiry made to the division by a person, company, or regulated institution that is not in the normal course of business;

(m) Investigation into, and subsequent enforcement action(s) against, individuals, companies, or otherwise, that are operating an unlicensed bank or trust business in the state of Washington;

(n) Applications submitted to the division by an existing regulated institution to:

(i) Merge, consolidate, reorganize, or convert to another charter type;

(ii) Establish a new branch;

(iii) Relocate the main office or an existing branch;

(iv) Purchase or sell an existing branch;

(v) Confer trust powers on an existing state-chartered bank;

(vi) Change the legal name of the regulated institution.

(o) Any other activity the director deems relevant or necessary.

(2) The division shall collect per page for furnishing copies of papers filed with the division in accordance with the fees set out in WAC 208-12-090.

NEW SECTION

WAC 208-544-055 Legal fees. The division may collect the following legal fees:

(1) Hourly fees in the amount of eighty-three dollars for legal opinions rendered interpreting statutes and rules;

(2) Pass-through costs for legal assistance rendered by an assistant attorney general or special counsel related to a specific regulated institution.

(a) The division shall notify a regulated institution before the division incurs expense for legal assistance that may be charged to the regulated institution under this section.

(b) The charges shall be paid no later than thirty days after the billing date of the rendered legal assistance.

(c) This section shall not govern the claim of attorney's fees in a judicial proceeding between the division and a regulated institution. Legal fees relating to such actions are governed by the Washington Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

WAC 208-544-060 Banking fund—Minimum cash balance. (1) The director (~~shall maintain~~) may make a find-

ing that a minimum cash balance (~~(in the banking fund (RCW 43.19.095))~~) of at least one month's allotment be maintained in the banking fund as set out in RCW 43.320.110. One month's allotment is (~~based upon~~) the current biennium budget divided by twenty-four months.

(2) In the event the banking fund balance drops below (~~this figure~~) the required amount, the director (~~shall~~) may declare the next semiannual asset assessment due (~~(payment within thirty days of such declaration)~~). The (~~director~~) department shall bill each institution based on the most current report of condition (~~and~~). Payment is due within thirty days of such declaration and shall be in lieu of the next regularly scheduled asset assessment.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 208-544-025 Fees paid by interstate banks.

WAC 208-544-039 Charges and fees effective October 6, 2008.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 208-512-045 Schedule of fees for banks, trust companies, stock savings banks, mutual savings banks, and alien banks.

WSR 13-23-036 PERMANENT RULES OFFICE OF

FINANCIAL MANAGEMENT

[Filed November 14, 2013, 8:54 a.m., effective December 16, 2013]

Effective Date of Rule: December 16, 2013.

Purpose: The 2013–2015 operating budget that was passed by the senate and house provides for a longevity step (step M) to be added to the state salary schedule. The step M rules were adopted on a permanent basis effective October 18, 2013. WAC 357-31-357 was included in the emergency adoption that was effective July 1, 2013, but was inadvertently left off of the permanent filing. Since the original emergency adoption expired October 19, 2013, we filed for a second emergency adoption of this rule which was effective October 18, 2013.

The director of office of financial management permanently adopted this rule effective December 16, 2013.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 13-20-131 on October 2, 2013.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, 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 1, Amended 0, Repealed 0.

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

Date Adopted: November 14, 2013.

Sandi Stewart
Rules Coordinator
State Human Resources Division

NEW SECTION

WAC 357-31-357 How does leave without pay affect the six-year time period used to qualify for step M? The six-year time period used to qualify for step M will not be extended for periods of leave without pay.

**WSR 13-23-040
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed November 15, 2013, 7:26 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: WAC 246-808-990 Chiropractic fees and renewal cycle, the amended rule reduces initial and renewal license fees for chiropractors. The new fee levels are expected to align licensing revenue with costs of administering the chiropractic profession over time. Other housekeeping amendments clarify the intent of the rule.

Citation of Existing Rules Affected by this Order: Amending WAC 246-808-990.

Statutory Authority for Adoption: RCW 43.70.110 and 43.70.250.

Adopted under notice filed as WSR 13-18-048 on August 30, 2013.

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

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

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

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

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

Date Adopted: November 15, 2013.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 12-19-088, filed 9/18/12, effective 11/1/12)

WAC 246-808-990 Chiropractic fees and renewal cycle. (1) Licenses and registrations must be renewed on the practitioner's birthday every year as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for chiropractic (~~license~~) license:

Title of Fee	Fee
Application/full examination or reexamination	\$(630.00) <u>530.00</u>
Temporary permit application	205.00
Temporary practice permit	105.00
Preceptorship	155.00
<u>Active license renewal</u>	((582.00)) <u>482.00</u>
Late renewal penalty	302.00
Expired <u>active</u> license reissuance	302.00
Inactive license renewal	257.00
Expired inactive license reissuance	157.00
Duplicate license	30.00
Certification of license	30.00
UW online access fee (HEAL-WA)	16.00

(3) The following nonrefundable fees will be charged for chiropractic X-ray technician registration:

Title of Fee	Fee
Application	47.00
Original registration	47.00
Renewal	62.00
Late renewal penalty	62.00
Expired registration reissuance	62.00
Duplicate registration	30.00
Certification of registration	30.00

**WSR 13-23-048
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket TV-130079, General Order R-573—Filed November 15, 2013, 10:30 a.m., effective December 16, 2013]

In the matter of amending, adopting, and repealing rules in chapters 480-14 and 480-15 WAC, relating to common carriers and household goods carriers.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 13-17-089, filed with the code reviser on August 20, 2013. The adoption of these rules is authorized by RCW 80.01.040, 81.01.010, 81.04.160, and 81.80.130.

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

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

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

5 The commission amends and adopts rules to increase commission efficiency in overseeing the requirement that common carriers, including household goods carriers, maintain liability insurance. These rule revisions enhance public safety by authorizing the commission to cancel a carrier's permit immediately if its liability insurance lapses. The changes also eliminate the requirement that the commission issue redundant notices to a carrier that its insurance is about to expire, or has expired.

6 The commission also amends and adopts rules for household goods carriers to correct and clarify various requirements to better protect consumers and enhance the companies' understanding of those requirements. These changes include clarifying the requirements for receiving new authority and transferring additional authority, providing proof of identity, leasing vehicles, and issuing estimates. In addition, the rules limit the provisional permit period to eighteen months, add assault to the list of crimes for which authority may be denied, and require background checks on prospective employees.

7 There are no differences between the text of the proposed rules as published in the register and the text of the rules as adopted. The commission designates the discussion in this order, including appendices, as its concise explanatory statement.

8 REFERENCE TO AFFECTED RULES: This order amends, adopts, or repeals the following sections of the Washington Administrative Code: Amending WAC 480-14-230 Suspension and cancellation of a permit, 480-14-250 Insurance requirements, 480-15-065 Address or telephone change, 480-15-180 Carrier operations that require a household goods permit, 480-15-186 Application required for new authority to operate as a household goods carrier, 480-15-187 Transfer of an existing permit, 480-15-230 Application fees, 480-15-302 Provisional authority, 480-15-305 Permanent authority, 480-15-400 Changing the name on a permit, 480-15-420 Voluntary cancellation of a permit, 480-15-430 Involuntary suspen-

sion of a permit, 480-15-450 Involuntary cancellation of a permit, 480-15-530 Public liability and property damage insurance, 480-15-550 Cargo insurance, 480-15-590 Leasing vehicles, 480-15-620 Information household goods carriers must provide to customers, 480-15-630 Estimates and 480-15-900 Requirements for interstate operations; adopting WAC 480-15-555 Criminal background checks for prospective employees; and repealing WAC 480-15-600 Lease responsibilities.

9 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on February 14, 2013, at WSR 13-05-057. The statement advised interested persons that the commission was considering initiating a rule making on common carrier and household goods carrier rules. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all permitted households good[s] companies. The commission posted the relevant rule-making information on its internet web site at <http://www.utc.wa.gov/130079>. Pursuant to the notice, the commission received written comments by March 19, 2013.

10 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on August 20, 2013, at WSR 13-17-089. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 13-17-089 at 9:00 a.m., Friday, October 11, 2013, 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.

11 WRITTEN COMMENTS: The commission received written comments in response to the notice of proposed rule making from Jim Tutton, representing the Washington Movers Conference. A summary of Mr. Tutton's written comments and commission staff responses are contained in Appendix A.

12 RULE-MAKING HEARING: The commission considered the proposed rules for adoption at a rule-making hearing on Friday, October 11, 2013, before Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Jeffrey D. Goltz. The commission heard oral comments from Jim Tutton, representing the Washington Movers Conference. No other interested person made oral comments.

13 SUGGESTIONS FOR CHANGE THAT ARE REJECTED: Mr. Tutton suggested changing the rules in the same manner as in his written comments as described in Appendix A. The commission adopts commission staff's recommendations and rejects Mr. Tutton's suggested changes to the rules for the reasons described in the commission staff response in Appendix A.

14 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend, adopt, and repeal the rules as proposed in the CR-102 at WSR 13-17-089.

15 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-14-230, 480-14-250, 480-15-065, 480-15-180, 480-15-186, 480-15-187, 480-15-230, 480-15-

302, 480-15-305, 480-15-400, 480-15-420, 480-15-430, 480-15-450, 480-15-530, 480-15-550, 480-15-590, 480-15-620, 480-15-630, and 480-15-900 should be amended, WAC 480-15-555 should be adopted, and WAC 480-15-600 should be

repealed to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

APPENDIX A
**TV-130079 Common Carrier and Household Good[s] Carrier Rule Making
 Stakeholder Comments on Proposed Rules and Commission Response
 (September 23, 2013)**

Company	WAC Section	Comment	Commission Response
The Movers Conference (WMC) September 23, 2013	WAC 480-15-555	<u>Requiring background checks on household goods company employees</u> WMC states the time period of "within the past five years" exceeds the three-year requirement now performed by the major van lines for their local agent's employees operating in Washington state. WMC contends that completing a five-year search of records requires a second criminal background check at additional cost.	We recommend that the commission maintain the current five-year time period. The five-year time period exists in the current rules for companies applying for new household goods authority. For existing regulated carriers, the new language in WAC 480-15-555 applies to prospective employees. As a matter of information, a background check costs \$10 to \$15.

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 1, Amended 19, Repealed 1.

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

ORDER

16 THE COMMISSION ORDERS:

17 WAC 480-14-230, 480-14-250, 480-15-065, 480-15-180, 480-15-186, 480-15-187, 480-15-230, 480-15-302, 480-15-305, 480-15-400, 480-15-420, 480-15-430, 480-15-450, 480-15-530, 480-15-550, 480-15-590, 480-15-620, 480-15-630, and 480-15-900 should be amended, WAC 480-15-555 should be adopted, and WAC 480-15-600 should be repealed to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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

Dated at Olympia, Washington, November 15, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

David W. Danner, Chairman
 Philip B. Jones, Commissioner
 Jeffrey D. Goltz, Commissioner

APPENDIX B

AMENDATORY SECTION (Amending WSR 09-22-057, filed 10/30/09, effective 11/30/09)

WAC 480-14-230 Suspension and cancellation of a permit. A common carrier may not operate any of its equipment while its permit is suspended or canceled.

(1) Involuntary suspension.

(a) The commission may suspend or cancel a (~~carrier~~) carrier's permit if the carrier fails to maintain evidence that it has (~~the required level of~~) insurance in effect for its operations as required by WAC 480-14-250.

(b) The commission will make a good faith effort to notify a carrier that its evidence of insurance is likely to become invalid. The commission (~~with~~) may suspend or cancel any carrier who fails to maintain evidence of current insurance as required by WAC 480-14-250, whether or not it is able to provide advance notice.

(2) **Voluntary cancellation.** A carrier may request that its permit be canceled. The commission will enter an order canceling the permit. The commission will reinstate the permit, provided the carrier meets current entry requirements, if the carrier applies for reinstatement and pays the application fee within ten months of cancellation.

(3) **Involuntary cancellation.** The commission may cancel a permit because the carrier fails to:

- (a) Pay required regulatory fees.

(b) Demonstrate that the carrier has corrected the conditions leading to suspension within the time defined in the order of suspension.

(c) Provide information as required by the commission or submits false, misleading or inaccurate information.

(d) Maintain evidence of insurance as required by WAC 480-14-250.

(4) **Cancellation hearing.** The commission will hold a hearing prior to canceling a carrier's authority, pursuant to RCW 81.80.280, except when cancellation results from:

(a) Failure to maintain evidence of current insurance as required by WAC 480-14-250 and an adjudication or brief adjudication was held or was available to the carrier.

(b) Failure to correct causes of a suspension in which an adjudication or brief adjudication was held or was available to the carrier.

(c) A carrier whose permit is ((~~annulled~~)) **cancel**ed may apply for reinstatement under WAC 480-14-220, or may apply for a new permit under WAC 480-14-180, if the carrier has corrected the causes of cancellation.

AMENDATORY SECTION (Amending WSR 09-22-057, filed 10/30/09, effective 11/30/09)

WAC 480-14-250 Insurance requirements. (1) **Required insurance coverage.** Each applicant for common carrier authority and each common carrier must file with the commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington, covering each motor vehicle as defined in RCW 81.80.010 used or to be used under the permit.

(a) For vehicles with gross vehicle weight ratings of ten thousand pounds or more, filings must be for the amount shown on the following table:

Category of Carrier Operation	Filing Required
1. Property (nonhazardous)	\$750,000
2. Hazardous substances, as defined in 49 Code of Federal Regulations (C.F.R.) 171.8 transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Division 1.1, 1.2 and 1.3 materials, Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material, in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 C.F.R. 173.403	\$5,000,000
3. Oil listed in 49 C.F.R. 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 C.F.R. 171.8 and listed in 49 C.F.R. 172.101, but not mentioned in 2. above or in 4. below	\$1,000,000
4. Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material, as defined in 49 C.F.R. 173.403	\$5,000,000

(b) For vehicles with gross vehicle weight ratings less than ten thousand pounds, filings shall be for the amounts shown on the following table:

Category of Carrier Operation	Filing Required
1. Property (nonhazardous)	\$300,000
2. Property (hazardous); any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material, as defined in 49 C.F.R. 173.403	\$5,000,000

(c) Insurance requirements do not apply to taxicabs whose only operation subject to commission jurisdiction is the operation of small parcel general freight service under a permit issued pursuant to chapter 81.80 RCW. Those taxicabs must comply with the provisions of RCW 46.72.040 and 46.72.050 in lieu of the above. However, all carriers must comply with the reporting requirements of this section.

(d) The commission may dismiss an application or suspend or cancel a permit if a carrier does not file proof that such insurance is in full force and effect.

(e) Carriers must submit evidence of insurance by ~~((either))~~ a Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance (Form E), Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond (Form G), or a written binder evidencing the required coverage. A binder may not be effective for longer than sixty days, during which time the carrier must file the Form E or Form G.

(2) **Continuing proof of insurance.** A carrier must file evidence of continued insurance with the commission not less than ten days prior to the termination date of the current insurance.

(3) **Insurance endorsement.** All liability and property damage insurance policies issued to common carriers must carry a "uniform motor carrier bodily injury and property damage liability endorsement."

(4) **Insurance termination.** All insurance policies issued under the requirements of chapter 81.80 RCW must provide that the coverage continues in full force and effect unless and until canceled by at least thirty days' written notice served on the insured and the commission by the insurance company. The thirty days' notice must commence to run from the date notice is actually received by the commission.

(a) An insurance binder may be canceled on ten days' written notice.

(b) The carrier or carrier's insurance company must notify the commission of cancellation or expiration ~~((on forms prescribed by the commission))~~ by filing a Notice of Cancellation (Form K) no less than thirty days before the cancellation or expiration effective date.

(c) The carrier or carrier's insurance company must provide notice of cancellation or expiration not more than sixty days before the termination date, except binders which may be canceled on ten days' written notice.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-065 Address or telephone change. If a carrier changes its physical or mailing business address, e-mail address or telephone number, it must immediately notify

the commission in writing at the address listed in WAC ((480-15-060)) 480-07-125.

AMENDATORY SECTION (Amending WSR 09-24-104, filed 12/2/09, effective 1/2/10)

WAC 480-15-180 Carrier operations that require a household goods permit. A carrier must receive a permit from the commission before transporting household goods, for compensation, by motor vehicle (~~((including a rental truck))~~) over public roads between two points within the state, or before advertising, soliciting, offering, or entering into an agreement to transport household goods.

AMENDATORY SECTION (Amending WSR 12-13-007, filed 6/7/12, effective 7/8/12)

WAC 480-15-186 Application required for new authority to operate as a household goods carrier. An applicant must complete a household goods moving company permit application and meet the criteria for a provisional permit and, after the ~~((six month))~~ provisional period has passed, meet the criteria for a permanent permit, as described in WAC ~~((480-15-185))~~ 480-15-305, to ~~((be eligible for any of the following:~~

~~((1))~~ receive new authority to operate as a household goods carrier.

~~((2))~~ Transfer of existing authority, except as described in WAC 480-15-187. If the holder of a permit wishes to transfer the permit, the person or entity receiving the permit must file an application as described in this section. For the purposes of this section and WAC 480-15-187, the person or entity receiving the permit is the applicant.

~~((3))~~ Acquisition of control of existing authority.

~~((4))~~ Additional authority for an existing household goods permit.

AMENDATORY SECTION (Amending WSR 12-13-007, filed 6/7/12, effective 7/8/12)

WAC 480-15-187 Transfer of an existing permit. (1) If the holder of a permit wishes to transfer the permit, the person or entity receiving the permit must ~~((file an application as described in this section. For the purposes of WAC 480-15-186 and this section, the person or entity receiving the permit is the applicant))~~ complete a household goods moving company permit application on a form provided by the commission. The person or entity receiving the permit is the applicant. The applicant must meet the criteria for a provisional permit and, after the provisional period has passed, meet the criteria for a permanent permit as described in WAC 480-15-305 unless the applicant qualifies for the exceptions described in subsection (2) or (3) of this section.

(2) If the transfer is due to one of the following reasons, the commission will grant ~~((an application to transfer existing))~~ permanent authority ~~((or acquire control of existing permanent authority,))~~ to the applicant without requiring a provisional permit, public notice, or comment ~~((if))~~ provided that the applicant is fit, willing, and able to provide service and the applicant has filed to transfer ~~((or acquire control of))~~ permanent authority for any one of the following reasons:

(a) A partnership has dissolved due to the death, bankruptcy or withdrawal of a partner and that partner's interest is being transferred to a spouse or to one or more remaining partners.

(b) A shareholder in a corporation has died and that shareholder's interest is being transferred to a surviving spouse or one or more surviving shareholders.

(c) A sole proprietor has died, the sole proprietor devised or bequeathed the company by will, and the applicant is seeking transfer of the permit in accordance with the bequest or devise set forth in the will.

(d) An individual has incorporated and the same individual remains the majority shareholder.

(e) An individual has added a partner but the same individual remains the majority partner.

(f) A corporation has dissolved and the interest is being transferred to the majority shareholder.

(g) A partnership has dissolved and the interest is being transferred to the majority partner.

(h) A partnership has incorporated, and the partners are the majority shareholders.

(i) Ownership is being transferred from one corporation to another corporation when both are wholly owned by the same shareholders.

~~((2))~~ (3) The commission will grant an application for permanent authority without requiring a provisional permit after the application has been published on the application docket subject to comment for thirty days if the applicant is fit, willing, and able to provide service, the applicant has filed to transfer ~~((or acquire))~~ control of permanent authority, and all of the following conditions exist:

(a) Ownership ~~((or control))~~ of a permit is being transferred to any shareholder, partner, family member, employee, or other person familiar with the company's operations and the household goods moving services provided.

(b) The permit has been actively used by the current owner to provide household goods moving services during the twelve-month period prior to the application.

(c) The application includes a certified statement from the applicant and the current owner explaining why the transfer ~~((of ownership or control))~~ is necessary to ensure the company's economic viability.

(d) The application includes a certified statement from the applicant and the current owner describing the steps taken by the parties to ensure that safe operations and continuity of service to customers is maintained.

AMENDATORY SECTION (Amending WSR 12-13-007, filed 6/7/12, effective 7/8/12)

WAC 480-15-230 Application fees. Application fees are:

Type of Permit Application:	Fee:
Provisional and permanent authority. The fee for provisional, and then permanent, authority is a one-time fee	\$550.00
Transfer ((or acquisition)) of authority under WAC ((480-15-186 and)) 480-15-187	\$250.00

Type of Permit Application:	Fee:
Permit reinstatement under WAC 480-15-450	\$250.00
Name change only	\$35.00

AMENDATORY SECTION (Amending WSR 12-13-007, filed 6/7/12, effective 7/8/12)

WAC 480-15-302 Provisional authority. The commission will grant provisional authority to any applicant that meets the following criteria:

- (1) The applicant has properly completed the household goods moving company permit application.
- (2) The application does not contain any indication of fraud, misrepresentation, or erroneous information.
- (3) The applicant has provided a copy of a valid (~~Washington state~~) driver's license or government-issued photo identification card for each person named in the application associated with the proposed moving company.
- (4) The applicant has provided evidence that the applicant possesses sufficient financial resources to operate a moving company. The commission will accept as evidence the completed financial statement form included in the household goods moving company permit application or the alternative documents listed on the financial statement form.
- (5) The applicant has met the liability and cargo insurance requirements of WAC 480-15-530 and 480-15-550.
- (6) The applicant has provided evidence of compliance with state tax, labor, employment, business, and vehicle licensing laws and rules. The commission will accept valid account numbers that staff can verify, showing the applicant has established accounts with other state agencies, as evidence.
- (7) The applicant has provided evidence of its enrollment in a drug and alcohol testing program, or evidence that it has in place its own drug and alcohol testing program, if required by WAC 480-15-570. The commission will accept proof of enrollment in a program, or a detailed description of the applicant's own program, as evidence.
- (8) Commission staff has completed a criminal background check on each person named in the application associated with the proposed moving company.

(a) The commission will not grant provisional authority if any named person has, within the past five years, been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance.

(b) If a person named in the application has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance more than five years prior to the date of the application and the commission determines that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company, the commission will deny operating authority to the applicant.

- (9) The applicant owns or leases the equipment necessary to provide household goods moving services.
- (10) The commission has not denied a household goods moving company permit application within the previous six

months filed by the same applicant or by any other person named on the application.

(11) The commission has not canceled, for cause, a permit held by the applicant, or by any other person named on the application, within the previous (~~one year~~) twelve months.

(12) The applicant has filed with the application at least three completed statements of support for the proposed service.

(13) No other circumstances exist that cause the commission to deny the application.

AMENDATORY SECTION (Amending WSR 12-13-007, filed 6/7/12, effective 7/8/12)

WAC 480-15-305 Permanent authority. (1) The commission will grant permanent authority to any applicant that meets the following criteria:

~~((+))~~ (a) The applicant has met all of the criteria required for a provisional permit as described in WAC 480-15-302.

~~((+))~~ (b) The applicant has completed a provisional period of not less than six months and not more than eighteen months from the date the provisional permit was issued unless the commission determines that for good cause the provisional period should be extended beyond eighteen months. Good cause may include, among other circumstances, a carrier that has not yet made an intrastate move or a carrier that has not yet achieved a satisfactory safety rating but is making substantial progress toward a satisfactory rating.

~~((+))~~ (c) The applicant has attended a commission-sponsored household goods carrier training class.

~~((+))~~ (d) The applicant has provided commission staff with evidence that the applicant has completed a criminal background check on each person it employs or intends to employ (~~that will have contact with a customer or a customer's residence~~). The commission will not grant permanent authority if any employee has, within the past five years, been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance.

~~((+))~~ (e) The applicant has received a satisfactory safety rating in a safety review conducted by commission safety staff.

~~((+))~~ (f) The applicant has no outstanding commission-issued monetary penalties.

~~((+))~~ (g) The applicant has paid all outstanding fees or other amounts due to the commission.

~~((+))~~ (h) The applicant has met all other commission regulatory requirements, including any requirements set by statute, rule, tariff, or order.

~~((+))~~ (i) The applicant has no unresolved consumer complaints on file with the commission.

~~((+))~~ (j) No other circumstances exist that cause the commission to deny permanent authority.

(2) The commission will not grant permanent authority if an employee has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud,

false statements, or the manufacture, sale, or distribution of a controlled substance more than five years prior to the date of the application and the commission determines that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company.

(3) If the carrier has not completed the requirements for permanent authority within eighteen months of the date the provisional permit was issued, the commission will cancel the provisional permit and dismiss the application for permanent authority, unless the commission determines that for good cause the provisional period should be extended beyond eighteen months. Good cause may include, among other circumstances, a carrier that has not yet made an intrastate move or a carrier that has not yet achieved a satisfactory safety rating but is making substantial progress toward a satisfactory rating.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-400 Changing the name on a permit ((name)). (1) Carriers must file a name change application to change the name on a permit ((name, corporate name or trade name or)), to add a trade name to the permit, or remove a trade name from the permit.

(2) Carriers must include the application fee (as shown in WAC 480-15-230), copies of any corporate minutes authorizing the name change and proof that the carrier has properly registered the new name with the department of licensing, office of the secretary of state or other agencies as may be required.

(3) Carriers must also submit to the commission a Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance (Form E) or Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond (Form G) in its changed name and proof of required cargo insurance (Certificate of Liability Insurance or Form H Uniform Motor Carrier Cargo Certification of Insurance) in its changed name.

(4) Carriers must file an application to transfer (~~or acquire control of~~) permanent authority if the name change is the result of a change in ownership or controlling interest.

~~((4))~~ (5) Carriers may not advertise or operate under the proposed name change until the commission approves the application.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-420 Voluntary cancellation of a permit. If a carrier no longer wants to use its permit, the carrier may send the commission a written request that it be canceled. The cancellation request must include the carrier's name, address and permit number. The commission will issue an order canceling the permit(~~(effective on the date of the order)~~).

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-430 Involuntary suspension of a permit. (1) The commission may suspend a permit without the carrier's authorization for good cause. Good cause includes, but is not limited to, the carrier:

(a) Failing to maintain evidence of required cargo insurance coverage for all areas of its operations as required by WAC 480-15-550.

(b) Failing to maintain evidence of required liability insurance coverage for all areas of its operations as required by WAC 480-15-530.

(c) Failing to comply with the rates and rules contained in the commission-published tariff.

(d) Failing or refusing to comply with applicable laws and commission rules pertaining to operations of household goods carriers, including safety requirements set in law or rule.

(e) Allowing others to transport goods under the carrier's permit authority.

(f) Committing fraud.

(g) Failing to meet the requirements of WAC 480-15-555. Criminal background checks for prospective employees.

(2) The commission may suspend a permit without an opportunity for hearing if there is imminent danger to the public health, safety or welfare and there is insufficient time to conduct a hearing.

(3) The commission will send the carrier notice of its action to suspend the carrier's permit. The suspension begins on the effective date listed in the notice.

(4) A carrier may contest the suspension of its permit by requesting a hearing or brief adjudicative proceeding. Chapter 480-07 WAC describes the procedures for such hearings.

(5) The commission will lift the suspension of the permit after the carrier corrects all conditions leading to the suspension.

AMENDATORY SECTION (Amending WSR 09-24-104, filed 12/2/09, effective 1/2/10)

WAC 480-15-450 Involuntary cancellation of a permit. (1) The commission may cancel a permit without the carrier's authorization for good cause. Good cause includes, but is not limited to, the carrier:

(a) Failing to file an annual report or pay required regulatory fees.

(b) Failing to correct, within the time frame specified in the suspension order, all conditions that led to the suspension of a permit.

(c) Failing to maintain evidence of required liability insurance coverage for all areas of its operations as required by WAC 480-15-530.

(d) Failing to maintain evidence of required cargo insurance coverage for all areas of its operations as required by WAC 480-15-550.

(e) Failing (~~or refusing~~) to comply with applicable laws and commission rules pertaining to operations of household goods carriers, including safety requirements set in law or rule.

~~((f))~~ (f) Failing to supply information necessary to the commission for the performance of its regulatory functions when the commission requests the carrier to do so.

~~((g))~~ (g) Submitting false, misleading or inaccurate information.

~~((h))~~ (h) Allowing others to transport goods under the carrier's permit authority.

~~((i))~~ (i) Operating in a manner that constitutes unfair or deceptive business practices.

~~((j))~~ (j) Committing fraud.

~~((k))~~ (k) Failing to meet the requirements of WAC 480-15-555, Criminal background checks for prospective employees.

(2) The commission will hold a hearing prior to canceling a permit unless the permit is subject to cancellation because the carrier ~~((failed, within the time frame specified by a suspension order, to correct the causes of the suspension. In that case:~~

~~((a))~~ (a) The commission will send the carrier notice of the date the commission will cancel a permit. The commission will enter an order canceling the permit thirty days after the service date of the notice.

~~((b))~~ (b) A carrier may contest the cancellation of its permit by requesting a hearing or brief adjudicative proceeding. Chapter 480-07 WAC describes the procedures for such hearings):

~~((a))~~ (a) Failed to maintain evidence of current liability insurance as required by WAC 480-15-530 or failed to maintain evidence of current cargo insurance as required by WAC 480-15-550 and an adjudication or brief adjudication was held or was available to the carrier.

~~((b))~~ (b) Failed to correct causes of a suspension in which an adjudication or brief adjudication was held or was available to the carrier.

(3) When the commission has canceled a household goods carrier permit, the carrier must, when directed by the commission, provide notice to every customer that its permit has been canceled, and provide proof of such notice to the commission.

(4) If the permit is canceled and the carrier corrects all conditions that led to cancellation of the permit, the carrier may apply for reinstatement.

(a) To reinstate the permit within thirty days of cancellation, the carrier must file an application for reinstatement and pay the applicable reinstatement fees as stated in WAC 480-15-230.

(b) If the carrier files an application for reinstatement after thirty days of cancellation, the application will be considered in all aspects to be an application for new authority and will be subject to all terms and conditions specified in WAC ~~((480-15-240))~~ 480-15-302 for new entrants.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-530 Public liability and property damage insurance. (1) Before operating under a household goods permit, carriers must have public liability and property damage insurance covering every motor vehicle used in its operations. The commission will not issue a permit for authority to operate without acceptable proof of required insurance

coverage. Carriers must maintain the required public liability and property damage insurance at all times for every motor vehicle used in Washington intrastate operations.

(a) The policy must be written by an insurance company authorized to write insurance in Washington state.

(b) The policy must include the Uniform Motor Carrier Bodily Injury and Property Damage Liability ~~((Endorsement, Form F))~~ Certificate of Insurance (Form E) or Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond (Form G).

(c) The commission ~~((will))~~ may suspend ~~((for thirty days and subsequently))~~ or cancel the permit of any carrier operating without proof of required insurance coverage.

(2) The minimum limits of required public liability and property damage insurance for motor vehicles operated by household goods carriers are as follows:

(a) At least three hundred thousand dollars in combined single limit coverage for motor vehicles with a gross vehicle weight rating of less than ten thousand pounds.

(b) At least seven hundred fifty thousand dollars in combined single limit coverage for motor vehicles with a gross vehicle weight rating of ten thousand pounds or more.

(3) Carriers must file a Uniform Motor Carrier Bodily Injury and Property Damage ~~((and Public))~~ Liability Certificate of Insurance (Form E) or Uniform Motor Carrier Bodily Injury and Property Damage ~~((and Public))~~ Liability Surety Bond (Form G) as a condition of maintaining a household goods permit.

(a) The Form E or Form G filing must be issued in exactly the same name as the carrier's permit.

(b) The Form E or Form G filing must be continuous, until canceled by a Notice of Cancellation (Form K) filed with the commission no less than thirty days before the cancellation effective date.

~~((a))~~ (a) The commission will accept an insurance certificate or binder for up to sixty days. A certificate or binder may be canceled by filing written notice with the commission at least ten days before the cancellation effective date. A certificate or binder must be replaced by a Form E or Form G within sixty days of filing, or before the expiration date, whichever occurs first.

~~((b))~~ (b) Certificates or binders must include all of the following:

(i) The commission as the named certificate holder.

(ii) The carrier's name, exactly as it appears on the permit or application, as the insured.

(iii) The insurance company name.

(iv) The insurance policy number.

(v) The effective and expiration dates.

(vi) The insurance limits of coverage.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-550 Cargo insurance. (1) Carriers must have cargo insurance coverage at the levels prescribed in subsection (2) of this section to protect all household goods transported under the permit. The commission will not issue a permit for authority to operate without acceptable proof of required cargo insurance coverage.

(2) The minimum limits of required cargo insurance are:

(a) Ten thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of less than ten thousand pounds.

(b) Twenty thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of ten thousand pounds or more.

(3) Carriers must provide proof of required cargo insurance (Certificate of Liability Insurance or Form H Uniform Motor Carrier Cargo Certification of Insurance) when they apply for a permit. In addition, carriers must have proof of cargo insurance at their main office available for inspection by commission representatives.

(4) The commission may suspend ~~((and subsequently))~~ or cancel the permit of any carrier operating without required cargo insurance coverage.

NEW SECTION

WAC 480-15-555 Criminal background checks for prospective employees. (1) Each carrier must complete a criminal background check for every person the carrier intends to hire.

(2) The carrier must keep evidence that it has completed a criminal background check for every person the carrier intends to hire for as long as that person is employed and for three years thereafter.

(3) No carrier may hire a person who has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance within the past five years.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-590 Leasing vehicles. ~~((+))~~ A carrier must ~~((file))~~ enter into an equipment lease agreement ~~((and receive commission approval))~~ before operating a leased motor vehicle. The carrier must ~~((meet all of the following requirements))~~ ensure that all of the following conditions are met:

~~((a) File a completed form provided by the commission or use an alternate form containing the same information.~~

~~((b) Sign the form and ensure the lessor signs the form.~~

~~((c) Submit two copies to the commission.~~

~~((d) Clearly mark "master lease" if the carrier intends to use a master lease instead of submitting individual leases.~~

~~((2) A carrier is not required to file a lease for approval on an emergency substitution of a disabled vehicle.)~~ (1) The carrier signs the form and ensures the lessor signs the form.

(2) The carrier marks "master lease" if the carrier intends to use a master lease instead of individual leases.

(3) A copy of the lease is carried in all leased motor vehicles.

(4) Copies of all leases are kept in the carrier's permanent files for at least one year after the lease expires.

(5) The carrier gives a copy of the lease to the owner of the leased motor vehicle.

(6) The carrier takes possession, control and use of the motor vehicle during the period of the lease agreement.

(7) The leased motor vehicle is properly insured as specified in WAC 480-15-530 and 480-15-550.

(8) The carrier properly identifies the motor vehicle as specified in RCW 81.80.305.

(9) The carrier charges appropriate tariff rates and charges.

(10) The driver of the leased motor vehicle is on the carrier's payroll during the leased period.

(11) The leased motor vehicle is operated in compliance with laws and rules as specified in WAC 480-15-560 and 480-15-570.

(12) The driver of the leased motor vehicle is subject to the company's alcohol and controlled substance policies.

(13) The carrier and the owner of the leased motor vehicle specify on the lease form who is responsible for all expenses relating to the leased motor vehicles.

(14) The carrier complies with the terms of the lease.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-620 Information household goods carriers must provide to customers. (1) Carriers must give each customer a copy of the commission publication, "~~((Year))~~ Consumer Guide to Moving in Washington State" at the time the carrier gives the customer a written estimate.

(2) The language contained in the publication is prescribed by the commission and may not be changed by the carrier.

(3) The commission will provide carriers the prescribed language but will not provide copies of the publication. Carriers are responsible for making sufficient copies for their needs.

(4) Carriers may access the prescribed language through the commission's web site at www.utc.wa.gov or by contacting the commission at 360-664-1222.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-630 Estimates. Every carrier is required to provide a written estimate to every customer prior to moving a shipment of household goods and must issue a written supplemental estimate when required by commission rule or tariff. The carrier must provide estimates by following the requirements set in the commission-published tariff covering household goods movers. The initial estimate may be a binding or nonbinding estimate.

(1) A binding estimate is the promise of a guaranteed cost of a move from the carrier to the customer. The carrier is bound to charge only the amount of the estimate and no more.

(2) A nonbinding estimate is an estimate of the amount the carrier will charge to move a customer's household goods. The customer may pay charges in excess of the estimate.

(3) A supplemental estimate is in addition to any other estimate. A supplemental estimate is required if the circumstances surrounding the move change in a way that causes rates or charges to increase. The customer must accept and sign the supplemental estimate prior to additional work being performed.

(4) A carrier may provide the hourly rate it charges and the amount of time it believes it will take to make the move. A carrier may provide the rate per unit of weight it charges and the total weight it believes a shipment weighs. However, the carrier must provide a written binding or nonbinding estimate before making the move.

(5) A carrier may not conduct a move until it has visually inspected the goods to be shipped, unless the customer completes a web site calculation or hard-copy calculation sheet as described in subsection (6) of this section, and the carrier has provided a written binding or nonbinding estimate to the customer.

(6) A carrier may provide an estimate based on a customer-completed web site calculation or customer completed hard-copy calculation sheet if:

(a) The estimate contains all of the elements required by the tariff.

(b) The customer electronically "signs" the information provided on the web site by entering the customer's name and the date the information was filled out on the screen. The date must be present and must be entered by the customer.

(c) The carrier provides the customer with a current copy of the ~~((brochure))~~ commission publication, "~~(Your)~~ Consumer Guide to Moving in Washington State."

(d) The estimate discloses at the web site or on the hard-copy calculation sheet that:

(i) The estimate is not binding.

(ii) The cost of the move may exceed the estimate.

(iii) The customer will be required to pay up to one hundred ten percent of the estimate upon delivery. Carriers must allow customers at least thirty days from the date of delivery to pay amounts in excess of the one hundred ten percent.

(iv) The customer is not required to pay more than one hundred twenty-five percent of the estimate regardless of the total cost unless the carrier issues and the customer accepts a supplemental estimate.

(7) The carrier must complete the estimates as required by tariff.

(8) All written estimates must be signed and dated by both the carrier and customer prior to the move. If the carrier completes the estimate on the day of the move, the carrier may not charge the customer for travel time to the point of origin or the time spent completing the estimate.

AMENDATORY SECTION (Amending WSR 08-02-049, filed 12/27/07, effective 1/27/08)

WAC 480-15-900 Requirements for interstate operations. General requirements: No household goods carrier may operate any motor vehicle or combination of motor vehicles over the public roads of this state in interstate commerce unless the carrier has met all of the following requirements:

(1) Obtained the appropriate operating authority from the U.S. Department of Transportation ~~((USDOT))~~ Federal Motor Carrier Safety Administration (FMCSA) or its successor agency.

(2) Obtained valid insurance as required by ~~((USDOT))~~ FMCSA.

(3) Participated in any program administered by the commission for registering, paying fees or otherwise regulat-

ing interstate motor freight carriers as provided by ~~((USDOT))~~ FMCSA or its successor agency.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-15-600 Lease responsibilities.

WSR 13-23-056 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed November 15, 2013, 3:12 p.m., effective December 16, 2013]

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

Purpose: Update department rule relating to eligibility for Gold Star special license plates to conform to recent legislation.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-545.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 13-20-139 on October 2, 2013.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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

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

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

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

Date Adopted: November 15, 2013.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-22-066, filed 11/4/08, effective 12/5/08)

WAC 308-96A-545 Gold Star ~~((Parent))~~ license plate. (1) **What is a Gold Star ~~((Parent))~~ license plate?** The Gold Star ~~((Parent))~~ license plate ~~((was created by the legislature to))~~ recognizes the ~~((parents))~~ eligible family members of United States armed forces members who have died while in service to their country or as a result of such service.

(2) **Who qualifies as ~~((a parent))~~ an eligible family member of a member of the United States armed forces?** ~~((The term "parent," as defined by the Washington state department of veterans affairs, (WDVA) includes:~~

~~((a) Birth mother;~~

~~((b) Birth father;~~

- (c) Stepmother;
- (d) Stepfather;
- (e) Mother through adoption;
- (f) Father through adoption; and

(g) Adults who fulfilled the parental role including foster parents and kinship care providers or caretaker relative. (Documentation required.)

~~(3) Who can purchase a Gold Star Parent plate? A resident of this state and a registered owner of a motorized vehicle who is a parent of a member of the United States armed forces who has died while in service to their country or as a result of such service. The parent must be certified by the WDVA.~~

~~(4)) Eligible family members are listed in RCW 46.18.245. For purposes of this section, a widow or widower includes the surviving member of a registered domestic partnership.~~

~~(3) What is required to purchase a Gold Star ((Parent)) plate? A copy of the certification letter to a qualifying widow, widower, parent, or child provided by the Washington state department of veterans affairs (WDVA) is required. The letter will be used in ((Heu of)) addition to a special plate application to purchase the plate. No other documentation is required.~~

~~((5)) (4) Can a Gold Star ((Parent)) plate be transferred to a new owner? No. The plate may only be transferred to a vehicle owned by the same registered owner who was certified as a qualifying widow, widower, parent, or child by WDVA. The plate cannot be transferred to a different registered owner. If the widow, widower, parent, or child transfers the plate to a new car registered to them, they are required to pay the plate transfer fee.~~

~~((6) What vehicles qualify to display a Gold Star Parent plate? Motorized vehicles required to display one or two license plates.~~

~~((7)) (5) What fees are required to purchase the plate? There is no special plate fee or special plate renewal fee for the Gold Star ((Parent)) plate. The registered owner must pay all licensing and filing fees.~~

~~((8)) (6) Is the plate subject to the mandatory plate replacement? Yes, the plate must be replaced every seven years due to mandatory plate replacement requirements. Customers will not be charged the plate replacement fees, or the fee to keep their same number.~~

~~((9)) (7) Can a Gold Star ((Parent)) plate background be personalized? Yes. A Gold Star ((Parent)) plate background can be personalized; however, the customer is required to pay all fees associated with a personalized plate original purchase or renewal.~~

~~((10)) (8) Is a commercial vehicle eligible for a Gold Star ((Parent)) plate as long as it is in the name of the qualifying widow, widower, parent, or child and not a business name? Yes.~~

~~((11)) (9) Can a prorated vehicle display a Gold Star ((Parent)) plate if the vehicle is under the name of the widow, widower, parent, or child that is eligible for this plate? No per chapter 46.87 RCW.~~

WSR 13-23-065
PERMANENT RULES
HEALTH CARE AUTHORITY
 (Medicaid Program)

[Filed November 18, 2013, 2:15 p.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: The proposed rules contain the following amendments necessary in restructuring the kidney disease program (KDP):

- Clarified, added, and deleted definitions and changed references from "contracted kidney centers" to "KDP contractor." This aligns with the definition of KDP contractor.
- Updated language to reflect Washington apple health (WAH) and the Washington Healthplanfinder.
- Added a general eligibility section that: (1) Clarifies what medicaid programs and other state-funded programs an applicant needs to be found ineligible for; (2) clarifies exceptions for when a client can be medicaid eligible and receive KDP funds; (3) changes income limits from a maximum dollar amount of three hundred percent of the federal poverty level (FPL) to a maximum of two hundred twenty percent of the FPL and resource limits from \$15,000 to qualified medicare beneficiary (QMB) standards; and (4) updates web link to QMB resource standards.
- Added a section describing when a client would not be eligible for KDP and clarified KDP eligibility effective date;
- Added language regarding retroactive coverage, eligibility after receiving a kidney transplant, and appeal rights.
- Added sections for household size, who is counted, income eligibility at or below two hundred twenty percent FPL, resource eligibility, and change of circumstances - when the client needs to report and what types of information they need to report.
- Separated sections for contractor and client responsibilities when it comes to applying and recertifying for the KDP.
- Clarified contractor requirements, KDP covered services, and KDP reimbursement.
- Clarified the agency's reimbursement policy for KDP contractors when a KDP client does not follow through with their recommended treatment plan in order to receive or make progress toward receiving a transplant.
- Struck section on transfer of assets and removed all references to "mandatory" and "optional" services.

Citation of Existing Rules Affected by this Order: Repealing WAC 182-540-035; and amending WAC 182-540-001, 182-540-005, 182-540-015, 182-540-025, 182-540-045, 182-540-055, and 182-540-065.

Statutory Authority for Adoption: RCW 41.05.021.

Adopted under notice filed as WSR 13-19-097 on September 18, 2013.

Changes Other than Editing from Proposed to Adopted Version: The following changes (including housekeeping changes) were made to the rule as a result of written comments received from stakeholders and other agency changes occurring January 1, 2014, which require terminology changes and/or WAC citation changes:

(1) In several places throughout the text, "client" or "clients" is changed to "person" or "persons" to more accurately reflect the fact that the individual is not a client yet.

(2) WAC 182-540-005 Definitions:

Application documentation - Definition updated to reflect WAH eligibility determination letter beginning January 1, 2014.

KDP contract manual - Definition changed to "KDP manual." The word contract is removed.

KDP contractor - Removed "Washington state" from definition.

(3) **WAC 182-540-015 Kidney disease program (KDP)—General eligibility criteria**, "clients" is changed to "persons" to more accurately reflect the fact that the individual is not a client yet.

Subsection (1)(a), Updated WAC references that were recodified by the agency and changed to Title 182 WAC: WAC 388-468-0005 is changed to WAC 182-503-0520 or 182-503-0525, chapter 388-424 WAC is changed to WAC 182-503-0520 or 182-503-0525, and WAC 388-476-0005 is changed to WAC 182-503-0515.

Subsection (1)(c), changed to read:

"Be determined ineligible for any other Washington apple health (WAH) program, including ~~medicaid under Title XIX or XXI of the Social Security Act~~; the alien medical program described in WAC 182-507-0110; the medical care services (MCS) program described in WAC 182-508-0005; ~~or~~ and another state-funded medical program with the following exceptions"

Subsection (1)(c)(iv), added "kidney" before the word center.

Subsection (1)(d), change "with" to "to." "Submit an application for medicare ~~with~~ to the Social Security Administration (SSA)"

Subsection (2)(a), made the following changes: "Become eligible for another WAC program, including ~~medicaid, the alien emergency medical program described in WAC 182-507-0110, medical care services~~ ~~or~~ and any other state-funded medical program, ..."

Subsection (3), changed cross-reference to updated agency rules: Applicants for KDP do not have to meet citizenship criteria described in ~~chapter 388-424 WAC~~ WAC 182-503-0535 to qualify for KDP.

Subsection (4), changed cross-reference to updated agency rules: Rules governing Social Security number are described in ~~WAC 388-476-0005~~ 182-503-0515.

Subsection (6), changed "medicaid or another medical program" to "another WAH program ..." as follows:

"A person who is subsequently found retroactively eligible for ~~medicaid or another medical~~ WAH program during the three-month retroactive period is not eligible for KDP reimbursement of expenses which are billable to the other ~~medical~~ WAH program."

Subsection (7), added "... the time of ..." to second sentence as follows:

"The KDP contractor is responsible for certifying that the person meets the functional criteria for ESRD at the time of application and at the time of review."

(4) **WAC 182-540-023(3)**, changed "medicaid eligible" to "eligible for Washington apple health"

(5) **WAC 182-540-026 (1)(b)(i)**, changed:

"Health benefit exchange" to "Washington Healthplanfinder."

"Medical assistance" to "Washington apple health (WAH)," and "medical application" to "application for WAH."

(6) **WAC 182-540-026 (1)(b)(ii)**, updated the references to medical assistance and health benefit exchange as follows:

"Submit an application for ~~medical assistance~~ WAH with to DSHS and/or the health benefit exchange via the Washington Healthplanfinder, as applicable, and provide the ~~kidney center~~ KDP contractor with a copy of the application documentation when an eligibility determination has been made; and"

Subsection (2)(b) and (3), changed "kidney center" to "KDP contractor."

(7) **WAC 182-540-055 (1)(e) and (f), Kidney disease program (KDP) covered services:**

Changed as follows: "(e) Pretransplant work-up including, but not limited to dental treatment, transportation, lodging, and physician visits; ~~and~~" *Dental treatment falls under (i) Other services as approved by the agency's KDP program manager.*

"(f) Post-transplant visit to assess client's ESRD status to include, but is not limited to, transportation, lodging, and physician visits;"

(8) **WAC 182-540-060 (1)(c), (2)(b), (6), Kidney disease program (KDP) client appeal rights**, changed "contractor" to "KDP contractor."

(9) **WAC 182-540-065 (1)(c), Kidney disease program (KDP)—Reimbursement**, changed "KDP contract manual" to "KDP manual" to match change in defined term.

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 6, Amended 7, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 6, Amended 7, Repealed 1.

Date Adopted: November 18, 2013.

Kevin M. Sullivan
Rules Coordinator

KIDNEY DISEASE PROGRAM (STATE-FUNDED)

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

WAC 182-540-001 Purpose. This ~~((section))~~ chapter (WAC ~~((388-540-001))~~ 182-540-001 through ~~((388-540-065))~~ 182-540-065) contains rules for the state-funded kidney disease program (KDP) administered by the health care authority (the agency). The ~~((kidney disease program))~~ KDP is ~~((designed to help clients))~~ available for persons who have end-stage renal disease~~(-)~~ requiring dialysis or kidney transplant, or persons who have received a kidney transplant but who do not meet the eligibility standards for any other Washington apple health program including medicaid or state-only funded medical programs.

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

WAC 182-540-005 Kidney disease program (KDP)—Definitions. The following definitions and those found in chapter 182-500 WAC ~~((388-500-0005))~~, apply to this chapter for the purpose of administering the kidney disease program.

~~("Adequate consideration" means that the reasonable value of goods or services received in exchange for transferred property approximates the reasonable value of the property transferred;)~~

"Affiliate" ~~((means a))~~—A facility, hospital, unit, business, or person having an agreement with a kidney center to provide specified services to ESRD patients;

~~("Application for eligibility" means the form provided by MAA, which the client completes and submits to the contracted kidney center to determine KDP eligibility;)~~

"Applicant for KDP" - A person who submits a new application for assistance under the kidney disease program (KDP), or an existing client who has had a break in eligibility of over thirty days;

"Application documentation" ~~((means either a))~~—A ~~((medicaid))~~ medical eligibility determination letter from the department of social and health services (DSHS) ~~((community services office, or a KDP "client recertification waiver" form.~~

"Assets" means income, resources, or any real or personal property that a person or the person's spouse owns and could convert to cash to be used for support or maintenance) and/or a Washington apple health (WAH) eligibility determination letter from the health care authority (the agency) either approving or denying an application for WAH;

"Certification" ~~((means))~~—The kidney center or affiliate has determined a ~~((client))~~ person eligible for the KDP for a defined period of time;

"End-stage renal disease (ESRD)" ~~((means that))~~—The stage of renal impairment which is irreversible and permanent, and requires dialysis or kidney transplant to ameliorate uremic symptoms and maintain life. For purposes of the KDP, this includes persons who have received a transplant;

~~("KDP application period" means the time between the date the client signed the completed application for eligi-~~

bility and the date the client is certified for participation in the program;)

"KDP application" - The agency Form 13-566 which the person completes and submits to the KDP contractor to determine KDP eligibility;

"KDP client" ~~((means a resident of the state))~~—A person who has a diagnosis of ESRD or had a diagnosis of ESRD and has received a kidney transplant and ~~((meets the financial and medical eligibility criteria))~~ has been determined eligible for the kidney disease program as determined by a KDP contractor;

~~("KDP client recertification waiver for medicaid review" means a KDP eligibility form that may in some circumstances be used in place of a "medicaid medical assistance determination letter."~~

~~"KDP contract manual" means a set of policies and procedures for contracted kidney centers;)~~

"KDP contractor" ~~((means a))~~—A kidney center or other ESRD facility that has contracted with the ~~((Washington state department of social and health services (DSHS)))~~ health care authority (the agency), kidney disease program to provide ESRD~~((related))~~ services to KDP clients~~(-)~~;

"KDP manual" - A manual that describes the KDP contract guidelines and procedures for a KDP contractor;

"Kidney center" ~~((means a))~~—A facility as defined and certified by the federal government to~~(-~~

(1)) provide ESRD services~~(;~~

(2) Promote and encourage home dialysis for a client when medically indicated; and

(3) For the purposes of WAC 388-540-032 through 388-540-060, it is a facility that has entered into a contract with Washington state department of social and health services (DSHS), kidney disease program to provide ESRD related services).

"Kidney disease program (KDP)" ~~((means a))~~—A state-funded program managed by the Washington state health care authority that provides financial assistance to eligible ~~((clients with))~~ persons for the costs of ESRD~~((related))~~ medical care;

~~("Medicaid medical assistance determination letter" means a medical assistance client eligibility letter from the DSHS community services office.~~

"Resident" means a person who lives in Washington state on more than a temporary basis.

"Substantial financial change" means the increase or decrease of income or assets that may affect eligibility;)

"Spendedown" - The process by which a person uses incurred medical expenses to offset income to meet the financial standards established by the agency. (See WAC 182-519-0110.)

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

WAC 182-540-015 ((Client eligibility for)) Kidney disease program (KDP)—General eligibility criteria. ~~((Clients))~~ (1) Persons must meet the following criteria to be ~~((considered))~~ eligible for the kidney disease program (KDP) ~~((eligible))~~:

~~((1) Be a)) (a) Reside in the state of Washington ((state resident)) as required under WAC 182-503-0520 or 182-503-0525;~~

~~((2)) (b) Be diagnosed with end-stage renal disease (ESRD) requiring dialysis or kidney transplant as defined in WAC 182-540-005 or have received a kidney transplant;~~

~~((3)) (c) Be determined ineligible for any other Washington apple health (WAH) program, including medicaid;~~

~~((4) Exhaust or be ineligible for all other resources providing similar benefits;~~

~~((5)) the alien medical program described in WAC 182-507-0110; the medical care services (MCS) program described in WAC 182-508-0005; and another state-funded medical program with the following exceptions:~~

~~(i) Persons who are found eligible for the medically needy (MN) program but are required to meet the spenddown liability under WAC 182-519-0110 or who are found or become eligible for the alien emergency medical programs described in WAC 182-507-0110, are eligible for KDP until the spenddown liability has been met;~~

~~(ii) A KDP contractor may use KDP funding as available to pay for medical expenses on behalf of a spenddown client as expenses are incurred by the person, and those expenses will be treated as if the person incurred the financial liability for the expense;~~

~~(iii) When a KDP contractor uses KDP funding to pay for monthly health insurance premiums (including WSHIP premiums) on behalf of a spenddown client, those committed funds may continue to be paid even if the person becomes eligible for MN coverage by meeting the spenddown liability. Payment may continue until the person is no longer otherwise eligible for KDP or until the person applies to the agency and is found eligible for assistance in paying the premiums;~~

~~(iv) A KDP contractor may use KDP funding to pay for premiums under the health care for workers with disabilities program described in chapter 182-511 WAC if it is cost-effective for the kidney center and KDP funds are available.~~

~~(d) Submit an application for medicare to the Social Security Administration (SSA) within thirty calendar days of applying for KDP and provide the KDP contractor with a copy of SSA's approval or denial determination notice with the following exceptions:~~

~~(i) Clients that have any employer group health plan (EGHP) or COBRA plan; and~~

~~(ii) Clients who are still within the thirty-month EGHP period.~~

~~(e) Have countable income which is equal to or less than~~

~~((a)) two hundred twenty percent of the federal poverty level (FPL) ((€));~~

~~((b) Three hundred percent of the FPL with an annual deductible required equal to the income amount which is in excess of two hundred percent of the FPL.~~

~~((6)) (f) Have countable resources ((that are either equal to or less than fifteen thousand dollars, or are exempt. Exempt resources are:~~

~~(a) A home, defined as real property owned by a client as principal place of residence together with surrounding and contiguous property, not to exceed five acres;~~

~~(b) Household furnishings; and~~

~~(e) An automobile.~~

~~((7)) in an amount that is equal to or less than the resource standards under the qualified medicare beneficiary (QMB) program. Resource rules are defined in WAC 182-540-030;~~

~~(g) Report changes in circumstances as required under WAC 182-540-023.~~

~~(2) Persons are not eligible for KDP if they:~~

~~(a) Become eligible for another WAH program, including medicaid, the alien emergency medical program described in WAC 182-507-0110, medical care services and any other state-funded medical program, with the exceptions described in subsection (1)(c) of this section;~~

~~(b) Fail to apply for medicare within thirty days of being approved for KDP, or fail to follow through with the medicare application process required by the Social Security Administration;~~

~~(c) Are in custody of, or confined in, a public institution such as a state penitentiary or county jail;~~

~~(d) Reside in an institution for mental disease and are twenty-one through sixty-four years of age.~~

~~(3) Applicants for KDP do not have to meet citizenship criteria described in WAC 182-503-0535 to qualify for KDP.~~

~~(4) When a Social Security number has been issued to a person, it must be provided to the KDP contractor. Rules governing Social Security numbers are described in WAC 182-503-0515.~~

~~(5) The effective date of eligibility for KDP is the first day of the month in which the ((application for eligibility is signed by the client)) person submits the KDP application form, if eligible. A person may be eligible for retroactive coverage for expenses incurred within the three months immediately prior to the KDP application if the person:~~

~~(a) Meets the KDP financial eligibility criteria in this section;~~

~~(b) Has a diagnosis of ESRD requiring dialysis or kidney transplant as defined in WAC 182-540-005 or has received a kidney transplant; and~~

~~(c) Has incurred medical expenses potentially payable by the kidney disease program during the three-month retroactive period.~~

~~(6) A person who is subsequently found retroactively eligible for another WAH program during the three-month retroactive period is not eligible for KDP reimbursement of expenses which are billable to the other WAH program. KDP funds spent on the person's behalf must be reimbursed to the KDP with the following exceptions:~~

~~(a) Transportation expenses;~~

~~(b) Health insurance premiums;~~

~~(c) Expenses paid by the KDP which were used to meet a spenddown liability.~~

~~(7) There is no time limit on how long a person may be eligible for KDP as long as the person continues to meet ESRD criteria. The KDP contractor is responsible for certifying that the person meets the functional criteria for ESRD at the time of application and at the time of review.~~

~~(8) Persons who have received a kidney transplant are eligible for KDP until they no longer meet the requirements as described in this section.~~

(9) Persons who are aggrieved by a decision affecting eligibility for KDP have the right to an administrative hearing. See WAC 182-540-0060.

NEW SECTION

WAC 182-540-021 Kidney disease program (KDP)—Household size. (1) Household size is used to determine the appropriate income standard for KDP eligibility and also whose income must be counted or not counted.

(2) The following members of a person's household must be included when determining the household size:

- (a) The applicant's spouse if living in the same home;
- (b) Dependent children eighteen years of age and younger with no income who live in the same household and for whom the person is legally responsible;
- (c) Children nineteen through twenty-one years of age who are attending full-time school or college; and
- (d) Any other members of a person's household that the person claimed as a dependent on their most recent federal income tax return.

(3) Children eighteen years of age and younger who have income or separate resources which may make an applicant ineligible for KDP may be included or excluded from the household size determination, depending on what is most beneficial for the KDP applicant. If a child is included in the household size, then their income and/or resources are also counted.

NEW SECTION

WAC 182-540-022 Kidney disease program (KDP)—Income eligibility. (1) A household must have net countable income at or below two hundred twenty percent of the federal poverty level in order for a person to be eligible for the kidney disease program (KDP). See WAC 182-540-021 to determine who must be included in the household and whose income counts.

(2) The KDP contractor makes the determination of the household's income based upon the information reported in the KDP application and may request additional verification if the information in the application is not clear. A KDP applicant must provide verification of all household income (and expenses, if self-employed) to the KDP contractor in order for eligibility for KDP to be determined.

(3) The following income is not counted:

- (a) Fifty percent of the gross earned income of any person included in the household size;
- (b) Income received by a dependent child eighteen years of age and younger who is not included in the household size;
- (c) Any income source which is specifically excluded by federal law.

(4) The agency follows rules for SSI-related medicaid described in chapter 182-512 WAC to determine what income types count when determining eligibility for KDP.

NEW SECTION

WAC 182-540-023 Kidney disease program (KDP)—Change of circumstances. (1) A person who is approved for KDP is required to report changes in their circumstances to

the KDP contractor within thirty days of the date of the change. The person is required to report the following changes:

(a) When total income for household members included in the KDP household size goes above two hundred twenty percent FPL and the change is expected to last for thirty calendar days or longer;

(b) When countable resources exceed the standards described in WAC 182-540-030;

(c) When there is a change in household members or household size;

(d) When the person is determined eligible for medicare; or

(e) When the person is no longer a resident in the state of Washington.

(2) If the change in circumstances reflects a change in the person's KDP eligibility, the person is required to fill out and submit a new KDP application, with a new effective date reflecting the changes made. The KDP contractor will end the person's previous application.

(3) If the person fails to report their change in circumstance which would result in the person's ineligibility for the program, the KDP contractor is not liable for paying expenses on the person's behalf. If expenses are paid on behalf of a person who is not eligible for KDP or eligible for Washington apple health, the requirements in WAC 182-502-0160 billing a client, do not apply.

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

WAC 182-540-025 Kidney disease program (KDP) (~~eligibility determination~~)—Application and recertification requirements—KDP contractor. (~~The kidney center and client~~) When a person applies for the kidney disease program (KDP), the KDP contractor must (~~comply with the following rules to determine KDP eligibility~~):

(1) (~~The KDP contractor must:~~

(a)) Inform the (~~client~~) applicant of the requirements for KDP eligibility as defined in this chapter (~~and~~), provide the (~~client~~) applicant with the necessary (~~department~~) forms and instructions(;

(b) ~~Determine client eligibility using department policies, rules, and instructions; and~~

(c) ~~Forward the completed application for eligibility, and the application documentation to the KDP program manager at the medical assistance administration (MAA). (The KDP program manager may amend or terminate a client's certification period within thirty days of receipt if the application is incomplete or inaccurate.)~~

(2) A person applying for KDP must:

(a) Complete the application for eligibility and submit any necessary documentation to the kidney center;

(b) Apply for medicaid, obtain a written medicaid medical assistance determination letter, submit a copy to the kidney center; and

(c) Apply for medicare.

(3) A client reapplying for continued eligibility must:

(a) Complete the KDP application for eligibility and submit any documentation necessary to determine eligibility to the kidney center;

(b) Apply for medicaid forty five days before the end of the KDP certification period, obtain a written medicaid eligibility determination, and submit a copy to the kidney center; or

(c) Have applied for medicaid within the previous five years and continue to be ineligible.

(4) The KDP application period is:

(a) One hundred and twenty days for a new client; and

(b) Forty five days prior to the end of a certification period for a client requesting recertification.

(5) The KDP contractor may request an extension of application time limits from MAA when extenuating circumstances prevent the client from completing the application or recertification process within the specified time limits.

(6) The KDP contractor certifies the client for no more than one year from the first day of the month of application, unless the client:

(a) Needs medical coverage for less than one year; or

(b) Has a substantial financial change, in which case the client must complete a new application for eligibility;)) to complete the KDP application, and provide the applicant with a copy of the person's rights and responsibilities.

(2) If required, help the applicant submit an application for medical benefits with the department of social and health services (DSHS) community services office or the health benefits exchange.

(a) The KDP contractor must obtain the person's application documentation from DSHS or the health benefits exchange and keep a copy in the person's record.

(b) The KDP contractor may authorize KDP payment pending the outcome of the medical application; however, if the person is subsequently approved for medical coverage for any month in which KDP funds were authorized, those expenses must not be billed to KDP. If KDP has already reimbursed those funds, the contractor must refund the KDP, subject to exceptions for transportation expenses, health insurance premiums, and expenses paid by the KDP which were used to meet a spenddown liability as described in WAC 182-540-015 (6)(a), (b), and (c).

(3) Inform the applicant of the requirement to apply for medicare and help with the application process. The KDP contractor must obtain a copy of the Social Security Administration's (SSA's) approval or denial of medicare entitlement and keep a copy in the person's record once a determination has been made by SSA.

(4) Determine eligibility using the agency's policies, rules, and instructions and provide the applicant with a timely written approval or denial notice within no more than sixty calendar days from the date of the KDP application.

(5) The KDP contractor may request an extension of the application time from the KDP program manager when extenuating circumstances prevent the person from completing the application or recertification process within the specified time limit.

(6) Forward the completed KDP application and the application documentation to the KDP program manager at the health care authority (HCA). The KDP program manager

may amend or terminate a person's certification period within thirty calendar days of receipt if the application is incomplete or inaccurate.

(7) The KDP contractor certifies an eligible person for no more than one year from the first day of the month of application, unless the client:

(a) Needs medical coverage for less than one year; or

(b) Reports a change as described in WAC 182-540-0023 that makes the person ineligible for KDP.

(8) Within sixty calendar days prior to the end of a person's certification period, the KDP contractor must assist a person with completing a recertification for KDP. To be eligible for ongoing KDP funding, a person must meet the requirements described in WAC 182-540-026(2).

NEW SECTION

WAC 182-540-026 Kidney disease program (KDP)—Application and recertification requirements—Client. (1) An applicant for KDP must:

(a) Complete the KDP application form and submit any necessary documentation to the KDP contractor in order to make an eligibility determination;

(b) Do one of the following:

(i) Provide application documentation from the department of social and health services (DSHS) or the Washington Healthplanfinder verifying that the applicant applied for Washington apple health (WAH) within the six-month period prior to the month of application for KDP, and that the application for WAH was denied due to an eligibility requirement and not because the person failed to complete the application process; or

(ii) Submit an application for WAH to DSHS and/or via the Washington Healthplanfinder, as applicable, and provide the KDP contractor with a copy of the application documentation when an eligibility determination has been made; and

(c) Apply for medicare within thirty calendar days of applying for KDP and provide written proof from the Social Security Administration that the application was approved or denied. A copy of the proof must be kept in the person's record.

(2) At the end of the KDP certification period, a person may reapply for continued KDP eligibility. To complete the recertification, the client must:

(a) Complete a new KDP application no later than thirty calendar days beyond the end of the original certification period and submit any documentation necessary to determine eligibility to the KDP contractor; and

(b) Submit a new application for WAH and provide a copy to the KDP contractor.

(3) A person who fails to follow through with the required application or recertification processes or fails to provide requested verifications within the time limits requested by the KDP contractor is not eligible for KDP funding and the application will be denied.

NEW SECTION

WAC 182-540-030 Kidney disease program (KDP)—Resource eligibility. (1) The person's household must have countable resources at or below the limits established for the

qualified medicare beneficiary (QMB) program for the person to be eligible for the kidney disease program. QMB resource standards for an individual and a couple are listed at: <http://www.hca.wa.gov/medicaid/eligibility/documents/incomestandards.pdf>.

(2) See WAC 182-540-021 to determine who must be included in the household when making a determination of whose resources count.

(3) The following resources are not counted:

(a) A home, defined as real property owned by a client as their principal place of residence together with surrounding and contiguous property;

(b) Household furnishings;

(c) One burial plot per household member or irrevocable burial plans with a mortuary;

(d) Up to one thousand five hundred dollars for a person or three thousand dollars for a couple set aside in a revocable burial account;

(e) Any resource which is specifically excluded by federal law.

(4) The agency follows rules for SSI-related medicaid determinations described in WAC 182-512-0200 through 182-512-0550 when determining whether any other resources are countable with the exception of subsection (5) of this section.

(5) The agency follows rules in chapter 182-515 WAC when a person owns a trust, an annuity, or a life estate.

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

WAC 182-540-045 Kidney disease program (KDP) (~~provider~~) contractor requirements. (1) The kidney disease program (KDP) contractor must:

(a) Be a medicare-certified end-stage renal disease (ESRD) facility; and

(b) Have a valid KDP client services contract with the (~~department~~) agency.

(2) The KDP contractor must provide, directly or through an affiliate:

(a) Professional consultation, personal instructions, medical treatment and care, drug products and all supplies necessary for carrying out a (~~medically sound~~) medically sound end-stage renal disease (ESRD) treatment program;

(b) Dialysis for clients with ESRD when medically indicated;

(c) Coordination of care with a kidney transplant (~~treatment, either directly or by referral, when medically indicated~~) center;

(d) Treatment for conditions directly related to ESRD such as anemia (~~or venous access infections~~), vascular, or peritoneal access care; and

(e) Supplies and equipment for home dialysis.

(3) The provider must maintain adequate records for audit and review purposes, including:

(a) Medical charts and records that meet the requirements of WAC (~~388-502-0020~~) 182-502-0020; and

(b) (~~Eligibility determination records~~) Documentation of expenses and amounts paid by the KDP to assist clients in

meeting a spenddown requirement as described in WAC 182-519-0100.

(4) The contractor must meet other obligations as required by (~~their~~) its contract with the KDP program.

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

WAC 182-540-055 Kidney disease program (KDP) covered services. (1) The kidney disease program (KDP) (~~program~~) covers the cost of health care services essential to the treatment of end-stage renal disease (ESRD) and its complications. Within available funding and at the discretion of the KDP contractor covered services include:

(~~(1) Mandatory services that must be provided by the KDP contractor;~~)

(a) Dialysis:

(i) Center dialysis(~~(—)~~) Covers the cost of dialysis, necessary supplies, and related services provided in a kidney center;

(ii) Home dialysis(~~(—)~~) Covers the cost of providing dialysis and related services in the home; and

(iii) Dialysis while hospitalized(~~(—)~~) Covers the cost of dialysis and related services while the KDP client is confined to an acute care facility and is unable to dialyze at his/her regular site.

(b) Medication(~~(—)~~) As defined in the approved drug list in the KDP manual(~~(-~~

2) Optional services that may be provided by the KDP contractor:

(a) Venous);

(c) Access surgery(~~(—)~~) (venous and peritoneal) - Covers costs associated with surgically preparing the client for dialysis and medical complications related to the (~~venous~~) access site;

(~~(b))~~) (d) Laboratory tests and X rays considered to be part of the overall treatment plan for ESRD;

(~~(e) Post-transplant visit to assess client's ESRD status~~)

(e) Pretransplant work-up including, but not limited to, transportation, lodging, and physician visits; (~~and~~

~~(d) Health insurance premiums including copays and deductibles, when found to be cost-effective.~~) (f) Post-transplant visit to assess client's ESRD status to include, but is not limited to, transportation, lodging, and physician visits;

(g) Health insurance premium including copays and deductibles when found to be cost-effective;

(h) Spenddown expenses when found to be cost-effective; and

(i) Other services as approved by the agency's KDP program manager.

(2) If the KDP pays for medical and dental services required to receive a transplant, and the KDP client does not follow through with their recommended treatment plan in order to receive or make progress towards receiving a transplant, the KDP contractor must submit a request for a determination of noncompliance to the agency's KDP manager. If the request is approved, KDP funds must not be used for any follow-up or additional services. Once the KDP client makes progress with their treatment plan, the agency may rereview the request.

NEW SECTION**WAC 182-540-060 Kidney disease program (KDP) client appeal rights.** (1) Clients have the right to appeal:

(a) KDP eligibility decisions made by the person's KDP contractor;

(b) Coverage decisions made by the contractor or the first decision submitted by the agency for medical services or devices that are not considered to be for the treatment of the person's ESRD diagnosis; or

(c) The denial, made by the KDP contractor, of services found in WAC 182-540-055(1) which have been denied by a KDP contractor.

(2) Clients do not have the right to appeal:

(a) Reimbursement based on covered or noncovered procedure codes or rates; or

(b) The KDP contractor's decision to not cover services found in WAC 182-540-055(1) when the KDP contractor has gone over its KDP allotted funding.

(3) A client who is aggrieved by a decision made by the KDP contractor may request review of the decision to the agency within thirty days of receiving the notice of the decision by sending a written request for review to the agency's KDP Program Manager, Health Care Authority, P.O. Box 45510, Olympia, WA 98504-5510.

(4) The request for review must clearly identify the name and address of the client requesting the review.

(5) Within thirty days of receiving the request for review, the KDP program manager will send the client a written decision. Failure to request review does not prevent the client from appealing the decision under subsection (6) of this section.

(6) Within ninety days of receiving the KDP contractor's or the KDP program manager's written decision, the client can appeal the decision by sending a written request for hearing to the Health Care Authority, P.O. Box 45504, Olympia, WA 98504-5540.

(7) The request for hearing:

(a) Must clearly identify the name, address, and telephone number of the client requesting the hearing;

(b) Should include a copy of the KDP program manager's written decision which the client is appealing.

(8) The hearing is usually conducted by telephone by an agency presiding officer in accordance with WAC 182-526-0025(1). The client requesting the hearing is responsible for making sure that the agency's presiding officer has the correct telephone number to contact the party for the hearing.

(9) The agency's presiding officer may refer the case in writing to the office of administrative hearings when the:

(a) Client requests an in-person hearing to accommodate a disability; and

(b) The presiding officer determines that the agency does not have the resources needed to conduct the in-person hearing.

(10) When an administrative law judge (ALJ) employed by the office of administrative hearings conducts the hearing on behalf of the agency, the ALJ issues an initial order in accordance with WAC 182-526-0025(1) and 182-526-0215(4). Any party may appeal the initial order to an agency review judge in accordance with WAC 182-526-0575.

(11) When a presiding officer employed by the agency conducts the hearing, the agency's presiding officer issues a final order. Any party may request reconsideration of the final order in accordance with chapter 182-526 WAC. The party who requested the hearing, but not the agency, may file a petition for judicial review as provided in WAC 182-526-0605 and 182-526-0620.

(12) The hearing rules found in chapter 182-526 WAC apply to any administrative hearing requested in accordance with subsection (6) of this section. Where the program rules in this chapter conflict with the hearing rules contained in chapter 182-526 WAC, the program rules in this chapter prevail.

(13) Failure to timely request a hearing will result in the loss of right to appeal.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)**WAC 182-540-065 Kidney disease program (KDP)—Reimbursement.** (1) The ~~((medical assistance administration (MAA)))~~ agency reimburses KDP contractors:

(a) Within the limits of legislative funding for the program;

(b) According to the terms of each kidney center's contract with the ~~((department))~~ agency; and

(c) According to the provisions of the KDP ~~((contract))~~ manual.

(2) The KDP contractor must submit the following documentation to ~~((MAA))~~ the agency's KDP program manager within the time limits specified within the KDP contract:

(a) A description of the services for which reimbursement is requested; and

(b) ~~((Statement of client's financial eligibility for the KDP.~~

~~((MAA)))~~ The person's approved KDP application if the application had not previously been provided to the KDP program manager.

(3) A KDP client is not liable and must not be billed for charges incurred under KDP due to the failure of the KDP contractor to bill the agency within the time limits specified in the contract.

(4) The agency limits KDP reimbursement for out-of-state services to fourteen days per calendar year. Reimbursement is paid only to KDP contractors. Out-of-state dialysis providers must operate under subcontract or agreement with an in-state KDP contractor in order to receive reimbursement under this program.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-540-035 Kidney disease program (KDP)—
Transfer of resources without adequate consideration.

WSR 13-23-075
PERMANENT RULES
DEPARTMENT OF
EARLY LEARNING

[Filed November 19, 2013, 10:23 a.m., effective December 20, 2013]

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

Purpose: To align chapter 170-297 WAC with department of health changes to chapter 246-110 WAC by replacing references to "communicable disease" with "contagious disease." To clarify rules on the requirement for directors, site coordinators, and lead teachers to complete twenty hours of state registry training system (STARS) training.

Citation of Existing Rules Affected by this Order: Amending WAC 170-297-1720, 170-297-1775, 170-297-2250, 170-297-3200, 170-297-3210, and 170-297-4850.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070; chapter 43.215 RCW.

Adopted under notice filed as WSR 13-20-083 on September 30, 2013.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, 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 6, Repealed 0.

Date Adopted: November 18, 2013.

Elizabeth M. Hyde
 Director

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-1720 Lead teachers. (1) Lead teachers may be employed to be in charge of a child or a group of children.

(2) The lead teacher must have the understanding, ability, physical health, emotional stability and good judgment to meet the needs of the children in care.

(3) Lead teachers must:

- (a) Be eighteen years of age or older;
- (b) Have one year experience in school-age care;
- (c) Have a TB test as required under WAC 170-297-1750;
- (d) Have a background clearance as required under chapter 170-06 WAC;
- (e) Have current CPR and first-aid certification as required under WAC 170-297-1825;
- (f) Complete HIV/AIDS training and annual bloodborne pathogens training as required under WAC 170-297-1850;
- (g) Have a high school diploma or equivalent;

(h) Complete twenty hours of STARS training within ~~((six))~~ three months of assuming the position of lead teacher;

(i) Complete ongoing training hours as required under WAC 170-297-1800;

(j) Have a food worker card, if applicable; and

(k) Attend an agency orientation as required under WAC 170-297-5800.

(4) Lead teachers are counted in the staff-to-child ratio.

(5) When the site coordinator is off-site or unavailable, lead teachers may assume the duties of site coordinator when they meet the site coordinator minimum qualifications, and may also serve as child care staff when the role does not interfere with management and supervisory responsibilities.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-1775 Basic twenty hour STARS training. (1) Prior to working unsupervised with children the director, site coordinator, and lead teacher must register in MERIT ~~((and~~

~~((+)))~~.

(2) The director, site coordinator, and lead teacher must complete the basic twenty hours of STARS training~~((=or~~

~~((2)))~~ within three months of assuming the position.

(3) If the director, site coordinator, or lead teacher qualifies for an exemption to the STARS training requirement, he or she must request an exemption to the ~~((STARS training))~~ requirement within ten days of assuming the position.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-2250 Reporting incidents to a child's parent or guardian and the department. (1) The licensee or designee must report to a child's parent or guardian and the department:

(a) Immediately:

(i) Any incident reported under WAC 170-297-2200, after calling 911;

(ii) Any incident reported under WAC 170-297-2225, after calling 911 and Washington poison center;

(iii) A child's demonstrated acts, gestures or behaviors that may cause serious intentional harm to self, others or property; and

(iv) Use of physical restraint on a child;

(b) Within twenty-four hours:

(i) Injury or other health concern to a child that does not require professional medical treatment (report to parent only);

(ii) Change in child care staff that may impact child care staffing;

(iii) Change in the program phone number or e-mail; and

(iv) Child's exposure to a reportable ~~((communicable))~~ contagious disease from the list in WAC 246-110-010~~((+))~~.

(2) The licensee must notify the department when liability insurance coverage terminates within thirty days of termination.

(3) The licensee must give a child's parent or guardian written notice when liability insurance coverage lapses or is terminated within thirty days of lapse or termination.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-3200 Health plan. (1) A written health plan must be in place for the program and contain the following:

- (a) ~~((Communicable))~~ Contagious disease notification under WAC 170-297-3210;
- (b) Exclusion of ill person under WAC 170-297-3210;
- (c) Exclusion of person diagnosed with a notifiable condition under WAC 170-297-2325;
- (d) Immunization tracking under WAC 170-297-3250 through 170-297-3300;
- (e) Medication management under WAC 170-297-3315 through 170-297-3550;
- (f) Medication storage under WAC 170-297-3325;
- (g) Injury treatment under WAC 170-297-3575 through 170-297-3600;
- (h) Abuse and neglect protection and training under WAC 170-297-6275;
- (i) Caring for children with special needs under WAC 170-297-0050;
- (j) Care for animals on the premises;
- (k) Handwashing and hand sanitizers under WAC 170-297-3625 through 170-297-3650;
- (l) Food and food services;
- (m) How general cleaning will be provided and how areas such as food contact surfaces, kitchen equipment, toys, and toileting equipment, will be cleaned and sanitized; and
- (n) Cleaning and sanitizing laundry under WAC 170-267-3850.

(2) The health plan must be reviewed and dated by a physician, a physician's assistant, or a registered nurse and submitted to the department every three years.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-3210 ~~((Communicable))~~ Contagious disease procedure. (1) When a licensee or program staff person becomes aware that any program staff person or child in care has been diagnosed with any of the ~~((communicable))~~ contagious diseases as defined in WAC 246-110-010, the licensee or designee must:

- (a) Notify parents or guardians of each of the children in care within twenty-four hours; and
- (b) Follow the health policy before providing care or before readmitting the program staff person or child into the child care.

(2) The licensee's health policy must include provisions for excluding or separating a child or program staff person with a ~~((communicable))~~ contagious disease. Children with any of the following symptoms must be excluded from care until guidelines permit readmission:

- (a) Fever of one hundred one degrees Fahrenheit or higher measured orally, or one hundred degrees Fahrenheit or higher measured under the armpit (axially), if the individual also has:
 - (i) Earache;
 - (ii) Headache;
 - (iii) Sore throat;

- (iv) Rash; or
- (v) Fatigue that prevents the individual from participating in regular activities;
- (b) Vomiting that occurs two or more times in a twenty-four hour period;
- (c) Diarrhea with three or more watery stools, or one bloody stool, in a twenty-four hour period; or
- (d) Drainage of thick mucus or pus from the eye.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-4850 Pet and other animal health and safety. (1) Pets that have contact with children must:

- (a) Have current immunizations for ~~((communicable))~~ contagious diseases;
 - (b) Show no signs of disease, worms or parasites; and
 - (c) Have veterinarian documentation that the pet is non-aggressive.
- (2) Children and program staff must wash their hands as required under WAC 170-297-3650 before and after handling or feeding pets or handling pet toys or equipment.
- (3) Programs that are on school district property must follow the school district's policy for pets.

WSR 13-23-078
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed November 19, 2013, 11:10 a.m., effective December 20, 2013]

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

Purpose: Amends WAC 181-01-002 creating consistency in rules governing alternative and equivalent assessments to the WEST B. Equivalent tests to the WEST B may be submitted section-by-section.

Citation of Existing Rules Affected by this Order: Amending WAC 181-01-002.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 13-20-060 on September 26, 2013.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

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

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

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

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

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

Date Adopted: November 14, 2013.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 13-16-051, filed 8/1/13, effective 9/1/13)

WAC 181-01-002 WEST-B exemptions. (1) Candidates who are prepared and/or certified out-of-state applying for a Washington state residency teaching certificate under WAC 181-79A-257 (1)(b) or 181-79A-260, or out-of-state candidates applying to masters-degree level teacher preparation programs residing outside of the state of Washington at time of application, in lieu of passing the WEST-B, may present evidence of passing an alternative assessment per WAC 181-01-0025, or may provide official documentation of scores on the Praxis I or the California basic educational skills test (*CBEST*[®]) or the *NES*[®] Essential Academic Skills test which meet the minimum passing scores adopted by the professional educator standards board. A candidate may substitute a passing score on one or more sections of the Praxis I, *CBEST*[®] or *NES*[®] EAS for the equivalent passing score on the WEST-B.

(2) Candidates applying for a Washington state residency or professional teaching certificate under WAC 181-79A-257 (1)(b) who hold a certificate through the National Board for Professional Teaching Standards are exempt from the WEST-B requirement.

WSR 13-23-084

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed November 19, 2013, 2:12 p.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: Corrects an error in chapter 51-51 WAC, Table R302.1(2) Exterior Walls - Dwellings with fire sprinklers, to specify fire resistance rating for walls is determined based on exposure to the outside, not both sides.

Amends chapter 51-51 WAC Section R-0302 to provide two exceptions to the requirement for floor assemblies to be fire resistance rated in two-family dwellings. If automatic sprinklers are present in both dwelling units, or if the required smoke alarms in both dwelling units are interconnected such that the actuation of one of the alarms will activate all alarms in both dwelling units, then the floor assemblies are not required to be fire resistance rated.

Citation of Existing Rules Affected by this Order: Amending WAC 51-51-0302.

Statutory Authority for Adoption: Chapter 19.27A RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 13-16-087 on August 6, 2013.

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

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

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

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

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

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

Date Adopted: November 8, 2013.

C. Ray Allhouse
Council Chair

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

WAC 51-51-0302 Section R302—Fire-resistant construction.

R302.1 Exterior walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1); or *dwellings* equipped throughout with an *automatic sprinkler system* installed in accordance with Section P2904 shall comply with Table R302.1(2).

- EXCEPTIONS:
1. Walls, projections, openings or penetrations in walls perpendicular to the line used to determine the fire separation distance.
 2. Walls of dwellings and accessory structures located on the same lot.
 3. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.
 4. Detached garages accessory to a dwelling located within 2 feet (610 mm) of a lot line are permitted to have roof eave projections not exceeding 4 inches (102 mm).
 5. Foundation vents installed in compliance with this code are permitted.

TABLE R302.1(1)
EXTERIOR WALLS

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1-hour tested in accordance with ASTM E 119 or UL 263 with exposure from both sides	< 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Projections	Fire-resistance rated	1 hour on the underside ^{a, b}	≥ 2 feet to < 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Openings in walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area per story	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 5 feet
		None required	5 feet

For IS: 1 foot = 304.8 mm. N/A = Not Applicable

((a-))^a Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

((b-))^b Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided no gable vent openings are installed.

Table R302.1(2)
Exterior Walls—Dwellings with Fire Sprinklers

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1-hour tested in accordance with ASTM E 119 or UL 263 with exposure from ((both sides)) <u>the outside</u>	0 feet
	Not fire-resistance rated	0 hours	3 feet ^a
Projections	Fire-resistance rated	1 hour on the underside ^{b, c}	2 feet ^a
	Not fire-resistance rated	0 hours	3 feet
Openings in walls	Not allowed	N/A	< 3 feet
	Unlimited	0 hours	3 feet ^a
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	3 feet ^a

For IS: 1 foot = 304.8 mm. N/A = Not Applicable

^a For residential subdivisions where all dwellings are equipped throughout with an automatic sprinkler system installed in accordance with P2904, the fire separation distance for nonrated exterior walls and rated projections shall be permitted to be reduced to 0 feet, and unlimited unprotected openings and penetrations shall be permitted, where the adjoining lot provides an open setback yard that is 6 feet or more in width on the opposite side of the property line.

^b Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

^c Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided no gable vent openings are installed.

R302.2.1 Continuity. The fire-resistance-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

Where a story extends beyond the exterior wall of a story below:

1. The fire-resistance-rated wall or assembly shall extend to the outside edge of the upper story; or

2. The underside of the exposed floor-ceiling assembly shall be protected as required for projections in Section R302.

R302.2.4 Structural independence. Each individual townhouse shall be structurally independent.

EXCEPTIONS:

1. Foundation supporting exterior walls or common walls.
2. Structural roof and wall sheathing from each unit may be fastened to the common wall framing.
3. Nonstructural wall and roof coverings.
4. Flashing at termination of roof covering over common wall.
5. Townhouses separated by a common 1-hour fire-resistance-rated wall as provided in Section R302.2.
6. Floor sheathing may fasten to the floor framing of both units.

R302.3.1 Supporting construction. When floor assemblies are required to be fire-resistance rated by Section R302.3, the supporting construction of such assemblies shall have an equal or greater fire-resistance rating.

EXCEPTION: The supporting construction is not required to be fire-resistance rated where:

1. Automatic fire sprinklers are installed in accordance with appendix R in both dwelling units;
- or
2. All required smoke alarms in both dwelling units are interconnected in such a manner that the actuation of one alarm will activate all alarms in both dwelling units.

WSR 13-23-086
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed November 19, 2013, 3:08 p.m., effective December 20, 2013]

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

Purpose: Chapter 392-502 WAC, Online learning—Approval of multidistrict online providers, the changes to chapter 392-502 WAC are necessary to implement changes to chapter 28A.250 RCW, the online learning statute, made by the legislature in ESSB 5946 (2013). In addition, several sections have been streamlined and clarified by correcting errors or removing out-of-date requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 392-502-001, 392-502-010, 392-502-020, 392-502-030, 392-502-050, and 392-502-080.

Statutory Authority for Adoption: RCW 28A.250.020 and 28A.150.290.

Adopted under notice filed as WSR 13-19-031 on September 10, 2013.

Changes Other than Editing from Proposed to Adopted Version: Updated citation in WAC 392-502-080 to ESSB 5946, section 503 (chapter 18, Laws of 2013).

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: October 23, 2013.

Randy Dorn
 State Superintendent
 of Public Instruction

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-001 Authority. The authority for these rules is RCW ((7.60.055, which authorizes the superintendent of public instruction to adopt rules defining minimum requirements and accountability for alternative learning experience online programs)) 28A.150.290 and ((RCW)) 28A.250.020, which authorizes the superintendent to adopt by rule criteria and processes for approving online providers.

AMENDATORY SECTION (Amending WSR 12-15-025, filed 7/11/12, effective 8/11/12)

WAC 392-502-010 Definitions. As used in this chapter, the term:

(1) "Multidistrict online provider" means:

(a) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(b) A private or nonprofit organization or a school district that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(c) Except as provided in (c)(i) and (ii) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(i) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225.

(ii) "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented through an interdistrict cooperative program between two or more school districts or between one or more school districts and an educational service district, unless the annual average headcount of students who reside outside the geographic boundaries of those school districts and who are enrolled in the regional online program is ten percent or more of the total program enrollment headcount. Any agreement establishing such a program must address, at minimum, how the districts share student full-time equiva-

lency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2) "Online course" means a course, or grade-level course work, in which:

(a) More than half of the course content is delivered electronically using the internet or other computer-based methods; and

(b) More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools; and

(c) A certificated teacher has the primary responsibility for the student's instructional interaction pertaining to the online course. Primary responsibility means the teacher is the principal individual who provides instructional interactions that may include, but are not limited to, direct instruction, review of assignments, assessment, testing, progress monitoring, and educational facilitation; and

(d) Students have access to the teacher synchronously, asynchronously, or both.

An online course may be delivered to students at school as part of the regularly scheduled school day. An online course also may be delivered to students, in whole or in part, independently from a regular classroom schedule. ~~((Online courses delivered to students independently of a regular classroom schedule must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding-))~~

(3) "Online school program" means a school program that

~~((a) Offers courses or grade level course work that are delivered primarily electronically using the internet or other computer based methods;~~

~~((b) Offers courses or grade level course work that are taught by a teacher primarily from a remote location using online or other electronic tools. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;~~

~~((c)) offers a sequential set of online courses or grade-level course work that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students((; and~~

~~((d) Has an online component of the program with online lessons and tools for student and data management)).~~

An online school program may be delivered to students at school as part of the regularly scheduled school day. An online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule. ~~((Online programs delivered to students independently of a regular classroom schedule must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding-))~~

(4) "Online provider" means any provider of an online course or program, multidistrict online providers, all school district online learning programs, and all regional online learning programs.

(5) "Accrediting organizations" means the designated bodies identified by the superintendent of public instruction

~~((after consultation with the Washington council for online learning)) and published on the superintendent of public instruction web site. Accrediting organizations are for providers to use to satisfy the accreditation qualification for being an approved online provider.~~

(6) "Affiliate provider" means a school district that:

(a) Provides online courses offered by one or more approved online provider that provides the course content, the technology platform, and the instructional component of the courses; and

(b) Does not modify the content or instruction of the approved provider's offerings. An affiliate provider may not offer to its students any online course or courses that are provided by a nonapproved online provider.

(7) "Single-district provider" means a school district online provider that is not a multidistrict online provider or an affiliate provider.

(8) For the purposes of this section, "primarily" is defined as more than half.

AMENDATORY SECTION (Amending WSR 12-15-025, filed 7/11/12, effective 8/11/12)

WAC 392-502-020 Online provider approval process and timeline. (1) This section sets forth the process that online providers must follow to be approved in accordance with RCW 28A.250.020. Beginning with the 2013-14 school year, all online providers must be approved by the superintendent of public instruction for districts to collect state funding, to the extent otherwise allowed by state law, for courses offered by those providers in accordance with WAC 392-502-080.

~~((2) ((If at the end of the 2011-12 school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a school district or regional online learning program and are enrolled in a school district online program or regional online learning program increases to ten percent or more of the total online program enrollment headcount, the program:~~

~~((a) Must seek approval prior to November 1, 2013.~~

~~((b) May continue operating during the 2012-13 school year, but not the following school year unless approved as a multidistrict online provider.~~

~~((3) Prior to the 2012-13 school year, multidistrict online providers seeking approval must submit an application for approval. The application form is outlined on the superintendent of public instruction web site. The superintendent or his or her designee will review submitted applications for compliance with the assurances and designated approval criteria set forth in WAC 392-502-030 and must meet or exceed the acceptable defined score.~~

~~((4) Beginning with the 2013-14 school year,)) All online providers seeking approval must apply to the superintendent of public instruction for approval as follows:~~

(a) Multidistrict online providers must submit an application as outlined on the superintendent of public instruction web site which will be reviewed for compliance with the designated approval criteria and must meet or exceed the acceptable defined score. Multidistrict online providers must com-

ply with the superintendent of public instruction's required assurances.

(b) Affiliate providers must submit an affiliate provider application as outlined on the superintendent of public instruction web site. Affiliate providers must also comply with the superintendent of public instruction's required assurances.

(c) Single-district providers must submit a single-district provider application as outlined on the superintendent of public instruction web site. Single-district providers must also comply with the superintendent of public instruction's required assurances.

If, at the end of a school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a single-district provider and are enrolled in an online program offered by the single-district provider increases to ten percent or more of the total program enrollment headcount, the program shall be required to apply as a multidistrict online provider in the next approval cycle. The program may continue operating the year of the required approval review, but not the following school year unless approved as a multidistrict online provider.

~~((5))~~ (3) The superintendent of public instruction makes decisions regarding approval of multidistrict provider applications submitted pursuant to this chapter no later than November 1st of each year. A multidistrict online provider's approval status takes effect the beginning of the school year following the date of the superintendent's approval of the online provider's application. Single-district and affiliate providers may apply at any point, and, subject to the requirements of approval, can be approved immediately by the superintendent of public instruction.

~~((6) For the 2011-12 school year, final modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction's web site by February 15, 2012.~~

~~(7))~~ (4) Beginning with the 2012-13 school year, any proposed modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction web site by October 1st of each year. The superintendent will accept feedback ~~((from))~~ on the proposed modifications from any interested parties prior to November 1st of each year. Any final modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction's web site by January 1st of each year.

AMENDATORY SECTION (Amending WSR 12-15-025, filed 7/11/12, effective 8/11/12)

WAC 392-502-030 Approval assurances and criteria.

(1) This section sets forth the assurances and criteria that online providers must meet to be approved under this chapter.

(a) To be approved, online providers must provide the following assurances to the superintendent of public instruction:

(i) The online provider is accredited through an accrediting body as defined in WAC 392-502-010 and agrees to maintain accredited status for the duration of the approval

period. Online providers may be candidates for accreditation at the time of application for approval provided that the provider earns full accreditation on the standard timeline.

(ii) Each course and program the online provider offers is aligned with at least eighty percent of the current applicable grade/subject area of Washington state standards. For courses with content that is not included in state standards, the online provider's courses are aligned with at least eighty percent of nationally accepted content standards set for the relevant subjects. Online providers must submit information to the superintendent regarding the standards alignment and the standards aligned.

(iii) All instruction delivered to Washington state students is delivered by Washington state certificated teachers who are assigned to instruct courses in a manner which meets the "highly qualified" definition under the No Child Left Behind Act and in a manner which meets the requirements set forth in chapter 181-82 WAC.

(iv) For online providers that offer high school courses, the courses offered by the online provider must be eligible for high school credit pursuant to WAC 180-51-050.

(v) All of the online provider's current and future courses in the applicable areas meet the credit/content requirements in chapter 392-410 WAC.

(vi) All advanced placement courses offered by the online provider have been approved in accordance with the college board advanced placement course audit. For advanced placement courses not yet offered at the time of application, the online provider must assure that those courses will be approved by the college board prior to offering those courses to students.

(vii) The online provider's data management systems ensure all student information remains confidential, as required by the Family Educational Rights and Privacy Act of 1974, as amended.

(viii) The online provider's web systems and content meet accessibility conformance levels specified in the list of approved provider assurances on the office of superintendent of public instruction's web site.

(ix) The online provider provides all information as directed or as requested by the office of superintendent of public instruction, the secretary for the department of education, and other federal officials for audit, program evaluation compliance, monitoring, and other purposes and to maintain all records for the current year and three previous years.

(x) The online provider informs the office of superintendent of public instruction in writing of any significant changes to the program including, but not limited to, changes in assurances, program description, fiscal status, or ownership.

(xi) The online provider upholds any pertinent federal or state laws, rules or regulations, in the delivery of the online courses or programs.

(xii) The online provider retains responsibility for the quality of courses and content offered, regardless of any third-party contractual arrangements, partnerships or consortia, contributing to the content or delivery of the online courses or programs.

(xiii) The online provider complies with the state assessment requirements including, but not limited to, the require-

ments of chapter 28A.655 RCW and WAC 392-121-182, as applicable.

(xiv) All of the provider's current and future career and technical education (CTE) courses are aligned to Washington state CTE program standards and have been approved by the office of superintendent of public instruction's CTE office. CTE courses must be taught by a Washington certificated teacher who is also CTE-certificated in the subject area of the course.

(xv) The online provider agrees to abide by any additional assurances required by the superintendent of public instruction.

(xvi) The online provider agrees that all programs delivered as alternative learning experiences comply with the requirements of WAC 392-121-182. The online provider agrees to disclose to OSPI the manner in which it supports the requirements of WAC 392-121-182 for online courses delivered outside of an online school program.

(b) Multidistrict online providers must meet the following approval criteria by a preponderance of evidence submitted with the online provider's application:

(i) Course content and instructional design incorporating course goals and outcomes, materials and content organization, and student engagement.

(ii) Classroom management incorporating grading and privacy policies, internet etiquette, and expectations for communications.

(iii) Student assessment incorporating various types, frequent feedback, and appropriateness for the online learning environment.

(iv) Course evaluation and management incorporating strategies for obtaining feedback about the courses/programs and processes for quality assurance and updating content.

(v) Student support incorporating policies and systems to enhance the students' learning experience and their success.

(vi) School-based support incorporating strategies and systems to allow school-based staff to support student success.

(vii) Technology elements, requirements and support including descriptions and ease of navigation.

(viii) Staff development and support including training and online instructor performance reviews conducted on a planned and regularly scheduled basis.

(ix) Program management including timeliness and quality of teachers' responses to students, handling of fees, prompt distribution of materials and processing of enrollments, and handling fees and payments.

(x) The superintendent may require additional approval criteria pursuant to WAC 392-502-080.

(2) After review by the online learning advisory committee, the approval criteria with explanations and suggested supporting evidence will be posted on the superintendent of public instruction web site on or before the date the application is made available.

(3) Online provider's application will be reviewed by reviewers selected by the superintendent of public instruction for their experience and expertise. The reviewers will be provided orientations and training to review and score the online provider applications using the approval criteria and scoring protocols.

(4) Single-district provider online programs must incorporate the approval criteria developed by the superintendent of public instruction into the program design.

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-050 Approval duration and conditions for continued approval. Approvals will be for the four subsequent consecutive full school years.

~~(1) ((Grandfathered multidistrict online providers are granted their initial approval only until August 31, 2012, and must be approved in a renewal process prior to that date in order to continue offering their courses/school programs for the 2012-13 school year.~~

~~(2))~~ Online providers that have been approved must annually provide the superintendent of public instruction information regarding the following:

(a) Online provider's overall instructional program;

(b) Content of individual online courses and online school programs;

(c) Direct link to the online provider's web site;

(d) Registration information for online learning programs and courses;

(e) Teacher qualifications;

(f) Student-to-teacher ratios as defined by the superintendent of public instruction;

(g) Course completion and pass rates as defined by the superintendent of public instruction; and

(h) Other evaluative and comparative information requested by the superintendent of public instruction.

~~((2))~~ (2) Online providers must carry out the program/courses described in the approval application, abide by the assurances listed in WAC 392-502-030 and certified in the application process and maintain the approval criteria listed in WAC 392-502-030.

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-080 Approval required for state funding. ~~(1) ((Beginning with the 2011-12 school year, school districts may claim state basic education funding, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:~~

~~(a) Offered by a multidistrict)) School districts may claim state funding under RCW 28A.232.020, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction(;~~

~~(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or~~

~~(c) Offered by a regional online learning program jointly developed and offered by two or more school districts or an~~

educational service district through an interdistrict cooperative or consortium program agreement in which fewer than ten percent of the program's students reside outside the school districts' geographic boundaries).

(2) ~~((Beginning with the 2013-14 school year,))~~ School districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are (a) offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction((-

~~(3)), or (b) meet specific criteria ((shall be)) established by the superintendent of public instruction to allow online courses offered by providers that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no approved provider offers courses ((have been approved)) and, if it is a high school course, the course meets Washington high school graduation requirements. These criteria will be posted on the superintendent of public instruction web site by December 31, 2009, and any modifications to those will appear by July 1, 2010, and April 1st each subsequent year after review by the online learning advisory committee and the state board of education.~~

WSR 13-23-087
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed November 19, 2013, 3:31 p.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: Corrects a filing error in Section 908.7 exception 1 to cite R-2 rather than R-3 occupancies.

Amends chapter 51-50 WAC Section 908.7 to specify certain regulations related to the installation of CO alarms do not apply to Washington state department of corrections (DOC) prisons and work release facilities.

Reasons Supporting Proposal: During the adoption of the 2012 codes, the state building code council reviewed the requirements for CO alarms in Group R and Group I residential settings and facilities. Certain exceptions were continued for Group R facilities such as hotels, college dormitories and state licensed boarding homes and residential treatment facilities. This proposed code language would include an exception for DOC prisons and work release facilities.

Citation of Existing Rules Affected by this Order: Amending WAC 51-50-0908.

Statutory Authority for Adoption: Chapter 19.27A RCW.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 13-15-161 on July 23, 2013.

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

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

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

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

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

Date Adopted: November 8, 2013.

C. Ray Allhouse
Council Chair

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

WAC 51-50-0908 Section 908—Emergency alarm systems.

[F] 908.7 Carbon monoxide alarms. Group I or Group R occupancies shall be provided with single station carbon monoxide alarms installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units or sleeping units and on each level of the dwelling. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720-2012 and the manufacturer's instructions.

- EXCEPTIONS:
1. For other than ~~((R-3[R-2]))~~ R-2 occupancies, the building does not contain a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; or
 2. Sleeping units or dwelling units in I and R-1 occupancies and R-2 college dormitories, hotel, DOC prisons and work releases and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, or a fuel-burning fireplace, or have an attached garage, need not be provided with carbon monoxide alarms provided that:
 - a. The sleeping unit or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
 - b. The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and
 - c. The building is provided with a common area carbon monoxide detection system.
 3. An open parking garage, as defined in Chapter 2 of the *International Building Code*, or enclosed parking garage ventilated in accordance with Section 404 of the *International Mechanical Code* shall not be considered an attached garage.

908.7.1 Carbon monoxide detection systems. Carbon monoxide detection systems, that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720-2012 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075.

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

WSR 13-23-094
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed November 20, 2013, 9:22 a.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: Amendments to chapter 51-56 WAC, Adoption and amendment of the 2012 Uniform Plumbing Code.

Citation of Existing Rules Affected by this Order: Amending WAC 51-56-0200, 51-56-0600, 51-56-1600, and 51-56-1700.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 13-15-157 on July 23, 2013.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 51-56-0600, Section 604.11, was amended to read as follows:

604.11 Lead Content. ~~The allowable lead content in pipes and pipe fittings, plumbing fittings, and fixtures intended to convey or dispense water for human consumption shall be a maximum weighted average of 0.25 percent with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures in accordance with NSF 372. The maximum allowable lead content in pipes, pipe fittings, plumbing fittings, and fixtures intended to convey or dispense water for human consumption shall be not more than a weighted average of 0.25 percent with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures. For solder and flux, the lead content shall be not more than 0.2 percent where used in piping systems that convey or dispense water for human consumption.~~

Exceptions:

(1) Pipes, pipe fittings, plumbing fittings, fixtures, or backflow preventers used for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not used for human consumption.

(2) Water closets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches (50 mm) in diameter or larger.

This language is the same as that adopted by the International Association of Plumbing and Mechanical Officials at their November 4, 2013, technical committee meeting to address federal law that goes into effect on January 4, 2014. The two exceptions found in this language help meet the concerns expressed during public testimony that the original language was too broad. This language more closely mirrors the federal safe drinking water law.

2. WAC 51-56-1600, Section 1604.12.2.3(1) was amended to read:

(1) ~~Reclaimed (recycled) On-site treated nonpotable water piping to the building shall be shutdown at the meter, and the reclaimed (recycled) on-site treated water riser shall be drained.~~

This is an editorial change to this section. A copy error had inadvertently included the same language in three very similar sections. This same section is repeated in three subsections addressing three different types of alternate water

sources, but the same source was retained in all three subsections. This section and Section 1702.2.3 were corrected.

3. WAC 51-56-1700, Section 1702.2.3(1) was amended to read:

(1) ~~Reclaimed (recycled) Rainwater water piping to the building shall be shutdown at the meter, and the reclaimed (recycled) rainwater riser shall be drained.~~

See item 2, above for explanatory statement.

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 4, Repealed 0.

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

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

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

Date Adopted: November 8, 2013.

C. Ray Allshouse
Council Chair

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-0200 Chapter 2—Definitions.

205.0 Certified Backflow Assembly Tester - A person certified by the Washington state department of health under chapter 246-292 WAC to inspect (for correct installation and approval status) and test (for proper operation) (~~approved~~), maintain and repair (in compliance with chapter 18.106 RCW) backflow prevention assemblies, devices and air gaps.

210.0 Hot Water - Water at a temperature exceeding or equal to 100°F.

211.0 Insanitary - A condition that is contrary to sanitary principles or is injurious to health.

Conditions to which "insanitary" shall apply include the following:

- (1) A trap that does not maintain a proper trap seal.
- (2) An opening in a drainage system, except where lawful, that is not provided with an approved liquid-sealed trap.
- (3) A plumbing fixture or other waste discharging receptor or device that is not supplied with water sufficient to flush and maintain the fixture or receptor in a clean condition, except as otherwise provided in this code.
- (4) A defective fixture, trap, pipe, or fitting.
- (5) A trap, except where in this code exempted, directly connected to a drainage system, the seal of which is not protected against siphonage and backpressure by a vent pipe.
- (6) A connection, cross-connection, construction, or condition, temporary or permanent, that would permit or make possible by any means whatsoever for an unapproved

foreign matter to enter a water distribution system used for domestic purposes.

(7) The foregoing enumeration of conditions to which the term "insanitary" shall apply, shall not preclude the application of that term to conditions that are, in fact, insanitary.

218.0 Plumbing System - Includes all potable water, building supply and distribution pipes, all reclaimed water systems, all plumbing fixtures and traps, all drainage and vent pipe(s), and all building drains including their respective joints and connection, devices, receptors, and appurtenances within the property lines of the premises and shall include potable water piping, potable water treating or using equipment, medical gas and medical vacuum systems, and water heaters: Provided, That no certification shall be required for the installation of a plumbing system within the property lines and outside a building.

225.0 Water/Wastewater Utility - A public or private entity, including a water purveyor as defined in chapter 246-290 WAC, which may treat, deliver, or do both functions to reclaimed (recycled) water, potable water, or both to wholesale or retail customers.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-0600 Chapter 6—Water supply and distribution.

603.1 General. Cross-connection control shall be provided in accordance with the provisions of this chapter. Devices or assemblies for protection of the public water system must be models approved by the department of health under WAC 246-290-490. The authority having jurisdiction shall coordi-

nate with the local water purveyor where applicable in all matters concerning cross-connection control within the property lines of the premises.

No person shall install any water operated equipment or mechanism, or use any water treating chemical or substance, if it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the domestic water supply. Such equipment or mechanism may be permitted only when equipped with an approved backflow prevention device or assembly.

603.2 Approval of Devices or Assemblies. Before any device or assembly is installed for the prevention of backflow, it shall have first been approved by the authority having jurisdiction. Devices or assemblies shall be tested for conformity with recognized standards or other standards acceptable to the authority having jurisdiction. Backflow prevention devices and assemblies shall comply with Table 603.2, except for specific applications and provisions as stated in Section 603.5.1 through 603.5.21.

All devices or assemblies installed in a potable water supply system for protection against backflow shall be maintained in good working condition by the person or persons having control of such devices or assemblies. Such devices or assemblies shall be tested in accordance with Section 603.4.2 and WAC 246-290-490. If found to be defective or inoperative, the device or assembly shall be replaced or repaired. No device or assembly shall be removed from use or relocated or other device or assembly substituted, without the approval of the authority having jurisdiction.

Testing shall be performed by a Washington state department of health certified backflow assembly tester.

TABLE 603.2
Backflow Prevention Devices, Assemblies and Methods
The following line is deleted from the table:

Device, Assembly or Method	Applicable Standards	Pollution (Low Hazard)		Contamination (High Hazard)		Installation
		Back Siphonage	Back Pressure	Back Siphonage	Back Pressure	
Backflow preventer for carbonated beverage dispensers (two independent check valves with a vent to the atmosphere.)	ASSE 1022	X				Installation includes carbonated beverage machines or dispensers. These devices operate under intermittent or continuous pressure conditions.

603.4.2 Testing. For devices and assemblies other than those regulated by the Washington department of health in conjunction with the local water purveyor for the protection of public water systems, the authority having jurisdiction shall ensure that the premise owner or responsible person shall have the backflow prevention assembly tested by a Washington state department of health certified backflow assembly tester:

- (1) At the time of installation, repair or relocation; and

(2) At least on an annual schedule thereafter, unless more frequent testing is required by the authority having jurisdiction.

603.5.6 Protection from Lawn Sprinklers and Irrigation Systems. Potable water supplies to systems having no pumps or connections for pumping equipment, and no chemical injection or provisions for chemical injection, shall be protected from backflow by one of the following ((~~devices~~)):

- (1) Atmospheric vacuum breaker (AVB).

(2) Pressure vacuum breaker backflow prevention assembly (PVB).

(3) Spill-resistant pressure vacuum breaker (SVB).

(4) Reduced pressure principle backflow prevention assembly (RP).

(5) A double check valve backflow prevention assembly (DC) may be allowed when approved by the water purveyor and the authority having jurisdiction.

603.5.10 Steam or Hot Water Boilers. Potable water connections to steam or hot water boilers shall be protected by an air gap or a reduced pressure principle backflow preventer.

603.5.12 Beverage Dispensers. Potable water supply to carbonators shall be protected by a listed reduced pressure principle backflow preventer as approved by the authority having jurisdiction for the specific use. The backflow preventer shall be located in accordance with Section 603.4.3. The piping downstream of the backflow preventer shall not be of copper, copper alloy, or other material that is affected by carbon dioxide.

603.5.13 Prohibited Location. Backflow preventers shall not be located in any area containing fumes or aerosols that are toxic, poisonous, infectious, or corrosive.

603.5.15 Protection from Fire Systems. Except as provided under Sections 603.5.15.1 and 603.5.15.2, potable water supplies to fire protection systems that are normally under pressure, including but not limited to standpipes and automatic sprinkler systems, except in one or two family or townhouse residential flow-through or combination sprinkler systems piped in materials approved for potable water distribution systems, shall be protected from back-pressure and back-siphonage by one of the following testable (~~devices~~) assemblies:

1. Double check valve backflow prevention assembly (DC).

2. Double check detector fire protection backflow prevention assembly.

3. Reduced pressure principle backflow prevention assembly (RP).

4. Reduced pressure detector fire protection backflow prevention assembly.

Potable water supplies to fire protection systems that are not normally under pressure shall be protected from backflow and shall meet the requirements of the appropriate standard(s) referenced in Table 1401.1.

604.11 Lead Content. The maximum allowable lead content in pipes, pipe fittings, plumbing fittings and fixtures intended to convey or dispense water for human consumption shall be not more than a weighted average of 0.25 percent with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures. For solder and flux, the lead content shall be not more than 0.2 percent where used in piping systems that convey or dispense water for human consumption.

EXCEPTIONS: 1. Pipes, pipe fittings, plumbing fittings, fixtures or backflow preventers used for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not used for human consumption.

2. Water closets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are two inches (50 mm) in diameter or larger.

604.14 Plastic water service piping may terminate within a building, provided the connection to the potable water distribution system shall be made as near as is practical to the point of entry and shall be accessible. Barbed insert fittings with hose clamps are prohibited as a transition fitting within the building.

608.5 Drains. Relief valves located inside a building shall be provided with a drain, not smaller than the relief valve outlet, of galvanized steel, hard drawn copper piping and fittings, CPVC, PP, or listed relief valve drain tube with fittings which will not reduce the internal bore of the pipe or tubing (straight lengths as opposed to coils) and shall extend from the valve to the outside of the building, with the end of the pipe not more than two (2) feet (610 mm) nor less than six (6) inches (152 mm) above the ground or the flood level of the area receiving the discharge and pointing downward. Such drains may terminate at other approved locations. No part of such drain pipe shall be trapped or subject to freezing. The terminal end of the drain pipe shall not be threaded.

EXCEPTION: Where no drainage was provided, replacement water heating equipment shall only be required to provide a drain pointing downward from the relief valve to extend between two feet (610 mm) and six inches (152 mm) from the floor. No additional floor drain need be provided.

610.4 Systems within the range of Table 610.4 may be sized from that table or by the method set forth in Section 610.5.

Listed parallel water distribution systems shall be installed in accordance with their listing.

612.1 General. Where residential fire sprinkler systems are installed, they shall be installed in accordance with the International Building Code or International Residential Code.

613.0 Insulation of Potable Water Piping. Domestic water piping within commercial buildings shall be insulated in accordance with Section C403.2.8 and Table C403.2.8 or Section C404.6 of the Washington State Energy Code, as applicable.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-1600 Chapter 16—Alternate water sources for nonpotable applications.

1601.1.1 Allowable use of Alternative Water. Where approved or required by the authority having jurisdiction, alternate water sources (reclaimed (recycled) water, gray water and on-site treated nonpotable water) shall be permitted to be used in lieu of potable water for the applications identified in this chapter. Gray water shall not be used for irrigation except as permitted by the department of health rules.

1601.2 System Design. Alternate water source systems in accordance with this chapter shall be designed by a person registered or licensed to perform plumbing design work.

Components, piping, and fittings used in an alternate water source system shall be listed.

1601.3 Permit. It shall be unlawful for a person to construct, install, alter, or cause to be constructed, installed, or altered an alternate water source system in a building or on a premise without first obtaining a permit to do such work from the Authority Having Jurisdiction.

1601.5.2 Maintenance Log. A maintenance log for gray water, and on-site treated nonpotable water systems required to have a permit in accordance with Section 1601.3 shall be maintained by the property owner and be available for inspection. The property owner or designated appointee shall ensure that a record of testing, inspection and maintenance in accordance with Table 1601.5 is maintained in the log. The log will indicate the frequency of inspection and maintenance for each system.

1601.10 Abandonment. Where alternate water source systems for nonpotable use are abandoned, the procedure for abandonment shall be as required by the Authority Having Jurisdiction. Components of the abandoned system including, but not limited to, pipe, tubing, fittings and valves shall not be used for potable water systems.

1602.0 Gray Water Systems, is not adopted. Gray water shall not be used for irrigation except as permitted by the department of health rules.

1603.4 Connection to Potable or Reclaimed (Recycled) Water Systems. Reclaimed (recycled) water systems shall have no connection to a potable water supply or alternate water source system. Potable water is permitted to be used as makeup water for a reclaimed (recycled) water storage tank provided the water supply inlet is protected by an approved air gap in accordance with this code.

1603.11.2.3 Discovery of Cross Connection. In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) Reclaimed (recycled) water piping to the building shall be shutdown at the meter, and the reclaimed (recycled) water riser shall be drained.

(2) Potable water piping to the building shall be shutdown at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

1604.1 General. The provisions of this section shall apply to the installation, construction, alteration, and repair of on-site treated nonpotable water systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, and other uses approved by the authority having jurisdiction.

1604.12.2.3 Discovery of Cross Connection. In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) On-site treated nonpotable water piping to the building shall be shutdown at the meter, and the on-site treated water riser shall be drained.

(2) Potable water piping to the building shall be shutdown at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

WAC 51-56-1700 Chapter 17—Nonpotable rainwater catchment systems.

1702.0 Nonpotable Rainwater Catchment Systems.

1702.1 General. The installation, construction, alteration, and repair of rainwater catchments systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, irrigation, industrial processes, water features, cooling tower makeup and other uses shall be approved by the authority having jurisdiction.

EXCEPTION: Exterior irrigation piping.

1702.2 Permit. It shall be unlawful for a person to construct, install, alter, or cause to be constructed, installed, or altered a nonpotable rainwater catchment system in a building or on a premises without first obtaining a permit to do such work from the authority having jurisdiction.

EXCEPTIONS:

1. A permit is not required for exterior rainwater catchment systems used for outdoor drip and subsurface irrigation with a maximum storage capacity of 360 gallons (1363 L).
2. A plumbing permit is not required for rainwater catchment systems for single family dwellings where outlets, piping, and system components are located on the exterior of the building. This does not exempt the need for permits where required for electrical connections, tank supports, or enclosures.

1702.2.1 Plumbing Plan Submission. No permit for a rainwater catchment system shall be issued until complete plumbing plans, with data satisfactory to the Authority Having Jurisdiction, have been submitted and approved.

1702.2.3 Discovery of Cross Connection. In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) Rainwater catchment water piping to the building shall be shutdown at the meter, and the rainwater water riser shall be drained.

(2) Potable water piping to the building shall be shutdown at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

1702.12 Abandonment. Where nonpotable rainwater catchment systems are abandoned, the procedure for abandonment shall be as required by the Authority Having Jurisdiction. Components of the abandoned system including, but not limited to, pipe, tubing, fittings and valves shall not be used for potable water systems.

WSR 13-23-096

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed November 20, 2013, 9:22 a.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: Amendments to chapters 51-11C and 51-11R WAC, the Washington State Energy Code, Commercial and Residential provisions.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11R-30100, 51-11C-30100, 51-11C-402131, 51-11C-402132, 51-11C-402133, 51-11C-402134, 51-11C-402200, and 51-11C-40803.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 13-15-160 on July 23, 2013.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 8, Repealed 0.

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

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

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

Date Adopted: November 8, 2013.

C. Ray Allshouse
Council Chair

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-30100 Section C301—Climate zones.

C301.1 General. Climate zones from Table C301.1 shall be used in determining the applicable requirements from Chapter 4.

Table C301.1

**Climate Zones and Moisture Regimes
Designations by State and County**

Key: A - Moist, B - Dry, C - Marine. Absence of moisture designation indicates moisture regime is irrelevant.

WASHINGTON

5B Adams	4C Grays Harbor	4C Pierce
5B Asotin	4C Island	4C San Juan
5B Benton	4C Jefferson	4C Skagit
5B Chelan	4C King	5B Skamania
4C Clallam	4C Kitsap	4C Snohomish
4C Clark	5B Kittitas	5B Spokane
5B Columbia	5B Klickitat	((6B)) <u>5B</u> Stevens
4C Cowlitz	4C Lewis	4C Thurston
5B Douglas	5B Lincoln	4C Wahkiakum
((6B)) <u>5B</u> Ferry	4C Mason	5B Walla Walla
5B Franklin	((6B)) <u>5B</u> Okanogan	4C Whatcom
5B Garfield	4C Pacific	5B Whitman
5B Grant	((6B)) <u>5B</u> Pend Oreille	5B Yakima

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-402131 Equation C402-1—Target UA_t.

**Equation C402-1
Target UA_t**

$$UA_t = U_{radt}A_{radt} + U_{mrt}A_{mrt} + U_{rat}A_{rat} + U_{mwt}(A_{mwt} + A_{mbwbg}) + U_{mbwt}(A_{mbwt} + A_{mbwbg}) + U_{sfwt}(A_{sfwt} + A_{sfwbg}) + U_{wfw}(A_{wfw} + A_{wfwbg}) + U_{fint}A_{fint} + U_{fjt}A_{fjt} + F_{st}P_{st} + F_{srt}P_{srt} + U_{dst}A_{dst} + U_{drt}A_{drt} + U_{vgt}A_{vgt} + U_{vgmt}A_{vgmt} + U_{vgmot}A_{vgmot} + U_{vgdt}A_{vgdt} + U_{ogt}A_{ogt}$$

UA_{(a)t} = The target combined specific heat transfer of the gross roof/ceiling assembly, exterior wall and floor area.

Where:

U_{radt} = The thermal transmittance value for roofs with the insulation entirely above deck found in Table C402.1.2.

U_{mrt} = The thermal transmittance value for metal building roofs found in Table C402.1.2.

U_{rat} = The thermal transmittance value for attic and other roofs found in Table C402.1.2.

U_{mwt} = The thermal transmittance value for opaque mass walls found in Table C402.1.2.

U_{mbwt} = The thermal transmittance value for opaque metal building walls found in Table C402.1.2.

U_{sfwt} = The thermal transmittance value for opaque steel-framed walls found in Table C402.1.2.

U_{wfw} = The thermal transmittance value for opaque wood framed and other walls found in Table C402.1.2.

U_{fint} = The thermal transmittance value for mass floors over unconditioned space found in Table C402.1.2.

U_{fjt} = The thermal transmittance value for joist floors over unconditioned space found in Table C402.1.2.

F_{st} = The F-factor for slab-on-grade floors found in Table C402.1.2.

F_{srt} = The F-factor for radiant slab floors found in Table C402.1.2.

U_{dst} = The thermal transmittance value for opaque swinging doors found in Table C402.2.

U_{drt} = The thermal transmittance value for opaque roll-up or sliding doors found in Table C402.2.

U_{vgt} = The thermal transmittance value for vertical fenestration with nonmetal framing found in Table C402.3 which corresponds to the proposed vertical fenestration area as a percent of gross exterior wall area. *Buildings utilizing Section C402.3.1.3 shall use the thermal transmittance value specified there.

U_{vgmt} = The thermal transmittance value for vertical fenestration with fixed metal framing found in Table C402.3 which corresponds to the proposed vertical fenestration area as a percent of gross exterior wall area. *Buildings utilizing Section C402.3.1.3 shall use the thermal transmittance value specified there.

U_{vgmot} = The thermal transmittance value for vertical fenestration with operable metal framing found in Table C402.3 which corresponds to the proposed vertical fenestration area as a percent of gross exterior wall area. *Buildings utilizing Section C402.3.1.3 shall use the thermal transmittance value specified there.

U_{vgdt} = The thermal transmittance value for entrance doors found in Table C402.3 which corresponds to the proposed vertical fenestration area as a percent of gross exterior wall area. Buildings utilizing Section C402.3.1.3 shall use the thermal transmittance value specified there.

- U_{ogt} = The thermal transmittance for skylights found in Table C402.3 which corresponds to the proposed skylight area as a percent of gross exterior roof area.
- A_{fimt} = The proposed mass floor over unconditioned space area, A_{fm} .
- A_{fjt} = The proposed joist floor over unconditioned space area, A_{fj} .
- P_{st} = The proposed linear feet of slab-on-grade floor perimeter, P_s .
- P_{srt} = The proposed linear feet of radiant slab floor perimeter, P_{rs} .
- A_{dst} = The proposed opaque swinging door area, A_{ds} .
- A_{drt} = The proposed opaque roll-up or sliding door area, A_{dr} .

and

If the vertical fenestration area as a percent of gross above-grade exterior wall area does not exceed the maximum allowed in Section C402.3.1.3:

- A_{mwt} = The proposed opaque above grade mass wall area, A_{mw} .
- $\underline{A_{mwbgt}}$ ≡ The proposed opaque below grade mass wall area, A_{mw} .
- A_{mbwt} = The proposed opaque above grade metal building wall area, A_{mbw} .
- $\underline{A_{mbwbgt}}$ ≡ The proposed opaque below grade metal building wall area, A_{mbwbg} .
- A_{sfwt} = The proposed opaque above grade steel framed wall area, A_{mfw} .
- $\underline{A_{sfwbgt}}$ ≡ The proposed opaque below grade steel framed wall area, A_{mfwbg} .
- A_{wfw} = The proposed opaque above grade wall wood framed and other area, A_{wfvbg} .
- $\underline{A_{wfvbg}}$ ≡ The proposed opaque below grade wall wood framed and other area, A_{wfvbg} .

- A_{vgt} = The proposed vertical fenestration area with nonmetal framing, A_{vg} .
- A_{vgmt} = The proposed vertical fenestration area with fixed metal framing, A_{vgm} .
- A_{vgmot} = The proposed vertical fenestration area with operable metal framing, A_{vgmo} .
- A_{vgdt} = The proposed entrance door area, A_{vgd} .

or

For buildings utilizing Section C402.3.1.3, vertical fenestration area as a percent of gross exterior above-grade wall may not exceed the amount allowed by that section. For all other buildings, if the vertical fenestration area as a percent of gross above-grade exterior wall area exceeds the maximum allowed in Section C402.3.1, the area of each vertical fenestration element shall be reduced in the base envelope design by the same percentage and the net area of each above-grade wall type increased proportionately by the same percentage so that the total vertical fenestration area is exactly equal to the allowed percentage per Section C402.3.1 of the gross above-grade wall area. The target wall area of a given wall type shall be the sum of the proposed below grade area and the increased above-grade area.

and

If the skylight area as a percent of gross exterior roof area does not exceed the maximum allowed in Section C402.3.1:

- A_{radt} = The proposed roof area with insulation entirely above the deck, A_{rad} .
- A_{mrt} = The proposed roof area for metal buildings, A_{mr} .
- A_{rat} = The proposed attic and other roof area, A_{or} .
- A_{ogat} = The proposed skylight area, A_{ogor} .

or

If the skylight area as a percent of gross exterior roof area exceeds the maximum allowed in Section C402.3.1, the area of each skylight element shall be reduced in the base envelope design by the same percentage and the net area of each roof type increased proportionately by the same percentage so that the total skylight area is exactly equal to the allowed percentage per Section C402.3.1 of the gross roof area.

*Note: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-402132 Equation C402-2—Proposed UA_p.

**Equation C402-2
Proposed UA_p**

$$UA_p = U_{rad}A_{rad} + U_{mr}A_{mr} + U_{ra}A_{ra} + U_{mw}A_{mw} + U_{mbw}A_{mbw} + U_{sfw}A_{sfw} + U_{wfw}A_{wfw} + U_{fow}A_{fow} + U_{fim}A_{fim} + U_{fj}A_{fj} + F_sP_s + F_{sr}P_{sr} + U_{ds}A_{ds} + U_{dr}A_{dr} + U_{vg}A_{vg} + U_{vgmf}A_{vgmf} + U_{vgmo}A_{vgmo} + U_{vgd}A_{vgd} + U_{og}A_{og}$$

Where:

- UA_p = The combined proposed specific heat transfer of the gross exterior wall, floor and roof/ceiling assembly area.
- U_{rad} = The thermal transmittance of the roof area where the insulation is entirely above the roof deck.
- A_{rad} = Opaque roof area where the insulation is entirely above the roof deck.
- U_{mr} = The thermal transmittance of the metal building roof area.
- A_{mr} = Opaque metal building roof area.
- U_{ra} = The thermal transmittance of the roof over attic and other roof area.
- A_{ra} = Opaque roof over attic and other roof area.
- U_{mw} = The thermal transmittance of the opaque mass wall area.
- A_{mw} = Opaque mass wall area (not including opaque doors).
- U_{mbw} = The thermal transmittance of the opaque metal building wall area.
- A_{mbw} = Opaque metal building wall area (not including opaque doors).
- U_{sfw} = The thermal transmittance of the opaque steel framed wall area.

- A_{sfw} = Opaque steel framed wall area (not including opaque doors).
- U_{wfw} = The thermal transmittance of the opaque wood framed and other wall area.
- A_{wfw} = Opaque wood framed and other wall area (not including opaque doors).
- U_{fm} = The thermal transmittance of the mass floor over unconditioned space area.
- A_{fm} = Mass floor area over unconditioned space.
- U_{fj} = The thermal transmittance of the joist floor over unconditioned space area.
- A_{fj} = Joist floor area over unconditioned space.
- F_s = Slab-on-grade floor component F-factor.
- P_s = Linear feet of slab-on-grade floor perimeter.
- F_{sr} = Radiant floor component F-factor.
- P_{sr} = Linear feet of radiant floor perimeter.
- U_{ds} = The thermal transmittance value of the opaque swinging door area.
- A_{ds} = Opaque swinging door area.
- U_{dr} = The thermal transmittance value of the opaque roll-up or sliding door area.
- A_{dr} = Opaque roll-up or sliding door area.
- U_{vg} = The thermal transmittance of the vertical fenestration area with nonmetal framing.*
- A_{vg} = Vertical fenestration area with nonmetal framing.*
- U_{vgmf} = The thermal transmittance of the vertical fenestration area with fixed metal framing.
- A_{vgmf} = Vertical fenestration area with fixed metal framing.*
- U_{vgmo} = The thermal transmittance of the vertical fenestration area with operable metal framing.*

- A_{vgmo} = Vertical fenestration area with operable metal framing.*
- U_{vgd} = The thermal transmittance of the vertical fenestration area for entrance doors.
- A_{vgd} = Vertical fenestration area for entrance doors.
- U_{og} = The thermal transmittance for the skylights.
- A_{og} = Skylight area.

NOTE: Where more than one type of wall, window, roof/ceiling, door and skylight is used, the U and A terms for those items shall be expanded into subelements as:

$$U_{mw1}A_{mw1} + U_{mw2}A_{mw2} + U_{sfw1}A_{sfw1} + \dots \text{etc.}$$

*NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-402133 Equation C402-3—Target SHGCA_t.

**Equation C402-3
Target SHGCA_t**

$$SHGCA_t = SHGC_{((t))ogt} (A_{ogot} + SHGC_{vgt} (A_{ogt} + A_{vgt} + A_{vgmt} + A_{vgmot} + A_{vgdt}))$$

Where:

SHGCA_t = The target combined ((specific)) solar heat gain of the target fenestration area.

SHGC_{ogt} = The solar heat gain coefficient for skylight fenestration found in Table C402.3, and A_{ogt} as defined in Equation C402-1.

SHGC_{((t))vgt} = The solar heat gain coefficient for vertical fenestration found in Table C402.3 which corresponds to the proposed total fenestration area as a percent of gross exterior wall area, and ((A_{ogt})) A_{vgt}, A_{vgmt}, A_{vgmot} and A_{vgdt} are defined under Equation C402-1. Buildings utilizing Section C402.3.1.3 shall use the SHGC value specified there. The SHGC may be adjusted for projection factors per the requirements of Section C402.3.3.

NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-402134 Equation C402-4—Proposed SHGCA_p.

**Equation C402-4
Proposed SHGCA_p**

$$SHGCA_p = SHGC_{og}A_{og} + SHGC_{vg}A_{vg}$$

Where:

SHGCA_t = The combined proposed ((specific)) solar heat gain of the proposed fenestration area.

SHGC_{og} = The solar heat gain coefficient of the skylights.

A_{og} = The skylight area.

SHGC_{vg} = The solar heat gain coefficient of the vertical fenestration.

A_{vg} = The vertical fenestration area.

NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-402200 Table C402.2—Opaque thermal envelope requirements.

**Table C402.2
Opaque Thermal Envelope Requirements^{a, f}**

CLIMATE ZONE	5 AND MARINE 4		6	
	All Other	Group R	All Other	Group R
Roofs				
Insulation entirely above deck	R-30ci	R-38ci	R-30ci	R-38ci
Metal buildings (with R-3.5 thermal blocks) ^{a, b}	R-25 + R-11 LS	R-25 + R-11 LS	R-25 + R-11 LS	R-30 + R-11 LS
Attic and other	R-49	R-49	R-49	R-49
Walls, Above Grade				
Mass ^c	R-9.5ci	R-13.3ci	R-11.4ci	R-15.2ci
Metal building	R-13 + R-13ci	R-13 + R-13ci	R-13 + R-13ci	R-19 + R-16ci
Steel framed	R-13 + R-10ci	R-19 + R-8.5ci	R-13 + R-12.5ci	R-19 + R-14ci
Wood framed and other	R-21 int	R-21 int	R-13 + R-7.5ci or R- 20 + R-3.8ci	R-21 + R-5ci
Walls, Below Grade				
Below-grade wall ^d	Same as above grade	Same as above grade	Same as above grade	Same as above grade
Floors				
Mass	R-30ci	R-30ci	R-30ci	R-30ci
Joist/framing	R-30 ^e	R-30 ^e	R-38 ^e	R-38 ^e
Slab-on-Grade Floors				
Unheated slabs	R-10 for 24" below	R-10 for 24" below	R-10 for 48" below	R-15 for 48" below
Heated slabs ^d	R-10 perimeter & under entire slab	R-10 perimeter & under entire slab	R-10 perimeter & under entire slab	R-10 perimeter & under entire slab
Opaque Doors				
Swinging	U-0.37	U-0.37	U-0.37	U-0.37
Roll-up or sliding	R-4.75	R-4.75	R-4.75	R-4.75

For SI: 1 inch = 25.4 mm. ci = Continuous insulation. NR = No requirement.

LS = Liner system—A continuous membrane installed below the purlins and uninterrupted by framing members. Uncompressed, unfaced insulation rests on top of the membrane between the purlins.

^a Assembly descriptions can be found in Chapter 2 and Appendix A.

^b Where using R-value compliance method, a thermal spacer block shall be provided, otherwise use the U-factor compliance method in Table C402.1.2.

^c ((R-5.7ci is allowed to be substituted with concrete block walls complying with ASTM C90, ungrouted or partially grouted at 32 inches or less on center vertically and 48 inches or less on center horizontally, with ungrouted cores filled with materials having a maximum thermal conductivity of 0.44 Btu-in/h-ft²°F.) **Exception:** Integral insulated concrete block walls complying with ASTM C90 with all cores filled and meeting both of the following:

1 At least 50 percent of cores must be filled with vermiculite or equivalent fill insulation; and

2 The building thermal envelope encloses one or more of the following uses: Warehouse (storage and retail), gymnasium, auditorium, church chapel, arena, kennel, manufacturing plant, indoor swimming pool, pump station, water and waste water treatment facility, storage facility, storage area, motor vehicle service facility. Where additional uses not listed (such as office, retail, etc.) are contained within the building, the exterior walls that enclose these areas may not utilize this exception and must comply with the appropriate mass wall R-factor from Table C402.2 or U-factor from Table C402.1.2.

^d Where heated slabs are below grade, below-grade walls shall comply with the exterior insulation requirements for heated slabs.

^e Steel floor joist systems shall be insulated to R-38 + R-10ci.

- f For roof, wall or floor assemblies where the proposed assembly would not be continuous insulation, ~~((two))~~ an alternate nominal R-value compliance options for assemblies with isolated metal penetrations of otherwise continuous insulation ~~((are))~~ is:

Assemblies with continuous insulation (see definition)	Alternate option for assemblies with metal penetrations, greater than 0.04% but less than 0.08%
R-11.4ci	R-14.3 <u>ci</u>
R-13.3ci	R-16.6 <u>ci</u>
R-15.2ci	R-19.0 <u>ci</u>
R-30ci	R-38 <u>ci</u>
R-38ci	R-48 <u>ci</u>
R-13 + R-7.5ci	R-13 + R-9.4 <u>ci</u>
R-13 + R-10ci	R-13 + R-12.5 <u>ci</u>
R-13 + R-12.5ci	R-13 + R-15.6 <u>ci</u>
R-13 + R-13ci	R-13 + R-16.3 <u>ci</u>
R-19 + R-8.5ci	R-19 + R-10.6 <u>ci</u>
R-19 + R-14ci	R-19 + R-17.5 <u>ci</u>
R-19 + R-16ci	R-19 + R-20 <u>ci</u>
R-20 + R-3.8ci	R-20 + R-4.8 <u>ci</u>
R-21 + R-5ci	R-21 + R-6.3 <u>ci</u>

~~((These))~~ This alternate nominal R-value compliance ~~((options are))~~ option is allowed for projects complying with all of the following:

1. The ratio of the cross-sectional area, as measured in the plane of the surface, of metal penetrations of otherwise continuous insulation to the opaque surface area of the assembly is greater than 0.0004 (0.04%), but less than 0.0008 (0.08%).
2. The metal penetrations of otherwise continuous insulation are isolated or discontinuous (e.g., brick ties or other discontinuous metal attachments, offset brackets supporting shelf angles that allow insulation to go between the shelf angle and the primary portions of the wall structure). No continuous metal elements (e.g., metal studs, z-girts, z-channels, shelf angles) penetrate the otherwise continuous portion of the insulation.
3. Building permit drawings shall contain details showing the locations and dimensions of all the metal penetrations (e.g., brick ties or other discontinuous metal attachments, offset brackets, etc.) of otherwise continuous insulation. In addition, calculations shall be provided showing the ratio of the cross-sectional area of metal penetrations of otherwise continuous insulation to the overall opaque wall area.

For other cases where the proposed assembly is not continuous insulation, see Section C402.1.2 for determination of U-factors for assemblies that include metal other than screws and nails.

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-40231 Section C402.3.1—Maximum area.

C402.3.1 Maximum area. The vertical fenestration area (not including opaque doors and opaque spandrel panels) shall not exceed 30 percent of the gross above-grade wall area. The skylight area shall not exceed 3 percent of the gross roof area.

C402.3.1.1 Increased vertical fenestration area with daylighting controls. In Climate Zones 1 through 6, a maximum of 40 percent of the gross above-grade wall area shall be permitted to be vertical fenestration, provided:

1. No less than 50 percent of the conditioned floor area is within a daylight zone;
2. Automatic daylighting controls are installed in daylight zones; and
3. Visible transmittance (VT) of vertical fenestration is greater than or equal to 1.1 times solar heat gain coefficient (SHGC).

EXCEPTION: Fenestration that is outside the scope of NFRC 200 is not required to comply with Item 3.

C402.3.1.2 Increased skylight area with daylighting controls. The skylight area shall be permitted to be a maximum of 5 percent of the roof area provided automatic daylighting controls are installed in daylight zones under skylights.

C402.3.1.3 Increased vertical fenestration area with high-performance fenestration. The vertical fenestration area (not including opaque doors and opaque spandrel panels) is permitted to exceed 30 percent but shall not exceed 40 percent of the gross above grade wall area, for the purpose of prescriptive compliance with Section C402.1.2 or for the target UA calculation in Equation C402-1, provided that each of the following conditions are met:

1. The vertical fenestration shall have the following U-factors:
 - a. Nonmetal framing (all) = 0.28
 - b. Metal framing (fixed) = 0.34
 - c. Metal framing (operable) = 0.36
 - d. Metal framing (entrance doors) = 0.60
2. The SHGC of the vertical fenestration shall be less than or equal to 0.35, adjusted for projection factor in compliance with C402.3.3.1.

The compliance path described in this section is not permitted to be used for the total building performance compliance path in Section C407.

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-40803 Section C408.3—Lighting system functional testing.

C408.3 Lighting system functional testing. Controls for automatic lighting systems shall comply with Section C408.3.1.

EXCEPTION: Lighting systems in buildings where the total installed lighting load is less than 20kW and less than 10kW of lighting is controlled by occupancy sensors or automatic daylighting controls.

C408.3.1 Functional testing. Testing shall ensure that control hardware and software are calibrated, adjusted, programmed and in proper working condition in accordance

with the construction documents and manufacturer's installation instructions. Written procedures which clearly describe the individual systematic test procedures, the expected systems' response or acceptance criteria for each procedure, the actual response or findings, and any pertinent discussion shall be followed. At a minimum, testing shall affirm operation during normally occupied daylight conditions. The construction documents shall state the party who will conduct the required functional testing.

Where occupant sensors, time switches, programmable schedule controls, photosensors or daylighting controls are installed, the following procedures shall be performed:

1. Confirm that the placement, sensitivity and time-out adjustments for occupant sensors yield acceptable performance.
2. Confirm that the time switches and programmable schedule controls are programmed to turn the lights off.
3. Confirm that the placement and sensitivity adjustments for photosensor controls reduce electric light based on the amount of usable daylight in the space as specified.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-30100 Section R301—Climate zones.

R301.1 General. Climate zones from Table R301.1 shall be used in determining the applicable requirements from Chapter 4. Locations not in Table R301.1 (outside the United States) shall be assigned a climate zone based on Section R301.3.

R301.2 Warm humid counties. Warm humid counties are identified in Table R301.1 by an asterisk.

R301.3 International climate zones. The climate zone for any location outside the United States shall be determined by applying Table R301.3(1) and then Table R301.3(2).

TABLE R301.1

CLIMATE ZONES, MOISTURE REGIMES, AND WARM-HUMID DESIGNATIONS BY STATE AND COUNTY

Key: A - Moist, B - Dry, C - Marine. Absence of moisture designation indicates moisture regime is irrelevant. Asterisk (*) indicates a warm-humid location.

WASHINGTON

5B Adams	4C Grays Harbor	4C Pierce
5B Asotin	4C Island	4C San Juan
5B Benton	4C Jefferson	4C Skagit
5B Chelan	4C King	5B Skamania
4C Clallam	4C Kitsap	4C Snohomish
4C Clark	5B Kittitas	5B Spokane
5B Columbia	5B Klickitat	((6B) 5B Stevens
4C Cowlitz	4C Lewis	4C Thurston
5B Douglas	5B Lincoln	4C Wahkiakum
((6B) 5B Ferry	4C Mason	5B Walla Walla
5B Franklin	((6B) 5B Okanogan	4C Whatcom
5B Garfield	4C Pacific	5B Whitman
5B Grant	((6B) 5B Pend Oreille	5B Yakima

**WSR 13-23-110
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS**

[Filed November 20, 2013, 11:41 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: All requirements necessary to amend the existing Grays Harbor pilotage district tariff as set forth in chapter 53.08 RCW have been met.

Purpose: To establish a 2014 annual tariff for pilotage services in the Grays Harbor pilotage district.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-185.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 13-18-037 on August 28, 2013.

Changes Other than Editing from Proposed to Adopted Version: The proposed effective overall increase to the tariff was 4.0 percent or \$212 per pilotage job; the adopted effective overall increase to the tariff is 3.5 percent or \$186 per pilotage job.

The proposed increase across-the-board in all tariff categories except boarding charge, transportation charge per assignment and pension charge was 5.5 percent; the adopted like increase is 4.6 percent.

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 1, Repealed 0.

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

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

Date Adopted: October 15, 2013.

Peggy Larson
Executive Director

AMENDATORY SECTION (Amending WSR 12-23-065, filed 11/19/12, effective 1/1/13)

WAC 363-116-185 Pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours January 1, (~~2013~~) 2014, through 2400 hours December 31, (~~2013~~) 2014.

CLASSIFICATION**RATE**

Charges for piloting of vessels in the inland waters and tributaries of Grays Harbor shall consist of the following:

Draft and Tonnage Charges:

Each vessel shall be charged according to its draft and tonnage for each vessel movement inbound to the Grays Harbor pilotage district, and for each movement outbound from the district.

Draft	\$(400.66) <u>105.29</u> per meter or \$(30.68) <u>32.09</u> per foot
Tonnage	\$(0.288) <u>0.301</u> per net registered ton
Minimum Net Registered Tonnage	\$(1,009.00) <u>1,055.00</u>
Extra Vessel (in case of tow)	\$(565.00) <u>591.00</u>

Provided that, due to unique circumstances in the Grays Harbor pilotage district, vessels that call, and load or discharge cargo, at Port of Grays Harbor Terminal No. 2 shall be charged ~~\$(5,592.00)~~ 5,849.00 per movement for each vessel movement inbound to the district for vessels that go directly to Terminal No. 2, or that go to anchor and then go directly to Terminal No. 2, or because Terminal No. 2 is not available upon arrival that go to layberth at Terminal No. 4 (without loading or discharging cargo) and then go directly to Terminal No. 2, and for each vessel movement outbound from the district from Terminal No. 2, and that this charge shall be in lieu of only the draft and tonnage charges listed above.

Boarding Charge:

Per each boarding/deboarding from a boat or helicopter	\$1,000.00
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Harbor Shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage	\$(703.00) <u>735.00</u>
Delays per hour	\$(465.00) <u>173.00</u>
Cancellation charge (pilot only)	\$(276.00) <u>289.00</u>
Cancellation charge (boat or helicopter only)	\$(827.00) <u>865.00</u>

Two Pilots Required:

When two pilots are employed for a single vessel transit, the second pilot charge shall include the harbor shift charge of ~~\$(703.00)~~ 735.00 and in addition, when a bridge is transited the bridge transit charge of ~~\$(303.00)~~ 317.00 shall apply.

Pension Charge:

Charge per pilotage assignment, including cancellations	\$(353.00) <u>362.00</u>
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Travel Allowance:

Transportation charge per assignment	\$100.00
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Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid ~~\$(931.00)~~ 974.00 for each day or fraction thereof, and the travel expense incurred.

Bridge Transit:

Charge for each bridge transited	\$(303.00) <u>317.00</u>
Additional surcharge for each bridge transited for vessels in excess of 27.5 meters in beam	\$(829.00) <u>867.00</u>

Miscellaneous:

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.