

WSR 13-24-005
PERMANENT RULES
DEPARTMENT OF ECOLOGY

[Order 13-05—Filed November 20, 2013, 3:48 p.m., effective December 21, 2013]

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

Purpose: The purpose of the amendments is to implement an administration charge authorized by chapter 90.50A RCW and to incorporate the definition of "debt service" from the law. The amendments allow ecology to assess an administration charge on each revolving fund loan at the point the loan enters repayment. The administration charge:

- Will be applied to any revolving fund loan that enters repayment after the rule becomes effective.
- Cannot exceed one percent on the declining loan balance.
- May not be applied to loans with an interest rate below the administration charge.
- Will be subtracted from the established interest rate for the loan; thus, it will have no impact on borrowers.

Citation of Existing Rules Affected by this Order: Amending chapter 173-98 WAC.

Statutory Authority for Adoption: Chapter 90.50A RCW.

Adopted under notice filed as WSR 13-18-025 on August 27, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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 20, 2013.

Maia D. Bellon
Director

AMENDATORY SECTION (Amending WSR 11-20-036, filed 9/27/11, effective 10/28/11)

WAC 173-98-010 Purpose. The purpose of this chapter is to set forth requirements for the Washington state department of ecology's (department) administration of Washington state's water pollution control revolving fund (revolving fund), and the water pollution control revolving administration account (administration account) as authorized by chapter 90.50A RCW, water pollution control facilities financing.

~~(This)~~ The revolving fund is primarily comprised of federal capitalization grants, state matching moneys, and

principal and interest repayments. It is used to provide loan assistance to public bodies for statewide, high-priority water quality projects that are consistent with the Clean Water Act, 33 U.S.C. 1251-1387.

The administration account is comprised of an administration charge applied to the outstanding loan balance on revolving fund loans. The administration account may be used for the following:

(1) Administration costs associated with conducting application processes, managing contracts, collecting loan repayments, managing the revolving fund, providing technical assistance, and meeting state and federal reporting requirements; and

(2) Information and data system costs associated with loan tracking and fund management.

At the point where the administration account adequately covers the program administration costs, the department may no longer use the federal administration allowance. If a federal capitalization grant is awarded after that point, all federal capitalization grant dollars must be used for making loans.

AMENDATORY SECTION (Amending WSR 11-20-036, filed 9/27/11, effective 10/28/11)

WAC 173-98-030 Definitions. For the purposes of this chapter:

(1) **Act** means the federal Clean Water Act (33 U.S.C. 1251-1387).

(2) **Activities**, see water pollution control activities.

(3) **Annual debt service** means the amount of debt the applicant is obligated to pay on the loan in one year.

(4) **Applicant** means a public body that has applied for funding.

(5) **Best management practices (BMP)** means physical, structural, and/or managerial practices approved by the department that prevent or reduce pollutant discharges.

(6) **Capitalization grant** means a federal grant awarded by the U.S. Environmental Protection Agency (EPA) to the state to help expand the revolving fund.

(7) **Ceiling amount** means the highest level of financial assistance the department can provide to a recipient for an individual project.

(8) **Commercial, industrial, and institutional flows** mean the portion of the total flows to a facility that originate from large commercial establishments, industrial facilities, or institutional sources such as state schools, hospitals, and prisons.

(9) **Competitive funding** means moneys available for projects through a statewide evaluation process.

(10) **Completion date** or **expiration date** means the date indicated in the funding agreement in which all milestones and objectives associated with the goals of the project are met.

(11) **Concentrated animal feeding operation (CAFO)** means:

(a) An animal livestock feeding operation that discharges animal waste to the waters of Washington state more frequently than the twenty-five-year, twenty-four-hour storm event;

(b) An operation that is under a department administrative order, notice of violation, a National Pollution Discharge Elimination System permit;

(c) An operation that will be required to have a National Pollution Discharge Elimination System permit coverage in the near future; or

(d) An operation designated by the Environmental Protection Agency as polluting the waters of Washington state.

(12) **Conservation easement** means a recorded legal agreement between a landowner and a public body to allow or restrict certain activities and uses that may take place on his or her property.

(13) **Conservation plan** means a document that outlines how a project site will be managed using best management practices to avoid potential negative environmental impacts.

(14) **Construction** means to erect, install, expand, or improve water pollution control facilities or activities. Construction includes construction phase engineering and preparation of the operation and maintenance manual.

(15) **Cost-effective alternative** means the option selected in an approved facilities plan that meets the requirements of the project, recognizes environmental and other nonmonetary impacts, and offers the lowest cost over the life of the project (i.e., lowest present worth or equivalent annual value).

(16) **Debt service** means the total of all principal, interest, and administration charges associated with a water pollution control revolving fund loan that must be repaid to the department by the public body.

(17) **Department** means the Washington state department of ecology.

~~((17))~~ (18) **Design** means the preparation of the plans and specifications used for construction of water pollution control facilities or activities.

~~((18))~~ (19) **Director** means the director of the Washington state department of ecology or his or her authorized designee.

~~((19))~~ (20) **Draft offer and applicant list** means a catalog of all applications for financial assistance considered and those proposed for funding, based on estimates of state and federal budgets.

~~((20))~~ (21) **Easement** means a recorded legal agreement between a public body and a landowner that allows the public body to have access to the landowner's property at any time to inspect, maintain, or repair loan-funded activities or facilities.

~~((21))~~ (22) **Effective date** means the date the loan agreement is signed by the department's water quality program manager.

~~((22))~~ (23) **Eligible cost** means the portion of a facilities or activities project that can be funded based on program eligibility as defined in WAC 173-98-100 and in the most recently updated edition of the *Water Quality Financial Assistance Guidelines* (publication # 10-10-049).

~~((23))~~ (24) **Energy efficiency** means the use of improved technologies and practices to reduce the energy consumption of water quality projects, use energy in a more efficient way, and produce/use renewable energy.

~~((24))~~ (25) **Enforcement order** means an administrative requirement issued by the department under the authority

of RCW 90.48.120 that directs a public body to complete a specified course of action within an explicit period to achieve compliance with the provisions of chapter 90.48 RCW.

~~((25))~~ (26) **Engineering report** means a document that includes an evaluation of engineering and other alternatives that meet the requirements in chapter 173-240 WAC.

~~((26))~~ (27) **Environmental degradation** means the reduced capacity of the environment to meet social and ecological objectives and needs.

~~((27))~~ (28) **Environmental emergency** means a problem that a public body and the department agree poses a serious, immediate threat to the environment or to the health or safety of a community and requires immediate corrective action.

~~((28))~~ (29) **Environmentally innovative** means projects that demonstrate new or innovative approaches to managing water quality issues in a more sustainable way.

~~((29))~~ (30) **Equivalent residential unit (ERU)** means a unit of measurement used to express the average sewage loading discharged from a typical full-time single-family dwelling unit.

~~((30))~~ (31) **Estimated construction cost** means the expected amount for labor, materials, equipment, and other related work necessary to construct the proposed project.

~~((31))~~ (32) **Existing need** means water pollution control facility's capacity reserved for all users, at the time of application.

~~((32))~~ (33) **Existing residential need** means that portion of a water pollution control facility's capacity reserved for residential structures that:

(a) Exist within the project service area at the time of application;

(b) Are connected to the facility or scheduled to be connected to the facility in an approved engineering report; and

(c) Will bear the financial burden of paying for the new facility.

~~((33))~~ (34) **Facilities**, see water pollution control facility.

~~((34))~~ (35) **Facilities plan** means an engineering report that includes all the elements required by the state environmental review process (SERP), National Environmental Policy Act (NEPA) as appropriate, other federal statutes, and planning requirements under chapter 173-240 WAC.

~~((35))~~ (36) **Federal capitalization grant**, see capitalization grant.

~~((36))~~ (37) **Final offer and applicant list** means a catalog of all applications for financial assistance considered and those offered funding, based on adopted state and federal budgets.

~~((37))~~ (38) **Force account** means loan project work performed using labor, materials, or equipment of a public body.

~~((38))~~ (39) **Forgivable principal** means the portion of a loan made by the department that is not required to be paid back by the borrower if allowable by Congress through federal appropriation.

~~((39))~~ (40) **Funding category** see "water pollution control activities funding category," "water pollution control facilities funding category," "preconstruction funding category," and "green project reserves funding category."

~~((40))~~ **(41) Funding cycle** means the events related to the competitive process used to allocate moneys from the revolving fund, centennial clean water program, and the Clean Water Act section 319 nonpoint source program for a state fiscal year.

~~((41))~~ **(42) General obligation debt** means an obligation of the recipient secured by annual ad valorem taxes levied by the recipient and by the full faith, credit, and resources of the recipient.

~~((42))~~ **(43) Green infrastructure** means a wide array of practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by infiltrating, evapotranspiring and harvesting and using storm water.

~~((43))~~ **(44) Green project reserves** means water efficiency, energy efficiency, green infrastructure, and environmentally innovative projects.

~~((44))~~ **(45) Green project reserves funding category** means that portion of the revolving fund dedicated to green project reserves projects.

~~((45))~~ **(46) Growth** means the portion of the total flows to a facility that is reserved for future residential, commercial, industrial, and institutional flows.

~~((46))~~ **(47) Indirect cost** means costs that benefit more than one activity of the recipient and not directly assigned to a particular project objective.

~~((47))~~ **(48) Infiltration and inflow** means water, other than wastewater, that enters a sewer system.

~~((48))~~ **(49) Infiltration and inflow correction** means the cost-effective alternative or alternatives and the associated corrective actions identified in an approved facilities plan or engineering report for eliminating or reducing the infiltration and inflow to existing sewer system.

~~((49))~~ **(50) Initiation of operation** means the actual date the recipient begins using, or could begin using, the facilities for its intended purpose. This date may occur before final inspection or project completion.

~~((50))~~ **(51) Intended use plan** means a document identifying the types of projects proposed and the amount of all money available for financial assistance from the revolving fund for a fiscal year as described in section 606(c) of the act.

~~((51))~~ **(52) Landowner agreement** means a written arrangement between a public body and a landowner that allows the public body to have access to the property to inspect project-related components.

~~((52))~~ **(53) Loan agreement** means a contractual arrangement between a public body and the department that involves a disbursement of moneys that must be repaid.

~~((53))~~ **(54) Loan default** means failure to make a loan repayment to the department within sixty days after the payment was due.

~~((54))~~ **(55) Nonpoint source water pollution** means pollution that enters any waters from widespread water-based or land-use activities. Nonpoint source water pollution includes, but is not limited to atmospheric deposition; surface water runoff from agricultural lands, urban areas, and forest lands; subsurface or underground sources; and discharges from some boats or other marine vessels.

~~((55))~~ **(56) Perpetuity** means the point at which the revolving fund is earning at least fifty percent of the market rate for tax-exempt municipal bonds on its loan portfolio.

~~((56))~~ **(57) Plans and specifications** means the construction contract documents and supporting engineering documents prepared in sufficient detail to allow contractors to bid on and construct water pollution control facilities. "Plans and specifications" and "design" may be used interchangeably.

~~((57))~~ **(58) Preconstruction** means facility planning, facility design, rate studies, value engineering, sewer use ordinances, and utility formation.

~~((58))~~ **(59) Preconstruction funding category** means that portion of the revolving fund dedicated to preconstruction projects.

~~((59))~~ **(60) Preliminary project priority list** means a catalog of all applications for financial assistance considered for funding and submitted to the Washington state legislature for its consideration during budget development.

~~((60))~~ **(61) Project** means a water quality improvement effort funded with a grant or loan.

~~((61))~~ **(62) Project completion or expiration** means the date indicated in the funding agreement in which all milestones and objectives associated with the goals are met.

~~((62))~~ **(63) Public body** means a state of Washington county, city or town, conservation district, other political subdivision, municipal corporation, quasi-municipal corporation, those Indian tribes recognized by the federal government, or institutions of higher education when the proposed project is not part of the school's statutory responsibility.

~~((63))~~ **(64) Public health emergency** means a situation declared by the Washington state department of health in which illness or exposure known to cause illness is occurring or is imminent.

~~((64))~~ **(65) Recipient** means a public body that has an effective loan agreement with the department.

~~((65))~~ **(66) Reserve account** means an account created by the recipient to secure the payment of the principal and interest on the revolving fund loan.

~~((66))~~ **(67) Residential** means the portion of the total flows to a facility that originates from single-family houses, apartments, mobile home parks, small commercial facilities, and community facilities such as local K-12 public schools, libraries, and fire stations.

~~((67))~~ **(68) Revenue-secured debt** means an obligation of the recipient secured by a pledge of the revenue of a utility.

~~((68))~~ **(69) Revolving fund** means Washington state's water pollution control revolving fund.

~~((69))~~ **(70) Riparian buffer or zone** means a swath of vegetation along a channel bank that provides protection from the erosive forces of water along the channel margins and external nonpoint sources of pollution.

~~((70))~~ **(71) Scope of work** means a detailed description of project tasks, milestones, and measurable objectives.

~~((71))~~ **(72) Senior lien obligations** means all revenue bonds and other obligations of the recipient outstanding on the date of execution of a loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of a loan agreement hav-

ing a claim or lien on the gross revenue of the utility prior and superior to the claim or lien of the loan, subject only to maintenance and operation expense.

~~((72))~~ **(73) Service area population** means the number of people served in the area of the project.

~~((73))~~ **(74) Severe public health hazard** means a situation declared by the Washington state department of health in which the potential for illness exists, but illness is not occurring or imminent.

~~((74))~~ **(75) Sewer** means the pipe and related pump stations located on public property, or on public rights of way and easements that convey wastewater from buildings.

~~((75))~~ **(76) Side sewer** means a sanitary sewer service extension from the point five feet outside the building foundation to the publicly owned collection sewer.

~~((76))~~ **(77) State environmental review process (SERP)** means the National Environmental Policy Act (NEPA)-like environmental review process adopted to comply with the requirements of the Environmental Protection Agency's Code of Regulations (40 C.F.R. § 35.3140). SERP combines the State Environmental Policy Act (SEPA) review with additional elements to comply with federal requirements.

~~((77))~~ **(78) Total eligible project cost** means the sum of all expenses associated with a water quality project that are eligible for funding.

~~((78))~~ **(79) Total project cost** means the sum of all expenses associated with a water quality project.

~~((79))~~ **(80) Water efficiency projects** means the use of improved technologies and practices to deliver equal or better water quality services with less water. Water efficiency encompasses conservation and reuse efforts, as well as water loss reduction and prevention, to protect water resources for the future.

~~((80))~~ **(81) Water pollution** means contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters; or any discharge of a liquid, gas, solid, radioactive substance, or other substance into any waters of the state that creates a nuisance or renders the waters harmful, detrimental, or injurious to the public, to beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

~~((81))~~ **(82) Water pollution control activities or activities** means actions taken by a public body for the following purposes:

- (a) To prevent or mitigate pollution of underground water;
- (b) To control nonpoint sources of water pollution;
- (c) To restore the water quality of freshwater lakes; and
- (d) To maintain or improve water quality through the use of water pollution control facilities or other means.

~~((82))~~ **(83) Water pollution control activities funding category** means that portion of the revolving fund dedicated to nonpoint source pollution projects.

~~((83))~~ **(84) Water pollution control facility or facilities** means any facilities or systems for the control, collection, storage, treatment, disposal, or recycling of wastewater, including, but not limited to, sanitary sewage, storm water, residential, commercial, industrial, and agricultural wastes.

Facilities include all necessary equipment, utilities, structures, real property, and interests in and improvements on real property.

~~((84))~~ **(85) Water pollution control facilities funding category** means that portion of the revolving fund dedicated to facilities projects.

~~((85))~~ **(86) Water pollution control revolving fund (revolving fund)** means the water pollution control revolving fund established by RCW 90.50A.020.

~~((86))~~ **(87) Water resource inventory area (WRIA)** means one of the watersheds in the state of Washington, each composed of the drainage areas of a stream or streams, as established in the Water Resources Management Act of 1971 (chapter 173-500 WAC).

AMENDATORY SECTION (Amending WSR 11-20-036, filed 9/27/11, effective 10/28/11)

WAC 173-98-400 Loan interest rates. (1) Interest will accrue on each disbursement as it is paid to the recipient.

(2) The department bases loan interest rates on the average market interest rate. The average market interest rate is:

- (a) Based on the daily market rate published in the bond buyer's index for tax-exempt municipal bonds; and
- (b) Taken from the period sixty to thirty days before the annual funding application cycle begins.

(3) See WAC 173-98-300 and 173-98-310 for hardship interest rates.

Figure 6: Loan Terms and Interest Rates

Repayment Period	Interest Rate
Up to five years:	Thirty percent of the average market rate.
More than five but no more than twenty years:	Sixty percent of the average market rate.

(4) The director may approve lower interest rates for the annual funding application cycle if a financial analysis of the revolving fund demonstrates that lower interest rates for that year are not detrimental to the perpetuity of the revolving fund.

(5) An administration charge will be applied to all loans that enter repayment after the effective date of this section. The following conditions apply to the administration charge.

(a) The administration charge will be applied to the outstanding loan balance at the time of each payment.

(b) The administration charge will be subtracted from the interest rate established in the loan agreement so there is no additional cost to the borrower.

(c) The administration charge will not be applied to loans with interest rates less than the administration charge.

(d) The maximum allowable administration charge is one percent. Initially the administration charge will be set at this level.

(e) Beginning with its 2017-2019 biennial operating budget submittal and each biennium thereafter, the department will compare the projected administration account balance and the projected administration charge income with projected program costs, including an adequate working capital reserve as defined by the office of financial management.

In its submittal to the office of financial management, the department may:

(i) Find that the projected administration charge income is inadequate to fund the cost of administering the program, and that the rate of the charge must be increased; however, the administration charge may never exceed one percent;

(ii) Find that the projected administration charge income exceeds what is needed to fund the cost of administering the program, and that the rate of the charge must be decreased;

(iii) Find that there is an excess balance in the administration account, and that the excess must be transferred to the water pollution control revolving fund to be used for loans; or

(iv) Find that there is no need for any rate adjustments or balance transfers.

(f) If the department determines the administration charge should be adjusted, it will increase (up to the maximum of one percent) or decrease the administration charge and apply the new administration charge to loans that enter repayment after the administration charge has been adjusted. Loans already in repayment will not be affected by the adjusted administration charge.

WSR 13-24-010

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 12-05—Filed November 21, 2013, 11:32 a.m., effective December 22, 2013]

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

Purpose: The purpose of this rule making is to:

- Adopt a new rule, chapter 173-476 WAC, Ambient air quality standards, that contains the federal national ambient air quality standards for large and small particles (PM-10 and PM-2.5), lead, sulfur oxides, nitrogen oxides, ozone, and carbon monoxide. The rule retains the more stringent annual sulfur oxide state standard with a sunset provision.
- Repeal three outdated rules because the new chapter 173-476 WAC includes updated versions:
 - o Chapter 173-470 WAC, Ambient air quality standards for particulate matter.
 - o Chapter 173-474 WAC, Ambient air quality standards for sulfur oxides.
 - o Chapter 173-475 WAC, Ambient air quality standards for carbon monoxide, ozone, and nitrogen dioxide.

Citation of Existing Rules Affected by this Order: Repealing chapters 173-470, 173-474, and 173-475 WAC.

Statutory Authority for Adoption: Chapter 70.94 RCW provides statutory authority to adopt rule changes.

Adopted under notice filed as WSR 13-16-083 on August 6, 2013.

Changes Other than Editing from Proposed to Adopted Version: RCW 34.05.325 (6)(a)(ii) requires ecology to describe the differences between the text of the proposed rule as published in the Washington State Register and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are some differences between the proposed rule filed on August 6, 2013, and the adopted rule filed on November 20, 2013. Ecology made these changes for all or some of the following reasons:

- In response to comments we received.
- To ensure clarity and consistency.
- To meet the intent of the authorizing statute.

The following content describes the changes and ecology's reasons for making them.

Section	Change(s)	Purpose/Effect
030	Rephrased first sentence which states the definitions in chapter 173-400 WAC also apply in this rule.	Improved readability.
	Alphabetized list of definitions.	Improved readability.
	Reordered "Federal Equivalent Method or FEM" and ["Federal Reference Method or FRM" so acronym is listed before the full term.	Improved rule usability because that is what the reader will be looking up in the definition.
	Added definition for µg/m ³ .	Unit used in rule and table.
	Added "v" to ppm (ppmv [ppmv]).	Added ("v") for volume to clarify the correct method to denote pollutants in the air.
100	Changed title.	Better approximation of title in 40 C.F.R. Part 51.
110	Changed title.	Better approximation of title in 40 C.F.R. Part 51.
120	Added word "lead" to first sentence and removed "Pb" throughout section.	Added for clarity and consistency.
130 (1)(b)	Changed emission standard from 0.1 ppmv to 0.14 ppmv.	Change required by Environmental Protection Agency (EPA) to accommodate difference in state and EPA rounding conventions. Because the state standard has one less significant digit,

Section	Change(s)	Purpose/Effect
		measured values in the 0.145 to 0.149 ppm range would be considered a violation of the federal standard but not the state standard. This would make the state standard less stringent in some situations. To resolve this, we chose to go to a two significant digits measured value of 0.14.
130 (1)(d)	Added "v" to "ppb" for clarity.	Made more consistent with the intent of the definition. Added ("v") for volume to clarify the correct method to denote pollutants in the air.
130(2)	Removed extraneous word.	No need to include "part" when referencing a specific subsection within a section of C.F.R.
130(3)	Removed extraneous word.	Including "part" was incorrect when referencing a specific subsection within a section of C.F.R.
130 (4)(a)	Added the twenty-four hour average from WAC 173-476-130 (4)(b) and corrected the rounding convention description. Minor edit for clarity.	Both the annual and the twenty-four-hour standards have the same number of significant figures. Changed the twenty-four hour standard to 0.14 ppmv to reflect this. Rounding convention now matches federal rounding convention.
130 (4)(b)	Combined with WAC 173-476-130 (4)(a).	Consistency and clarity.

Section	Change(s)	Purpose/Effect
140(1)	Added "v" to "ppb" for clarity.	Added ("v") for volume to clarify the correct method to denote pollutants in the air.
180(2)	Minor rewording.	Added clarity and consistency.
900	Deleted extraneous word in title.	Not an appendix.
	Changed reference to sulfur dioxide/ measurement method in appendix.	Corrected reference.
	Added "v" to ppm and ppb.	Added ("v") for volume to clarify the correct method to denote pollutants in the air.

A final cost-benefit analysis is available by contacting Margo Thompson, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6827, fax (360) 407-7534, e-mail margo.thompson@ecy.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 13, Amended 0, Repealed 19; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: November 20, 2013.

Maia D. Bellon
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-470-010 Purpose.
- WAC 173-470-020 Applicability.
- WAC 173-470-030 Definitions.
- WAC 173-470-100 Ambient air quality standards.
- WAC 173-470-110 Particle fallout standards.
- WAC 173-470-150 Method of measurement.
- WAC 173-470-160 Reporting of data.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-474-010 Purpose.
- WAC 173-474-015 Objective.
- WAC 173-474-020 Applicability.
- WAC 173-474-030 Definitions.
- WAC 173-474-100 Air quality standards.
- WAC 173-474-150 Measurement method.
- WAC 173-474-160 Data reporting.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-475-010 Purpose.
- WAC 173-475-020 Definitions.
- WAC 173-475-030 Air quality standards.
- WAC 173-475-040 Measurement methods.
- WAC 173-475-050 Reporting of data.

Chapter 173-476 WAC**AMBIENT AIR QUALITY STANDARDS**NEW SECTION

WAC 173-476-010 Purpose. This chapter establishes maximum acceptable levels in the ambient air for particulate matter, lead, sulfur dioxide, nitrogen oxides, ozone, and carbon monoxide.

NEW SECTION

WAC 173-476-020 Applicability. (1) The provisions of this chapter apply to all areas of the state of Washington.

(2) All federal regulations referenced in this regulation are adopted as they exist on August 3, 2013.

NEW SECTION

WAC 173-476-030 Definitions. Definitions in chapter 173-400 WAC apply to this chapter. Definitions specific to this chapter include:

"FEM" or "Federal Equivalent Method" means an EPA designated ambient air quality sampling and analysis method that has been designated as an equivalent method according to 40 C.F.R. Part 53. It does not include a method for which an equivalent method designation has been canceled according to 40 C.F.R. 53.11 or 53.16.

"FRM" or "Federal Reference Method" means an EPA designated ambient air quality sampling and analysis method specified in an appendix to 40 C.F.R. Part 50, or a method that has been designated as a reference method according to 40 C.F.R. Part 53. It does not include a method

for which a reference method designation has been canceled according to 40 C.F.R. 53.11 or 53.16.

"mg/m³" means milligrams per cubic meter.

"Period" means any interval of the specified time.

"PM" means particulate matter.

"ppbv" means parts per billion by volume.

"ppmv" means parts per million by volume.

"µg/m³" means micrograms per cubic meter.

NEW SECTION

WAC 173-476-100 Ambient air quality standard for PM-10. (1) **Standard for PM-10.** The twenty-four-hour average concentration of PM-10 in the ambient air must not exceed 150 µg/m³ more than one time per year, on a three-year average.

(2) **Measurement method.** The levels of PM-10 in the ambient air must be measured by:

(a) A FRM based on 40 C.F.R. Part 50, Appendix J and designated according to 40 C.F.R. Part 53; or

(b) A FEM designated according to 40 C.F.R. Part 53.

(3) **Interpretation method.** The interpretation method found in 40 C.F.R. Part 50, Appendix K must be used.

NEW SECTION

WAC 173-476-110 Ambient air quality standards for PM-2.5. (1) **Standards for PM-2.5.**

(a) The three-year average of the annual arithmetic mean concentration of PM-2.5 must not exceed 12.0 µg/m³.

(b) The three-year average of the ninety-eighth percentile twenty-four-hour average concentration of PM-2.5 must not exceed 35 µg/m³.

(2) **Measurement method.** The levels of PM-2.5 in the ambient air must be measured by:

(a) A FRM based on 40 C.F.R. Part 50, Appendix L and designated according to 40 C.F.R. Part 53; or

(b) A FEM designated according to 40 C.F.R. Part 53.

(3) **Interpretation method.** The interpretation method found in 40 C.F.R. Part 50, Appendix N must be used.

NEW SECTION

WAC 173-476-120 Ambient air quality standard for lead (Pb). (1) **Standard for lead.** The three-month rolling average concentration of lead and its compounds in the ambient air must not exceed 0.15 µg/m³.

(2) **Measurement method.** The levels of lead in the ambient air must be measured by:

(a) A FRM based on 40 C.F.R. Part 50, Appendix G and designated according to 40 C.F.R. Part 53; or

(b) A FEM designated according to 40 C.F.R. Part 53.

(3) **Interpretation method.** The interpretation method found in 40 C.F.R. Part 50, Appendix R must be used.

NEW SECTION

WAC 173-476-130 Ambient air quality standards for sulfur oxides (sulfur dioxide). (1) **Standard for sulfur oxides (measured as sulfur dioxide).**

(a) **Annual.** The annual average concentration for sulfur oxides in the ambient air must not exceed 0.02 ppmv in a calendar year.

(b) **Twenty-four-hour.** The twenty-four-hour average concentration for sulfur oxides in the ambient air must not exceed 0.14 ppmv more than once per calendar year. The twenty-four-hour averages must be determined from successive nonoverlapping twenty-four-hour blocks starting at midnight each calendar day.

(c) **Three-hour.** The three-hour average concentration for sulfur oxides in the ambient air must not exceed 0.5 ppmv more than once per calendar year. The three-hour averages must be determined from successive nonoverlapping three-hour blocks starting at midnight each calendar day.

(d) **One-hour.** The three-year average of the annual ninety-ninth percentile of the daily maximum one-hour average concentrations for sulfur oxides in the ambient air must not exceed 75 ppbv.

(2) **Measurement method.** The levels of sulfur oxides must be measured as sulfur dioxide by:

(a) A FRM based on 40 C.F.R. Part 50, Appendix A-1 or A-2; or

(b) A FEM designated according to 40 C.F.R. Part 53.

(3) **Interpretation methods.**

(a) The annual arithmetic mean is based on the average of hourly data. To be used in calculating the annual average, the hourly data must be at least seventy-five percent complete in each calendar quarter of the year.

(b) The interpretation method for the twenty-four-hour average found in 40 C.F.R. Part 50.4(d) must be followed.

(c) The interpretation method for the three-hour average found in 40 C.F.R. Part 50.5(c) must be followed.

(d) The interpretation method for the one-hour average found in 40 C.F.R. Part 50, Appendix T must be followed.

(4) **Rounding of values.**

(a) The annual arithmetic mean and twenty-four-hour averages must be rounded to two decimal places. Fractional parts equal to or greater than 0.005 ppmv must be rounded up.

(b) The three-hour standard averages must be rounded to one decimal place. Fractional parts equal to or greater than 0.05 ppmv must be rounded up.

(5) **Sunset provision.** The ambient standards in WAC 173-476-130 (1)(a) and (b) are no longer applicable in a specific area one year after the effective date of the EPA's designation of attainment status of that area for the standard in WAC 173-476-130 (1)(d) and 40 C.F.R. 50.17.

NEW SECTION

WAC 173-476-140 Ambient air quality standards for nitrogen oxides (nitrogen dioxide). (1) **Standards for nitrogen oxides (measured as nitrogen dioxide).**

(a) The annual average concentration for nitrogen oxides in ambient air must not exceed 53 ppbv (100 $\mu\text{g}/\text{m}^3$) measured in the ambient air as nitrogen dioxide.

(b) The three-year average of the ninety-eighth percentile of the daily maximum one-hour average concentration of nitrogen oxides must not exceed 100 ppbv, as measured in the ambient air as nitrogen dioxide.

(2) **Measurement method.** The levels of nitrogen oxides must be measured as nitrogen dioxide by:

(a) A FRM based on 40 C.F.R. Part 50, Appendix F; or

(b) A FEM designated according to 40 C.F.R. Part 53.

(3) **Interpretation method.** The interpretation method found in 40 C.F.R. Part 50, Appendix S must be followed.

NEW SECTION

WAC 173-476-150 Ambient air quality standard for ozone. (1) **Standard for ozone.** The three-year average of the annual fourth highest daily maximum eight-hour average concentration of ozone in the ambient air must not exceed 0.075 ppmv.

(2) **Measurement method.** The levels of ozone in the ambient air must be measured by:

(a) A FRM based on 40 C.F.R. Part 50, Appendix D and designated according to 40 C.F.R. Part 53; or

(b) A FEM designated according to 40 C.F.R. Part 53.

(3) **Interpretation method.** The interpretation method found in 40 C.F.R. Part 50, Appendix P must be followed.

NEW SECTION

WAC 173-476-160 Ambient air quality standards for carbon monoxide. (1) **Standards for carbon monoxide.**

(a) The eight-hour average concentration of carbon monoxide in the ambient air must not exceed 9 ppmv (10 milligrams per cubic meter) more than once per year.

(b) The one-hour average concentration of carbon monoxide in the ambient air must not exceed 35 ppmv (40 milligrams per cubic meter) more than once per year.

(2) **Measurement method.** The levels of carbon monoxide in the ambient air must be measured by:

(a) A FRM based on 40 C.F.R. Part 50, Appendix C and designated according to 40 C.F.R. Part 53; or

(b) A FEM designated according to 40 C.F.R. Part 53.

(3) **Interpretation method.** An eight-hour average must be considered valid if at least seventy-five percent of the hourly averages for the eight-hour period are available. In the event that only six (or seven) hourly averages are available, the eight-hour average must be computed on the basis of the hours available using six (or seven) as the divisor.

(4) **Rounding of values.** When summarizing data for comparison with the standards, averages must be stated to one decimal place. Comparison of the data with the levels of the standards in ppmv must be made in terms of integers with fractional parts of 0.5 or greater rounding up.

NEW SECTION

WAC 173-476-170 Monitor siting criteria. Ambient monitors must be sited as required in 40 C.F.R. Part 58.

NEW SECTION

WAC 173-476-180 Reference conditions. (1) All measurements of air quality that are expressed as mass per unit volume $\mu\text{g}/\text{m}^3$ must be corrected to:

(a) A reference temperature of 25°C; and

(b) A reference pressure of 760 millimeters of mercury (1,013.2 millibars (hectopascals)).

(2) **Exception for measurements of PM-2.5 and lead.** Measurements of PM-2.5 and lead must be reported based on

the actual ambient air volume measured at the actual ambient temperature and pressure at the monitoring site during the measurement period.

NEW SECTION

WAC 173-476-900 Table of standards.

Disclaimer: This table is provided as an overview. See complete rule for more detail.

Pollutant		Averaging Time	Level	Remarks	Measurement Method	Interpretation Method
Particle Pollution	PM-10	24-hour	150 $\mu\text{g}/\text{m}^3$	Not to be exceeded more than once per year averaged over 3 years	40 C.F.R. Part 50, Appendix J	40 C.F.R. Part 50, Appendix K
	PM-2.5	Annual	12.0 $\mu\text{g}/\text{m}^3$	Annual mean, averaged over 3 years	40 C.F.R. Part 50, Appendix L	40 C.F.R. Part 50, Appendix N
		24-hour	35 $\mu\text{g}/\text{m}^3$	98th percentile, averaged over 3 years		
Lead		Rolling 3-month average	0.15 $\mu\text{g}/\text{m}^3$	Not to be exceeded	40 C.F.R. Part 50, Appendix G	40 C.F.R. Part 50, Appendix R
Sulfur Dioxide		Annual	0.02 ppmv	Not to be exceeded in a calendar year	40 C.F.R. Part 50, Appendix A-1 or A-2	WAC 173-476-130(3)
		24-hour	0.14 ppmv	Not to be exceeded more than once per year		
		3-hour	0.5 ppmv	Not to be exceeded more than once per year		
		1-hour	75 ppbv	99th percentile of 1-hour daily maximum concentrations, averaged over 3 years		
Nitrogen Dioxide		Annual	53 ppbv	Annual Mean	40 C.F.R. Part 50, Appendix F	40 C.F.R. Part 50, Appendix S
		1-hour	100 ppbv	98th percentile of 1-hour daily maximum concentrations, averaged over 3 years		
Ozone		8-hour	0.075 ppmv	Annual fourth-highest daily maximum 8-hr concentration, averaged over 3 years	40 C.F.R. Part 50, Appendix D	40 C.F.R. Part 50, Appendix P
Carbon Monoxide		8-hour	9 ppmv	Not to be exceeded more than once per year	40 C.F.R. Part 50, Appendix C	WAC 173-476-160(3)
		1-hour	35 ppmv			

WSR 13-24-011

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed November 21, 2013, 12:16 p.m., effective December 22, 2013]

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

Purpose: The rule requires owners of certain small fishing vessels to notify their employees they are not covered by unemployment insurance. The department will provide a poster containing the required information.

Citation of Existing Rules Affected by this Order: Amending WAC 192-310-100.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 13-20-113 on October 1, 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 21, 2013.

Nan Thomas
Deputy Commissioner

AMENDATORY SECTION (Amending WSR 07-23-127, filed 11/21/07, effective 1/1/08)

WAC 192-310-100 What notices does the department require or recommend employers to post? (Relating to RCW 50.20.140, 50.12.290, ~~((and))~~ 50.44.045, 50.24.160, and 50.04.170.)

(1) Employers who are responsible for unemployment insurance coverage of their employees must post and maintain printed notices to individuals who are employed by the employer. The notices provide information to individuals who may be unemployed about how to apply for benefits. The notices are to be posted in conspicuous places close to the actual location where the personal services are performed.

(2) The department will provide required notices to employers without charge. The department will send required notices to employers when they file a master application for a business license registering for unemployment insurance. The department will send updated notices to employers when there are substantive changes in the information.

(3) The department may also make recommendations of additional materials to post.

(4) A church, a convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or a convention or association of churches shall display in a conspicuous place a poster giving notice that its employees are not considered in employment for purposes of unemployment insurance. The department shall make these posters available without charge.

(5)(a) The owner of a boat with an operating crew normally made up of fewer than ten individuals engaged in the catching of fish or other forms of aquatic animal life must provide the individual members of the operating crew written notice, or post such notice in a conspicuous place, that states these individuals are not covered for unemployment insurance purposes unless the owner chooses to voluntarily cover them, when the operating crew receives no remuneration other than the following:

(i) A share of the boat's catch (or the catch of multiple boats if the fishing operation involves more than one boat); or

(ii) A share of the proceeds from the sale of the catch.

(b) The amount of the individual's share must depend on the amount of the boat or boats' catch.

(c) A notice that meets these requirements is available without charge on the department's web site.

WSR 13-24-012

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed November 21, 2013, 12:23 p.m., effective December 22, 2013]

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

Purpose: The rules implement the amended statute requiring a fifteen percent penalty for the first instance a claimant commits unemployment insurance fraud.

Citation of Existing Rules Affected by this Order: Amending WAC 192-220-040, 192-220-045, and 192-220-050.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 13-20-112 on October 1, 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 0, Repealed 0.

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

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

Date Adopted: November 21, 2013.

Nan Thomas
Deputy Commissioner

AMENDATORY SECTION (Amending WSR 07-23-128, filed 11/21/07, effective 1/1/08)

WAC 192-220-040 How will the disqualification period and penalty established by RCW 50.20.070 be assessed? (1) RCW 50.20.070 provides ~~((for increasing disqualification periods and))~~ dollar penalties when ~~((a second, third or subsequent))~~ fraud is committed and increased disqualification periods when a second, third or subsequent fraud is committed. The department will decide whether an action is the first, second, third or subsequent occurrence based on the ~~((factors))~~ criteria in this section.

(2) Once the department mails a fraud decision, any fraud that is found for weeks filed before, or within fourteen days after, the mailing date of the decision will be treated as part of the same occurrence of fraud. This applies even if the decisions involve different eligibility issues.

Example: A fraud decision is mailed on June 1 for weeks claimed on April 30. On July 1, a decision is mailed assessing fraud for weeks claimed on March 31. Both decisions will be treated as the same level occurrence because the weeks covered by the July 1 decision were filed before the June 1 decision was mailed.

(3) The department will treat any fraud for weeks filed more than fourteen days after the mailing date of a prior fraud

decision as a separate occurrence of fraud. This applies even if the weeks claimed occur before the weeks for which fraud was assessed in the prior decision.

Example: On June 1, a decision is mailed assessing fraud for weeks you claimed on March 31. On July 10, late claims are filed for weeks before March 31 in which fraud is committed. The later decision is treated as a subsequent occurrence of fraud because the late claims were filed more than fourteen days after June 1.

(4) The department will assess a disqualification period and penalty for each fraud decision issued based on whether it is a first, second, third or subsequent occurrence.

Example 1: A first occurrence of fraud is assessed on June 1 with a disqualification period of twenty-six weeks beginning with the week of June 1. Another fraud decision is issued on June 12 that is found to be part of the first occurrence. In addition to the fifteen percent penalty, the disqualification period is twenty-six weeks beginning with the week of June 1st.

Example 2: A first occurrence of fraud is assessed on June 1 with a disqualification period of twenty-six weeks and a penalty of fifteen percent beginning with the week of June 1. A second occurrence of fraud is assessed on July 10 with a disqualification period of fifty-two weeks beginning with the week of July 10 and a penalty of twenty-five percent for the weeks fraudulently paid.

(5) All disqualifications and penalties in this section are in addition to the required repayment of any benefits paid as a result of fraud.

AMENDATORY SECTION (Amending WSR 07-23-128, filed 11/21/07, effective 1/1/08)

WAC 192-220-045 How is the fraud penalty calculated?—RCW 50.20.070. (1) The department will assess the penalty established under RCW 50.20.070 for ~~((second, third, or subsequent occurrences of))~~ fraud based on a percentage of benefits paid for those weeks in which the fraud occurred or that were paid as a result of fraud. The penalty will not apply to other weeks that may be included in the same eligibility decision.

(a) For a first occurrence, the penalty is fifteen percent of benefits overpaid.

(b) For a second occurrence, the penalty is twenty-five percent of benefits overpaid.

~~((b))~~ (c) For a third or subsequent occurrence, the penalty is fifty percent of benefits overpaid.

(2) The penalty amount, if not a multiple of one dollar, is rounded up to the next higher dollar.

AMENDATORY SECTION (Amending WSR 07-23-128, filed 11/21/07, effective 1/1/08)

WAC 192-220-050 Will I receive a decision if a fraud penalty changes following a redetermination or appeal of another fraud decision? (1) The department will issue a new decision showing the corrected disqualification period and penalty if a disqualification period or penalty changes because of a change to another fraud decision following a redetermination or appeal.

Example 1: A first occurrence of fraud is assessed on June 1 and a second occurrence is assessed on July 10. The June 1 fraud assessment is overturned through appeal, making the July 10 decision the first occurrence. The department will issue a correction to the July 10 decision showing the penalty for a first occurrence of fraud (twenty-six week disqualification and ~~((a))~~ a fifteen percent dollar penalty).

Example 2: A decision assessing a first occurrence of fraud is mailed on August 1 and benefits are denied for the following twenty-six weeks and a fifteen percent penalty is assessed. On August 10, another fraud decision is mailed which is considered part of the first occurrence and denies benefits for the twenty-six weeks beginning August 1. The fraud included in the August 1 decision is overturned through appeal. The August 10 decision remains and the department will issue a correction showing the twenty-six week denial period begins with the August 10 mailing date.

(2) Although the revised decision does not restart the appeal period included in the original decision, you may appeal a change in the penalty or period of disqualification.

WSR 13-24-014

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed November 21, 2013, 1:50 p.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: Licensing scrap metal recyclers, chapter 308-70 WAC, Scrap metal business. The need for rule exists due to clarifying the passage of ESHB 1552 during the 2013 legislative session. We're adding a new set of rules, chapter 308-70 WAC to clarify chapter 19.290 RCW.

Statutory Authority for Adoption: Chapter 19.290 RCW and RCW 43.24.086.

Adopted under notice filed as WSR 13-20-135 on October 2, 2013.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-70-110:

(5) Fourth line after holidays, adding "unless otherwise posted."

(6) Second line after used metal, deleting "except gold, silver, or platinum" and adding "as defined in chapter 19.290 RCW."

(6) Deleting the last sentence, "This does not include major component parts as defined in chapters 46.79 and 46.80 RCW."

(7) Sixth line after scrap metal for hire, deleting "between scrap metal dealers licensed by the state or county in which they operate, and the ownership interest in the scrap metal is transferred directly between the scrap metal dealers."

WAC 308-70-140:

(a)(i) Deleting "nonferrous metal or private," and adding "scrap."

(a)(ii) Deleting "nonferrous metal, private metal property, and commercial" and adding "scrap."

(b)(iii) After "The business books and records," adding "as defined in chapter 19.290 RCW."

(d) After, "The business's operating hours must be clearly posted," deleting "and must meet or exceed normal business hours as defined in WAC 308-70-110(5)."

(2)(a) Second line after place where, deleting "nonferrous metal or private" and adding "scrap."

(2)(d) First line after, "the business's operating hours must be clearly posted," deleting "and must meet or exceed normal business hours as defined in WAC 308-70-110(5)."

(3)(b) After, "Where the business books and records," adding "as defined in chapter 19.290 RCW."

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 12, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 12, 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 21, 2013.

Damon Monroe
Rules Coordinator

Chapter 308-70 WAC

SCRAP METAL BUSINESS—RECYCLER—PROCESSOR—SUPPLIER

NEW SECTION

WAC 308-70-110 Definitions. (1) Employee means an employee of a scrap metal business who is a person who appears on the payroll records of the business as an employee and for whom Social Security, withholding tax, and all deductions required by law have been made.

(2) Agent, other than an authorized agent of the department of licensing, means a person who presents written authorization from the business bearing the business's official title (i.e., logo, letterhead, etc.).

(3) Department means the department of licensing of the state of Washington.

(4) Director means the director of the department of licensing of the state of Washington.

(5) Normal business hours - Processors and recyclers only. For purposes of inspection of a licensee's licensed premises and records, business hours must be 8:00 a.m. to 5:00 p.m., except for weekends and holidays, unless otherwise posted. Business hours must be posted at the licensee's place of business. This business hour requirement does not apply to suppliers.

(6) Scrap metal - As used in this chapter, scrap metal means any used metal, as defined in chapter 19.290 RCW, that is no longer useful as it was intended to be used in its original manufactured form, or that is commonly aggregated

for sale based on its intrinsic value to be converted into another form and diverted from the waste stream for recycling purposes.

(7) Common carrier means any person who undertakes to transport property for the general public by motor vehicle for compensation as outlined in chapter 81.80 RCW. For the purposes of this chapter, common carriers licensed under the provisions of chapter 81.80 RCW are exempt from the scrap metal licensing requirements when transporting scrap metal for hire.

NEW SECTION

WAC 308-70-120 Scrap metal business—Application for license. The application for a scrap metal business's license shall contain, in addition to any other information the department may require, evidence the application is approved by the local government planning and zoning authorities pursuant to the provisions of the State Environmental Policy Act, chapter 43.21C RCW.

NEW SECTION

WAC 308-70-130 Fees. The following fees shall be charged by the department of licensing:

Processor and Recycler Application, Initial	\$1,250.00
Processor and Recycler Application, Renewal	\$625.00
Supplier Application, Initial	\$350.00
Supplier Application, Renewal	\$175.00

NEW SECTION

WAC 380-70-140 Established place of business. (1) Scrap metal processor.

(a) A scrap metal processor's established place of business is a place where:

- (i) Scrap metal property may be stored lawfully; and
- (ii) Hydraulic balers, shears, or shredders for recycling scrap metal property may be used lawfully.

(b) There must be a building in which:

- (i) The scrap metal processor's license is conspicuously displayed;
- (ii) An owner or employee is available during normal business hours; and
- (iii) The business books and records, as defined in chapter 19.290 RCW, are kept and made available for inspection during normal business hours.

(c) There must be an exterior sign with the business name that is clearly visible to the major avenue of traffic during business hours.

(d) The business's operating hours must be clearly posted.

(2) Scrap metal recycler.

(a) A scrap metal recycler's established place of business is a place where scrap metal property may be stored lawfully.

(b) There must be a building in which:

(i) The scrap metal recycler's license is conspicuously displayed;

(ii) An owner or employee of the business is available during normal business hours; and

(iii) The business books and records are kept and made available for inspection during normal business hours.

(c) There must be an exterior sign with the business name that is clearly visible to the major avenue of traffic during business hours.

(d) The business's operating hours must be clearly posted.

(3) Scrap metal supplier. A scrap metal supplier's established place of business is:

(a) An address at which the scrap metal supplier receives mail and can normally be reached; and

(b) Where the business books and records, as defined in chapter 19.290 RCW, are kept and made available for inspection.

(4) The director may waive any requirements pertaining to a scrap metal business's established place of business if such waiver both serves the purposes of this chapter and is necessary due to unique circumstances.

NEW SECTION

WAC 308-70-150 Record of transactions. Any records originally created and retained electronically must be made available in hard copy upon the request of any designated authority named in chapter 19.290 RCW.

NEW SECTION

WAC 308-70-160 Scrap metal business license plates.

(1) Each plate set must be renewed annually. The cost for each plate set is five dollars.

(2) The scrap metal business plates may be split, with one being displayed on the front of the towing vehicle and the other on the rear of the vehicle being towed.

NEW SECTION

WAC 308-70-170 Expiration of scrap metal business license. (1) The scrap metal business license expiration is established by the business licensing service upon department approval of the license. Proration of fees may be necessary to align the scrap metal business license expiration with other licenses held by the business. The license will expire annually after any initial proration process.

(2) Any special license plates issued to a scrap metal business shall expire on the same date as the expiration of the scrap metal business license.

NEW SECTION

WAC 308-70-180 Change of address. A licensee must notify the department within ten days of any change of address of any business location or of the addition of a new location.

NEW SECTION

WAC 308-70-190 Statement of change in business structure, ownership interest, or control. A licensee must, within ten days of any change in its business ownership or structure, file with the department a statement that specifically describes the change that has occurred in its business structure or in its ownership interest.

NEW SECTION

WAC 308-70-200 Change in business structure while licensed. Upon a change of business structure of a licensed scrap metal business, the licensee must apply for a new license and pay original licensing fees under the new entity. Examples of a change of business structure include, but are not limited to, changing from a sole proprietorship to a corporation, a corporation to a limited liability company, or if a partner or partners in a partnership change. The firm may request to keep the previous license number.

NEW SECTION

WAC 308-70-210 Sale, transfer or other disposition of a sole proprietorship license. Upon the sale, transfer or other disposition of a sole proprietorship licensee's scrap metal business:

(1) The purchaser or transferee must file a new application for a license; the fees are the same as for an original application.

(2) The former owner must surrender to the department all special license plates. The new owner or transferee must purchase new plates in the new licensee's name.

NEW SECTION

WAC 308-70-220 Closure of business. Within ten business days of the closure of a scrap metal business, the business must return the license and the special license plates to the department for cancellation.

WSR 13-24-016

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed November 21, 2013, 4:29 p.m., effective December 22, 2013]

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

Purpose: The rules implement the amended statute and revised policies related to the shared work program.

Citation of Existing Rules Affected by this Order: Amending WAC 192-250-005, 192-250-010, 192-250-015, 192-250-020, 192-250-025, 192-250-030, 192-250-035, and 192-250-045.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 13-20-114 on October 1, 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 4, 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 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 8, Repealed 0.

Date Adopted: November 21, 2013.

Nan Thomas
Deputy Commissioner

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-005 Definitions. For purposes of this chapter:

(1) ~~("Full-time employment" means paid time of thirty-five to forty hours each week.~~

~~(2))~~ "General economic downturn" means a regional slowdown in work within an industry that is not due to factors that are typical for the industry or occupation.

~~((3))~~ (2) "Permanent basis" means an employment relationship that is steady, stable, and not intentionally meant to be work of a temporary nature.

(3) "Seasonal employment" is defined in WAC 192-100-040.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-010 What is the shared work program and who can participate? (1) The shared work program is a voluntary program that offers Washington employers an alternative to laying off skilled employees during periods of general economic downturn.

(2) An employer may reduce an employee's ~~((full-time))~~ usual weekly ~~((work))~~ hours of work from ten to fifty percent and the employee can receive the same percentage of unemployment benefits. For example, an eligible employee who ~~((normally))~~ usually works forty hours each week is reduced to thirty hours per week, a reduction of twenty-five percent. The employee is eligible to receive twenty-five percent of his or her weekly benefit amount, regardless of the wages earned that week.

(3) Both public and private sector employers are eligible to participate in the program.

(4) An employer or employers' association must submit a signed shared work plan application to the commissioner for approval. A plan that meets the approval criteria listed in RCW 50.60.030 and this chapter will be approved for a maximum of fifty-two weeks.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-015 When is an employer eligible to participate in the shared work program? A business must be legally registered in the state of Washington for at least six months (one hundred eighty days) before applying for the shared work program. "Registration" includes being issued an employment security ~~((ES-reference))~~ department (ESD) number as well as a unified business identifier (UBI) number.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-020 What ~~((is))~~ are the criteria for having a shared work plan approved? In addition to the criteria listed in RCW 50.60.030, employers must:

(1) Be current in the payment of all unemployment insurance taxes required under Title 50 RCW, or ~~((have))~~ be current on an approved deferred payment contract on file with the department;

(2) Include their ~~((ES-reference))~~ ESD number on the plan application; and

(3) Designate a representative to be a liaison between the department and the employees who participate in the shared work plan.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-025 What are the requirements for employers with an approved shared work plan? (1) What information am I responsible for providing to my employees? When your shared work plan is approved, you are responsible for telling your affected employees:

(a) They are approved for participation in the shared work program;

(b) How to apply for shared work benefits; and

(c) How to file their weekly claims.

(2) **What employee fringe benefits do I have to provide while participating in the shared work program?**

(a) You must continue to provide your affected employees with health benefits ~~((and))~~ as though their weekly benefits had not been reduced.

(b) You must continue to provide your affected employees with retirement benefits for defined contribution and defined benefit pension plans under ~~((Section 3(35) of the Employee Retirement Income Security Act of 1974))~~ the Internal Revenue Service code. You must maintain these benefits for your shared work employees as though their weekly hours had not been reduced.

~~((b))~~ (c) You must continue to provide paid vacation, holiday, and sick leave ~~((on))~~ to your affected employees under the same ~~((basis))~~ terms and conditions as before their hours were reduced.

~~((c))~~ (d) If health, retirement, or leave benefits change for your other employees, you can change them for your shared work employees as well.

(e) Other benefits offered to your employees, such as long-term disability and life insurance, are optional. You may

choose to provide these benefits but they are not a requirement for participation in the shared work program.

(3) **What is required if the business name is changed?** You must report any change in your business name to the shared work program unit within ten working days.

(4) **What is required if the designated employer representative is changed?** You must notify the shared work unit of the change within ten working days.

(5) **Can I modify an approved shared work plan?** ~~((Answering "yes" to plan modification on your application allows))~~ You may request to add additional employees or units of your business ~~((to be added))~~ after the approved plan start date. ~~((You may also modify the number of hours an employee works during a week according to the needs of your business.))~~ Adding new employees or units to an approved plan is subject to the same eligibility review that applied to the original plan. You must notify the shared work unit of any change to the information on your application in writing within ten working days.

(6) ~~((Can I change the definition of full-time work for my employees? No. Once you have established the number of hours that are full-time for the worker on the original application, this number may not be modified.~~

~~((7))~~ **What other information am I responsible for giving the department?** In addition to the application for participation in the program, you are responsible for verifying the information on the ~~((report of))~~ shared work payments report sent by the department. You must report any discrepancies to the shared work unit in writing within ten working days.

~~((8))~~ **(7) How many shared work plans may I have?**

(a) You may have ~~((two))~~ more than one shared work ~~((plans within a three year period beginning with the effective date of the first))~~ plan. We will review each shared work plan application to see if it meets the eligibility requirements. Even if a previous plan was approved, this does not mean subsequent plans are automatically approved.

(b) ~~((You will not be eligible for a new plan until at least twelve months after the expiration date of the second approved plan.~~

~~((c))~~ A plan may be approved for up to twelve months from the effective date. Plans approved for fewer than twelve months still count as one plan.

~~((d))~~ If your business is approved for a shared work plan, but your employees do not claim shared work benefits during the life of the plan, it will still be treated as one plan.

~~((e))~~ (c) The commissioner may, ~~((in individual cases and))~~ at his or her discretion, ~~((waive the twelve month waiting period in subsection (b))~~ deny approval of subsequent plans.

~~((9))~~ **(8) What if my ((ES reference)) ESD number changes?** You must report the change to the shared work unit within ten working days. A change in ~~((ES reference))~~ ESD number represents a change in employer and the existing shared work plan will be canceled. The successor employer may submit a new shared work plan application to the department for review.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-030 What are the grounds for revoking a shared work plan?—RCW 50.60.070. The department may revoke a shared work plan for good cause. In addition to the factors listed in RCW 50.60.070, "good cause" includes, but is not limited to:

(1) An employer's failure within ten working days to:

(a) Report a change in their ~~((ES reference))~~ ESD number.

(b) Report an impending sale or transfer of the business or company.

(c) Report a change in the designated employer representative.

(d) Provide wage and hour reports, documents, or other information needed by the shared work unit to decide if the employer or employee(s) is eligible for participation in the shared work program.

(e) Verify the information on the employer's shared work payments report, and notify the shared work unit of any discrepancies in writing.

(2) An employer's failure to maintain employee fringe benefits as required by WAC 192-250-025(2) while participating in the program.

AMENDATORY SECTION (Amending WSR 09-13-057, filed 6/12/09, effective 7/13/09)

WAC 192-250-035 Information for employees participating in an approved shared work plan. (1) ~~((What are the requirements for participating in my employer's plan? You must have at least four hundred sixty hours of work with this employer in the calendar quarter before the quarter in which your employer's application is submitted.~~

~~((2))~~ **When do I apply for benefits?** Your employer representative will tell you if you need to apply for benefits and how to do so. If you have a current valid claim, you do not need to apply again.

~~((3))~~ **(2) How do I file my weekly claim for benefits?** See WAC 192-140-005 for instructions on filing weekly claims. You must also report the number of hours you were paid for holidays, vacations, or sick leave. You must report hours and gross earnings for part-time and second jobs, plus your hours and net earnings from any self-employment. You can file weekly claims by telephone or over the internet.

~~((4))~~ **(3) What happens if the total number of hours worked is not a whole number?** If the total number of hours you worked in a week includes a fraction of an hour, the department will round the total down to the next whole number. This rounded number will be compared to your usual hours of work to calculate your shared work benefit payment for the week. For example: You work 28.5 hours of a ~~((normal))~~ usual 40-hour work week. The 28.5 hours is rounded down to 28 hours and then divided by 40, meaning you worked 70 percent of the available hours. Your shared work payment would be 30 percent of your regular weekly benefit amount.

~~((5))~~ **(4) What happens if I don't work all scheduled hours for my shared work employer?**

(a) You are not eligible for shared work benefits for any week that you do not work all hours you have been scheduled by your shared work employer.

(b) You must be available for additional hours of work, up to ~~((full-time))~~ your usual weekly hours of work, with the shared work employer. If your employer gives you at least twenty-four hours' notice that additional work is available and you do not work those additional hours, you are not eligible for shared work benefits for that week.

(c) When you are not eligible for shared work benefits in any week claimed, your claim will be processed as a regular unemployment claim.

~~((6))~~ **(5) Do I have to look for work while participating in the shared work program?** No. You are not required to look for work while participating in the shared work program.

~~((7))~~ **(6) Is there a minimum or maximum number of hours I can work in a week and still receive shared work benefits?** You must ~~((have twenty to thirty-six hours of paid time during a week))~~ work between ten percent and fifty percent of your usual weekly hours to receive shared work benefits. In any week you ~~((are paid for fewer than twenty hours or more than thirty-six hours))~~ work less than or more than that amount, your claim will be processed as a regular unemployment claim.

~~((8))~~ **(7) How long can I receive shared work benefits?** You can receive shared work payments up to the maximum benefit entitlement established under Title 50 RCW, plus state or federal benefit extensions under chapter 50.22 RCW.

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-250-045 Who is not eligible for participation in the shared work program? (1) The following employees are not eligible for participation in the shared work program:

(a) Employees paid on any basis other than hourly wage. This includes, but is not limited to, employees paid on a piece rate, mileage rate, job rate, salary, or commission basis. The commissioner may waive this provision for employees paid ~~((on a piece rate basis))~~ as listed above if an hourly rate of pay can be established, except that salaried employees may participate only if they are eligible for paid overtime.

(b) Officers of the corporation that is applying for participation.

(c) Seasonal employees during the off season.

(2) The following businesses are not eligible for participation in the shared work program:

(a) For weeks of benefits paid before July 1, 2012, and after June 28, 2015, businesses with a tax rate of 5.4 percent or more, not including the social cost factor rate and taxes under RCW 50.24.010 and 50.24.014.

(b) Nonqualified employers, meaning employers who have reported no payroll for four consecutive quarters.

(c) Employers not registered in Washington for six months prior to application.

WSR 13-24-017

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed November 21, 2013, 5:09 p.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: Amends chapter 51-54A WAC, Section 908.7 and Section 1103.9 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 51-54A-0908 and 51-54A-1103.

Statutory Authority for Adoption: Chapter 19.27A RCW.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 13-15-162 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 Allshouse
Council Chair

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-0908 Emergency alarm systems.

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-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 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.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-1103 Fire safety requirements for existing buildings.

1103.4.3 Nightclub. An automatic sprinkler system shall be provided throughout A-2 nightclubs as defined in this code. No building shall be constructed for, used for, or converted to occupancy as a nightclub except in accordance with this section.

1103.9 Carbon monoxide alarms. Existing Group I or Group R occupancies shall be provided with single station carbon monoxide alarms in accordance with Section 908.7. An inspection will occur when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created. 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-2 occupancies, if the building does not contain a fuel-burning appliance, a fuel-burning fireplace, or an attached garage.
 2. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, or electrical permits.
 3. Installation, alteration or repairs of noncombustion plumbing or mechanical systems.

4. 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, a fuel-burning fireplace, or have an attached garage, need not be provided with carbon monoxide alarms provided that:
 - 4.1. The sleeping units or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
 - 4.2. The sleeping units 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
 - 4.3. The building is provided with a common area carbon monoxide detection system.
5. An open parking garage, as defined in 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.

WSR 13-24-021
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (Consumer Services)

[Filed November 22, 2013, 11:06 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: Amending the rules in chapter 208-690 WAC to implement the Uniform Money Services Act, chapter 19.230 RCW, as amended by chapter 106, Laws of 2013, and to generally amend the rules for clarity and consistency.

The rules are being adopted pursuant to OFM Guidance 3.a. and e.

Citation of Existing Rules Affected by this Order: Amending WAC 208-690-010, 208-690-015, 208-690-030, 208-690-035, 208-690-040, 208-690-050, 208-690-060, 208-690-070, 208-690-075, 208-690-080, 208-690-085, 208-690-090, 208-690-100, 208-690-110, 208-690-112, 208-690-115, 208-690-120, 208-690-140, 208-690-150, 208-690-180, and 208-690-200.

Statutory Authority for Adoption: RCW 43.320.040.

Other Authority: RCW 19.230.310.

Adopted under notice filed as WSR 13-19-085 on September 17, 2013.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 208-690-010, proposed language amended to add a new definition of executive officer. The definition clarifies application and reporting standards, among other things. The additional definition clarifies which people within the company are responsible for what activities and compliance with the act.

2. WAC 208-690-014, proposed language amended to clarify the department's interpretation of the definition of the responsible individual.

3. WAC 208-690-030 (1)(l), proposed language amended to require the applicant to identify the bank account

procured for the money services business activity. For applicants who have not procured a bank account prior to receiving a license [license], the department has developed a process whereby the license is issued and the applicant has a time period in which to procure a bank account.

4. WAC 208-690-035(4), proposed language amended to clarify that a licensee may designate an authorized delegate that is located outside of the state of Washington if the department has granted prior approval of the designation.

5. WAC 208-690-035(5), proposed language amended to add clarifying language on the advertising requirements of authorized delegates.

6. WAC 208-690-050(5), proposed language amended to add language notifying licensees that a proceeding against a licensee by a federal agency may result in the department requiring an increase in security.

7. WAC 208-690-080(2), proposed language amended to add language allowing new business applicants with no prior money services business activity to submit financials that are not audited. Audited financials will be required in subsequent years the company holds the license.

8. WAC 208-690-110(7), proposed language amended to require licensees to report any changes to their money services business bank account.

9. WAC 208-690-110(8), proposed language amended to clarify that matters affecting the licensee or specific individuals employed by the licensee must be reported to the department.

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 8, 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 9, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 21, 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 22, 2013.

Deborah Bortner, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-010 Definitions. What definitions are applicable to these rules? The definitions in RCW 19.230.010 and this section apply throughout this chapter unless the context clearly requires otherwise.

"Act" means the Uniform Money Services Act, chapter 19.230 RCW.

"AML compliance officer" means the individual(s) designated to implement the anti-money laundering (AML) program.

"Audited financial statement" means a statement prepared by an independent accountant according to generally accepted accounting principles.

"Authorized delegate" means a person a licensee designates to provide money services on behalf of the licensee. A person that is exempt from licensing under this chapter cannot have an authorized delegate. An authorized delegate must only perform the contractual duties as authorized by the licensee in the contract between the licensee and the authorized delegate.

"Bill payment" service means a type of money transmission when an intermediary accepts funds from a consumer for transmission to a merchant for payment on a consumer's account. The intermediary may or may not charge a fee for this service.

"Executive officer" means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.

"Material litigation" means the same as in RCW 19.230.010.

"Money transmission" means receiving money or its equivalent value to transmit, deliver, or instruct to be delivered the money or its equivalent value to another location, inside or outside the United States, by any means including, but not limited to, by wire, facsimile, or electronic transfer. Money transmission does not include the provision solely of connection services to the internet, telecommunications services, or network access. Money transmission includes selling, issuing, or acting as an intermediary for open-loop stored value devices and payment instruments, but not closed-loop stored value devices.

"Payment instrument" means a check, draft, money order, or traveler's check for the transmission or payment of money or its equivalent value, whether or not negotiable. Payment instrument does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

"Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a ten percent or greater interest in a partnership, company, corporation, or association, or the owner of a sole proprietorship.

"RCW" means the *Revised Code of Washington*.

"Stored value" means the recognition of value or credit stored on a device. Stored value is either open loop, meaning the value is redeemable at multiple, unaffiliated merchants or service providers, or closed loop meaning the value is primarily intended to be redeemed for a limited universe of goods, intangibles, services, or other items provided by the issuer of the stored value, its affiliates, or others involved in transactions functionally related to the issuer or its affiliates.

"Stored value device" means a card or other device that electronically stores or provides access to funds and is available for transferring the funds or value to others.

"Subdelegate" means a person that provides money services on behalf of an authorized delegate without having a direct contractual relationship with a licensee.

"Tangible net worth" means the physical worth of a licensee, calculated by taking a licensee's assets and subtract-

ing its liabilities and its intangible assets, such as copyrights, patents, intellectual property, and goodwill.

"Unsafe or unsound practice" means a practice or conduct by a person licensed or required to be licensed by the act to provide money services, or an authorized delegate of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the financial condition of the licensee or the interests of its customers.

NEW SECTION

WAC 208-690-014 How does the department interpret the definitions in RCW 19.230.010? (1) "Currency exchange." An investment in the money of a government is not exempt because the currency exchange is not incidental to the transaction.

(2) "Responsible individual." The responsible individual must:

- (a) Be a citizen of the United States or have legal immigration status to work in the United States;
- (b) Hold W-2 employee status;
- (c) Be knowledgeable of the laws and rules implementing the act; and
- (d) Be responsible for the company's compliance with applicable state and federal laws, rules and regulations.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-015 What are some activities that are exempt from the act? (1) The issuance, sale, use, redemption, or exchange of closed-loop stored value devices.

(2) The issuance, sale, use, redemption, or exchange of payment instruments by a person licensed under the Check Cashers and Sellers Act, chapter 31.45 RCW.

(3) The ~~((selling or issuing))~~ issuance or sale of open-loop stored value devices when the value on the devices are covered by federal deposit insurance immediately upon sale or issue. See the Federal Deposit Insurance Corporation (FDIC) Financial Institution Letter 129-2008 dated November 13, 2008, to determine if the underlying funds of stored value devices are covered by FDIC insurance immediately upon sale or issue.

(4) See also RCW 19.230.020.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-030 License application. What must I do to apply for a license? You must file:

(1) A completed application in a form and in a medium prescribed by the director. The application must contain:

- (a) The legal name, business address, and residential address, if applicable, of the applicant and any fictitious or trade name used by the applicant in conducting its business;
- (b) The legal name, residential and business address, date of birth, Social Security number, employment history for the five-year period preceding the submission of the application of the applicant's proposed responsible individual, and documentation that the proposed responsible individual is a

citizen of the United States or has obtained legal immigration status to work in the United States. In addition, the applicant must provide the fingerprints of the proposed responsible individual and a personal credit report from a recognized independent credit reporting agency on the proposed responsible individual;

(c) For the ten-year period preceding submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any material litigation in which the applicant has been involved, and any litigation involving the proposed responsible individual relating to the provision of money services;

(d) A description of any money services previously provided by the applicant and the money services the applicant seeks to provide in this state;

(e) A list of the applicant's authorized delegates including the business name and any additional names by which the business may be known, the business address and name of the primary contact person for each authorized delegate, and the locations in this state where the applicant and its authorized delegates propose to engage in the provision of money services;

(f) A list of other states in which the applicant is licensed to engage in money transmission, or provide other money services, and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;

(g) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible individual;

(h) Information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual;

(i) A sample form of the contract for authorized delegates, if applicable;

(j) A description of the source of money and credit to be used by the applicant to provide money services; ~~((and))~~

(k) A full description of the screening process used by the applicant in selecting authorized delegates, including a sample of any forms used, and the method used to screen for criminal history; and

(1) Identification of the bank account established for the business including, but not limited to, the bank name, address, account number, and account type.

(2) If the applicant is a corporation, limited liability company, partnership, or other entity, the applicant must also provide:

(a) The date of the applicant's incorporation or formation and the state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, date of birth, Social Security number, and employment history in the ten-year period preceding the submission of the application for each executive

officer, board director, AML compliance officer or other person that has control of the applicant;

(e) If the applicant or its corporate parent is not a publicly traded entity, the fingerprints of each executive officer, board director, AML compliance officer or other person that has control of the applicant;

(f) A list of any criminal convictions, material litigation, and any litigation related to the provision of money services, in the ten-year period preceding the submission of the application in which any executive officer, board director, AML compliance officer or other person in control of the applicant has been involved;

(g) A copy of the applicant's audited financial statements for the most recent fiscal year or, if the applicant is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and in each case, if available, for the two-year period preceding the submission of the application;

(h) A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period preceding the submission of the application;

(i) If the applicant is publicly traded, a copy of the most recent report filed with the United States Securities and Exchange Commission under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m);

(j) If the applicant is a wholly owned subsidiary of:

(i) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m); or

(ii) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(k) If the applicant has a registered agent in this state, the name and address of the applicant's registered agent in this state.

(3) If the application is for money transmission, a surety bond as required by WAC 208-690-040 or an assignment of a certificate of deposit, as required by WAC 208-690-045.

(4) An application fee as prescribed by WAC 208-690-130(1). The application fee is not refundable.

(5) An initial license fee as prescribed by WAC 208-690-130(2). The initial license fee will be refunded if the license application is denied.

(6) If the application is for money transmission, a certification that the applicant's investment portfolio, if maintained as permissible investments for outstanding transmission liabilities, includes only the permissible investments under RCW 19.230.200 and 19.230.210.

The director may waive one or more requirements of subsection (1) or (2) of this section or permit an applicant to submit other information in lieu of the required information.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-035 Authorized delegates. What are the rules (~~(for having)~~) I must comply with when I have authorized delegates?

(1) Only a licensee may designate an authorized delegate. A person that is exempt or excluded from licensing under RCW 19.230.020 cannot have an authorized delegate. A person accepting consumers' funds for transmission through an exempt or excluded entity under RCW 19.230.020 is a money transmitter and must be licensed under the act.

(2) An authorized delegate, or any other person exempt or excluded from the licensing requirements of chapter 19.230 RCW, cannot have an authorized delegate.

(3) Any person (~~(who is designated by a licensee)~~) you designate to provide money services on your behalf (~~(of the licensee)~~) is an authorized delegate, regardless of whether that person would be exempt or excluded from the application of chapter 19.230 RCW if they provided money services on their own behalf.

(4) Your authorized delegates must be physically located in the state of Washington unless you have received prior approval from the director to designate an authorized delegate physically located outside of the state of Washington.

(5) An authorized delegate must not advertise or provide money services under its own name without an equally prominent display of the licensee's name, in close proximity, on all advertising, including web sites. An authorized delegate must not use its name alone when advertising money services provided on behalf of the licensee.

(6) A written contract between (~~(a licensee)~~) you and an authorized delegate must contain, among all the other contract provisions, provisions with language substantially similar to the following:

(a) The authorized delegate must operate in full compliance with chapter 19.230 RCW and the rules adopted under this chapter.

(b) The authorized delegate is prohibited from using sub-delegates or conducting business from locations not authorized by the department.

(c) A description of the specific money services (~~(the licensee has permitted the authorized)~~) you authorize the delegate to perform on your behalf ((of the licensee)).

~~((5))~~ (7) The authorized delegate may only conduct activities authorized by (~~(the licensee)~~) you in the written agreement, unless the authorized delegate is also a licensee.

~~((6))~~ (8) You may contract with another licensee to use that other licensee's existing authorized delegates to load funds onto your existing open-loop stored value cards. If the shared authorized delegate sells new open-loop stored value cards for you, you must add the authorized delegate to your authorized delegate roster.

~~((7))~~ (9) You must maintain your authorized delegate agreements and contracts with other licensees to share existing authorized delegates as part of your books and records pursuant to RCW 19.230.170 and make them available to the department upon request.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-040 Surety bond. What are the bonding requirements?

(1) (~~Each money transmitter licensee~~) You must continuously maintain a surety bond as required by RCW 19.230.050, issued by a company authorized to do surety business in this state, as a surety. The surety may not be a wholly owned subsidiary or affiliate of the applicant or licensee.

(2) The penal sum of the bond must be calculated quarterly during the first year of licensing and thereafter annually. The calculation must be based on the previous twelve months' money transmission and payment instrument dollar volume. The bond amount must be calculated at ten thousand dollars for every one million dollars of money transmission and payment instrument dollar volume. The minimum surety bond amount is ten thousand dollars. The maximum surety bond amount is five hundred fifty thousand dollars.

(3) The initial bond amount will be ten thousand dollars and must be reevaluated based on the schedule set forth in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-050 Increase of security. Will DFI ever require me to increase the amount of security I hold? The director may increase the amount of security required, to a maximum of one million dollars, if the financial condition of a money transmitter licensee so requires. The director may consider, without limitation, the following criteria:

- (1) Significant reduction of net worth.
- (2) Financial losses.
- (3) Potential losses resulting from violations of chapter 19.230 RCW, or these rules(~~(:)~~).
- (4) Licensee filing for bankruptcy.
- (5) The initiation of any proceedings against the licensee in any state, by any federal agency, or in any foreign country. This includes the filing of material litigation.
- (6) The filing of a state or federal criminal charge against the licensee, person in control, responsible individual, executive officer, board director, AML compliance officer, employee, authorized delegate or principal, based on conduct related to providing money services or money laundering.
- (7) A licensee, executive officer, board director, AML compliance officer, other person in control, responsible individual, principal or authorized delegate being convicted of a crime.
- (8) Any unsafe or unsound practice.
- (9) A judicial or administrative finding against a money transmitter licensee under chapter 19.86 RCW, or an examination report finding that the money transmitter licensee engaged in an unfair or deceptive act or practice in the conduct of its business.
- (10) Other events and circumstances that, in the judgment of the director, impair the ability of the licensee to meet its obligations to its money services customers.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-060 Tangible net worth. What are the rules for my tangible net worth requirements?

(1) A money transmitter applicant or licensee must demonstrate and maintain a tangible net worth calculated at ten thousand dollars for every one million dollars of total company-wide money transmission and payment instrument dollar volume over the previous twelve months. The minimum tangible net worth is ten thousand dollars; the maximum required amount is three million dollars.

(2) Determinations of tangible net worth must be made according to generally accepted accounting principles.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-070 License denial. When may DFI deny my license application?

(1) Director may deny a money services license if the director determines that:

- (a) The application is incomplete;
- (b) The surety bond or net worth requirements of WAC 208-690-040 through 208-690-060 have not been met;
- (c) The general fitness and character requirements of RCW 19.230.070 or 19.230.100 have not been met as demonstrated by findings including, but not limited to, the following:

(i) The applicant, an executive officer, proposed responsible (~~(person)~~) individual, board director, AML compliance officer, other person in control or authorized delegate has been convicted of any felony within the past ten years;

(ii) The applicant, an executive officer, proposed responsible (~~(person)~~) individual, board director, AML compliance officer, other person in control or authorized delegate has been convicted of a crime involving a financial transaction within the past ten years;

(iii) The applicant, an executive officer, proposed responsible (~~(person)~~) individual, board director, AML compliance officer or other person in control has criminal, civil, or administrative charges issued against him/them in any jurisdiction for violations relating to a financial transaction(s) within the past ten years;

(iv) The applicant, an executive officer, proposed responsible (~~(person)~~) individual, board director, AML compliance officer or other person in control has falsified any information supplied in connection with the application;

(v) The applicant, or any proposed authorized delegate thereof, has had an adverse action taken against any business license related to providing financial services by a jurisdiction within the United States within the past five years;

(vi) The applicant has allowed a business under its control to deteriorate to a condition of insolvency determined by the fact that its liabilities exceed its assets or it cannot meet its liabilities as they mature;

(d) The applicant, or any authorized delegate thereof, fails to respond to a request for information from the director;

(e) The description of the screening process used by the applicant in selecting authorized delegates supplied by the

applicant describes a process that is ineffective in determining the fitness of proposed authorized delegates;

(f) The applicant has failed to register with the United States Department of the Treasury as required by 31 U.S.C. Section 5330;

(g) The applicant, an executive officer, proposed responsible individual, board director, AML compliance officer or other person in control is listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury as a potential threat to commit terrorist acts or to finance terrorist acts.

(2) In lieu of denying an application as authorized by any of the findings in subsection (1) of this section, the director may return the application or extend the review period if the director determines that the condition or circumstances that would likely lead to denial may be temporary and resolved satisfactorily within a reasonable period of time. The director may resume processing the application if the director determines that a favorable resolution of the disqualifying condition has occurred.

(3) The director may revoke or suspend a license and issue an order to cease and desist operations as a money services licensee if:

(a) Another jurisdiction initiates an adverse action against the money services license of the licensee; or

(b) Upon finding the existence of any condition or fact that would have led to denial of a license if known by the director during the processing of the application.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-075 Transaction records. Must I keep records (~~(pursuant to)~~) compliant with federal law in addition to keeping them for Washington law? Yes. In addition to the records required to be retained under RCW 19.230.170, you must maintain a record of money transmittals in accordance with applicable sections of Financial Recordkeeping and Reporting of Currency and Foreign Transactions, Title 31, Code of Federal Regulations, Part 103, as now appearing or hereafter amended.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-080 Audited annual financial statement. (~~(Am I required to have audited financial statements? Yes.)~~) When must I provide audited financial statements?

(1) You are required to have an audited financial statement prepared annually in accordance with generally accepted accounting principles. The financials must be submitted prior to or with the annual assessment. The financials may be submitted through the NMLS.

(2) Applicants with no business operations prior to application must submit a copy of unconsolidated financial statements for the current fiscal year, whether audited or not. Audited annual financial statements are required in all future years of operation.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-085 Permissible investments. How do I structure permissible investments? You must maintain permissible investment levels pursuant to RCW 19.230.200 and 19.230.210. Monthly reports about permissible investments must include the monthly calculation of the average daily transmission liability.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-090 Annual report and annual assessment. What are the annual report and assessment requirements? Every licensee must submit a completed annual report and annual license assessment fee prescribed by WAC 208-690-140. The completed report and the fee must be received in the department office no later than 5:00 p.m. July 1, or 5:00 p.m. the next business day if July 1 is not a business day. A form for the preparation of the annual report and license assessment will be made available by the department by electronic transmission or mailed upon request. The report must include the following:

(1) If the licensee is a money transmitter, a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent company.

(2) A list of current authorized delegates in a form and in a medium prescribed by the director.

(3) If the licensee is a money transmitter, a certification that the licensee's investment portfolio includes only permissible investments under RCW 19.230.200 and 19.230.210.

(4) If the licensee is a money transmitter, proof that the licensee has an adequate surety bond or assignment of a certificate of deposit and net worth as required by WAC 208-690-040 through 208-690-060.

(5) A description of each material change, as defined by WAC 208-690-110, which has not been previously reported to the director.

(6) The annual report and assessment may be submitted through the NMLS.

AMENDATORY SECTION (Amending WSR 10-12-038, filed 5/25/10, effective 6/25/10)

WAC 208-690-100 Is there a penalty for not filing my annual report and annual assessment on time? (1) If you fail to submit the required annual report (~~(or)~~) and annual assessment fee by (~~(August 2, 2010, or by)~~) July 1, each year (~~(thereafter)~~), the director may suspend your license and assess a late fee. The late fee is ten percent of the annual assessment if paid thirty or fewer days late and twenty-five percent of the annual assessment if paid more than thirty days late. If your license has been suspended under this section and you submit a completed annual report, the annual assessment and the late fee to the department office no later than 5:00 p.m., thirty calendar days after the original due date, the license suspension may be removed. If the delay extends past

thirty days, your license has expired effective thirty-one days after the original due date.

(2) The director may reinstate an expired license under this section if, within forty-five days after the original due date, you:

(a) File the complete annual report and pay both the annual license assessment and the late fee; and

(b) You or your delegates did not engage in providing money services during the period the license was expired.

(3) If any of the deadlines in this section occur on a day that is not a business day, the deadline shall be the next business day.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-110 Report of material change. What must I report to DFI if something about my business changes? Material changes described in this section must be reported to the director within thirty business days of the occurrence of the change. "Material change" means any change that is not trivial, and that, if not reported, would cause an investigation or examination to be misled or delayed. Such changes include, but are not limited to:

(1) A change of the physical and/or mailing address;

(2) A change of the responsible individual, AML compliance officer, ~~((or other))~~ executive officers or board members, or other person in control;

(3) A change of the licensee's name or DBA (doing business as);

(4) A change in the location where the records of the licensee that are required to be retained under RCW 19.230-170 are kept;

(5) The obtaining, revocation or surrender of a money services license in any other jurisdiction;

(6) The conviction of the licensee, an executive officer, responsible individual, board director, AML compliance officer, principal, or other person in control of a misdemeanor or gross misdemeanor involving a financial transaction; ~~((and))~~

(7) A change in your business bank account including its closure or a change in the location or identity of the bank holding the account; and

(8) Other similar activities or events affecting the business or executive officers or other persons in control.

~~((The fee prescribed by WAC 208-690-150 must accompany each report.))~~

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-112 Other reports. What events about my business must I report to DFI? You must file a report with the director within one business day after you have reason to know of the occurrence of any of the following events:

(1) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, under the United States Bankruptcy Code (11 U.S.C. 101-110) for bankruptcy or reorganization;

(2) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, for receivership, the commencement of any other judicial or administrative pro-

ceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of creditors;

(3) The commencement of a proceeding to revoke, suspend, restrict, or condition its license, or otherwise discipline or sanction the licensee, in a state or country in which the licensee engages in business or is licensed;

(4) The filing of any material litigation against the licensee or any authorized delegate of the licensee;

(5) The cancellation or other impairment of the licensee's bond or other security;

~~((5))~~ (6) A charge or conviction of the licensee or of an executive officer, responsible individual, board director ~~((of the licensee))~~, principal, AML compliance officer or other person in control of the licensee, for a felony; or

~~((6))~~ (7) A charge or conviction of an authorized delegate for a felony.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-115 Request for approval of change of control. What must I do to request approval for a change of control of my business? You must request approval of a change of control at least thirty days prior to the proposed change of control. The request for approval must include:

(1) A comprehensive description of the proposed change that sets forth:

(a) The identity of all persons acquiring control under the proposed change;

(b) The ownership interest and managerial authority of all persons in control under the proposed change.

(2) For each new person in control under the proposed change:

(a) Biographical information, including employment history for the immediate previous five years;

(b) A personal credit report issued by a recognized independent credit reporting agency;

(c) A signed authorization for a background investigation on a form prescribed by the director.

(3) A transaction fee as prescribed by WAC 208-690-150.

(4) The change of control may result in a requirement for the filing of a new application.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-120 Quarterly reports—Deletion of authorized delegates, locations—Address or name change. When must I notify DFI of certain changes to information about my business?

(1) ~~((You must file with the director))~~ Within forty-five days after the end of each fiscal quarter you must file with the director, in a form prescribed by the director:

(a) Any addition or deletion of ~~((licensee-owned))~~ locations where you provide money services ~~((are provided))~~, including mobile locations;

(b) Any change in the name or trade name (DBA or doing business as) or business address of an existing authorized delegate;

(c) Any additions or deletions from ~~((its))~~ your roster of authorized delegates; and

(d) The fee required by WAC 208-690-150.

(2) If there is no change in ~~((the))~~ your roster of authorized delegates or locations where money services are provided, or no changes in the name or trade name (DBA or doing business as) or business address of any authorized delegate during a fiscal quarter, no report is required.

AMENDATORY SECTION (Amending WSR 10-12-038, filed 5/25/10, effective 6/25/10)

WAC 208-690-140 How is the annual assessment calculated and when is the annual assessment due? (1) The annual assessment is calculated by multiplying 0.0004 by the previous year's adjusted Washington volume of money transmission, currency exchange, stored value sales, and payment instrument sales, with a minimum assessment of one thousand dollars and a maximum assessment of one hundred thousand dollars.

(a) For purposes of this section, "adjusted Washington volume" means:

(i) For money transmission, ninety-five percent of all funds transmitted;

(ii) For currency exchange, five percent of all currency exchanged;

(iii) For stored value sales, ninety-five percent of all funds loaded onto open-loop stored value devices; and

(iv) For payment instrument sales, seventy percent of the first ten million dollars of payment instrument sales, twenty percent of the volume over ten million through five hundred million dollars, and one percent of any amount over five hundred million dollars.

(b) For the assessment paid on the adjusted Washington volume for 2009 and 2010, any examination fees (excluding actual travel expenses) paid to the department during those years will be subtracted from the total amount owed.

(2) The annual assessment is due ~~((August 2, 2010, and))~~ no later than 5:00 p.m. July 1st each year ((thereafter)) or the next business day if July 1st is not a business day.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-150 Transaction fee. What fees must I pay to make changes to my license?

(1) You must pay fifty dollars to add an authorized delegate to your quarterly roster of authorized delegates. The fee for adding authorized delegates is capped at five thousand dollars per quarter.

(2) You must pay thirty dollars for the following changes to your license:

(a) Change of physical ~~((or mailing))~~ address, name or trade name (DBA or doing business as);

(b) Request for approval of a change in control;

(c) Change of the responsible individual or AML compliance officer;

~~((Change in the business/trade name, location of an existing authorized delegate, company-owned location))~~ Addition of principal, executive officer, board member, or other person in control; or

~~((Material change. Material changes include, but are not limited to, the addition or deletion of executive officers or board directors.))~~ Change in registered agent.

(3) Transaction fees are separate, distinct from, and in addition to investigation and examination fees under WAC 208-690-170.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-180 Authority to conduct examinations and investigations. ~~((When may DFI examine or investigate my business?))~~

(1) When may DFI examine or investigate my business?
For the purposes of discovering violations of chapter 19.230 RCW or these rules, discovering unsafe and unsound practices, or securing information lawfully required under chapter 19.230 RCW, the director may at any time, either personally or by designee, investigate or examine ~~((the))~~ your business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in ~~((the))~~ your business ~~((of every licensee))~~ or ~~((its))~~ authorized delegates, and of every person who is engaged in the business of providing money services, whether the person acts or claims to act under or without the authority of chapter 19.230 RCW. For these purposes, the director or designated representative must have free access to the offices and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such persons. The director may require the attendance of and examine under oath all persons whose testimony may be required about the business or the subject matter of any investigation, examination, or hearing and may require such person to produce books, accounts, papers, documents, records, files and any other information the director or designated person declares is relevant to the inquiry. The director may require the production of original books, accounts, papers, documents, records, files, and other information; may require that such original books, accounts, papers, documents, records, files, and other information be copied; or make copies himself or herself or by designee of such original books, accounts, papers, documents, records, files, or other information. If the director determines that there is a danger that original records may be destroyed, altered, or removed to deny access, or hinder an examination or investigation, or that original documents are necessary for the preparation of a criminal referral, the director may take possession of originals of any items described in this section, regardless of the source of such items. Originals and copies taken by the director may be held, returned, or forwarded to other regulatory or law enforcement officials as determined necessary by the director. The director or designated person may issue a subpoena or subpoena duces tecum requiring attendance or compelling production of the books, accounts, papers, documents, records, files, or other information.

(2) The licensee, applicant, or person subject to licensing under this chapter must pay the cost of examinations and investigations as specified in RCW 19.230.320 and WAC 208-690-170.

(3) Information obtained during an examination or investigation under these rules may be disclosed only as provided in RCW 19.230.190.

(4) The director may retain attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators, to conduct or assist in the conduct or examinations or investigations. The cost of these services must be borne by the person who is the subject of the examination or investigation.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

WAC 208-690-200 What documentation must I provide to consumers to be in compliance with RCW 19.230-330(2)? (1) For general money transmission transactions, the receipt must include ~~((the))~~ your name, address, and phone number ~~((of the licensee))~~ in addition to the fee and exchange rate disclosure information as required by RCW 19.230.330 (2).

(2) For stored value transactions the receipt may include the name, address, and telephone number of the authorized delegate, provided that ~~((the licensee's))~~ your contact information is provided in or on the stored value device packaging or on the stored value device itself.

(3) For bill payment transactions, the receipt may include the name, address, and telephone number of the authorized delegate; provided ~~((the licensee's))~~ your name accompanies the authorized delegate's information on the receipt.

WSR 13-24-022
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Consumer Services)

[Filed November 22, 2013, 11:14 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: Amending the rules in chapter 208-680 WAC to implement the Escrow Agent Registration Act, chapter 18.44 RCW, as amended by chapter 64, Laws of 2013, and to generally amend the rules for clarity and consistency.

The rules are being adopted pursuant to OFM Guidance 3.a. and e.

Citation of Existing Rules Affected by this Order: Repealing WAC 208-680-177 and 208-680-510; and amending WAC 208-680-030, 208-680-045, 208-680-110, 208-680-125, 208-680-135, 208-680-145, 208-680-155, 208-680-170, 208-680-175, 208-680-176, 208-680-180, 208-680-195, 208-680-210, 208-680-225, 208-680-235, 208-680-240, 208-680-243, 208-680-245, 208-680-265, 208-680-275, 208-680-310, 208-680-320, 208-680-330, 208-680-340, 208-680-350, 208-680-410, 208-680-425, 208-680-520, 208-680-530, 208-680-540, 208-680-550, 208-680-560, 208-680-570, 208-680-580, 208-680-590, 208-680-610, 208-680-620, 208-680-630, 208-680-640, 208-680-645, 208-680-647, 208-680-648, 208-680-650, 208-680-660, 208-680-710, and 208-680-720.

Statutory Authority for Adoption: RCW 43.320.040.

Other Authority: RCW 18.44.410.

Adopted under notice filed as WSR 13-19-100 on September 18, 2013.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 208-680-030, proposed language amended to remove the definition of completed escrow. The definition was not used in the rules.

2. WAC 208-680-045, proposed language amended to put back language stricken in the CR-102. The language was stricken and the reader referred to the statute. Upon further consideration the language was deemed to be helpful and so was put back in the rules.

3. WAC 208-680-125 (3)(c)(ii), proposed language amended to clarify the roles of licensees in an asset transfer between escrow agents.

4. WAC 208-680-145(6), proposed language amended to add another type of business activity for which the escrow officer test is not required.

5. WAC 208-680-174, proposed language amended to add language that if an outgoing designated escrow officer (DEO) is not available to sign a statement of trust account status another principal officer of the escrow agent may sign the statement.

6. WAC 208-680-176 (1)(b), proposed language amended to clarify that when a DEO departs the escrow agent may not accept new clients or files until a new DEO has been approved by the department. The escrow agent may continue to provide escrow services on existing files.

7. WAC 208-680-176(2), proposed language amended to clarify that when a branch DEO departs the escrow agent may accept new clients or files under the supervision of the main office DEO. The main office DEO may also supervise the escrow services provided on existing files.

8. WAC 208-680-195, proposed language amended to require that an escrow agent remove a DEO instead of prohibiting the DEO from using the trust account. The escrow agent must remove and replace the existing DEO in the usual manner of seeking approval from the department for a new DEO.

9. WAC 208-680-243(4), proposed language amended to allow for circumstances in which an escrow officer license may expire and the escrow officer may renew the license without having to retake the escrow officer test.

10. WAC 208-680-265 (2)(c), proposed language amended to require licensees to provide notice to department when the escrow agent is the target of a lawsuit, criminal complaint or administrative action against the escrow agent, the escrow officers or employees providing escrow services or who have access to the trust account.

11. WAC 208-680-265 (4)(e), proposed language amended to require the licensee to provide additional information to the department in the event the escrow agent terminates a licensed escrow officer or limited practice officer.

12. WAC 208-680-275(3), proposed language amended to inform licensees of a policy provision they should include in the policies and procedures required under WAC 208-680-275(4) regarding employee self-reporting on matters of a criminal or financial nature that may impact their ability to provide escrow services for the licensee.

13. WAC 208-680-310(1), proposed language amended to inform licensees that a combination of bonds may be used to comply with the act's bond requirements.

14. WAC 208-680-310(2), proposed language amended to require the licensee to provide a declaration of employment status if the licensee uses a bond with certain liability limiting language.

15. WAC 208-680-310 (6)(e), proposed language amended to remove language requiring the licensee to provide a certificate of insurance that included a specific statement of compliance with RCW 18.44.201. Upon consideration the department determined the statement of compliance was duplicative.

16. WAC 208-680-320 (2)(b), proposed language amended to include language describing a cash option for licensees in lieu of errors and omission insurance requirements.

17. WAC 208-680-410 (10)(d), proposed language amended to include language describing the option of disbursing trust funds via an automated clearing house.

18. WAC 208-680-410 (17)(f), proposed language amended to remove a requirement that licensees purge unclaimed funds quarterly.

19. WAC 208-680-425 (3), proposed language amended to include language describing the process whereby the DEO or other principal officer may certify information on reports for nontrust account matters.

20. WAC 208-680-570, proposed language amended to shorten the timeframe within which the licensee must provide notice to the department of the licensee's discovery of a civil lawsuit, criminal complaint or administrative action. The proposed language includes the details of the required notice.

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 46, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 43, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 46, Repealed 2; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 22, 2013.

Deborah Bortner, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-030 Definitions. What definitions are applicable to these rules? Unless the context clearly requires otherwise, the definitions in this section apply throughout these rules.

"Act" means the Escrow Agent Registration Act, codified under chapter 18.44 RCW.

"Applicant" means any person applying for an escrow officer license or any person or group of persons applying for an escrow agent license. The term "applicant" includes the principal officers and controlling persons of the applicant, as well as any escrow officer seeking to become an escrow agent's designated escrow officer or branch designated escrow officer.

"Branch designated escrow officer" means any licensed escrow officer designated by a licensed escrow agent and approved by the director to supervise a specific branch office. The branch designated escrow officer is (~~the licensed escrow officer~~) responsible for supervising an escrow agent's handling of escrow transactions, management of the escrow agent's branch trust account, and supervision of all (~~other~~) licensed escrow officers and other persons employed by the escrow agent at his or her branch designated office.

"Cash deposit" means funds deposited, in lieu of an errors and omissions policy, in an account in a recognized Washington state depository which account is maintained separate and apart from the escrow agent's own funds. The funds shall be deposited in such a manner to permit only the director to withdraw from the principal amount. The escrow agent may withdraw any interest accumulated to the account.

"Closing" means the transfer of title of real or personal property or execution of a deed, bill of sale or real estate contract, whichever event occurs first.

(~~"Completed escrow" means a transaction in which the escrow agent has fully discharged its duties to the principal parties to the transaction. This includes, but is not limited to: Obtaining all necessary documents, obtaining required signatures, completing reconveyance or title elimination, and disbursing funds to the principal parties to the transaction, the agents to the transaction, and to third parties to the transaction as agreed by the principal parties in the escrow instructions or on the settlement form (such as HUD-1 or HUD-1A).~~)

"Department" means the department of financial institutions.

"Designated escrow officer" means any licensed escrow officer designated by a licensed escrow agent and approved by the director as the licensed escrow officer responsible for supervising that escrow agent's handling of escrow transactions, management of the escrow agent's trust account, and supervision of all licensed escrow officers and other persons employed by the escrow agent.

"Director" means the director of the department of financial institutions or his or her duly authorized representative. For purposes of this act, the division of consumer services is deemed to be the director's authorized representative.

"Escrow" means the same as in RCW 18.44.011.

"Escrow instructions" are the instructions, signed by the principal parties to the transaction that identify the duties and responsibilities of the escrow agent in carrying out the escrow, that identify the thing or things of value held by the escrow agent and the specified condition or set of conditions under which the thing or things of value are to be transferred.

"Good funds" means funds in a bank account that are immediately usable by the owner of the account. Good funds

may be derived from the monetary instruments described in RCW 18.44.400(3).

"Handling escrow transactions" means participating in escrow transactions. It includes, but is not limited to, having access to a client's: Personal information, financial records, or funds. Employees that perform administrative functions like payroll or human resources services are not handling escrow transactions unless such persons also perform duties meeting this definition.

"Investigation" means an inquiry undertaken for the purpose of detection of violations of the act and these rules or securing information lawfully required under the act and these rules. The director may ~~((make))~~ conduct private or public investigations.

~~("Officers" of the escrow agent shall include the president, secretary, treasurer, vice president, and any other equivalent persons with control over management decisions of the escrow agent.)~~

"Overdue instrument" means a negotiable instrument that is overdue as defined in RCW 62A.3-304.

"Permanent record" means any record required to be kept under RCW 18.44.400 for a period of six years from the completion of the escrow transaction.

"Principal officers" means natural person applicants for escrow agent licenses ~~((s))~~ including corporate officers ~~((s))~~ vice-president and above; directors, shareholders, members, or anyone else ~~((owning))~~ who owns ten percent or more of the escrow agent's equity; general or managing partners; sole proprietors and spouses of sole proprietors; designated and branch designated escrow officers; and any person defined as a "controlling person" in RCW 18.44.011 ~~((4))~~ (2).

"Principal parties" means the buyers and sellers in a purchase transaction, and the borrower and lender in a refinance transaction.

"Providing escrow services" means conducting transactions, except the acts of a qualified intermediary in facilitating an exchange under section 1031 of the Internal Revenue Code, wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he or she is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof.

"Reconveyance" means an instrument used to transfer title from an individual holding such title in trust to the equitable owner of real estate, when title is held as collateral security for a debt.

"Third party to the transaction" means those persons providing professional services necessary for the closing of the escrow, including, but not limited to: Real estate brokers, lenders, mortgage brokers, attorneys, tax facilitators ~~((s))~~ and underlying lien holders.

"Transfer of title" occurs at the time the seller executes a deed or bill of sale and such is delivered to the purchaser or recorded.

"Trust" means a fiduciary relationship whereby a thing of value is delivered to an escrow agent with the intention that such thing of value be administered by the escrow agent for the benefit of the principal parties to the transaction.

"Trust account" means a bank account holding funds of any party to the transaction.

"Unclaimed funds" means any funds that are abandoned under the Uniform Unclaimed Property Act, chapter 63.29 RCW.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-045 Exceptions—Attorneys. (1) **I am licensed to practice law in Washington. Am I excepted from licensing as an escrow agent?** Yes, as long as you only perform escrow services as part of your law practice. You are excepted from licensure as an escrow agent while you are engaged in the practice of law, but you are required to apply for and receive an escrow license before you perform escrow services outside of your legal practice. Your attorney exception may be extended to your bona fide legal practice, but is otherwise an individual exception and may not be extended to a separate business entity. Your exception may not be extended to nonattorney individuals unless they are employees of your bona fide law practice and you supervise all of their transactions.

You or your attorney-owned business entity will be required to license as an escrow agent if you or your business entity do one or more of the following:

- (a) Principally provide escrow services, not including escrow services provided incidentally to the practice of law;
- (b) Advertise yourself or your business entity as providing the services of an escrow agent without identifying yourself or your business entity as an attorney or law practice;
- (c) Receive compensation or gain for providing escrow services through a business entity other than a bona fide law practice; or
- (d) Permit nonattorney associates or employees to conduct escrow transactions without either a valid escrow officer license or an attorney's supervision. See RCW 18.44.021(2).

(2) **I am licensed to practice law in Washington. Am I subject to the department's investigative authority?** Yes. The department has broad investigative authority under the act and these rules, and its investigatory authority is not restricted to persons who are required to obtain a license. The department has the power to investigate unlicensed persons and entities at least to the extent necessary to determine whether a violation of the act or these rules has occurred. This includes preliminary investigations of attorneys and business entities ~~((that claim))~~ claiming the attorney exception from licensure.

Among other actions, the department may:

- (a) Compel written statements from or subpoena any person with relevant information;
- (b) Compel production of written materials and take evidence; and

(c) Apply to a superior court for an order compelling compliance with its authority under the act.

For further information on the department's investigative authority, see RCW 18.44.420 and WAC 208-680-620.

(3) **I am licensed to practice law in Washington. Am I subject to the department's examination authority?** Generally, no. Unless the department determines that the attorney exception from licensure does not apply to you or your business, you will not be subject to the department's examination authority under WAC 208-680-610. If the department has determined that the exception does not apply, you will be required to license the escrow portion of your business and it may be subject to regular examinations.

(4) **I am licensed to practice law in Washington and excepted from licensing under the act. Am I subject to other provisions of the act?** You may be subject to other provisions of the act for ~~((activities))~~ services you ~~((conduct))~~ provide outside the practice of law. The attorney exception is a limited, individual exception from the act's licensure provision for actions undertaken while engaged in your professional, legal duties, and is not a general exemption from the act.

LICENSING AND THE ESCROW OFFICER ~~((EXAMINATION))~~ TEST

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-110 Credit and character report. What kinds of credit and character reports must I provide with my escrow agent application?

(1) If you are applying for an escrow officer license ~~((or are applying to be a designated escrow officer.))~~ you must provide:

- (a) Proof that you have passed the escrow officer ~~((examination))~~ test; and
- (b) Satisfactory proof of your good character; and
- (c) Satisfactory proof of your ~~((good))~~ credit rating, as evidenced by a report from a recognized credit-reporting agency, and in a form approved by the director.

(2) If you are applying for an escrow agent license, you must provide satisfactory proof of character and a credit rating for all principal officers. If your applicant is a business entity and not a natural person, you must provide satisfactory proof of your entity's credit rating ~~((This proof must be obtained and provided by a recognized credit reporting agency in a form approved by the department))~~ as evidenced by a report from a recognized credit-reporting agency, and in a form approved by the director.

(3) If you are reporting a change in principal officer, you ~~((will be required to))~~ must provide ~~((with your))~~ an escrow agent amendment application, and for any new principal officer:

- (a) Satisfactory proof of his or her good character; and
- (b) Satisfactory proof of his or her ~~((good))~~ credit rating as evidenced by a report from a recognized credit-reporting agency, and in a form approved by the director.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-125 Licenses not transferable. (1) Can I transfer my escrow agent or escrow officer license to another person or entity? No. Neither an escrow agent license nor an escrow officer's license may be transferred.

(2) **Can all or substantially all of the assets of an escrow agent be transferred to another person?** Yes. A licensed escrow agent may transfer all or substantially all of its assets to another person as long as the transfer is approved by the department pursuant to subsection (3) of this section and the receiving party (the transferee) has been issued an escrow agent license under the act prior to the transfer.

(3) **If I am transferring my assets to another escrow agent, what notification must I provide to the department?** You must provide written notice to the department at least thirty days before the effective date of the transfer. The written notice must include a copy of the signed transfer agreement that contains, at a minimum:

(a) A stipulation that the transferee is responsible for obtaining an escrow agent license ~~((and finding or designating a licensed escrow officer as a designated escrow officer))~~ before completion of the transfer;

~~((b))~~ ~~((A stipulation that the transferee will obtain and submit to the director evidence of financial responsibility in the form of the required bond or bonds and errors and omission insurance in compliance with RCW 18.44.201 and these rules before completion of the transfer;))~~

~~((c))~~ A stipulation that the transferee is either restricted from using or authorized to use, ~~((the))~~ your escrow agent's business name, unless this requirement is waived by the director; and

~~((d))~~ (c) A stipulation indicating which of the parties will:

(i) Make all payments due to principal parties on or before the effective date of the transfer;

(ii) Be responsible for the existing trust account funds;

(iii) Maintain and preserve the accounting and other records as required by RCW 18.44.400 and WAC 208-680-520 and 208-680-530; and

~~((iii))~~ (iv) Provide notice of the transfer to all principal parties who have pending escrows or deposited funds with the escrow agent, or who have executed some other form of written agreement with the escrow agent. Such notice must be provided within five days of your notice to the department, and must comply with RCW 18.44.465.

(4) **If I am acquiring all or substantially all of the assets of an escrow agent, what ~~((notifications))~~ information must I provide to the department?** The department treats this ~~((kind of sale of assets))~~ as a change in a principal officer. If you do not have an escrow agent license, you must apply for and receive one. If you already have an escrow agent license, at least thirty days before you acquire all or substantially all of the assets of an escrow agent you must provide the department with all the information required of a principal officer or controlling person as if you were applying for a new license. The change of control transaction may not be completed until the transferee has either received a license ~~((and))~~ or provided the department with ~~((appropriate notices))~~ the required information.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-135 What kind of background check and fingerprinting information may the department require with my application for an escrow officer license?

(1) If you are applying for an escrow officer license (~~(or to be a designated escrow officer)~~):

(a) You must submit fingerprint identification (~~(for the applicant. This identification must be submitted)~~) on standard Federal Bureau of Investigation fingerprint cardstock or another form acceptable to the department.

(b) You may be required, at the department's discretion, to provide additional background information about yourself to ascertain your honesty, truthfulness, and (~~(good)~~) reputation. This information may include, but is not limited to: Residential address and telephone number, qualifications, employment history, a personal credit report, and other information that the director may deem appropriate under RCW 18.44.031(2).

(2) The department will collect a fingerprinting fee from you equal to the department's cost for processing fingerprints through the Washington state patrol.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-145 Escrow officer (~~(examination)~~ test. (1) **How do I take the escrow officer (~~(examination)~~ test?** While the director determines the form and content of the escrow officer (~~(examination)~~ test with the advice of the escrow (~~(commission)~~ committee, the test is administered by a third-party company under a contract with the department. It is given at least annually. For information about the (~~(examination)~~ test process and available dates, applicants should consult the department's web site, which will redirect them to the current testing service provider for more detailed information.

(2) **Do I need to take and pass the escrow officer (~~(examination)~~ test before filing my application and paying my application fee to the department?** Yes. You must submit a copy of your test pass certificate with your application to the department. You must have passed the escrow (~~(examination)~~ test no more than one year before your initial application for a license. If your initial license is not issued within two years of your successful completion of the (~~(examination)~~ test, you (~~(will)~~ may be required to retake the (~~(examination)~~ test.

(3) **Will the department review my application before I take the test to see if I meet the other requirements?** No. Due to volume and resource limitations, the department does not review escrow officer applications unless they are accompanied by a test pass certificate.

(4) **I am an attorney licensed to practice law in Washington. If I am required to license as an escrow officer, will I be required to take and pass the escrow officer (~~(examination)~~ test?** No, the department will accept membership in the Washington bar in lieu of taking and passing the escrow officer (~~(exam)~~ test.

(5) The company I work for only provides payment collection and processing and the performance of related

services on seller financed loans secured by real or personal property (contract collection). Must I take the escrow officer test? If the escrow agent applicant satisfactorily demonstrates during the license application process that the escrow agent only provides contract collection services you will not be required to take the escrow officer test. You are prohibited from holding yourself out as being licensed to provide escrow services on residential mortgage loan transactions. You are subject to all other provisions of the act.

(6) The company I work for only provides escrow services on personal property transactions. Must I take the escrow officer test? If the escrow agent applicant satisfactorily demonstrates during the license application process that the escrow agent only provides escrow services on personal property transactions you will not be required to take the escrow officer test. You are prohibited from holding yourself out as being licensed to provide escrow services for residential mortgage transaction. You are subject to all other provisions of the act.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-155 What escrow officer and agent fees will I be required to pay? (1) Escrow officer and agent fees charged by DFI:

Title of Fee	Fee
Escrow officer:	
First ((examination-) test((?))	\$168.00
((Reexamination (test))) Subsequent tests	168.00
Application	179.26
License renewal	179.26
Transfer of license to a new escrow agent, name or address change, or license activation	28.01
Duplicate license	28.01
Escrow agent:	
Application	386.55
Renewal	386.55
Late renewal with penalty	579.81
Change of designated escrow officer, or name or address change, per license generated	28.01
Duplicate license	28.01
Escrow agent branch office:	
Application and original license	386.55
Renewal	386.55
Late renewal with penalty	579.81
Change of branch designated escrow officer, or name or address change, per license generated	28.01

Title of Fee	Fee
Duplicate license	28.01
<u>Fingerprints</u>	

(2) If your license is managed on a multistate licensing system pursuant to RCW 18.44.023, you may be charged system fees by the licensing system, including a fee for fingerprints managed through the system.

(3) You will be charged an hourly fee of \$62.50 for examinations and investigations.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-170 What happens if my check is dishonored or my payment of an escrow fee is insufficient? Payment of any fee required under chapter 18.44 RCW by a check that is dishonored or is an insufficient payment will be considered nonpayment. The license action for which the dishonored check or insufficient payment was tendered will not be completed by the department, and a ~~((fifteen dollar))~~ non-sufficient funds fee may be charged.

DESIGNATED ESCROW OFFICERS

NEW SECTION

WAC 208-680-174 What are the designated escrow officer's responsibilities? (1) The designated escrow officer is responsible for the custody, safety, and accuracy of entries of all required escrow records. He or she retains this responsibility even if he or she has assigned the duties of preparation, custody, recording or disbursing to another person or persons.

(2) The designated escrow officer is responsible for the actions of all employees and the supervision of escrow officers, limited practice officers, and other employees handling escrow transactions. This supervisory responsibility must be exercised within reasonable parameters. For example, a designated escrow officer who is on extended leave may not be reasonably available to supervise the activities of the escrow agent and its employees.

(3) The branch designated escrow officer is responsible for the custody, safety and accuracy of entries of all required escrow records at his or her assigned branch office and at his or her branch is responsible for the actions of the escrow agent and all employees and the supervision of escrow officers, limited practice officers, and other employees handling escrow transactions. The designated escrow officer bears responsibility for all actions of the branch designated escrow officer.

(4) Before issuing a new license reflecting a change of the designated escrow officer or branch designated escrow officer of a licensed escrow agent, the department must receive evidence that the responsibility for preexisting escrows is being transferred to the incoming designated escrow officer or incoming branch designated escrow officer. Such evidence must be demonstrated by a statement signed by both the outgoing and incoming designated escrow officers or branch designated escrow officers that lists all out-

standing trust liabilities and certifies that funds in the trust account maintained by the agent are adequate to meet all trust liabilities. This statement must be received by the department before the changeover can occur.

(5) In the event that the outgoing designated escrow officer or branch designated escrow officer is not available to sign the required statement, another principal officer of the escrow agent may sign the statement.

(6) If the department is concerned that the licensee's trust accounting records may not comply with the requirements of WAC 208-680-410, and before accepting a new designated escrow officer or branch designated escrow officer, the department may retain or instruct the licensee to retain a certified public accountant, or other person acceptable to the department, to reconcile the trust account or accounts and report whether they have been maintained in compliance with WAC 208-680-410 and to report on the adequacy of the licensee's internal routines and controls to ensure continuing compliance with WAC 208-680-410.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-175 May my designated escrow officer or branch designated escrow officer supervise more than one of my locations? ~~((No, unless the director provides written consent.))~~ Yes, with the director's prior written consent designated escrow officers and branch designated escrow officers may ~~((not simultaneously))~~ supervise more than one location ~~((without the prior written consent of the department)).~~

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-176 What must I do if my designated escrow officer or branch designated escrow officer leaves~~((, may I continue to operate my escrow business))~~? ~~((You may continue to complete existing client files to the extent necessary to avoid prejudicing those existing clients and files, provided you notify the department within one business day of the loss of or change of your designated escrow officer or branch designated escrow officer. You must notify the department of your proposed replacement designated escrow officer within five days of the loss or change, and you may not accept new clients or new files until your designated escrow officer has been approved by the department or the department has otherwise authorized new activities. If you need more than five days to identify your replacement designated escrow officer, you must seek approval from the department. Failure to replace your designated escrow officer or to receive approval from the director for an extension may result in an enforcement action against you and the suspension or revocation of your license. If your identified replacement is rejected by the department, you will have an additional thirty days to find a new replacement.))~~ (1)(a) You must notify the department within one business day of the loss of or change of your designated escrow officer and provide the department with the identity your proposed replacement designated escrow officer within five business days.

(b) You may not accept new clients or new files until the proposed designated escrow officer has been approved by the department or the department has otherwise authorized new activities. Your employees may continue to handle escrow transactions and provide escrow services on existing client files to the extent necessary to avoid prejudicing those existing clients and files.

(c) You must apply to the department for approval of the proposed designated escrow officer. The proposed designated escrow officer must meet the requirements of WAC 208-680-110 and 208-680-135.

If you need more than five days to identify your proposed replacement designated escrow officer, you must seek approval from the department. If your identified proposed replacement is rejected by the department, you will have an additional thirty days to provide the department with the identity of the proposed replacement designated escrow officer.

(d) Failure to identify and replace your designated escrow officer, or to receive approval from the director for an extension, may result in an enforcement action against you and the suspension or revocation of your license.

(2)(a) You must notify the department within one business day of the loss of or change of a branch designated escrow officer, and provide the department with the identity your proposed replacement branch designated escrow officer within five business days.

(b) The branch office may accept new clients and new files under the supervision of your designated escrow officer until the proposed branch designated escrow officer has been approved by the department or the department has otherwise authorized new activities. Your branch may continue to handle escrow transactions and provide escrow services on existing client files under the supervision of your designated escrow officer.

(c) You must apply to the department for approval of the proposed branch designated escrow officer. The proposed branch designated escrow officer must meet the requirements of WAC 208-680-110 and 208-680-135.

(d) If you need more than five days to identify your proposed replacement branch designated escrow officer, you must seek approval from the department. If your proposed identified replacement is rejected by the department, you will have an additional thirty days to provide the department with the identity of a new proposed replacement branch designated escrow officer.

(e) Failure to identify and replace your branch designated escrow officer, or to receive approval from the director for an extension, may result in an enforcement action against you and the suspension or revocation of your license.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-180 May a designated escrow officer or a branch designated escrow officer work for two or more licensed escrow agents? ((No, unless the director provides)) Yes, under certain circumstances. If the director agrees with the escrow agent's need for this arrangement and with the director's prior written consent((-)) a designated

escrow officer or branch designated escrow officer may ((perform)) provide escrow services and may supervise employees for ((only)) more than one licensed escrow agent ((at a time without the prior written consent of the director or his/her designee. A designated escrow officer or branch designated escrow officer may only supervise those escrow agent and escrow agent employees for whom the officer has been designated by the director or his/her designee)).

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-195 Can an escrow agent prohibit its designated escrow officer from accessing its trust account books and records? ((Yes, provided the agent notifies the department within twenty four hours of the prohibition. Notification must include the reason for the prohibition, a current address and telephone number for the prohibited designated escrow officer, a request for a replacement designated escrow officer, and a notice that no escrow business will be conducted until a new designated escrow officer is approved or the director has given prior written consent. Unless this notice is given under this section, an escrow agent may not prohibit the designated escrow officer from accessing the escrow agent's trust account books and records.)) No. Pursuant to WAC 208-680-174 and 208-680-410, the designated escrow agent is primarily responsible for the custody, safety, and accuracy of entries of all required escrow records, including the trust account books and records, and must have signatory authority on all trust accounts. Accordingly, an escrow agent must remove and replace a designated escrow officer if the escrow agent wants to prohibit the designated escrow officer from accessing its trust account books and records. See WAC 208-680-176.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-210 How must I identify my office location or locations? Any main or branch office of an escrow agent must be identified by displaying the escrow agent's name in a manner visible to the public. The displayed name must be the name recorded on the license for that particular office location. Any physical office location where an escrow agent holds itself out to the public as able to ((perform)) provide escrow services as defined under RCW 18.44.011(((4))) (8) is considered an office for the purposes of this section.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-225 ((Do I need to)) Must I display my licenses? ((1) The licenses of a designated escrow officer, branch designated escrow officer, and all other escrow officers must be prominently displayed in the office at the address on each individual license.

(2) An escrow agent license must be displayed in the main office of that escrow agent, and any branch licenses must be displayed in the appropriate branch office.)) Yes.

You must prominently display all licenses in their associated locations, including branches.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-235 How must I notify the department if I move the location of one or more of my offices(~~(-what notification requirements must I meet)~~)? You must notify the department of any change of the location or mailing address of your main or branch offices before engaging in business at your new locations or addresses. You must file ~~((your change of address application with the department))~~ an escrow agent amendment application form as prescribed by the director at least ten business days before the change in business location or address. The application and required attachments must be accompanied by all applicable fees specified under WAC 208-680-155.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-240 Escrow agent renewal and reinstatement. (1) ~~((How long is an))~~ **When does the escrow agent license (~~(valid)~~) expire?** All escrow agent licenses expire on December 31st of every year.

(2) ~~((Can))~~ **How do I renew my escrow agent license?** ~~((Yes-))~~ Escrow agent licenses may be renewed by filing for renewal and paying the applicable fee to the department.

(3) **I did not renew my escrow agent license on time, did not pay my escrow agent renewal fee by my renewal date, or my renewal fee payment was rejected. Can (~~my escrow officers~~) I still provide escrow services?** No. Your escrow agent license is now expired, and any escrow services ~~((your escrow officers perform))~~ you provide are considered unlicensed activities and are in violation of the act. If ~~((they))~~ you continue to ~~((perform))~~ provide escrow services ~~((on behalf of your agent))~~ after expiration of your license, the department may investigate and bring an enforcement proceeding against ~~((them))~~ you.

For ~~((additional))~~ information about failed payments, see WAC 208-680-170.

(4) **Can my licensed escrow officers provide escrow services if my license is expired?** No. If your licensed escrow officers continue to provide escrow services on your behalf after your license has expired, the department may investigate and bring an enforcement action against them.

(5) **I did not renew my escrow agent license on time. Can I still renew my license, or do I need to file a new application?** Once your license has expired~~((;))~~ you have thirty days to file for renewal and to pay the renewal fee~~((;))~~ and ~~((the department may assess a))~~ any late renewal penalty. If you ~~((don't))~~ do not renew~~((; your license))~~ the license with in thirty days the license will be canceled on the thirty-first day. A canceled license ~~((cannot))~~ will not be renewed or reinstated. If your escrow agent license is canceled and you wish to provide escrow services, you ~~((will have to))~~ must apply for a new escrow agent license. Any escrow services your escrow officers ~~((perform))~~ provide after your license is canceled are unlicensed activities and are in violation of the act.

Even if you renew your license before it is canceled, you (and your licensed escrow officers) are still liable for any unlicensed ~~((activities conducted))~~ services you provided while your license was expired.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-243 Escrow officer license renewal and reinstatement. (1) **For how long is an escrow officer license valid?** Escrow officer licenses are valid for one year from the date of issuance.

(2) **Can I renew my escrow officer license?** Yes. Escrow officer licenses may be renewed by completing the online renewal application and paying the annual renewal license fee specified under WAC 208-680-155 by your renewal date. Your renewal date is the date one year after the day your license was issued.

(3) **I did not complete the online escrow officer renewal process, did not pay my renewal fee by my renewal date, or my renewal fee payment was rejected. Can I still provide escrow services?** No. Your license is now expired, and any escrow services you perform are considered unlicensed activities and are in violation of the act. If you continue to perform escrow services after expiration of your license, the department may investigate and bring an enforcement proceeding against you.

For ~~((additional))~~ information about failed payments, see WAC 208-680-170.

(4) **I did not complete the online escrow officer form and pay my renewal fee by my renewal date. Can I still renew my license, or do I need to reapply?** Once your license has expired~~((;))~~ you have sixty days to file for renewal and to pay the renewal fee~~((; and the department may assess a))~~ and any late renewal penalty. If you ~~((don't))~~ do not renew~~((;))~~ your license will be canceled on the sixty-first day. A canceled license cannot be renewed or reinstated. If your license is canceled and you wish to provide escrow services, you will have to apply for a new license. You should note that if your new license is not issued within two years of your passing the escrow ~~((examination))~~ test, you ~~((will))~~ may have to take the escrow ~~((examination))~~ test again. ~~((See WAC 208-680-135-))~~

Even if you renew your license before it is canceled, you are still liable for any unlicensed ~~((activities))~~ services you (~~((conducted))~~ provided while your license was expired.

For the renewal fee structure, see WAC 208-680-155.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-245 Closure of office. (1) **If I close (~~(one of))~~ my main office(s), what effect does that have on any other offices?** When the main office of an escrow agent closes, all branch offices must close. ~~((When a branch office closes and the main office remains licensed, the responsibility for records maintenance and trust accounting for the branch's transactions reverts to the main office.))~~

(2) ~~((If I close an office,))~~ **What are my notification requirements to the department when I plan to close my business?** ~~((When either the main office or a branch office of~~

an escrow agent closes, either the designated escrow officer or a controlling person are jointly and severally obliged to notify the department within twenty-four hours of closure.

~~In addition to notifying the department,))~~ Thirty days prior to the planned closure, the designated escrow officer or a controlling person must provide the department with notice of the closure. After closure you must provide the department with the following within fifteen days:

(a) ~~((Within thirty days of office closure, provide the department with))~~ An itemized accounting of funds held in trust at the time of closure, including the names of the principal parties to the transaction, the escrow number, the amount of funds held and the purpose of the funds. If the trust account balance is zero, the escrow agent must provide a reconciliation of the trial balance supporting the zero balance;

(b) ~~((Within thirty days of office closure, provide the department with))~~ The most recent completed three-month reconciliation;

(c) The name, residence address and telephone number of the person responsible for the records;

~~((e) Within thirty days of office closure,))~~ (d) The street address and telephone number where the records are located;

~~((d) Within thirty days of any change in the person responsible for the records or the place the records are maintained, notify the department of the change,))~~

(e) ~~((Within thirty days of closure, provide the department with))~~ An itemized list of your retained records, specifying their location and quantity, including the number of files and the number of boxes they are stored in; and

(f) ~~((Within thirty days of closure, provide the department with))~~ A records retention plan that identifies the ways that you will store, retrieve, and destroy your required records in compliance with the act and this section. Your plan must identify how you will continue to pay any costs associated with your storage location.

(3) **For how long ~~((do))~~ must I ~~((need to))~~ maintain ~~((my))~~ records after ~~((closure))~~ my company closes?**

(a) ~~((Your))~~ You must maintain the records ~~((must be maintained))~~ for at least six years~~((, and))~~. The records must be maintained in the state of Washington. They must be available upon demand of the department during business hours and must be maintained in a readily retrievable manner. Closing one or more of your branch offices does not discharge your obligation to retain your records.

(b) ~~((If there is a change in the person responsible for your records, or if the location of your records change, you must notify the department within thirty days.~~

~~((e))~~ Your records must be stored, retrievable, and destroyed in accordance with the records retention plan you have submitted to the department.

(4) ~~((What are my obligations regarding my trust account after I close a branch office? If the closed branch office has an associated trust account that contains client funds at the time of closure, the designated escrow officer or branch designated escrow officer responsible for that location must provide the department with monthly reports and reconciliations of the trust account to the trial balance, in compliance with WAC 208-680-410(9), until the trust account balance is zero. These reconciliations are due within thirty days of the end of the preceding month. If the designated or branch~~

designated escrow officer is no longer with the escrow agent, another principal officer must file the monthly reports and reconciliations.

~~((5))~~ **What are my obligations regarding my trust account after I close my main office?** If your trust account ~~((contains))~~ contained client funds at the time of closure, the designated escrow officer or a controlling person must provide the department with monthly reports and reconciliations of the trust bank account to the trial balance, in compliance with WAC 208-680-410(9), until the trust bank account balance is zero. These reconciliations are due within thirty days of the end of the preceding month.

~~((6))~~ (5) **If I close my main office, what obligation do I have regarding winding up my business?** You must wind up your business in a reasonably prompt manner. Until your trust account balance~~((s are))~~ is zero, you must also maintain your fidelity and surety bonds under WAC 208-680-310 and your errors and omissions policy under WAC 208-680-320.

(6) **If I close one of my branch offices, what are my notification requirements?** When a branch office of an escrow agent closes, the branch designated escrow officer, designated escrow officer, or a controlling person are jointly and severally obliged to notify the department within twenty-four hours of closure. In addition to notifying the department, if the closed branch office had an associated trust account that contained client funds at the time of closure, the branch designated escrow officer responsible for that location must provide the department with monthly reports and reconciliations of the trust account to the trial balance, in compliance with WAC 208-680-410(9), until the trust bank account balance is zero. These reconciliations are due within thirty days of the end of the preceding month. If the branch designated escrow officer is no longer with the escrow agent, either the designated escrow officer or a principal officer must file the monthly reports and reconciliations.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-265 Reporting significant events. What significant events am I required to report to the department, and how quickly must I report them? Depending on the significant event, you will have different reporting periods.

(1) **Ten-day prenotification required.** You must report to the director, in writing, changes to the following information at least ten days before they occur:

(a) Your location or mailing address. See RCW 18.44.061 and WAC 208-680-235;

(b) The form of your business organization or its place of organization. For example, if your business is changing from a sole proprietorship to a corporation, or from a corporation to a limited liability corporation, you must notify the department and may be required to file a new escrow agent application;

(c) The name and mailing address of your registered agent if you are an out-of-state escrow agent; or

(d) Your legal or trade name.

(2) **Twenty-four hour post-notification required.**

(a) You must notify the director in writing within twenty-four hours of any change to the trust status of your trust account. For example, if you use an interest-bearing trust account because you are required to under a limited practice officer or attorney license, and the status of your interest-bearing account changes for any reason, you must notify the department in writing within twenty-four hours. This notification does not affect your responsibility to comply at all times with the trust account requirements of the act and WAC 208-680-410.

(b) You must notify the director in writing within twenty-four hours of receiving any information from a financial institution that your trust account is overdrawn. The notice to the director must contain the name of the financial institution holding the trust account and the trust account number. The notice must also contain a detailed written statement signed by the designated escrow officer explaining the insufficiency in your trust account and a copy of any information received from the financial institution, including, if applicable, a copy of any items returned for insufficient funds.

(c) You must notify the director in writing within twenty-four hours of receiving service of or within the discovery of the initiation of a civil lawsuit, criminal complaint or administrative action against you, your escrow officers or employees providing escrow services or with access to the trust account. See WAC 208-680-570.

~~(3) ((Five day post notification required. You must notify the director in writing within five business days of any changes to the escrow agent's surety or fidelity bonds or errors and omissions policy. See RCW 18.44.201.~~

~~(4)) Ten-day post-notification required. You are required to notify the director in writing within ten days of the occurrence of any of the following:~~

~~(a) The cancellation or expiration of your Washington state master business license;~~

~~(b) For an in-state escrow agent, a change in your standing with the Washington secretary of state, including the resignation or change of your registered agent. If you are an out-of-state escrow agent, you are subject to subsection (1) of this section, which requires ten-day prenotification;~~

~~(c) The escrow agent filing for bankruptcy;~~

~~(d) The personal bankruptcy filing of one or more of your principal officers, controlling persons, licensed escrow officers, designated escrow officers, or branch designated escrow officers; or~~

~~(e) Any change in a principal officer, if no other reporting period is specified in the act or these rules. This includes changes in ownership affecting ten percent or more of the escrow agent's equity.~~

~~((5)) (4) Other notification requirements. In addition to the notice requirements under this section, you are required to follow any other notification requirements in the act or in these rules. These include, but are not limited to:~~

~~(a) For an escrow office closure, see WAC 208-680-245.~~

~~(b) For a transfer involving all or substantially all of its assets, the escrow agent must comply with WAC 208-680-125.~~

~~(c) For a change in principal officer or controlling person of a licensed escrow agent, the escrow agent must comply~~

with WAC 208-680-125 and 208-680-110 and may be required to file a new application for an escrow agent license.

~~(d) For changes in designated escrow officer or branch designated escrow officer, see WAC ((208-680-510)) 208-680-174.~~

(e) For termination of a licensed escrow or limited practice officer, the escrow agent must notify the department within three business days that the escrow or limited practice officer no longer represents the escrow agent. If the escrow or limited practice officer was terminated for dishonesty or financial misconduct involving the business, the escrow agent must provide the department with ((that information)) a detailed written statement signed by the designated escrow officer explaining the dishonesty or financial misconduct; a copy of any information provided to the police; and a copy of any claim filed under your surety bond or errors and omissions policy.

Within ten business days of the termination, the escrow agent must deliver the escrow officer's license to the department. See RCW 18.44.101. If the terminated escrow officer was the escrow agent's designated escrow officer, see WAC 208-680-176 for additional notification requirements.

~~(f) For the filing of quarterly reports, see WAC 208-680-425.~~

~~(g) For ((suit or)) civil lawsuit, criminal complaint or administrative action notification((;)) see WAC 208-680-570.~~

~~(h) Within five business days of the escrow agent's license being revoked, surrendered, suspended, or the license expiring, the escrow agent shall notify the principal parties of preexisting escrows of the action. The contents of the notification must comply with RCW 18.44.465.~~

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-275 Employment restrictions. (1) What criminal background restrictions are there on the persons I may employ? You may not employ any person to provide escrow services or handle escrow transactions who has been convicted of or plead no contest within the last seven years to either:

(a) A felony; or

(b) A gross misdemeanor involving dishonesty.

(2) What financial responsibility restrictions are there on the persons I may employ to handle client funds? In addition to the criminal background restrictions that apply to all employees handling escrow transactions, an employee that receives money, disburses funds, or acts as a signatory on any trust accounts may not have demonstrated disregard in the management of his or her financial condition in the last three years. Disregard for his or her financial condition may be shown by, but is not limited to:

(a) Being subject to an administrative action issued pursuant to the Consumer Loan Act, the Consumer Protection Act, the Mortgage Broker Practices Act, the Insurance Code, the Securities Act, the Check Cashers and Sellers Act, or other similar laws in this or another state;

(b) An independent credit report issued by a recognized credit reporting agency that indicates the person has a history of unpaid debts; or

(c) Any other demonstration of his or her inability to appropriately manage his or her personal finances in a way that may endanger the funds of either the escrow agent or the escrow agent's client.

(3) **Do I need to ~~(examine)~~ review my current ~~(employee's)~~ employees' backgrounds to ensure that I am in compliance with this requirement?** Yes. The restrictions ~~(are on)~~ apply to all employees, not just new hires. Your policy and procedures manual should provide for self-reporting by employees as well as regular background reviews.

(4) **How will the department enforce these provisions?**

(a) Each escrow agent must develop written policies and procedures to document its efforts to comply with ~~(section 4, chapter 34, Laws of 2010)~~ RCW 18.44.311 and this section. You must make your policies and procedures available to the department upon request, and they must be maintained as part of your books and records;

(b) Your actual practices must be consistent with your written policies and procedures and your employees must be trained in those policies and procedures;

(c) Each year, each escrow agent's designated escrow officer must submit to the department a statement along with the agent's renewal paperwork attesting to its compliance with its internal policies and procedures. Failure to truthfully submit this statement is a violation of the act. A branch designated escrow officer may sign and submit the statement of compliance for a branch office; and

(d) The department reserves the right to perform its own background checks on escrow agent employees to determine compliance during examinations, investigations, and enforcement proceedings.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-310 Fidelity and surety bonds. (1) What is a fidelity bond under the act? For purposes of the act, a fidelity bond is a primary commercial blanket bond or an equivalent bond ~~(that is)~~ or a combination of more than one bond acceptable to the department, regardless of the name used to identify the specific insurance product. A bond or bond combination is an acceptable equivalent if it meets the requirements of the act. At a minimum, ~~(it)~~ the fidelity bond or equivalent or bond combination must:

(a) Provide an aggregate minimum coverage of ~~(two hundred thousand)~~ one million dollars;

(b) Have a deductible of no more than ten thousand dollars;

(c) Cover fraudulent or dishonest acts committed by one or more ~~(corporate)~~ principal officers, partners, sole practitioners, escrow officers, and employees, acting alone or in concert; and

(d) Run to the benefit of the escrow agent, unless the fraudulent or dishonest act is committed by one or more ~~(corporate)~~ principal officers, partners, or sole practitioners,

in which case it runs to the benefit of the harmed consumer(s).

(2) **If my fidelity bond does not cover principal officers, partners, or sole proprietors, or limits coverage for the fraudulent or dishonest acts committed by them, is it compliant with the act?** No, not unless the principal officers, partners, or sole proprietors are also employees as defined in the policy and covered by the policy. If your policy does not cover or limits coverage for principal officers, partners or sole practitioners, the department may require that you provide a declaration confirming the employment status of those individuals. Not providing the declaration may result in the department's rejection of the bond. The declaration may also require that you certify that any employees not included in the declaration are not providing escrow services and have no involvement with the day-to-day operations of the escrow agent or trust account.

(3) **I am unable to find a fidelity bond that permits third parties to claim on the bond. Can I use a bond that does not allow a third party to claim on the bond?** If you make a good faith effort to find a bond that complies with the statutory and regulatory requirements, and are unable to do so, the department may accept a bond that meets the other fidelity requirements but does not permit third-party claims. The department may relax this requirement only until a determination can be made about the general availability of conforming bonds.

Licenses that use a nonconforming bond as authorized under this subsection should be aware that the department may consider a refusal to file a claim on a fidelity bond for fraudulent or dishonest acts committed by a ~~(corporate)~~ principal officer, partner, or sole practitioner, to be conducting business in an unsafe or unsound manner under ~~(section 11, chapter 34, Laws of 2010)~~ RCW 18.44.455 and WAC 208-680-645.

~~(3)~~ (4) **Am I required to maintain any other kind of bond?** If your fidelity bond has a deductible, you must maintain a surety bond in the amount of ten thousand dollars. The surety bond is a promise to pay the ten thousand dollar deductible in the event there is a claim on the fidelity bond and must run to the benefit of the state and any person harmed by an escrow agent or its employees. The surety bond must be an original signed and sealed document with power of attorney attached, not a certificate of insurance.

~~(4)~~ (5) **How long must I maintain my bonds?** All bonds must be kept in effect while you are ~~(conducting)~~ providing escrow ~~(business)~~ services. Additionally, after closure of your office you must maintain your fidelity bond and surety bond ~~(s)~~ if applicable until your escrow trust accounts have been reconciled and all trust account balances are zero.

~~(5)~~ (6) **How do I demonstrate compliance with ~~(this)~~ the bond requirements?** Along with your application or renewal, you must provide the department with a certificate of insurance. You must also provide coverage information to the department upon demand. The certificate of insurance does not need to be entitled ~~(a)~~ certificate of insurance, but must include at a minimum:

(a) Your escrow agent's name;

(b) The insurer's name;

- (c) The aggregate amount of coverage; and
 (d) The amount of any deductible (~~and~~
 (e) ~~A statement of compliance with RCW 18.44.201).~~

To ensure compliance with the bonding requirements, you must provide a copy of the full bond language to the department during your first year of compliance, and then upon demand in subsequent years.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-320 Errors and omissions (~~policies~~) insurance. (1) **What errors and omissions (~~policy~~) insurance must I carry?** You must carry an errors and omissions policy in the minimum aggregate amount of fifty thousand dollars or provide the department with a cash or securities alternative as described in subsection (2) of this section. Either a bond or the cash or securities deposit must be maintained until you have closed your office, all of your accounts have been reconciled, and all balances are zero.

(2) **If I want to use a securities alternative to the errors and omissions bond requirement in RCW 18.44.201 (1)(b), what are the requirements?**

(a) Cash used as an alternative to the errors and omissions insurance requirement requires a cash deposit of fifty thousand dollars made in a recognized Washington state depository which account is maintained separate and apart from the escrow agent's own funds. The funds shall be deposited in such a manner to permit only the director to withdraw from the principal amount. The escrow agent may withdraw any interest accumulated to the account.

(b) Securities used as an alternative to an errors and omissions policy must be effectively delivered to the director along with a properly executed irrevocable assignment and any supporting documentation as required by the director.

~~((b))~~ (c) Only those securities that meet the definition of "investment securities" under chapter 208-512 WAC may be used to satisfy RCW 18.44.201. Securities issued by the licensed escrow agent or its affiliates are not acceptable securities for the purposes of fulfilling the requirements of RCW 18.44.201.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-330 When will the cash deposit or securities I used in lieu of an errors and omissions insurance policy be returned to me? (1) If ~~((your cash deposit or securities were deposited with the department to allow you to conduct escrow business, and))~~ you are closing the business, they will be returned to you the later of:

(a) One year from the date of the expiration, cancellation, surrender, or revocation of your license, unless there are any pending actions commenced under WAC 208-680-340 ~~((prior to the expiration, cancellation, surrender, or revocation of the escrow agent's license))~~; or

(b) The day ~~((your))~~ all trust accounts ~~((are fully reconciled and show a zero balance))~~ have been reconciled, and all trust account balances are zero.

(2) If ~~((your cash deposit or securities were provided to the department to allow you to conduct escrow business and))~~

you have now obtained an errors and omissions insurance policy to replace them, your deposit or securities will be returned within thirty days of ~~((your))~~ you providing the department with proof that you have obtained an errors and omissions policy.

(3) If your cash deposit or securities were provided to the department as part of a licensing application, they will be returned to you within thirty days of the department's denial of your application for an escrow agent license.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-340 How are claims filed on my cash deposit or securities in lieu of an errors and omissions policy? (1) Upon receipt of notification of a legal action for which notice is required to be given to the department under WAC 208-680-570, the department will notify the complaining party of the existence of any cash deposit or securities and the provisions of this chapter.

(2) A claim against the cash deposit or securities must be in the form of certified copy of a final judgment from a court of competent jurisdiction. Upon receipt of a claim in the proper form, the department will release the amount of cash deposit or securities sufficient to pay the final judgment.

(3) The department will notify the escrow agent of the receipt of the claim and advise the escrow agent that it must deposit additional cash or securities with the department to maintain the required principal amount ~~((of fifty thousand dollars))~~ after payment of the claim.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-350 How long do I have to maintain my cash deposit and securities, and what are the consequences of failure to do so? If you assign, transfer, or set over a cash or securities deposit in lieu of an errors and omissions policy, you must keep the deposit in full force and effect at all times as a condition precedent to your authority to transact escrow business. Your deposit or securities must at all times be at least the principal amount of fifty thousand dollars. ~~((After closure, you must maintain your cash deposit until your trust account has a zero balance.))~~

Failure to maintain the deposit or securities at the minimum level is sufficient grounds for the suspension or revocation of your license.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-410 Administration of funds held in trust. (1) **Who is responsible for funds (~~received from the principal parties to~~) deposited to and disbursed from an escrow trust account?** The escrow agent must establish a trust account or accounts in a recognized Washington state depository. The escrow agent, through the designated escrow officer, is responsible for depositing, holding, disbursing, and accounting for funds in the trust account as provided in the act and the rules, regardless of how they are received or disbursed. The designated escrow officer or branch designated

escrow officer ((is responsible for all funds received from the principal parties to an escrow transaction or escrow collection account. He or she)) must hold the funds in trust for the purposes of the transaction or agreement and must not utilize such funds for the benefit of the agent or any person not entitled to such benefit. ((The escrow agent must establish a trust account or accounts in a recognized Washington state depository. The escrow agent, through the designated escrow officer, is responsible for depositing, holding, disbursing, and accounting for funds in the trust account as provided in the act and the rules.)) For branch offices, the branch designated escrow officer is also responsible for depositing, holding, disbursing, and accounting for funds in the branch's trust account. The escrow agent is ultimately responsible for all the actions of the designated escrow officer or branch designated escrow officer.

(2) What kind of an account can I use as a trust account for my escrow services? Your trust account or accounts must be designated as a trust account or accounts in the ((certified)) licensed name of the escrow agent. Your trust accounts must be noninterest bearing demand deposit accounts unless they are one of the following:

(a) An interest-bearing trust account or dividend earning investment account containing funds pertaining to an individual escrow transaction or escrow collection account, if directed to use one by a written agreement between and signed by all principal parties to the transaction. The agreement must specify the manner of distribution of accumulated interest to the parties to the transaction;

(b) An interest-bearing trust account or dividend-earning investment account containing only funds held on behalf of an owner, vendor, lessor, etc., involving escrow collections, if directed to use one by a written agreement or directive signed by the principal parties. The agreement must specify the manner of distribution of accumulated interest to the parties to the transaction;

(c) An interest-bearing trust account containing funds related to transactions in which a limited practice officer has prepared documents under authorization set forth in APR 12(h); or

(d) An interest-bearing trust account containing funds related to transactions in which a licensed attorney has prepared documents. Your trust account must not be used for any purpose other than that specified in the act or rules. You must not use the trust account for the receipt or disbursement of funds for any business other than that conducted under the act.

(3) What information do I need to provide to the department regarding my trust account? Each time you renew your escrow agent license, you must provide the department with an authorization to examine your trust account. This authorization must be on a form specified by the department, signed by a representative of the bank, and notarized.

(4) Can I set up a system of records and procedures that varies from this section? No. You must establish and maintain a system of records and procedures as provided in this section unless you receive advance approval from the department. ((Any alternative records or procedures pro-

posed for use by the escrow agent must be approved in advance by the department.

~~((5))~~ **(5) Who is responsible for disbursements of funds and funds held in trust?** The escrow agent is ultimately responsible for the disbursement of all funds received and held in trust, regardless of how they are disbursed.

~~((6))~~ **(5) Who may have signatory authority over trust account disbursements?** The designated escrow officer must have signatory authority on all trust accounts, and he or she may authorize any employee that he or she supervises to sign disbursements by including them on a bank account signature card. Branch designated escrow officers must have signature authority for trust accounts at their branch, and may have signature authority for other branches if the designated escrow officer authorizes it on either a temporary or permanent basis. The signatory authority of any employee other than a designated or branch designated escrow officer is discretionary, may be conditional or temporary, and may be revoked by the designated escrow officer at any time.

~~((7))~~ **(6) When must my client's funds be deposited into a trust account?** You must deposit any funds you receive for an escrow transaction or collection account into the escrow agent's trust account on the first banking day following receipt.

This requirement does not apply to funds owned exclusively by the agent.

~~((8))~~ **(7) What do I need to do when I receive escrow funds?**

(a) When you receive funds, you must record the date, amount, source, and purpose on either a cash receipts journal or duplicate receipt. If you use a duplicate receipt, you must keep it as a permanent record.

(b) When you deposit funds into your trust account or accounts, the deposit must be documented by:

(i) For traditionally deposited funds, a duplicate bank deposit slip that is validated by bank imprint or an attached deposit receipt that bears the signature of the authorized representative of the agent indicating that the funds were actually deposited into the proper trust account;

(ii) For funds received via wire transfer, posting of the deposit in the same manner as other receipts with a traceable identifying name or number supplied by the financial institution or transferring entity. You must also make arrangements for a follow-up "hard copy" receipt for the deposit; or

(iii) For remotely deposited funds, a follow-up "hard copy" receipt for the deposit.

(c) The traceable identifying name or number supplied by the financial institution in (b) of this subsection does not need to be a name or number you use to identify the transaction, but must be enough to allow the department to track and verify the transfer.

~~((9))~~ **(8) What are my responsibilities regarding my individual client ledgers?** You must maintain an individual client ledger for each escrow transaction or collection account for which funds are received in trust. All receipts and disbursements must be posted in the individual client ledger. Your client ledgers are subject to the following requirements:

(a) Credit entries must show the date of deposit ((~~or wire transfer~~)), amount, and name of remitter.

(b) Debit entries must show the date of check (~~(or wire transfer)~~), check number (if funds are disbursed via check), amount of check (~~(or wire transfer)~~), and name of payee.

(c) You must prepare monthly trial balances of each client ledger. You must reconcile the ledger with both the trust account bank statement and the trust account receipts and disbursement records. The reconciliation must be signed by the designated escrow officer or branch designated escrow officer, and must be maintained as permanent records.

~~((10))~~ **(9) What are my obligations regarding a reconciled trust account?** Your reconciled trust account or accounts must be equal at all times to your outstanding trust liability to clients. Your outstanding trust liability to clients must equal the trial balance of all of your escrows with undisbursed balances.

~~((11))~~ **(10) What requirements must I meet for disbursements of trust funds?**

(a) Disbursed funds must be good funds.

(b) Unless otherwise authorized by (c) of this subsection, in the escrow instructions, you must make trust fund disbursements by check or cashier's check. Checks must be drawn on your trust account or accounts, and must identify which specific escrow transaction or collection account the disbursement relates to. Cashier's checks may be issued by the financial institution and drawn upon the trust account. The number of each check and its amount, date, payee, and the specific client's ledger sheet debited must be shown in the cash register or cash disbursement journal. All data must agree exactly with the check as written.

(c) You may make disbursements via wire transfer or ACH if both of the following are true:

(i) You have made arrangements with the financial institution that holds your trust account or accounts to provide you with a follow-up "hard copy" debit memo when funds are disbursed via wire transfer; and

(ii) You retain in the transaction file a copy of instructions signed by the owner of the funds to be wire transferred identifying the receiving entity and account number.

(d) You may make disbursements via ACH if both of the following are true:

(i) The ACH disbursements are restricted to fees payable to the escrow agent and reoccurring payments made to payees in the escrow transaction. See subsection (13) of this section for further restrictions on escrow agent fees; and

(ii) You print and retain the ACH confirmation or a copy of the confirmation screen. The retained documentation must, at a minimum, include payee, payment date, escrow trust account number debited, and confirmation number assigned to the ACH transaction.

(e) You may make appropriate transfers between escrow accounts by ledger entries alone if you use either:

(i) A transfer form containing the date of the transfer, the amount being transferred, the identity of the accounts being debited and credited, and the signature of a person authorized to approve disbursements; or

(ii) An intrabank debit memo transfer form, and all escrow accounts involved in the transaction are closed through the same bank account.

~~((8))~~ **(f) If you are making recurring transfers between collection escrows, they must be authorized by standing escrow instructions on file from all appropriate parties.**

~~((9))~~ **(g) See also WAC 208-680-560.**

~~((12))~~ **(11) I have a voided check written on the trust account. What do I need to do with it?** You must permanently deface the check and retain it as a permanent record in the individual escrow or collection account file.

~~((13))~~ **(12) What are my obligations regarding fees payable to me for my escrow services?** You must be paid via a separate check or bank transfer, drawn on the trust account and bearing the escrow or transaction number, for escrow and service fees. This payment must be provided for in the escrow instructions. All of your fees relating to a transaction may be combined in a single check, or transfer, but either the closing or settlement statement or an addendum signed by the principal parties must itemize the included charges.

~~((14))~~ **(13) What are my obligations regarding fees payable to me for my collection account services?** Your collection account fees may be paid with a single check for each collection period as long as such a check is supported by a schedule of fees and identified to each individual account. Your fees must be paid monthly unless the collection contract agreement provides a longer collection period.

~~((15))~~ **(14) May I have funds in my Washington trust account that are not related to ((an)) a Washington escrow transaction or collection account**? No. Only funds related to ~~((an escrow transaction or an escrow collection account))~~ the services you provide under the authority of your Washington license may be placed in your trust account. ~~((None of your))~~ No other funds may be in the trust account for any reason.

~~((16))~~ **(15) What kinds of disbursements am I not allowed to make from my trust account?** You may only make disbursements from your trust account for authorized purposes. Specifically, you may not make disbursements:

(a) For items not related to a specific escrow transaction or escrow collection account, including aggregate disbursements to the department of revenue of unclaimed funds from multiple transactions. Such disbursements must be made for each specific account with unclaimed funds;

(b) To any person or for any reason before the closing of an escrow transaction, or before the happening of a triggering condition set forth in the escrow instructions. You may make a disbursement before the closing of a transaction or before a triggering condition if you receive a written release from all principal parties of the escrow transaction or collection account. Unless the disbursement is disputed under WAC 208-680-560, you are permitted to disburse earnest money funds without a written release if the earnest money agreement terminates according to its own terms prior to closing and provides for such disbursement((-));

(c) Relating to a specific escrow transaction or collection account in excess of the actual amount held in your trust account in connection with such transaction or collection account;

(d) To pay any fee owed to you, your employees or for your own business expenses. Such fees or expenses must be paid from your own ~~((regular))~~ general business ~~((bank))~~

operating account and not from your trust account or accounts;

(e) For bank charges of any nature. You must make arrangements with your bank to have any bank charges applicable to the trust accounts charged to your regular business bank account, or to provide a separate statement of bank charges so they may be paid from your regular business bank account. However, you may pay bank charges from the interest you receive on trust accounts allowed under subsection (2)(c) or (d) of this section;

~~(f) If the Washington financial institution's trust account does not have the ability to automatically charge fees to another account, or does not provide a separate statement for the service fees as required by (e) of this subsection, and the account is debited for service fees, you must deposit funds from your general business or other nontrust account to cover the service fee charged within one banking day after receipt of notice of the charge;~~

~~(g) On lease or rental contract collection account for pre-authorization of payments by the financial institution for recurring expenses such as mortgage payments on behalf of the owner if the account contains tenant security deposits or funds belonging to more than one client;~~

~~((g)) (h) On lease or rental contract collection accounts, of funds received as a damage or security deposit involving a lease or rental contract, to the property owner or any other person or persons, without the written authority of the lessee. You must hold these funds until the end of the tenancy, at which point you must disburse them to the person or persons entitled to the funds under the terms of the rental or lease agreement, and as consistent with the provisions of RCW 59.18.270, Residential Landlord-Tenant Act, or other appropriate statute.~~

~~((h) If the financial institution's automated system does not have the ability to charge fees to another account, or does not provide a separate statement for the service fees as required by (e) of this subsection, and the account is debited for service fees, you must deposit funds from your general business or other nontrust account to cover the service fee charged within one banking day after receipt of notice.~~

~~(17)) (16) If I choose to use a computer accounting system, what additional requirements do I need to meet?~~ The provisions of this section apply to both manual and computerized accounting systems. However, there are some additional requirements if you choose to use a computer accounting system.

(a) Your computer accounting system must provide a capability to back-up all data files;

(b) You must print receipt and check registers at least once monthly. You must retain printed records as permanent records. Reconciliations and trial balances must be conducted at least once monthly, and then printed and retained as a permanent record;

(c) You must maintain a printed, dated source document file to support any changes to existing accounting records;

(d) If your computer accounting system has the ability to write checks by filling in fields on existing checks, the check number must be preprinted on the check or a voucher copy retained by the supplier. Your computer accounting system

may assign suffixes or subaccount codes before or after the check number for identification purposes;

(e) If your computer accounting system has the ability to print entire checks on blank check stock using MICR toner or a similar system, it must track all checks that are printed. Those checks must be verifiable against your check register to ensure no duplication or skipping of check numbers;

(f) The check number must appear in the magnetic coding which also identifies the account number for readability by the financial institution's computer; and

(g) All checks you write must be included within the computer accounting system.

~~((18)) (17) I have unclaimed funds in my trust account. What do I need to do with them?~~ Unclaimed funds are governed by and defined in the Uniform Unclaimed Property Act of 1983, chapter 63.29 RCW. If you have unclaimed funds in your trust account, your designated escrow officer or branch designated escrow officer must contact the department of revenue for disposition instructions. You must maintain a record of the correspondence relating to unclaimed funds for at least ~~((five)) six~~ years.

You must dispose of unclaimed funds in accordance with this section on a rolling basis to ensure that you do not have unclaimed funds in your trust account. You must examine your books at least once a quarter to determine if you have unclaimed funds. If you have unclaimed funds in your trust account, they must be ~~((purged at least quarterly in order to comply with the completed quarterly reconciliation as required in))~~ disposed of pursuant to chapter 63.29 RCW. See also WAC 208-680-425.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-425 What are the requirements for my quarterly reports? (1) In order to determine compliance with chapter 18.44 RCW and chapter 208-680 WAC, each escrow agent must file with the director, within thirty days following the end of each fiscal quarter, the following reports in a form prescribed by the director:

(a) A report concerning its operations, including the number of escrow transactions conducted and the total dollar volume of those transactions;

(b) A report concerning the trust account administration; ~~((and))~~

(c) A one page summary report of the completed three way reconciliation from the last month of the quarter; and

(d) Such other reports or documents in support of the reports as requested by the department. At a minimum, you must provide copies of your bank statements in support of (c) of this subsection.

(2) A complete three way reconciliation ~~((is completed if it))~~ that demonstrates:

(a) You have no unclaimed funds in your trust account;

(b) You have no overdue negotiable instruments as defined in RCW 62A.3-304; ~~((and))~~

(c) You have no overdrawn individual escrow transaction accounts; and

(d) You have no outstanding balances more than nine months old, unless:

(i) The outstanding balance is authorized by valid instructions from the principal parties stating a finite period the funds should be held; or

(ii) You certify to the department that you have conducted a quarterly examination of your records to ensure compliance with the Uniform Unclaimed Property Act of 1983, chapter 63.29 RCW.

(3) For nontrust account matters, your designated escrow officer or any other principal officer of the escrow agent may certify the information on the reports. This certification must be under penalty of perjury in a manner consistent with RCW 9A.72.085.

(4) For trust account matters, your designated escrow officer must certify that he or she has reviewed the trust account report and any exhibits filed with it and that the information contained in the report and any exhibits is true and correct. This certification must be under penalty of perjury in a manner consistent with RCW 9A.72.085. ~~((The chief executive officer or chief financial officer of the escrow agent,))~~ In the event the designated escrow officer is no longer available or employed by the escrow agent, any other principal officer or other knowledgeable person acceptable to the director, may certify the information on the ~~((report not related to))~~ trust account ~~((matters))~~ report(s).

~~((4))~~ (5) Failure to file these reports within the time period specified in this rule is a violation of RCW ~~((18.44-430 and may result in))~~ 18.44.301 and provides grounds under RCW 18.44.430 for legal action against the escrow agent by the department. False certifications ~~((of compliance))~~ may result in revocation of your license and referral to a prosecuting attorney.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-520 What trust account records am I required to keep? ~~((+))~~ You are required to keep the following trust account records:

~~((+))~~ (1) Legible copies of all deposits made to the trust account including duplicate deposit slips ~~((;))~~ validated by the bank or bearing the signature of the designated escrow officer or branch designated escrow officer, and including the date of actual deposit ~~((;))~~, wires ~~((;))~~, separate receipts ~~((;))~~, or other evidence of the deposit of funds into the trust account;

~~((+))~~ (2) Legible copies of all disbursements made from the trust account, including checks, wires, or other evidence of any disbursement from the trust account;

~~((+))~~ (3) Legible copies of all bank statements for the trust account, including all paid checks or copies of paid checks, electronic or otherwise, provided that such copies are made in such a manner that the endorsement on the paid check is visible and readable;

~~((+))~~ (4) A client's ledger containing an individual ledger sheet for each escrow transaction or collection account, unless you use a computer accounting system. If you use a computer accounting system, an individual ledger sheet does not need to be maintained in the transaction files until the closing of the escrow transaction or collection account as long as the computer accounting system records provide the

status of the escrow transaction or collection account funds on a daily basis;

~~((+))~~ (5) Legible copies of all written receipts and pre-numbered checks, if you use a manual trust accounting system to administer the trust account.

~~((2))~~ In addition to trust account records, you are required to keep additional records, including:

(a) Transaction files containing all agreements, contracts, documents, leases, escrow instructions, closing statements and correspondence for each transaction;

(b) Reconciled bank statements and canceled checks for all bank accounts of the escrow agent, including but not limited to the pooled escrow trust accounts, individual escrow trust accounts, and general business operating accounts of the agent;

(c) All checks and receipts produced by any computer accounting system. These checks and receipts must be sequentially numbered. You must retain the original of any voided or incomplete sequentially numbered check or receipt which was not issued.

(3) All records other than the reconciled bank statements must identify the transaction they relate to, either by escrow number or some other clear identifying information.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-530 Records. ~~((+))~~ What are the additional records requirements ~~((are there for my records))~~? (1) In addition to trust account records, you are required to keep additional records, including:

(a) Transaction files containing all agreements, contracts, documents, leases, escrow instructions, closing statements and correspondence for each transaction;

(b) Reconciled bank statements and canceled checks for all bank accounts of the escrow agent including, but not limited to, the trust accounts, individual trust accounts, and general business operating accounts of the agent;

(c) All checks and receipts produced by any computer accounting system. These checks and receipts must be sequentially numbered. You must retain the original of any voided or incomplete sequentially numbered check or receipt which was not issued.

(2) All records other than the reconciled bank statements must identify the transaction they relate to, either by escrow number or some other clear identifying information.

(3) All of your records must be accurate, posted, and kept current to the date of the most recent activity.

~~((2))~~ (4) How long ~~((do))~~ must I ~~((need to))~~ retain my records? You must keep required records and make them available for inspection by the department for a minimum of six years from completion of a transaction. Records must be retained in their original format until the related transaction is completed and the client's trust account balance is zero after which time they may be converted to electronic format pursuant to subsection (6) of this section.

~~((3))~~ (5) Where ~~((do))~~ must I ~~((need to))~~ retain my records? You must at all times maintain your records in a location that is reasonably likely to preserve them. For the first year after completion, records of a transaction must be

maintained at an address where you are licensed to maintain an escrow office. Records of transactions that have been completed for more than one year may be stored at another location within the state of Washington. Records stored at a remote location must be available during business hours upon demand of the department and must be maintained in a manner that is readily retrievable. You must not store records at a remote location if funds related to the transaction remain in the trust account.

~~((4))~~ **(6) When can I convert my records to an electronic format?** Once a transaction is completed and a client's trust account balance is zero, you may convert that client's file into a permanent storage format and destroy the originals. You must not store records electronically if funds related to the transaction remain in the trust account.

~~((5))~~ **(7) How can I store my records electronically?** Records stored electronically must be electronically imaged and stored on permanent storage media like optical disks or microfilm. The storage media must meet the following requirements:

(a) The retrieval process must provide the ability to view and print the records on-site in their original form, including any signatures or other writings placed on the records prior to imaging;

(b) The equipment must be made available on- and off-site to the department for the purposes of an examination or investigation;

(c) The records must be stored exclusively in a non-writable and nonerasable format;

(d) The hardware and software necessary to display and print the records must be maintained by the escrow agent during the required retention period under subsection ~~((2))~~ **(4)** of this section.

Permanent storage does not affect your duties under subsection ~~((3))~~ **(5)** of this section to maintain files in your licensed location for the first year.

~~((6) Are there records that I cannot store in an unlicensed location or in an electronic format? Transactions and accounting records may not be stored at a remote location or on permanent storage media as described under this section if there are funds relating to the transaction, including reconveyances or holdbacks, remaining in the trust account.~~

~~((7))~~ **(8) I am closing my escrow agent business. What are my obligations regarding my records?** You must ensure that all records retention requirements are met and that records are properly destroyed when appropriate. You also have an ongoing duty to ensure the department is informed about who has your records and where they are being maintained.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-540 What are my obligations regarding escrow transactions? The escrow agent is responsible for ~~((conducting))~~ providing escrow ~~((agreements))~~ services between the principal parties. ~~((The))~~ In addition to complying with the act and these rules, an escrow agent must at a minimum:

(1) Escrow instructions.

(a) Prepare or accept an instrument of escrow instructions from and agreed to by the principal parties and the escrow agent. The escrow instructions must be signed by the principal parties. Escrow instructions must contain any and all agreements between the principal parties and the escrow agent or incorporate other written agreements by reference. The escrow instructions must not be modified except by written agreement signed by all principal parties and accepted by the escrow agent.

(b) Comply with the escrow instructions for completing the closing statement. All funds disbursed on the closing statement should be bona fide and supported with adequate documents.

(c) Provide the services and perform all acts pursuant to the escrow instructions.

(2) Fee disclosures. Disclose in writing to the principal parties when fees for services provided may be earned by the escrow agent. The disclosure must specifically identify the fees using the same terminology as that provided on the closing statement ~~((for example the))~~ both the estimated and final HUD-1 or HUD-1A provided for any transaction subject to the act, and reflect the dollar amount associated with each item identified as a fee payable to the escrow agent. For purposes of this section, fees payable to the escrow agent mean any item payable directly to the escrow agent whether accounted for by the escrow agent as profit, potential for profit, or the offset of justifiable costs.

(3) Justifiable fees. Ensure that all fees are for bona fide services and bear a reasonable relationship in value to the services performed, regardless of whether the services are performed by the escrow agent or by a third party under contract with the escrow agent. No charges known at the time of closing for services performed by a third party to the transaction may exceed the actual cost of the third-party service. When the cost of a third-party service cannot be known with certainty at the time of closing, an escrow agent may:

(a) Provide an estimate of the charge for the third-party service on the preliminary closing statement, disclose the actual charge for the third-party service on the final disclosure statement, and refund any amounts collected in excess of the actual charge for the third-party service to the principal parties;

(b) Assume responsibility for performing the service and charge the principal parties a one-time fee for performing the service. The one-time fee must be reasonably related to the value of the service provided. The escrow agent may contract with a third party to perform the service. The escrow agent must disclose to the principal parties in the preliminary and final settlement statement that the fee is being paid to the escrow agent. The escrow agent may transfer such fees earned into the general account in compliance with WAC 208-680-410; or

(c) If conducting a subescrow transaction, charge the principal parties the average charges as determined by the master escrow agent or title insurance company.

~~((Escrow instructions. Comply with the escrow instructions for completing the closing statement. All funds disbursed on the closing statement should be bona fide and supported with adequate documents.~~

~~(5))~~ **Recordkeeping.** Maintain copies of the escrow instructions and closing statement (for example, HUD-1 or HUD-1A) in the escrow transaction file.

~~((6))~~ **(5) Addendums.** Require an addendum to the purchase agreement for any and all material changes in the terms of the escrow transaction, including but not limited to, changes in the financing of the transaction.

~~((7) Services. Provide the services and perform all acts pursuant to the escrow instructions.~~

~~(8))~~ **(6) Closing statements.**

(a) Provide a complete detailed closing statement (for example HUD-1 or HUD-1A) as it applies to each principal at the time the transaction is closed.

(b) Provide copies of the final closing statement to each real estate broker or agent involved with the transaction.

(c) The escrow agent must retain a copy of all closing statements in the transaction file, even if funds are not handled by the agent. The closing statements must show, at a minimum:

~~((a))~~ **(i)** The date of closing;

~~((b))~~ **(ii)** The total purchase price;

~~((c))~~ **(iii)** An itemization of all adjustments, moneys or things of value received or paid in compliance with requirements of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2601, and Regulation X, 24 C.F.R. Section 3500, and all other applicable rules and regulations. Such itemization must include the name of the person or company to whom each individual amount is paid, or from whom each individual amount is received. If there is not enough room on the closing statement for a full itemization, itemization may be provided on an addendum as long as a copy of the addendum was also provided to the principal parties and is included in the transaction file;

~~((d))~~ **(iv)** A detail of debits and credits identified to each principal party; and

~~((e))~~ **(v)** Names of payees, makers and assignees of all notes paid, made or assumed.

~~((9))~~ **(7) Payment of proceeds.** Pay the net proceeds of sale directly to the seller unless otherwise provided in writing by the seller or a court of competent jurisdiction.

~~((10))~~ **(8) Obtain signatures.** Obtain original signatures of the principal parties on either the preliminary or final closing statement and maintain a copy of the signed closing statement in the escrow transaction file, unless the escrow instructions authorize use of faxed or electronic signatures. If an escrow agent completes a transaction based on faxed signatures in accordance with the escrow instructions, it must obtain original signatures for the file only if the escrow instructions so require.

~~((11) Final closing statements. Provide a copy of the final closing statement to each principal party and to each real estate broker or agent involved with the transaction.)~~

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-550 Am I obligated to ~~(conduct)~~ provide escrow ~~(transactions)~~ services within the time period specified in the escrow instructions? Yes. An escrow agent must perform all acts required of the escrow

agent as expeditiously as possible and within any time period identified in the escrow instructions. Intentional or negligent delay in such performance is a violation of RCW ~~((18.44.430 (1)(i), and may result in enforcement action))~~ 18.44.301, and provides grounds under RCW 18.44.430 (1)(h) and (i) for legal action against the escrow agent by the department.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-560 What requirements must I follow when disbursing funds or other things of value? (1) The escrow agent must disburse funds as set forth in the escrow instructions or collection agreement. ~~((Disbursement of any money or other or other things of value in violation before the happening of the conditions of the escrow instructions))~~ Not doing so is a violation of RCW 18.44.430 (1)(e). Funds and other items or documents must be paid and/or disbursed immediately upon closing of the transaction or as specifically agreed to in writing by the principal parties, and all funds must be disbursed in compliance with RCW 18.44.400(3) and these rules.

(2) Upon written notice from any principal party that the ownership of the funds is in dispute or is unclear based on the written agreements of the parties, the escrow agent must hold such funds until it receives written notice from all principal parties that the dispute has been resolved. In lieu of holding such funds, the escrow agent may interplead the funds into a court of competent jurisdiction pursuant to chapter 4.08 RCW. Upon notification of a ~~((bona fide))~~ dispute between the principal parties, the department may, at its discretion, order the escrow agent to interplead the funds into a court of competent jurisdiction. If the department orders an escrow agent to interplead funds, the escrow agent may deduct only the actual costs of interpleading from the escrow funds.

(3) Except as provided otherwise in this section, at no time may an escrow agent disburse or delay the disbursement of funds without the written consent of the principal parties unless the delay is necessary to ensure the funds being disbursed are good funds.

(4) See also WAC 208-680-410 (1), (7), (11), and (16).

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-570 When ~~((do))~~ must I ~~((have to))~~ notify the department about a civil lawsuit ~~((or)), criminal complaint, or administrative action~~ against me or my escrow officers or employees? ~~((Every escrow agent and escrow officer))~~ You must, within ~~((twenty days))~~ twenty-four hours after service or ~~((knowledge))~~ discovery of a ~~((suit or))~~ civil lawsuit, criminal complaint, or administrative action, notify the department ~~((of)).~~ The notices must contain the following:

(1) For any civil lawsuit, the subject matter of the lawsuit. You must provide the department with a copy of the lawsuit when one becomes available, regardless of any pending appeal.

(2) For any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) ~~((in which the licensee is named as a defendant))~~ for a felony

or a gross misdemeanor involving dishonesty, the subject matter of the action. You must provide the department with a copy of the criminal complaint, information, indictment, or conviction when one becomes available, regardless of any pending appeal.

~~((2))~~ (3) For the entry of a civil court order, verdict, or judgment, against ~~((the licensee))~~ you in any court of competent jurisdiction in which the subject matter involves any escrow or business related activity ~~((by the licensee. Notification is required))~~, the subject matter of the action, regardless of any pending appeal.

~~((3))~~ (4) For any administrative action or Washington state bar association disciplinary action taken against you, an escrow officer or any of ~~((an escrow agent's))~~ your employees for subject matter involving escrow or related business activities, ~~((if the designated or branch designated escrow officer is aware of such action. Notification is required))~~ the subject matter of the action. You must provide the department with a copy of the action when one becomes available, regardless of any pending appeal.

~~((4) If an escrow agent or escrow officer is aware of it, any criminal complaint, information, indictment, or conviction of any of a licensee's employees where the complaint, information, indictment, or conviction is for a felony or a gross misdemeanor involving dishonesty. Notification is required regardless of any pending appeal, and))~~

(5) If any of the above described actions involves your employee notifying the department under this section does not change ~~((an escrow agent's))~~ your responsibilities under WAC 208-680-275.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-580 What are the responsibilities of a licensed escrow officer? ~~((It is the responsibility of))~~ Every licensed escrow officer ~~((to))~~ must:

(1) Be knowledgeable of ~~((and))~~, keep current with, and comply with chapter 18.44 RCW and the rules ~~((implementing chapter 18.44 RCW))~~;

(2) ~~((It is the responsibility of every licensed escrow officer to))~~ Keep the department informed of his or her current home address~~((:))~~;

(3) ~~((It is the responsibility of every licensed escrow officer to))~~ Ensure accessibility of ~~((their))~~ the escrow agent's offices and records to representatives of the department~~((:))~~; and

(4) ~~((It is the responsibility of every licensed escrow officer to))~~ Promptly inform the department if he or she loses his or her affiliation with an escrow agent, and to stop ~~((conducting))~~ providing escrow ~~((transactions))~~ services until he or she associates with a licensed escrow agent.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-590 What ~~((practices are violations of))~~ conduct violates the act? It is a violation of the act for you ~~((or your employees))~~, any controlling person, principal officer, designated escrow officer, independent contractor, employee or other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Knowingly make, publish, or disseminate any false, deceptive, or misleading information in the conduct of the business of escrow, or relative to the business of escrow or relative to any person engaged therein;

(5) Knowingly receive or take possession for personal use of any property of any escrow business, other than in payment authorized by this chapter, and with intent to defraud, omit to make, or cause or direct to be made, a full and true entry thereof in the books and accounts of the business;

(6) Make or concur in making any false entry, or omit or concur in omitting to make any material entry, in its books or accounts;

(7) Knowingly make or publish, or concur in making or publishing, any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false, or omit or concur in omitting any statement required by law to be contained therein;

(8) Willfully fail to make any proper entry in the books of the escrow business required by law;

(9) Fail to disclose in a timely manner to the other officers, directors, controlling persons, designated escrow officer, or other licensed escrow officers the receipt of service of a notice of an application for an injunction or other legal process affecting the property or business of an escrow agent, including in the case of a licensed escrow agent an order to cease and desist or other order of the director;

(10) Fail to make any report or statement lawfully required by the director or other public official;

(11) Fail to comply with any requirement of any applicable federal or state act as described in RCW 18.44.301;

(12) Collect a fee for tracking unclaimed funds that is not a bona fide out-of-pocket expense;

(13) Convert unclaimed funds for personal use; or

(14) Receive compensation or any ~~((thing of))~~ value from any party for assisting in "real estate flopping." "Real estate flopping" is a short sale transaction where the value of a property is misrepresented to the lender, who then authorizes sale of the property for less than market value. The property is resold to another person at market value or closer to market value, creating a profit. The failure to disclose the nature of the transactions or the true value of the property to the lender constitutes fraud on the lender, the original property owner, or the second buyer, and is a violation of this chapter.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-610 What are the department's examination powers under the act? (1) For the purposes of determining compliance with chapter 18.44 RCW and chapter 208-680 WAC, the department may examine, wherever

located, the records used in the business of every licensee and any person who must be licensed under the act.

(2) The department may make necessary inquiry of the business or personal affairs of each person identified in subsection (1) of this section for the purposes of determining compliance with the act and these rules. In conducting examinations, the department may:

(a) Access, during reasonable business hours, the offices and places of business, books, accounts, papers, files, records, including electronic records, computers, safes, and vaults of all such persons. Access must be given to both the trust account records and general business operating account records;

(b) Interview or take sworn testimony of any person subject to RCW 18.44.021, or any employee or independent contractor of any person subject to RCW 18.44.021;

(c) Interview or take sworn testimony of any principal party or agent to the transaction;

(d) Require the filing of statements in writing by any person, under oath or otherwise, as to all facts and circumstances concerning the matters under examination;

(e) Copy, or request to be copied, any items described in this section;

(f) Analyze and review any items described in this section;

(g) Require assistance, as necessary, from any employee or person subject to the act;

(h) Conduct meetings and exit reviews with owners, management, officers, or employees of any person subject to the act; ~~(and)~~

(i) Prepare and deliver, as necessary, a report of examination requiring a response from the recipient; and

(j) Retain attorneys, appraisers, independent certified public accountants, or other professionals and specialists as examiners, auditors, or investigators. The cost of the services provided must be paid by the person who is the subject of the examination or investigation.

(3) The department may make examinations as frequently as it deems necessary or appropriate; and

(4) The department may charge an ~~((appropriate))~~ hourly ~~((audit))~~ fee for an examination ~~((under))~~. See RCW 18.44.-121~~((5))~~ (1)(e).

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-620 What are the department's investigatory powers under the act? (1) The department may ~~((make at any time public or private))~~ conduct private or public investigations ~~((within or outside of this state))~~ at any time to determine whether any person has violated or is about to violate chapter 18.44 RCW, or any rule, regulation, or order under chapter 18.44 RCW, or to aid in the enforcement of chapter 18.44 RCW. For that purpose, the department may conduct inquiries, interviews, and examinations of any person deemed relevant to the investigation.

(2) The department may investigate the escrow business or other business or personal financial records of any person subject to investigation under subsection (1) of this section. In conducting investigations, the department may:

(a) Access, during reasonable business hours, any location where any escrow business records are or may be located, including offices, places of business, personal residences, storage facilities, computers, safes, and vaults, for the purposes of obtaining, reviewing, or copying books, accounts, papers, files, or records, including electronic records, or records stored in any format;

(b) Administer oaths or affirmations;

(c) Subpoena witnesses and compel their attendance at a time and place determined by the director or designated person;

(d) Subpoena the production of any evidence or matter which is relevant to the investigation, including the taking of such evidence;

(e) Subpoena any person to determine the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence;

(f) Interview, publicly or privately, under administration of oath or otherwise, or take the sworn testimony of: Any principal party, ~~((any))~~ escrow agent ~~((to the transaction, any))~~, employee, or independent contractor, of any person subject to the act, or any other person whose testimony is deemed relevant to the department's investigation;

(g) Require the filing of statements, affidavits, or declarations in writing by any person, under administration of oath, notary or otherwise, as to all facts and circumstances concerning the matters under investigation;

(h) Copy, or request to be copied, any items described in this section, or if the department makes a determination that there is a danger that original records may be destroyed, altered, or removed to deny the director access, or that original documents are necessary for the preparation of a criminal referral, the department may take originals of any items described in this section, regardless of the source of such items. Originals and copies taken by the department may be held, returned, or forwarded to other regulatory or law enforcement officials as deemed necessary;

(i) Analyze and review any items described in this section;

(j) Receive assistance, as necessary, from any employee or other person subject to RCW 18.44.021;

(k) Conduct meetings ~~((and exit reviews))~~ with owners, management, officers, or employees of any person subject to RCW 18.44.021;

(l) Conduct meetings and share information with other regulatory or law enforcement agencies;

(m) Prepare and deliver, as necessary, a report of investigation requiring a response from the recipient.

(3) For purposes of this section and RCW 18.44.420(1), "public" means open to the public as determined by the department.

(4) For purposes of this section and RCW 18.44.420(1), "private" means closed to the public or any person, including attorneys for witnesses, as determined by the department.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-630 What are the department's enforcement powers under the act? The department may conduct ~~((the following types of))~~ enforcement ~~((activity))~~ activities that include, but are not limited to:

(1) Enter orders, including temporary orders to cease and desist, compelling any person to cease and desist from an unlawful practice, and to take such affirmative action as in the judgment of the department will carry out the purposes of this chapter;

(2) Enter charges for violations of chapter 18.44 RCW and chapter 208-680 WAC;

(3) Bring an action, with or without prior administrative proceedings, in the superior court to enjoin conduct or to enforce compliance with chapter 18.44 RCW, or any rule, regulation, or order of the department;

(4) Appoint a receiver or conservator to take over, operate, or liquidate any licensed escrow agent;

(5) Hold hearings;

(6) Make referrals to other regulatory or law enforcement agencies; or

(7) Under specific circumstances, take ~~((control))~~ possession of ~~((an))~~ the property and escrow business of a licensed escrow agent. See WAC 208-680-645.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-640 ~~((Sanctions.))~~ What sanctions may the department impose on a licensed escrow agent or escrow officer? (1) ~~((What sanctions may the department impose on a licensed escrow agent or officer?))~~ The department may take any or all of the following actions ~~((against escrow licensees))~~:

(a) Deny, suspend, or revoke ~~((the))~~ an escrow ~~((agent's))~~ agent or escrow officer license for any violation of RCW 18.44.430;

(b) Remove or prohibit any ~~((corporate))~~ principal officer, controlling person, director, employee, or licensed escrow officer from participation in the conduct of the affairs of any licensed escrow agent ~~((, for any violation of RCW 18.44.430))~~;

(c) Order a licensed escrow agent or escrow officer to pay restitution to an injured party; or

(d) Impose a fine of up to one hundred dollars per day against any escrow officer or agent for each day's violation of chapter 18.44 RCW or these rules.

(2) **I work as an escrow agent, but I am excepted from licensure. What sanctions may the department impose on me for violations of the act?** The department may deny a future application for a license under the act.

(3) **I have been sanctioned in the past for providing unlicensed escrow services in Washington. May I apply for an escrow agent or escrow officer license?** Yes, if you were sanctioned more than five years ago. Under RCW 18.44.430, the department may deny a license to anyone who has violated the act or its implementing rules, including the licensure requirements. The department will not issue a license to a person who has provided unlicensed escrow ser-

vices within the last five years, but may at its discretion issue a license to a person whose unlicensed activity took place more than five years before his or her application. If your unlicensed activity was particularly widespread or egregious, or if it posed a particular risk to the public interest, the department may still deny you an escrow agent or escrow officer license even if your unlicensed activity took place more than five years before your application.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-645 ~~((Seizure of))~~ Possession of escrow agent property and business. (1) **When may the department take control of my escrow agent property and business?** The department may take control of a licensed escrow agent if, as a result of an examination, report, investigation, or complaint, it appears to the department that the ~~((licensee))~~ licensed escrow agent:

(a) Is conducting business in an unsafe and unsound manner that poses a risk to the public;

(b) Has suspended payment of its trust obligations;

(c) Has refused to comply with a lawfully issued order of the department and one or more consumers are likely to be harmed by noncompliance.

~~((A licensee may be considered to be conducting its business in an unsafe and unsound manner that is injurious to the public if it refuses to file a valid claim against its fidelity bond or errors and omissions policy for claims that affect a consumer and his or her property.))~~

(2) **What actions can the department ~~((do with a business))~~ take once it has taken ~~((control of))~~ possession of an escrow agent's property and business?** The department may take any action ~~((that the licensee would be able to take))~~ to protect consumers. At a minimum, the department may:

(a) Work with other licensees to complete pending escrow transactions;

(b) Discontinue unsafe or unsound practices and violations of laws or regulations;

(c) ~~((Make good))~~ Recover and distribute funds to cure any deficiencies;

(d) Make claims against the licensee's fidelity or surety bonds or errors and omissions insurance to make whole consumers who have been harmed by employee activities ~~((whole))~~;

(e) Make restitution to injured parties;

(f) Renew the licensee's license;

(g) Renew or make premium payments to maintain the licensee's bonds and insurance; and

(h) Where it is clear that the escrow agent's business cannot be safely operated, take the necessary steps to wind down the business of the escrow agent ~~((where it is clear that the escrow agent cannot be safely operated))~~ including seizing the operating and escrow trust accounts; hiring and firing employees; changing locks and passwords; taking control of the escrow agent's internet web site; and turning over operations to a court-appointed receiver.

(3) **How long may the department keep control of a business?** The department may maintain control over a business until the licensee is able to resume business or the busi-

ness is ~~((fully))~~ liquidated by a receiver appointed pursuant to RCW 18.44.470.

(4) **I also conduct nonescrow business through my licensed escrow agent business. If the department seizes my escrow business, will it also seize these other areas of business?** When possible, the department will only take control of the portion of a business related to escrow. If the portions of a business are not clearly divisible, the department will determine its actions on a case-by-case basis, based in part on the relationship between and degree of commingling of the business lines.

(5) **I am an attorney whose law practice is licensed as an escrow agent. Will the department seize my law practice under this section?** Where an attorney's law practice is excepted from licensure, the law practice is not subject to seizure under the act. For attorneys with a business entity licensed under the act, the department will generally not exercise its seizure authority against a business entity or portion of a business entity supervised by the Washington state bar association. In any event, the department will only take control of the portion of a business related to escrow as set forth in subsection (4) of the section.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-647 Seizure of escrow agent property business by the department—Notice to licensee. Under the circumstances set forth in WAC 208-680-645, the department may give the licensee notice and opportunity to correct an unsafe or unsound condition. If the licensee fails to immediately comply with the terms of the notice ~~((within thirty days of its issuance))~~ or within such ~~((further))~~ time as the department may allow, then the department may take possession of the ~~((licensee))~~ escrow agent property and business.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-648 What ~~((can I do))~~ are my rights if the department takes possession of my escrow agent property business without cause? You may challenge the department's decision ~~((to take possession of your business))~~ under the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-650 What are the fees I must pay for examinations and investigations ~~((fees may the department charge me, and what specialists may the department retain in connection to its examination or investigation of an escrow agent or officer))~~? (1) ~~((The director may retain attorneys, appraisers, independent certified public accountants, or other professionals and specialists as examiners, auditors, or investigators, the cost of which shall be borne by the person who is the subject of the examination, audit, or investigation.~~

(2) ~~The expense of~~) You will be charged \$62.50 per hour for an examination or investigation or both pursuant to

WAC 208-680-610 or 208-680-620 ~~((inside or outside this state shall be borne by the person examined or investigated)).~~

~~((3))~~ (2) You will also be charged the expenses of an examination or investigation ~~((pursuant to this section))~~ or both. The expenses may include, but are not limited to, staff time, travel, lodging, per diem, and any other expenses ~~((related to the examination or investigation))~~. At a reasonable time following each examination or investigation performed, the director must provide the person examined with an invoice for the expenses incurred during the examination or investigation. Payment of the invoiced amount ~~((is due))~~ must be made within thirty days of the date of the invoice to avoid the addition of interest charges to the amount due.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-660 Abandoned escrow records. What happens if I fail to maintain my records after closing? If you do not maintain your records as required, you are responsible for the costs of collection, storage, conversion to electronic formats, ~~((or))~~ and proper destruction.

ESCROW ~~((COMMISSION))~~ ADVISORY COMMITTEE

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-710 Organization of ~~((commission))~~ committee. (1) **What is the escrow ~~((commission))~~ committee, and what are its duties?** The escrow ~~((commission))~~ committee is composed of the director or his or her designee and five board members appointed by the director. The ~~((commission))~~ committee provides advice on the escrow officer ~~((examination))~~ test, acts in an advisory capacity to the department regarding the activities of escrow agents and escrow officers, and performs such other duties and functions as prescribed by chapter 18.44 RCW.

(2) **Are escrow ~~((commission))~~ committee meetings open to the public?** Yes. Meetings of the escrow ~~((commission))~~ committee are open to the public. Records, minutes, and recordings of each meeting are also available on the department's web site, www.dfi.wa.gov.

AMENDATORY SECTION (Amending WSR 10-20-124, filed 10/5/10, effective 11/5/10)

WAC 208-680-720 Escrow ~~((commission))~~ committee meeting notice. I would like to know when the next meeting of the escrow ~~((commission))~~ committee will be held. How can I get this information? If you would like to know about the date, time, place and agenda of the escrow ~~((commission))~~ committee meetings, you may make a request of the department, or may join the department's escrow e-mail distribution list, the listserv, at <http://dfi.wa.gov/about/listservs.htm>.

Dates and times of the escrow ~~((commission's))~~ committee's meetings are also posted on the department's web site, www.dfi.wa.gov.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 208-680-177 What must I do to replace my designated escrow officer?
- WAC 208-680-510 What are the designated escrow officer's responsibilities?

WSR 13-24-023
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Consumer Services)

[Filed November 22, 2013, 11:24 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: Amending the rules in chapter 208-660 WAC to implement the Mortgage Broker Practices Act, chapter 19.146 RCW, as amended by chapter 30, Laws of 2013, and to generally amend the rules for clarity and consistency.

The rules are being adopted pursuant to OFM Guidance 3.a. and e.

Citation of Existing Rules Affected by this Order: Amending WAC 208-660-006, 208-660-007, 208-660-195, 208-660-250, 208-660-350, 208-660-400, 208-660-430, 208-660-440, 208-660-446, 208-660-450, 208-660-500, 208-660-510, and 208-660-520.

Statutory Authority for Adoption: RCW 43.320.040.

Other Authority: RCW 19.146.225.

Adopted under notice filed as WSR 13-19-079 on September 17, 2013.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 208-660-350(23), proposed language amended to clarify when mortgage loan originators must use their license number.

2. WAC 208-660-350(25), proposed language amended to clarify and provide exceptions as to how mortgage loan originators must use their license name.

3. WAC 208-660-446(3), proposed language amended to clarify that a mortgage loan originator's license number must closely follow their name.

4. WAC 208-660-500 (3)(h), proposed language amended to clarify how to treat documents with blanks.

5. WAC 208-660-510 (4)(d), proposed language amended to clarify that if an examiner requests documents during an examination, the licensee must provide the requested documents.

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 13, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 12, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 13, 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 22, 2013.

Deborah Bortner, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-006 Definitions. What definitions are applicable to these rules? Unless the context clearly requires otherwise, the definitions in this section apply throughout these rules.

"Act" means the Mortgage Broker Practices Act, chapter 19.146 RCW.

"Advertising material" means any form of sales or promotional materials used in connection with the mortgage broker business. Advertising material includes, but is not limited to, newspapers, magazines, leaflets, flyers, direct mail, indoor or outdoor signs or displays, point-of-sale literature or educational materials, other printed materials; radio, television, public address system, or other audio broadcasts; or internet pages.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

"Annual loan origination volume" means the aggregate of the principal loan amounts brokered by the licensee.

"Application" means the submission of a borrower's financial information in anticipation of a credit decision relating to a residential mortgage loan, which includes the borrower's name, monthly income, Social Security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought. An application may be in writing or electronically submitted, including a written record of an oral application. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a residential mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a residential mortgage loan.

"Appraisal" means the act or process of developing an opinion of value, the act pertaining to an appraisal-related function, or any verbal or written opinion of value offered by an appraiser. The opinion of value by the appraiser includes any communication that is offered as a single point, a value range, a possible value range, exclusion of a value, or a minimum value.

"Borrower" means any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan, or residential mortgage loan modification, for himself, herself, or persons including

himself or herself, regardless of whether the person actually obtains such a loan or loan modification.

"Branch office" means a fixed physical location such as an office, separate from the principal place of business of the licensee, where the licensee holds itself out as a mortgage broker.

"Branch office license" means a branch office license issued by the director allowing the licensee to conduct a mortgage broker business at the location indicated on the license.

"Business day" means Monday through Friday excluding federally recognized bank holidays.

"Certificate of passing an approved examination" means a certificate signed by the testing administrator verifying that the individual performed with a satisfactory score or higher.

"Certificate of satisfactory completion of an approved continuing education course" means a certificate signed by the course provider verifying that the individual has attended an approved continuing education course.

"Compensation or gain" means remuneration, benefits, or an increase in something having monetary value, including, but not limited to, moneys, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, franchise royalties, credits representing moneys that may be paid at a future date, the opportunity to participate in a money-making program, retained or increased earnings, increased equity in a parent or subsidiary entity, special or unusual bank or financing terms, services of all types at special or free rates, sales or rentals at special prices or rates, lease or rental payments based in whole or in part on the amount of business referred, trips and payments of another person's expenses, or reduction in credit against an existing obligation. "Compensation or gain" is not evaluated solely on a loan by loan basis.

For example, a realtor advertising that buyers using their services will receive free loan origination assistance is doing so in the anticipation of "compensation or gain" through increased real estate business.

"Computer loan information systems" or "CLI system" means a real estate mortgage financing information system that facilitates the provision of information to consumers by a mortgage broker, loan originator, lender, real estate agent, or other person regarding interest rates and other loan terms available from different lenders.

For purposes of this definition, the CLI system includes computer hardware or software, an internet-based system, or any combination of these, which provides information to consumers about residential mortgage interest rates and other loan terms which are available from another person.

"Computer loan information system provider" or "CLI provider" is any person who provides a computer loan information service, either directly, or as an owner-operator of a CLI system, or both.

"Consumer Protection Act" means chapter 19.86 RCW.

"Control" including the terms "controls," "is controlled by," or "is under common control" means the power, directly or indirectly, to direct or cause the direction of the management or policies of a person, whether through ownership of the business, by contract, or otherwise. A person is presumed to control another person if such person is:

- A general partner, officer, director, or employer of another person;

- Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interests of another person; or

- Has similar status or function in the business as a person in this definition.

"Convicted of a crime," irrespective of the pronouncement or suspension of sentence, means a person:

- Has been convicted of the crime in any jurisdiction;

- Has been convicted of a crime which, if committed within this state would constitute a crime under the laws of this state;

- Has plead guilty or no contest or nolo contendere or stipulated to facts that are sufficient to justify a finding of guilt to such a charge before a court or federal magistrate; or

- Has been found guilty of a crime by the decision or judgment of a state or federal judge or magistrate, or by the verdict of a jury.

"Department" means the department of financial institutions.

"Depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act on the effective date of this section, and includes credit unions.

"Designated broker" means a natural person designated as the person responsible for activities of the licensed mortgage broker in conducting the business of a mortgage broker under this chapter and who meets the experience and examination requirements set forth in RCW 19.146.210 (1)(e).

"Director" means the director of financial institutions.

"Discount points" or "points" mean a fee paid by a borrower to a lender to reduce the interest rate of a residential mortgage loan. Pursuant to Regulation X, discount points are to be reflected on the good faith estimate and settlement statement as a dollar amount.

"Division of consumer services" means the division of consumer services within the department of financial institutions, or such other division within the department delegated by the director to oversee implementation of the act and these rules.

"Dwelling" means the same as in Regulation Z implementing the Truth in Lending Act which is a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile or manufactured home, and trailer, if it is used as a residence. See 12 C.F.R. 1026.2.

"Employee" means an individual who has an employment relationship with a mortgage broker, and the individual is treated as an employee by the mortgage broker for purposes of compliance with federal income tax laws.

"Examination" or "compliance examination" means the examination performed by the division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules to determine whether the licensee is in compliance with applicable laws and regulations.

"Federal banking agencies" means the Board of Governors of the Federal Reserve System, Comptroller of the Cur-

rency, (~~Director of the Office of Thrift Supervision,~~) National Credit Union Administration, (~~and~~) Federal Deposit Insurance Corporation and Consumer Financial Protection Bureau.

Federal statutes and regulations used in these rules are:

- "Alternative Mortgage Transaction Parity Act" means the Alternative Mortgage Transaction Parity Act (AMTPA), 12 U.S.C. Sec. 3801 et seq.

- "Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. Sec. 1691 et seq., Regulation B, 12 C.F.R. Part 202.

- "Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq.

- "Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. Sec. 41-58.

- "Gramm-Leach-Bliley Act (GLBA)" means the Financial Modernization Act of 1999, 15 U.S.C. Sec. 6801-6809, and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 C.F.R. Parts 313-314.

- "Home Equity Loan Consumer Protection Act" means the Home Equity Loan Consumer Protection Act, 15 U.S.C. Sec. 1637 and 1647.

- "Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. Sec. 2801-2810, Regulation C, 12 C.F.R. Part 203.

- "Home Ownership and Equity Protection Act" means the Home Ownership and Equity Protection Act (HOEPA), 15 U.S.C. Sec. 1639.

- "Homeowners Protection Act" means the Homeowners Protection Act of 1998 (HPA), 12 U.S.C. Sec. 4901 et seq.

- "Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Sec. 2601 et seq., Regulation X, 24 C.F.R. Part 3500 et seq.

- "S.A.F.E. Act" means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Title V of the Housing and Economic Recovery Act of 2008 (HERA), P.L. 110-289, effective July 30, 2008.

- "Telemarketing and Consumer Fraud and Abuse Prevention Act" means the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. Sec. 6101-6108, Telephone Sales Rule, 16 C.F.R. Part 310.

- "Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Sec. 1601 et seq., Regulation Z, 12 C.F.R. Part 226 et seq.

"Federally insured financial institution" means a savings bank, savings and loan association, or credit union, whether state or federally chartered, or a federally insured bank, authorized to conduct business in this state.

"Financial misconduct," for the purposes of the act, means a criminal conviction for any of the following:

- Any conduct prohibited by the act;
- Any conduct prohibited by statutes governing mortgage brokers in other states, or the United States, if such conduct would constitute a violation of the act;
- Any conduct prohibited by statutes governing other segments of the financial services industry, including but not limited to the Consumer Protection Act, statutes governing the conduct of securities broker dealers, financial advisers, escrow officers, title insurance companies, limited practice

officers, trust companies, and other licensed or chartered financial service providers; or

- Any conduct commonly known as white collar crime, including, but not limited to, embezzlement, identity theft, mail or wire fraud, insider trading, money laundering, check fraud, or similar crimes.

~~("Independent contractor" means any person that expressly or impliedly contracts to perform mortgage brokering services for another and that with respect to its manner of means of performing the services is not subject to the other's right of control, and that is not treated as an employee by the other for purposes of compliance with federal income tax laws.~~

The following factors may be considered to determine if a person is an independent contractor:

Is the person instructed about when, where and how to work?

Is the person guaranteed a regular wage?

Is the person reimbursed for business expenses?

Does the person maintain a separate business?

Is the person exposed to potential profits and losses?

Is the person provided employee benefits such as insurance, a pension plan, or vacation or sick pay?)

"License number" means the NMLS unique identifier displayed as prescribed by the director. Some examples of the way you may display your license number are: NMLS ID 12345, NMLS 12345, NMLS #12345, MB-12345, or MLO-12345.

"Licensee" means:

- A mortgage broker licensed by the director; or
- The principal(s) or designated broker of a mortgage broker; or
- A loan originator licensed by the director; or
- Any person subject to licensing under RCW 19.146.-200; or
- Any person acting as a mortgage broker or loan originator subject to any provisions of the act.

"Loan originator or mortgage loan originator" means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain:

- Takes a residential mortgage loan application for a mortgage broker; or
- Offers or negotiates terms of a mortgage loan, including short sale transactions.

"Loan originator" also includes a person who holds themselves out to the public as able to perform any of the activities described in this definition. For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that the person engages in any of the activities of a mortgage broker or loan originator, including the use of business cards, stationery, brochures, rate lists, or other promotional items.

For purposes of further defining "loan originator," "taking a residential mortgage loan application" includes soliciting, accepting, or offering to accept an application for a residential mortgage loan or assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application.

"Loan originator" also includes a natural person who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain performs residential mortgage loan modification services.

"Loan originator" does not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a borrower to obtain information necessary for the processing of a loan. An individual who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

"Loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. For purposes of this chapter, the term "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

- (a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
- (b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
- (c) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to any such transaction;
- (d) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and
- (e) Offering to engage in any activity, or act in any capacity, described in (a) through (d) of this ~~((subsection))~~ definition.

"Loan originator" does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code.

The definition of loan originator does not apply to employees of a housing counseling agency approved by the United States department of Housing and Urban Development unless the employees of a housing counseling agency are required under federal law to be licensed individually as loan originators.

"Loan originator licensee" means a natural person who is licensed as a loan originator or is subject to licensing under RCW 19.146.200 or who is acting as a loan originator subject to any provisions of the act.

~~"Loan processor," ((means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under chapter 19.146 RCW. The job responsibilities may include the receipt, collection and distribution of information common for the processing of a loan. The loan processor may also communicate~~

~~with a borrower to obtain the information necessary for the processing of a loan, provided that such communication does not include offering or negotiating loan rates or terms, or counseling borrowers about loan rates or terms)) See WAC 208-660-106.~~

"Material litigation" means any litigation that would be relevant to the director's ruling on an application for a license including, but not limited to, criminal or civil action involving dishonesty or financial misconduct.

"Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan. A mortgage broker either prepares a residential mortgage loan for funding by another entity or table-funds the residential mortgage loan. See the definition of "table funding." (These are the two activities allowed under the MBPA.)

For purposes of this definition, a person "assists a person in obtaining or applying to obtain a residential mortgage loan" by, among other things, counseling on loan terms (rates, fees, other costs), preparing loan packages, or collecting enough information on behalf of the consumer to anticipate a credit decision under Regulation X, 24 C.F.R. Part 3500, Section 3500 (2)(b).

For purposes of this definition, a person "holds himself or herself out" by advertising or otherwise informing the public that they engage in any of the activities of a mortgage broker or loan originator, including the use of business cards, stationery, brochures, rate sheets, or other promotional items.

"Mortgage broker" also includes any person who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.

"Mortgage broker licensee" means a person that is licensed as a mortgage broker or is subject to licensing under RCW 19.146.200 or is acting as a mortgage broker subject to any provisions of the act.

"Mortgage Broker Practices Act" means chapter 19.146 RCW.

"Mortgage loan originator" means the same as "loan originator."

"NMLS" means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators and other license types.

"Nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage. This definition is limited to implementation of the S.A.F.E. Act.

"Out-of-state applicant or licensee" means a person subject to licensing that maintains an office outside of this state.

"Person" means a natural person, corporation, company, limited liability corporation, partnership, or association.

"Prepaid escrowed costs of ownership," as used in RCW 19.146.030(4), means any amounts prepaid by the borrower for the payment of taxes, property insurance, interim interest,

and similar items in regard to the property used as security for the loan.

"Principal" means any person who controls, directly or indirectly through one or more intermediaries, or alone or in concert with others, a ten percent or greater interest in a partnership, company, association, or corporation, and the owner of a sole proprietorship.

"Rate lock agreement" means an agreement with a borrower made by a mortgage broker ((~~or~~)), loan originator, or lender in which the mortgage broker ((~~or~~)), loan originator, or lender agrees that, for a period of time, a specific interest rate or other financing terms will be the rate or terms at which it will make a loan available to that borrower.

"Registered agent" means a person located in Washington appointed to accept service of process for a licensee.

"Registered mortgage loan originator" means any individual who meets the definition of mortgage loan originator and is an employee of:

(a) A depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration; and

(b) Is registered with, and maintains a unique identifier through, the NMLS.

"Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single family dwelling or multiple family dwelling of four or less units.

For purposes of this definition, a loan "primarily for personal, family, or household use" includes loan applications for a finance or refinance of a primary residence for any purpose, loan applications on second homes, and loan applications on nonowner occupied residential real estate provided the licensee has knowledge that proceeds of the loan are intended to be used primarily for personal, family or household use.

"Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include, but are not limited to, forbearances; repayment plans; changes in interest rates, loan terms (length), or loan types; capitalizations of arrearages; or principal reductions.

"Residential mortgage loan modification services." See WAC 208-660-105.

"Residential real estate" is real property upon which is constructed or intended to be constructed, a single family dwelling or multiple family dwelling of four or less units.

- Residential real estate includes, but is not limited to:
 - A single family home;
 - A duplex;
 - A triplex;
 - A fourplex;
 - A single condominium in a condominium complex;
 - A single unit within a cooperative;
 - A manufactured home; or
 - A fractile, fee simple interest in any of the above.
- Residential real estate does not include:

- An apartment building or dwelling of five or more units; or

- A single piece of real estate with five or more single family dwellings unless each dwelling is capable of being financed independently of the other dwellings.

"S.A.F.E. Act" means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, or Title V of the Housing and Economic Recovery Act of 2008 (HERA), P.L. 110-289, effective July 30, 2008; and Regulation G, 12 C.F.R. Part 1007; and Regulation H, 12 C.F.R. Part 1008.

"Table-funding" means a settlement at which a mortgage loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds. The mortgage broker originates the loan and closes the loan in its own name with funds provided contemporaneously by a lender to whom the closed loan is assigned.

"Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

A lender is considered a third party only when the lender provides lock-in arrangements to the mortgage broker in connection with the preparation of a borrower's loan.

"Third-party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.

"Underwriting" means a lender's detailed credit analysis preceding the offering or making of a loan. The analysis may be based on information furnished by the borrower (employment history, salary, financial statements), the borrower's credit history from a credit report, the lender's evaluation of the borrower's credit needs and ability to pay, and an assessment of the collateral for the loan. While mortgage brokers may have access to various automated underwriting systems to facilitate an evaluation of the borrower's qualifications, the mortgage broker who qualifies or approves a borrower in this manner is not the underwriter of the loan and cannot charge a fee for underwriting the loan. Third-party charges the mortgage broker incurs in using or accessing an automated system to qualify or approve a borrower may, like other third-party expenses, be passed on to the borrower.

"Unique identifier" means a number or other identifier assigned by protocols established by the NMLS.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-007 Good standing. (1) **What does good standing mean?** For the purposes of the act and these rules, good standing means that the applicant, licensee, or other person subject to the act demonstrates financial responsibility, character, and general fitness sufficient to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of the act and these rules. In determining good standing the director will consider the following factors,

and any other evidence relevant to good standing as defined in this rule:

(a) Whether the applicant or licensee has paid all fees due to the director or the NMLS.

(b) Whether the mortgage broker licensee has filed quarterly ~~((#))~~ and annual reports as prescribed by the director.

(c) Whether the mortgage broker licensee has filed and maintained the required surety bond or had its surety bond canceled or revoked for cause.

(d) Whether the mortgage broker licensee has maintained a designated broker in compliance with the act and these rules.

(e) Whether the applicant, licensee, or other person subject to the act has had any license, or any authorization or ability to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years.

(f) Whether the applicant, licensee, or other person subject to the act has been convicted of, or pled guilty or nolo contendere to, in a domestic, foreign, or military court to:

(i) A gross misdemeanor involving dishonesty or financial misconduct within the prior seven years;

(ii) A felony within the prior seven years; or

(iii) A felony that involved an act of fraud, dishonesty, breach of trust, or money laundering at any time preceding the date of application.

(g) Whether the licensee or other person subject to the act, is, or has been subject to a cease and desist order or an injunction issued pursuant to the act, or the Consumer Protection Act, or has been found through an administrative, civil, or criminal proceeding to have violated the provisions of the act or rules, or the Consumer Protection Act, chapter 19.86 RCW.

(h) Whether the director has filed a statement of charges, or there is an outstanding order by the director to cease and desist against the licensee or other person subject to the act.

(i) Whether there is documented evidence of serious or significant complaints filed against the licensee, or other person subject to the act, and the licensee or other person subject to the act has been notified of the complaints and been given the opportunity to respond.

(j) Whether the licensee has allowed the licensed mortgage broker business to deteriorate into a condition that would result in denial of a new application for a license.

(k) Whether the licensee, or other person subject to the act has failed to comply with an order, directive, subpoena, or requirement of the director or director's designee, or with an assurance of discontinuance entered into with the director or director's designee.

(l) Whether the licensee or other person subject to the act has interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or director's designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action.

(2) Under what circumstances may the department conduct a good standing review of an applicant, mortgage broker licensee, designated broker, or exempt mortgage

broker? The department may conduct a good standing review when:

(a) Processing an application for a new mortgage broker branch office license.

(b) Processing an application for appointment of a different designated broker (both the licensed mortgage broker, including those individuals to whom the license was granted, and the proposed designated broker must meet good standing).

(c) Processing a request for recognition as an exempt mortgage broker under RCW 19.146.020.

(3) When will an applicant, licensee, or other person subject to the act receive notice from the department of their failure to meet a determination of good standing? If the department conducts a good standing review, the department will notify the applicant, licensee, or other person subject to the act that they have failed to meet the department's good standing requirement within ten business days of the department's receipt of any application or request that requires a determination of good standing. See subsection (2) of this section. For purposes of the notice required by this section, a statement of charges filed and served on the licensee is sufficient notice of a lack of good standing.

(4) What recourse does an applicant, licensee, or other person subject to the act have when the department has determined that they are not in good standing? The applicant, licensee, or other person subject to the act may request a brief adjudicative proceeding under the Administrative Procedure Act, chapter 34.05 RCW, to challenge the department's determination. See WAC 208-660-009.

NEW SECTION

WAC 208-660-106 How does the department interpret the definition of loan processor in RCW 19.146.010 (12)? "Loan processor" or "underwriter" means an individual who performs clerical or support duties as an employee (not as an independent contractor) of a person licensed or exempt from licensing and at the direction of and subject to the supervision and instruction of an individual licensed, or exempt from licensing, under this chapter. The job responsibilities may include the receipt, collection and distribution of information common for the processing of a loan. The loan processor may also communicate with a borrower to obtain the information necessary for the processing of a loan, provided that such communication does not include offering or negotiating loan rates or terms, or counseling borrowers about loan rates or terms. A loan processor or underwriter engaged as an independent contractor by a licensee must hold a mortgage loan originator license.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-195 Mortgage brokers—Branch offices. (1) May I open branch offices under my mortgage broker license? Yes. A licensed mortgage broker may submit license application(s) to the department through the NMLS to establish branch office(s) under the existing mortgage broker license. Each branch office must be licensed and

must pay an annual license fee. See WAC 208-660-550, Department fees and costs.

(2) If my branch offices are under separate ownership, does that limit my liability for their activities? No. Licensed mortgage brokers are responsible for the activity and violations at their branch offices regardless of the structure or label given the branch offices. Licensure of a branch office creates a direct line of responsibility from the main office to the branch.

(3) If my branch offices are under separate ownership, what level of supervision must I maintain? Because branch offices, regardless of their business structure, are not independent from your license and surety bond, you are responsible for the conduct of anyone conducting business under your license. You must have a written supervisory plan. The details of the plan, and how you implement the plan for your branch offices, must take into account the number of branch offices, their location, and the number of individuals working at the branch offices. You must maintain your written supervisory plan as part of your business books and records.

(4) How do I apply for a mortgage broker branch office license? As the licensed mortgage broker, you must apply for a branch office license through the NMLS and receive approval from the department before operating from any location other than your licensed location. You must be in good standing. You will have to pay application and annual assessment fees for the branch office(s). See WAC 208-660-550, Department fees and costs.

(5) What does the department consider when reviewing an application for a branch office license? The department considers:

(a) Whether the mortgage broker is in good standing. See WAC 208-660-007.

(b) Whether the physical address listed in the application can be verified as a branch office location.

(6) If I am an internet company, how do I display my license? You must display your license information, as it appears on your license, including any or all business names, and the license number, on your web site. The information must also include a list of the states in which you are licensed.

(7) How do I change information on my mortgage broker branch office license? You must file a license amendment through the NMLS.

(8) Does my branch office license expire? The license expires annually. The expiration date is shown on the license. If the license is an interim license, it may expire in less than one year.

(9) How do I renew my mortgage broker branch office license?

(a) Before the expiration date, the licensed mortgage broker must submit an online renewal and pay the branch office annual assessment fee through the NMLS.

(b) The renewed mortgage broker branch office license is valid for the term listed on the license or until surrendered, suspended, or revoked.

(10) If my mortgage broker branch office license expires, must I apply for a new license? If you complete all the requirements for renewal by the last day of February each year, you may renew an existing license. However, if you

renew your license during this two-month period, in addition to paying the annual assessment on your branch office license, you must pay an additional fifty percent of your annual assessment for that branch. See subsection (9) of this section for the license renewal requirements.

During this two-month period, your license is expired and you must not conduct any business under the act that requires a license until your license has been renewed.

If you fail to comply with the renewal request requirements by February 28th, each year, you must apply for a new license.

(11) If my mortgage broker branch office license has expired, may I still conduct my mortgage broker business from that location? No. Once the mortgage broker branch office license has expired, you must not conduct any business under the act that requires a license until you renew your license.

(12) If my mortgage broker main office license expires, may I still conduct my mortgage broker business from a branch office? No. Once the mortgage broker main office license expires, you must not conduct any business under the act that requires a license from any location until you renew the main office license.

(13) May I add a trade name (or "DBA") to my mortgage broker branch office license? Yes. You may add a trade name, or "DBA" name, to the mortgage broker branch office license if you first apply to the department, in a form prescribed by the director, and receive department approval. The branch office trade name must at all times be identified as connected with the mortgage broker's license name as it appears on the mortgage broker license. When the department has approved the trade name, you must conduct business under that trade name in at least one of the two following ways:

(a) Use your license name together with the branch office trade name; or

(b) Use the branch office trade name and mortgage broker ((branch)) main office license number together.

(c) See WAC 208-660-180(10).

(14) How must I identify my mortgage broker branch office(s)? The branch office must be prominently identified as a branch or division of the licensed mortgage broker so as not to appear to be an independent enterprise.

(15) Does my branch office have to be a physical location? Yes. The physical location may be at a commercial or residential address but does not have to be in Washington. See WAC 208-660-420, Out-of-state mortgage brokers and loan originators.

(16) Must I have a branch manager? No. Although you may appoint one, the act does not require a branch manager. You and the designated broker are responsible for the business conducted at all locations.

(17) If I appoint a branch manager, must he or she be licensed? If the branch manager performs any of the functions of a mortgage broker or loan originator, he or she must be licensed. If they do not perform those functions, they must not be paid a commission or salary based upon the number of transactions closed.

(18) Must I have a designated broker at each branch?

No. You may have only one designated broker who is responsible for the mortgage broker business at all locations.

(19) If I want to move my licensed company under the sponsorship of another mortgage broker, what must be completed before the licensed loan originators can start transacting business under the sponsorship of the other mortgage broker? The loan originators may begin doing business when the other mortgage broker has filed for approval of a new branch office with the NMLS, has sponsored each of the licensed loan originators through the NMLS and you have filed the trust account paperwork with the department, you may transact business under the new mortgage broker for up to thirty days without a new license.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-250 Designated brokers—General. (1) How do I become a designated broker?

(a) Be eighteen years or older.

(b) Have a high school diploma, an equivalent to a high school diploma, or two years experience in the industry in addition to the experience required in (e) of this subsection. The experience must meet the criteria in (e) of this subsection.

(c) You must pass the Washington designated broker test. See WAC 208-660-260, Designated brokers—Testing. If you will originate loans, you must also take and pass the loan originator ((national and Washington specific)) test((s)) and apply for and receive a loan originator license.

(d) You must be appointed to the designated broker position by the licensed mortgage broker through an application and approval process with the department and the NMLS.

(e) You must have a minimum of two years experience lending or originating residential mortgage loans.

(i) The work experience must be in one or more of the following, within the last five years:

(A) As a mortgage broker or designated broker of a mortgage broker for a minimum of two years; or

(B) As a mortgage banker, responsible individual, or manager of a mortgage banking business; or

(C) As a loan originator with responsibility primarily for originating loans secured by a lien on residential real estate; or

(D) As a branch manager of a lender with responsibility primarily for loans secured by a lien on residential real estate; or

(E) As a manager or supervisor of mortgage loan originators; or

(F) As a mortgage processor, underwriter, or quality control professional; or

(G) As a regulator, examiner, investigator, compliance expert, or auditor, whose primary function is the review of mortgage companies and their compliance processes, and the department determines your background is sufficient.

(ii) The work experience must be evidenced by a detailed work history and:

(A) W-2 Federal Income Tax Reporting Forms in the designated broker appointee's name; or

(B) 1099 Federal Income Tax Reporting Forms in the designated broker appointee's name; or

(C) Corporate tax returns signed by the designated broker appointee or corporate officer for a licensed or exempt residential mortgage company; or

(f) In addition to supplying the application information, both you and the licensed mortgage broker must be in good standing with the department; or

(g) Demonstrate financial responsibility, character and general fitness.

(2) How do I demonstrate financial responsibility?

The department will review your credit history to determine if you have outstanding judgments (except judgments involving medical expenses); current outstanding tax liens or other government liens and filings; foreclosures within the last three years; or a pattern of seriously delinquent accounts within the past three years.

Specifically, you are not eligible to become a designated broker if you have one hundred thousand dollars or more of tax liens against you at the time of appointment by a licensed mortgage broker.

(3) May I work as the designated broker for more than one company? Yes. You may be the designated broker for more than one licensee after receiving approval from the director.

(4) As the designated broker, must I hold a loan originator's license? Yes. If you perform any of the functions of a loan originator, you must apply for and receive a loan originator license.

(5) May I work as the designated broker for one licensee and a licensed loan originator for another licensee? Yes. If you want to originate loans for a mortgage broker different from the mortgage broker for whom you are the designated broker, you must amend your license information through the NMLS to reflect the new relationship and the second company must sponsor you. Federal law may prohibit a mortgagee from hiring employees who work for more than one mortgage broker or who have multiple employers.

(6) May a designated broker hire employees or independent contractors apart from the employees or independent contractors working for the mortgage broker licensee? No. Only the mortgage broker licensee can have employees or independent contractors. This prohibition against a designated broker having employees or independent contractors includes clerical or administrative personnel whose work is related to the mortgage broker licensee's activities, and loan processors.

(7) As a designated broker, what reporting requirements must I comply with? See WAC 208-660-400, Reporting requirements.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-350 Loan originators—Licensing. (1) How do I apply for a loan originator license? Your application consists of an online filing through the NMLS and Washington specific requirements provided directly to DFI. You must pay an application fee through the NMLS system. You also must:

(a) **Be eighteen years or older.**

~~(b) ((Have a high school diploma, an equivalent to a high school diploma, or three years experience in the industry. The experience must meet the criteria in WAC 208-660-250 (1)(c)(i) and (ii)).~~

~~(c))~~ **Pass a licensing test.** You must take and pass the ~~((national and state components of the))~~ NMLS test~~((s))~~. See WAC 208-660-360, Loan originators—Testing.

~~((d))~~ **Submit an application.** You must submit an online application through the NMLS.

~~(e))~~ **(c) Prove your identity.** You must provide information to prove your identity.

~~((f))~~ **(d) Pay the application fee.** You must pay an application fee for your application, as well as an administrative fee to the NMLS. See WAC 208-660-550, Department fees and costs.

~~((g))~~ **(e) Complete prelicensing education.** You must complete prelicensing education before submitting the license application. See WAC 208-660-355.

(2) In addition to reviewing my application, what else will the department consider to determine if I qualify for a loan originator license?

(a) General fitness and prior compliance actions. The department will investigate your background to see that you demonstrate the experience, character, and general fitness that commands the confidence of the community and creates a belief that you will conduct business honestly and fairly within the purposes of the act. This investigation may include a review of the number and severity of complaints filed against you, or any person you were responsible for, and a review of any investigation or enforcement activity taken against you, or any person you were responsible for, in this state, or any jurisdiction. This investigation may also include a review of whether you have had a license issued under the act or any similar state statute suspended.

(b) License suspensions or revocations.

(i) You are not eligible for a loan originator license if you have been found to be in violation of the act or the rules.

(ii) You are not eligible for a loan originator license if you have ever had a license issued under the Mortgage Broker Practices Act or the Consumer Loan Act or any similar state statute revoked.

(iii) For purposes of (b) and (c) of this subsection, a "similar statute" may include statutes involving other financial services, such as insurance, securities, escrow or banking.

(c) Criminal history.

(i) You are not eligible for a loan originator license if you have ever been convicted of a felony involving an act of fraud, dishonesty, breach of trust, or money laundering.

(ii) You are not eligible for a loan originator license if you have been convicted of a gross misdemeanor involving dishonesty or financial misconduct, or a felony not involving fraud, dishonesty, breach of trust, or money laundering, within seven years of the filing of the present application.

(d) Financial background.

(i) The department will investigate your financial background including a review of your credit report to determine if you have demonstrated financial responsibility including, but not limited to, an assessment of your current outstanding

judgments (except judgments solely as a result of medical expenses); current outstanding tax liens or judgments or other government liens or filings; foreclosure within the last three years; or a pattern of seriously delinquent accounts within the past three years.

(ii) Specifically, you are not eligible to receive a loan originator license if you have one hundred thousand dollars or more of tax liens against you at the time of appointment by a licensed mortgage broker.

(3) What will happen if my loan originator license application is incomplete? After submitting your online application through the NMLS, the department will notify you of any application deficiencies.

(4) How do I withdraw my application for a loan originator license? Once you have submitted the online application through NMLS you may withdraw the application through NMLS. You will not receive a refund of the NMLS application fee but you may receive a partial refund of your licensing fee if the fee exceeds the department's actual cost to investigate the license application. The withdrawal of your license application will not affect any license suspension or revocation proceedings in progress at the time you withdraw your application through the NMLS.

(5) When will the department consider my loan originator license application to be abandoned? If you do not respond as directed by the department's request for information and within fifteen business days, your loan originator license application is considered abandoned and you forfeit all fees paid. Failure to provide the requested information will not affect new applications filed after the abandonment. You may reapply by submitting a new application package and new application fee.

(6) What happens if the department denies my application for a loan originator license, and what are my rights if the license is denied? Under the Administrative Procedure Act, chapter 34.05 RCW, you have the right to request a hearing. To request a hearing, notify the department, in writing, within twenty days from the date of the director's notice to you notifying you your license application has been denied. **See also WAC 208-660-009.**

~~(7) ((How will the department provide me with my loan originator license? The department may use any of the following methods to provide you with your loan originator license:~~

~~(a) A license sent to you electronically that you may print.~~

~~(b) A license verification available on the department's web site and accessible for viewing by the public.~~

~~(8))~~ **May I transfer, sell, trade, assign, loan, share, or give my loan originator license to someone else?** No. A loan originator license authorizes only the individual named on the license to conduct the business at the location listed on the license.

~~((9))~~ **(8) How do I change information on my loan originator license?** You must submit an amendment to your license through the NMLS. You may be charged a fee.

~~((10))~~ **(9) What is an inactive loan originator license?** When a licensed loan originator is not sponsored by a licensed or exempt company, the license is inactive. When an individual holds an inactive license, they may not conduct

any of the activities of a loan originator, or hold themselves out as a licensed loan originator.

~~((14))~~ (10) **When my loan originator license is inactive, am I subject to the director's enforcement authority?** Yes. Your license is granted under specific authority of the director and under certain situations you may be subject to the director's authority even if you are not doing any activity covered by the act.

~~((15))~~ (11) **May I originate loans from a web site when my license is inactive?** No. You may not originate loans, or engage in any activity that requires a license under the act, while your license is inactive.

~~((16))~~ (12) **When my loan originator license is inactive, must I continue to pay annual fees, and complete continuing education for that year?** Yes. You must comply with all the annual licensing requirements or you will be unable to renew your inactive loan originator license.

~~((17))~~ (13) **How do I activate my loan originator license?** The sponsoring company must submit a sponsorship request for your license through the NMLS. The department will notify you and all the companies you are working with of the new working relationship if approved.

~~((18))~~ (14) **When may the department issue interim loan originator licenses?** To prevent an undue delay, the director may issue interim loan originator licenses with a fixed expiration date. The license applicant must have substantially met the initial licensing requirements, as determined by the director, to receive an interim license. In no case shall these requirements be less than the minimum requirements to obtain a license under the S.A.F.E. Act.

~~((19))~~ (15) **When does my loan originator license expire?** The loan originator license expires annually on December 31st. If the license is an interim license, it may expire in less than one year.

~~((20))~~ (16) **How do I renew my loan originator license?**

(a) You must continue to meet the minimum standards for license issuance. See RCW 19.146.310.

(b) Before the license expiration date you must renew your license through the NMLS. Renewal consists of:

(i) Pay the annual assessment fee; and

(ii) Meet the continuing education requirement. You will not have a continuing education requirement in the year in which you complete the core twenty hours of prelicensing education. See WAC 208-660-370.

(c) The renewed license is valid until it expires, or is surrendered, suspended or revoked.

~~((21))~~ (17) **If I let my loan originator license expire, must I apply to get a new license?** If you complete all the requirements for renewal on or before the last day of February each year, you may renew an existing license. However, if you renew your license during this two-month period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection ~~((17))~~ (16) of this section for the license renewal requirements.

During this two-month period, your license is expired and you must not conduct any business under the act that requires a license.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or department "date received" stamp prior to March 1st each year. If you fail to comply with the renewal request requirements prior to March 1st, you must apply for a new license.

~~((22))~~ (18) **If I let my loan originator license expire and then apply for a new loan originator license (~~within one year of the expiration~~), must I comply with the continuing education requirements from the prior license period?** Yes. Before the department will consider your new loan originator application complete, you must provide proof of satisfying the continuing education requirements from the prior license period.

~~((23))~~ (19) **May I still originate loans if my loan originator license has expired?** No. Once your license has expired you may no longer conduct the business of a loan originator, or hold yourself out as a licensed loan originator, as defined in the act and these rules.

~~((24))~~ (20) **What happens to the loan applications I originated before my loan originator license expired?** Because loan files belong to the licensed mortgage broker, existing loan applications must be processed by the licensed mortgage broker (~~or another licensed loan originator working for the mortgage broker~~), unless the borrower makes a written demand that the loan file be transferred to another licensed entity. See WAC 208-660-300 (5) and (6).

~~((25))~~ (21) **May I surrender my loan originator's license?** Yes. Only you may surrender your license before the license expires through the NMLS.

Surrendering your loan originator license does not change your civil or criminal liability, or your liability for any administrative actions arising from acts or omission occurring before the license surrender.

~~((26))~~ (22) **Must I display my loan originator license where I work as a loan originator?** No. Neither you nor the mortgage broker company is required to display your loan originator license. However, evidence that you are licensed as a loan originator must be made available to anyone who requests it.

~~((27))~~ **If I operate as a loan originator on the internet, must I display my license number on my web site?** Yes. You must display your license number, and the license number and name as it appears on the license of the licensed mortgage broker you represent, on the web site.

~~(28))~~ (23) **Must I include my license number on any documents?** You must include your license number (~~immediately~~) closely following your license name on (a) through (d) of this subsection. An example of closely following is: Your license name followed by your title (if you use one) followed by your license number.

(a) Solicitation(s, including). This includes correspondence in any form. Correspondence that this not a solicitation does not have to include your license number.

(b) Business cards(-).

(c) All advertisements(~~- and residential mortgage loan applications~~) and marketing that contain your license name.

(d) Any state or federal form that requires your license number. See also WAC 208-660-350(25).

~~((26))~~ **(24) When must I disclose my loan originator license number?** In the following situations you must disclose your loan originator license number and the name and license number of the mortgage broker you are associated with:

- (a) When asked by any party to a loan transaction, including third party providers;
- (b) When asked by any person you have solicited for business, even if the solicitation is not directly related to a mortgage transaction;
- (c) When asked by any person who contacts you about a residential mortgage loan;
- (d) When taking a residential mortgage loan application.

~~((27))~~ **(25) May I conduct business and advertise under a name other than the name on my loan originator license?** ~~((No.))~~ You must ~~((only))~~ use the name on your license when you are conducting business ~~((If you use a nickname for your first name, you must use your name like this: "FirstName "Nickname" LastName.")~~ and in your advertisements with the following exceptions: Except, use of your middle name is not required. Except, you may use only your middle and last name; except, you may use a nickname as your first name if it is registered in NMLS on your MU4 as an "other" name.

~~((28))~~ **(26) Will I have to obtain an individual bond if the company I work for is exempt from licensing?** Reserved.

~~((29))~~ **(27) Will I have to file quarterly call reports if I have an individual bond?** Reserved.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-400 Reporting requirements and notices to the department. (1) **What are my quarterly filing requirements?** ~~((Reserved.))~~ You are required to file accurate and complete call reports through the NMLS on the dates and in a form prescribed by the director or NMLS.

(2) **As a licensed mortgage broker what are my reporting responsibilities when something of significance happens to my business?**

(a) **Notification required.** You must notify the director through amendment to the NMLS to a change of:

- (i) Principal place of business or any branch offices;
- (ii) Sponsorship status of a mortgage loan originator;
- (iii) Answers to the NMLS generated disclosure questions.

(b) **Prior notification required.** You must notify the director in writing twenty days prior to a change of:

- (i) Name or legal status (e.g., from sole proprietor to corporation, etc.);
- (ii) Legal or trade name; or
- (iii) A change of ownership control of twenty percent or more. The department will consider the qualifications of the new people and notify you whether or not the proposed change is acceptable. You may have to submit fingerprint cards for new controlling people directly to DFI.

(c) **Post notification within ten business days.** You must notify the director through the NMLS or in writing to

the director within ten days after an occurrence of any of the following:

- (i) Change in mailing address, telephone number, fax number, or e-mail address;
- (ii) Cancellation or expiration of its Washington state business license;
- (iii) Change in standing with the Washington secretary of state, including the resignation or change of the registered agent;
- (iv) Failure to maintain the appropriate unimpaired capital under WAC 208-620-340;
- (v) Receipt of notification of cancellation of your surety bond;
- (vi) Receipt of notification of license revocation proceedings against you in any state;
- (vii) If you, or any officer, director, or principal is convicted of a felony, or a gross misdemeanor involving lending, brokering or financial misconduct; or
- (viii) Name and mailing address of your registered agent if you are out-of-state.

(d) **Post notification within twenty days.** You must notify the director in writing within twenty days after the occurrence of any of the following developments:

- (i) The filing of a felony indictment or information related to lending or brokering activities against you, or any officer, board director, or principal, or an indictment or information involving dishonesty against you, or any officer, board director, or principal;
- (ii) The receipt of service of notice of the filing of any material litigation against you; or
- (iii) The change in your residential address or telephone number.

(3) **As a licensed mortgage loan originator, what are my reporting responsibilities?** You must notify the director through amendment to the NMLS within ten business days to a change of:

- ~~((i))~~ **(a)** Answers to the NMLS generated disclosure questions;
- ~~((ii))~~ **(b)** Sponsorship status with a licensed mortgage broker;
- ~~((iii))~~ **(c)** Residence address; or
- ~~((iv))~~ **(d)** Any change in the information supplied to the director in your original application.

(4) **Must I notify the department of the physical address of my mortgage broker books and records?** Yes. You must provide the physical address of your mortgage broker books and records in your initial license application through NMLS. If the location of your books and records changes, you must provide the department, through the NMLS, with the new physical address within five business days of the change.

(5) **Must I notify the department if my designated broker leaves, or is no longer my designated broker?** Yes. You must notify the department, through NMLS, within five business days of the loss of or change of status of your designated broker. See WAC 208-660-180(3).

(6) **If I am a registered agent under the act, must I notify the department if I resign?** Yes. You must provide the department with your statement of resignation letter at least thirty-one days prior to the intended effective date. You

must also provide a copy of the resignation letter to the licensed mortgage broker. The department will terminate your appointment thirty-one days after receiving your resignation letter.

(7) What are my responsibilities when I sell my business?

(a) At least thirty days prior to the effective date of sale, you must notify the department of the pending sale by completing the following: Notify the department in writing and provide requested information. At the effective date of sale, update and file all required information through the NMLS for your main and any branch offices, including updating information about the location of your books and records.

(b) You must give written notice to borrowers whose applications or loans are in process, advising them of the change in ownership.

(c) You must give written notice to third party providers that have or will provide services on loans in process, and all third-party providers you owe money to, bringing accounts payable current.

(d) You must reconcile the trust account and return any funds to the borrowers or others to whom they belong, or transfer funds into a new trust account at the borrower's direction. If excess funds still remain and are unclaimed, follow the procedures provided by the department of revenue's unclaimed property division.

(8) Must I notify the department if I cease doing business in this state? Yes. You must notify the department within twenty days after you cease doing business in the state by updating your MUI record through the NMLS.

(9) Must I notify the department of changes to my trust account? Yes. You must notify the department within five business days of any change in the status, location, account number, or other particulars of your trust account, made by you or the federally insured financial institution where the trust account is maintained. A change in your trust account includes the addition of a trust account.

(10) What must I do if my licensed mortgage broker company files for bankruptcy?

(a) Notify the director within ten business days after filing the bankruptcy.

(b) Respond to the department's request for information about the bankruptcy.

(11) If I am a designated broker and file for personal bankruptcy, what are my reporting responsibilities? A designated broker must notify the department in writing within ten business days of filing for bankruptcy protection.

(12) If I am a designated broker and file for personal bankruptcy, what action may the department take? The director may require the licensed mortgage broker to replace you with another designated broker.

(13) If I am a loan originator and file for personal bankruptcy, what are my reporting responsibilities? A licensed loan originator must notify the director in writing within ten business days of filing for bankruptcy protection.

(14) If I am a loan originator and file for personal bankruptcy, what action may the department take? Depending on the circumstances, the director may revoke or condition your license.

(15) When may I apply for a license after surrendering one due to my personal bankruptcy filing? If you surrendered your license, you may apply for a license at any time. However, the department may deny your license application for three years after the bankruptcy has been discharged provided that no new bankruptcies have occurred or are in progress.

(16) Who in the mortgage broker company must notify the department if they are charged with or convicted of a crime? Licensees, whether on active or inactive license status, must notify the department in writing within ten business days of being:

(a) Charged by indictment or information with any felony, or a gross misdemeanor involving dishonesty or financial misconduct in any jurisdiction.

(b) Convicted of any felony, or any gross misdemeanor involving dishonesty or financial misconduct in any jurisdiction.

(c) Convicted of any felony involving fraud, dishonesty, breach of trust, or money laundering in any jurisdiction.

(d) Convicted outside of Washington for any crime that if charged in Washington would constitute a felony, or gross misdemeanor for dishonesty or financial misconduct.

(17) Who in the mortgage broker company must notify the department if they are the subject of an administrative enforcement action? Licensees, whether holding active or inactive licenses, must notify the department in writing within ten business days of the occurrence if:

(a) Charged with any violations by an administrative authority in any jurisdiction; or

(b) The subject of any administrative action, including a license revocation action, in any jurisdiction.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-430 Disclosure requirements. (1) What disclosures must I make to borrowers and when?

(a) Within three business days of receiving a borrower's loan application, or receiving money from a borrower for third-party provider services, you, as a mortgage broker or loan originator on behalf of a mortgage broker, must make all disclosures required by RCW 19.146.030 (1), (2), (3), and 19.144.020. The one page disclosure summary required by RCW 19.144.020 must be dated when provided to the borrower. The disclosures must be in a form acceptable to the director.

(b) If a lender is providing disclosures to the borrower, you must maintain copies of those disclosures; failure to do so would result in a violation.

(2) What is the disclosure required under RCW 19.146.030(1)? A full written disclosure containing an itemization and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a residential mortgage loan, and specifying the fee or fees which inure to the benefit of the mortgage broker. A good faith estimate of a fee or cost must be provided if the exact amount of the fee or cost is not determinable. This subsection does not require disclosure of the distribution or breakdown of loan fees, dis-

count, or points between the mortgage broker and any lender or investor.

The specific content of the disclosure required under RCW 19.146.030(1) is identified in RCW 19.146.030(2).

(3) What is the disclosure required under RCW 19.146.030(2)? Mortgage brokers must disclose the following content:

(a) The annual percentage rate, finance charge, amount financed, total amount of all payments, number of payments, amount of each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms may change between the time of disclosure and closing of the loan; and if a variable rate, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase, and an example of the payment terms resulting from an increase.

Disclosure in compliance with the requirements of the Truth-in-Lending Act and Regulation Z, as now or hereafter amended, is considered compliance with the disclosure content requirements of this subsection; however, RCW 19.146.030(1) governs the delivery requirement of these disclosures;

(b) The itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, escrow fee, property tax, insurance, structural or pest inspection, and any other third-party provider's costs associated with the residential mortgage loan. Disclosure through good faith estimates of settlement services and special information booklets in compliance with the requirements of RESPA and Regulation X, as now or hereafter amended, is considered compliance with the disclosure content requirements of this subsection; however, RCW 19.146.030(1) governs the delivery requirement of these disclosures;

~~(c) ((If the rate is locked, the cost, terms, duration, and conditions of the rate lock agreement, whether and under what conditions any lock-in fees are refundable to the borrower, and whether the lock-in agreement is guaranteed by the mortgage broker or lender (see subsection (7) of this section);~~

~~(d)) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, if guaranteed by a company other than your company, you must provide the name of that company, whether and under what conditions any rate lock fees are refundable to the borrower and:~~

~~(i) The number of days in the rate lock period;~~

~~(ii) The expiration date of the rate lock;~~

~~(iii) The rate of interest locked;~~

~~(iv) If applicable, the index and a brief explanation of the type of index used, the margin, the maximum interest rate, and the date of the first interest rate adjustment; and~~

~~(v) Any other terms of the rate lock agreement;~~

~~(d) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date that includes the items from (b) of this subsection;~~

~~(e) You must disclose payment of a rate lock fee as a cost in Block 2 of the GFE. On the HUD-1, the cost of the rate lock must be recorded on Line 802 and the credit must be recorded in section 204-209;~~

~~(f) See subsection (7) of this section if the borrower initially chooses to float rather than lock the interest rate;~~

~~(g) A statement that if the borrower is unable to obtain a loan for any reason, the mortgage broker must, within five days of a written request by the borrower, give copies of any appraisal, title report, or credit report paid for by the borrower, to the borrower, and transmit the appraisal, title report, or credit report to any other mortgage broker or lender to whom the borrower directs the documents to be sent; and~~

~~((e)) (h) A statement providing that moneys paid by the borrower to the mortgage broker for third-party provider services are held in a trust account and any moneys remaining after payment to third-party providers will be refunded. If the mortgage broker does not collect trust funds of any kind, the disclosure is not required.~~

(4) What is the disclosure required under RCW 19.144.020?

(a) You must provide the borrower with a clear, brief, one page summary to help borrowers understand their loan terms. The disclosure summary must be provided on one page separate from any other documents and must use clear, simple, plain language terms that are reasonably understandable to the average person.

(b) Disclosure in compliance with the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601, and Regulation X, 12 C.F.R. 1024.7 (formerly 24 C.F.R. Sec. 3500.7) is considered compliance with this disclosure requirement.

(5) How do I disclose the ~~((yield spread premium (YSP) from the lender))~~ lender's credit or charge for the interest rate?

(a) You must disclose the ~~((YSP))~~ credit or charge for the interest rate as a dollar amount credited to the borrower on the GFE.

(b) You must direct the settlement service provider to disclose the ~~((YSP))~~ credit or charge for the interest rate on line 802 on the HUD-1 or equivalent settlement statement. The ~~((YSP))~~ amount must be expressed as a dollar amount.

~~(c) Failure to properly disclose the ((yield spread premium (YSP))) credit or charge for the interest rate is a violation of RCW 19.146.0201 (6) and (11), and RESPA.~~

(6) Are there additional disclosure requirements related to interest rate locks? Yes. ~~((Pursuant to RCW 19.146.030(3), if subsequent to the written disclosure being provided under this section, a mortgage broker or loan originator enters into a rate lock agreement with a borrower or represents to the borrower that the borrower has entered into a rate lock agreement, then within three business days the mortgage broker or loan originator must deliver or send by first class mail to the borrower the rate lock agreement described in subsection (3)(c) of this section.))~~ You must provide the borrower a new rate lock agreement within three business days of a change in the locked interest rate. The new rate lock agreement must include all the terms required under subsection (3)(c) of this section. Changes to a locked interest rate can only occur for valid reasons such as changes in loan to value, credit scores or other loan factors directly affecting pricing. Lock extensions and relocks are also valid reasons for changes to a previously locked interest rate.

(7) What must I disclose to the borrower if they do not choose to enter into a rate lock agreement? If a rate

lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the good faith estimate required by RESPA is deemed compliance with this subsection.

(8) Will a rate lock agreement always guarantee the interest rate and terms? No. A rate lock agreement may or may not be guaranteed by the mortgage broker or lender. The rate lock agreement must clearly state whether the rate lock agreement is guaranteed by the mortgage broker or lender.

(9) How do I disclose the payment of a rate lock fee? In a table funded transaction, you must disclose payment of a rate lock fee as a cost in Block 2 of the GFE. On the HUD-1, the cost of the rate lock must be recorded on Line 802 and the credit must be recorded in section 204-209 (~~with "P.O.C. (borrower)" recorded to the left of the borrower column~~)).

(10) Are there any model forms that suffice for the disclosure content under RCW 19.146.030(2)? Yes. The following model forms are acceptable forms of disclosure:

(a) For RCW 19.146.030 (2)(a), mortgage brokers are encouraged to use the federal truth-in-lending disclosure form for mortgage loan transactions provided under the Truth-in-Lending Act and Regulation Z, as now or hereafter amended. However, the federal truth-in-lending disclosure only suffices for the content of disclosures under RCW 19.146.030 (2)(a). The delivery of disclosures is governed by RCW 19.146.030(1).

(b) For RCW 19.146.030 (2)(b), mortgage brokers are encouraged to use the federal good faith estimate disclosure form provided under the Real Estate Settlement Procedures Act and Regulation X, as now or hereafter amended. However, the federal good faith estimate disclosure only suffices for the content of disclosures under RCW 19.146.030 (2)(b). The delivery of disclosures is governed by RCW 19.146.030 (1).

(c) For RCW 19.146.030 (2)(c), (d), (e), (f) and (3), the department encourages mortgage brokers to use the department published model disclosure forms that can be found on the department's web site.

(11) May my mortgage broker fees increase following the disclosures required under RCW 19.146.030(1)? Pursuant to RCW 19.146.030(4), a mortgage broker must not charge any fee that inures to the benefit of the mortgage broker if it exceeds the fee disclosed on the initial written good faith estimate disclosure required in RCW 19.146.030 (1) and (2)(b), unless:

(a) The need to charge the fee was not reasonably foreseeable at the time the written disclosure was provided; and

(b) The mortgage broker has provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed.

(12) Are there any situations in which fees that benefit the mortgage broker can increase without additional disclosure? Yes, there are two possible situations where an increase in the fees benefiting the mortgage broker may increase without the requirement to provide additional disclosures. These situations are:

(a) The additional disclosure is not required if the borrower's closing costs, excluding prepaid escrowed costs of ownership, on the final settlement statement do not exceed the total closing costs, excluding prepaid escrowed costs of ownership, in the most recent good faith estimate provided to the borrower. For purposes of this section "prepaid escrowed costs of ownership" mean any amounts prepaid by the borrower for the payment of taxes, property insurance, interim interest, and similar items in regard to the property used as security for the loan; or

(b) The fee or set of fees that benefit the mortgage broker are disclosed as a percentage of the loan amount and the increase in fees results from an increase in the loan amount, provided that:

(i) The increase in loan amount is requested by the borrower; and

(ii) The fee or set of fees that are calculated as a percentage of the loan amount have been disclosed on the initial written disclosure as both a percentage of the loan amount and as a dollar amount based upon the assumed loan amount used in the initial written disclosure; and

(iii) The total aggregate increase in the fee or set of fees that benefit the mortgage broker as a result of the increase in loan amount is less than seven hundred fifty dollars.

This section does not apply to the disclosure required in RCW 19.144.020.

(13) What action may the department take if I improperly disclose my mortgage broker fees on the good faith estimate and HUD-1/1A statement? If you fail to disclose your mortgage broker fees as required, the department may request, direct, or order you to refund those fees to the borrower if the result of that disclosure resulted in confusion or deception to the borrower.

(14) May the department take action against a mortgage broker when mortgage broker fees are disclosed incorrectly on the HUD-1/1A and the incorrect disclosure was made by an independent escrow agent, title company, or lender? If the mortgage broker can show the department that they disclosed their fees correctly on the good faith estimate, and have instructed the independent escrow agent, title company, or lender to disclose the fees correctly on the HUD-1/1A, and the independent escrow agent, title company, or lender has not followed the instructions, the department may not take action against the mortgage broker.

(15) What action may the department take if I fail to provide additional disclosures as required under RCW 19.146.030(4)? Generally, the department may request, direct, or order you to refund fees.

(16) How will the department determine whether to request, direct or order me to refund fees to the borrowers? Generally, the department will make its determination by answering the following questions:

(a) Has an initial good faith estimate disclosure of costs been provided to the borrower in accordance with RCW 19.146.030 (1) and (2)(b)?

(b) Were any subsequent good faith estimate disclosures of costs provided to the borrower no less than three business days prior to the signing of the loan closing documents? Additionally, was the subsequent disclosure accompanied by a clear written explanation of the change? Was the change

due to a valid change of circumstance as allowed under RESPA?

(c) How were the costs disclosed in each good faith estimate (e.g., dollar amount, percentage, or both)?

(d) Did the total costs, excluding prepaid escrowed costs of ownership, on the final settlement statement exceed the total closing costs, excluding prepaid escrowed costs of ownership, in the most recent good faith estimate provided to the borrower no less than three business days prior to the signing of the loan closing documents?

(e) If the costs at closing did exceed the most recent disclosure of costs was the need to charge the fee reasonably foreseeable at the time the written disclosure was provided?

(f) If the costs at closing did exceed the most recent disclosure of costs did the mortgage broker provide a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed, no less than three business days prior to the signing of the loan closing documents?

(17) If I failed to provide the initial good faith estimate or TILA disclosure under RCW 19.146.030 (1) and (2)(a) and (b) what action may the department take? If you have not provided the initial good faith estimate or TILA disclosure as required, including both delivery and content requirements, the department may request, direct or order you to refund to the borrower fees that inured to your benefit.

(18) If I received trust funds from a borrower, but failed to provide the disclosures as required in RCW 19.146.030 (1) and (2), what action may the department take? If you did not provide the disclosures as required, including both delivery and content requirements, the department may request, direct, or order you to refund to the borrower any trust funds they have paid regardless of whether you have already expended those trust funds on third-party providers.

(19) Under what circumstances must I redisclose the initial disclosures required under the act? Generally, any loan terms or conditions that change must be redisclosed to the borrower no less than three business days prior to the signing of the loan closing documents. Some examples are:

(a) Adjustable rate loan terms, including index, margin, and any changes to the fixed period.

(b) The initial fixed period.

(c) Any balloon payment requirements.

(d) Interest only options and any changes to the options.

(e) Lien position of the loan.

(f) Terms and the number of months or years for amortization purposes.

(g) Prepayment penalty terms and conditions.

(h) Any other term or condition that may be specific to a certain loan product.

(20) If a loan application is canceled or denied within three days of application must I provide the disclosures required under RCW 19.146.030? If you have not used any borrower trust funds and those funds have been returned to the borrower in conformance with these rules, the disclosures pursuant to RCW 19.146.030 are not required.

(21) Is a mortgage broker that table funds a loan exempt from disclosures? No. A mortgage broker must provide all disclosures required by the act, and disclose all fees

as required by Regulation X, regardless of the funding mechanism used in the transaction.

(22) What must I provide to the borrower if I am unable to complete a loan for them and they have paid for services from third-party providers? If you are unable to complete a loan for the borrower for any reason, and if the borrower has paid you for third-party provider services, and the borrower makes a written request to you, you must provide the borrower with copies of the product from any third-party provider, including, but not limited to, an appraisal, title report, or credit report. You must provide the copies within five business days of the borrower's request.

The borrower may also request that you provide the originals of the documents to another mortgage broker or lender of the borrower's choice. By furnishing the originals to another mortgage broker or lender, you are conveying the right to use the documents to the other broker or lender. You must, upon request by the other broker or lender, provide written evidence of the conveyance. You must provide the originals to the mortgage broker or lender within five business days of the borrower's request.

(23) Must I provide a written fee agreement when I provide residential mortgage loan modification services? Yes. You must provide a written fee agreement as prescribed by the director when providing residential mortgage modification services. You must provide a copy of the signed fee agreement to the consumer and you must keep a copy as part of your books and records.

AMENDATORY SECTION (Amending WSR 09-01-156, filed 12/23/08, effective 1/23/09)

WAC 208-660-440 Advertising. (1) **Am I responsible for ensuring that my advertising material is accurate, reliable, and in compliance with the act?** Yes. Each mortgage broker is responsible for ensuring the accuracy and reliability of the advertising material.

(2) **A licensee is prohibited from advertising with envelopes (~~(or)~~), stationery, or internet pages that contain an official-looking emblem designed to resemble a government (~~(mailing)~~) agency or that suggest an affiliation that does not exist. What are some examples of emblems or government-like names, language, or nonexistent affiliations that will violate the state and federal advertising laws?** Some examples include, but are not limited to:

(a) An official-looking emblem such as an eagle, the Statue of Liberty, or a crest or seal that resembles one used by any state or federal government agency.

(b) Envelopes or internet pages designed to resemble official government mailings or internet locations, such as IRS or U.S. Treasury (~~(envelopes)~~), or other government (~~(mailers)~~) agencies.

(c) Warnings or notices citing government codes or form numbers not required by the U.S. Postmaster to be shown on the mailing.

(d) The use of the term "official business," or similar language implying official or government business, without also including the name of the sender.

(e) Any suggestion or representation that the solicitor is affiliated with any agency, bank, or other entity that it does not actually represent.

(3) **Is it a violation to advertise that third-party services are "free" when the licensee has paid for the services?** Yes. Advertising using the term "free," or any other similar term or phrase that implies there is no cost to the applicant is deceptive because you can recover the cost of the purportedly "free" item through the negotiation process. This is a violation of RCW 19.146.0201 (2), (7), and (11). See the Federal Trade Commission's *Guide Concerning Use of the Word "Free" and Similar Representations* (16 C.F.R. §251.1(g) (2003)) available at <http://www.ftc.gov/bcp/guides/free.htm>.

(4) **When I am advertising interest rates, the act requires me to conspicuously disclose the annual percentage rate (APR) implied by the rate of interest. What does it mean to "conspicuously" disclose the APR?** The required disclosures in your advertisements must be reasonably understandable. Consumers must be able to read or hear, and understand the information. Many factors, including the size, duration, and location of the required disclosures, and the background or other information in the advertisement, can affect whether the information is clear and conspicuous. The disclosure of the APR must be as prominent or more prominent than any other rates disclosed in the advertisement, regardless of the form of the advertisement.

(5) **The act prohibits me from advertising an interest rate unless that rate is actually available at the time of the advertisement. How may I establish that an advertised interest rate was "actually available" at the time it was advertised?** Whenever a specific interest rate is advertised, the mortgage broker must retain a copy of the lender's "rate sheet," or other supporting rate information, and the APR calculation for the advertised interest rate.

(6) **Must I quote the annual percentage rate when discussing rates with a borrower?** Yes. You must quote the annual percentage rate and other terms of the loan if you give an oral quote of an interest rate to the borrower. TILA's Regulation Z, 12 C.F.R., Part 226.26 provides guidance for using the annual percentage rate in oral disclosures.

(7) **May a mortgage broker or loan originator advertise rates or fees as the "lowest" or "best"?** No. Rates or fees described as "lowest," "best," or other similar words cannot be proven to be actually available at the time they are advertised. Therefore, they are a false or deceptive statement or representation prohibited by RCW 19.146.0201(7).

(8) **When I (~~advertise, or~~) present a business card to a potential borrower, must I make the disclosures required under (~~the act and these rules~~) RCW 19.146.030?** No. You are not required to make those disclosures until you accept a residential mortgage loan application, or until you assist a borrower in preparing an application.

(9) **May I solicit using advertising that suggests or represents that I am affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, when I am not; or that I am an entity other than who I am?** No. It is an unfair and deceptive act or practice and a violation of the act for you to suggest or represent that you are affiliated

with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, or other entity you do not actually represent; or to suggest or represent that you are any entity other than who you are.

(10) **If I advertise using a borrower's current loan information, what must I disclose about that information?** When an advertisement includes information about a borrower's current loan that you did not obtain from a solicitation, application, or loan, you must provide the borrower with:

- (a) The name of the source of the information;
- (b) A statement that you are not affiliated with the borrower's lender; and
- (c) The information disclosed in (a) and (b) of this subsection must be in the same size type font as the rest of the information in the advertisement.

AMENDATORY SECTION (Amending WSR 10-20-125, filed 10/5/10, effective 11/5/10)

WAC 208-660-446 When I advertise using the internet or any electronic form (including, but not limited to, text messages), is there specific content advertisements must contain? Yes. You must provide the following language, in addition to any other, on your web pages or in any medium where you hold yourself out as being able to provide the services:

- (1) Main or home page.
 - (a) The company's license name and (~~(NMLS unique identifier)~~) license number must be displayed on the licensee's main or home web page.
 - (b) If loan originators are named, their (~~(NMLS)~~) license numbers must closely follow the names.
 - (c) The main or home page must also contain a link to the NMLS consumer access web site page for the company.
- (2)(a) Branch office web page - No DBA. Comply with subsection (1) of this section.
 - (b) Main office, or branch office web page - DBA. If the company uses a DBA on a web page the web page must contain the main office license name, and the information in subsection (1)(b) of this section, and the web page must contain a link to the NMLS consumer access web site page for the company.
- (3) Loan originator web page. If a loan originator maintains a separate home or main page, (~~(the URL address to the site must be a DBA of the licensee and)~~) the sponsoring licensee's name and license number must appear on the web page. The web page must also contain the loan originator's (~~(NMLS)~~) license name and license number closely following their name and a link to the NMLS consumer access web page for the company. An example of closely following is: Your license name followed by your title (if you use one) followed by your license number. See the definition of license number for examples of ways to display your license number. See WAC 208-660-350(25).
- (4) Compliance with other laws. Web site content used to solicit Washington consumers must comply with all relevant Washington state and federal statutes for specific services and products advertised on the web site.

(5) Oversight. The company is responsible for web site content displayed on all web pages used to solicit Washington consumers including main, branch, and loan originators' web pages.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-450 Recordkeeping requirements. (1) What business books and records must I keep to comply with the act? The following books and records for your business must be available to the department.

(a) **Mortgage transaction documents.**

(i) All forms of loan applications, written or electronic (the Fannie Mae 1003 is an example);

(ii) The initial rate sheet or other supporting rate information. The last rate sheet, or other supporting rate information, if there was a change in rates, terms, or conditions prior to settlement;

(iii) ((The last rate sheet, or other supporting rate information, if there was a change in rates, terms, or conditions prior to settlement;)) Correspondence with third parties requesting documents necessary to the transaction (and copies of the documents received as a result of that correspondence) including, but not limited to, credit, appraisal, title, verifications of employment and deposits, automated underwriting results, and any other notes or documents used to collect borrower and loan information to originate the loan;

(iv) All written disclosures required by the act and federal laws and regulations. Some examples of federal law disclosures are: The good faith estimate, truth in lending disclosures, Equal Credit Opportunity Act disclosures, affiliated business arrangement disclosures, and RESPA servicing disclosure statement;

(v) Documents and records of compensation paid to employees and independent contractors;

(vi) An accounting of all funds received in connection with loans, including a trust account statement with supporting data;

(vii) Rate lock agreements and the supporting rate sheets or other rate supporting document;

(viii) Settlement statements (the final HUD-1 or HUD-1A);

(ix) Broker loan document requests (may also be known as loan document request or demand statements) that include any prepayment penalties, terms, fees, rates, ~~((yield spread premium))~~ credit or charge for the interest rate, loan type and terms;

(x) Records of any fees refunded to applicants for loans that did not close;

(xi) All file correspondence and logs; ~~((and))~~

(xii) All mortgage broker contracts with lenders and all other correspondence with the lenders; and

(xiii) The clear written explanation required under WAC 208-660-430 (11)(b).

(b) **Advertisements.** All advertisements placed by or at the request of the mortgage broker that mention rates or fees, and the corresponding rate sheets for the advertised rates. The copies must include newspaper and print advertising, scripts of radio and television advertising, telemarketing scripts, all

direct mail advertising, and any advertising distributed directly by delivery, facsimile, or computer network. The record of each advertisement must include the date or dates of publication, the name of the publisher if advertised by newspaper, radio, television or telephone information line, or in the case of a flyer, the dates, methods and areas of distribution.

(c) **Trust accounting records.** See WAC 208-660-410, Trust accounting.

(d) **Other.** All other books, accounts, records, papers, documents, files, and other information relating to the mortgage broker operation. Examples include, but are not limited to, personnel files, company policy and procedure documents, training materials, records evidencing compliance with applicable federal laws and regulations, and complaint correspondence and supporting documents. ~~((See also the department's Mortgage Broker Examination Manual, available on the department web site.))~~

(2) **What books and records must I keep for my trust account?** See WAC 208-660-410, Trust accounting.

(3) **How long must I keep my books and records to comply with the act?**

(a) You must keep the books, accounts, records, papers, documents, files, and other information relating to the mortgage broker operation for a minimum of ~~((twenty-five months))~~ three years.

(b) You must keep the mortgage transaction documents described in subsection (1)(a) of this section for a minimum of three years. It may be a prudent business practice to keep your books and records longer. For example, if a consumer's loan becomes an adjustable rate mortgage, the consumer may become unhappy that the terms of their mortgage have changed and file a complaint against you. The department must begin an investigation into the complaint. If you do not have the records to show proof of proper disclosures and all other compliance with state and federal laws, the department may rely solely on the consumer's records as evidence in the case.

(4) **Where must I keep my business records?**

(a) You must keep all books and records in a location that is on file with and readily available to the department during normal business hours. In the event of a department examination, the location must have the work space and resources that are conducive to business operations. A readily available location may include places of business, personal residences, computers, safes, or vaults. See WAC 208-660-400(8) for the reporting requirements if the address changes.

(b) If your usual business location is outside of Washington, you may either maintain the books and records at a readily available location in Washington, or pay the department's expenses to travel to the location to examine the books and records stored out-of-state. Travel costs may include, but are not limited to, transportation costs, meals, and lodging.

(5) **May I keep my books and records electronically?**

Yes. You may keep the required records described in subsection (1) of this section by electronic display equipment if you can meet all of the following requirements:

(a) The equipment must be made available to the department for the purposes of an examination or investigation;

(b) The records must be stored exclusively in a nonrewritable and nonerasable format;

(c) The hardware or software needed to display the records must be maintained during the required retention period under subsection (3) of this section.

If the department requests the books and records in hard copy, you must provide it in that form and within the time frame requested or directed by the department.

(6) **Abandoned records.** If you do not maintain your records as required, you are responsible for the costs of collection, storage, conversion to electronic format, and proper destruction of the records.

AMENDATORY SECTION (Amending WSR 12-18-048, filed 8/29/12, effective 11/1/12)

WAC 208-660-500 Prohibited practices. (1) **What may I request of an appraiser?** You may request an area or market survey. While there are no strict definitions of these terms, generally they refer to general information regarding a region, area, or plat. The information usually includes the high, low and average sales price, numbers of properties available for sale or that have been sold within a set period, marketing times, days on market, absorption rate or the mixture of different property types in the specified area, among other possible components. An area survey does not contain sufficient information or is not so defining as to allow an appraiser or reader to determine the value of a specified property or property type.

(2) **How may I discuss property values with an appraiser, prior to the appraisal, without the discussion constituting improperly influencing the appraiser?** You may inform the appraiser of your opinion of value, the borrower's opinion of value, or the list or sales price of the property. You are prohibited from telling the appraiser the value you need or that is required for your loan to be successful.

(3) **What business practices are prohibited?** The following business practices are prohibited:

(a) Directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.

(b) Engaging in any unfair or deceptive practice toward any person.

(c) Obtaining property by fraud or misrepresentation.

(d) Soliciting or entering into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower.

(e) Charging discount points on a loan which does not result in a reduction of the interest rate. Some examples of discount point misrepresentations are:

(i) A mortgage broker or lender charging discount points on the good faith estimate or settlement statement payable to the mortgage broker or any party that is not the actual lender on the resident mortgage loan.

(ii) Charging loan fees or mortgage broker fees that are represented to the borrower as discount points when such fees do not actually reduce the rate on the loan, or reflecting loan origination fees or mortgage broker fees as discount points.

(iii) Charging discount points that are not mathematically determinable as the same direct reduction of the rate available to any two borrowers with the same program and underwriting characteristics on the same date of disclosure.

(f) Failing to clearly and conspicuously disclose whether a payment advertised or offered for a residential mortgage loan includes amounts for taxes, insurance, or other products sold to the borrower. This prohibition includes the practice of misrepresenting, either orally, in writing, or in any advertising materials, a loan payment that includes only principal and interest as a loan payment that includes principal, interest, tax, and insurance.

(g) Making or funding a loan by any means other than table funding.

(h) Negligently making any false statement or willfully making any omission of material fact in connection with any application or any information filed by a licensee in connection with any application, examination or investigation conducted by the department. This includes leaving blanks on a document and instructing the borrower to sign the document with the blanks or providing the borrower with documents with blanks. You are not prohibited from marking some information blanks with "N/A" if the information is not applicable to the transaction.

(i) Willfully filing a lien on property without a legal basis to do so.

(j) Coercing, intimidating, or threatening borrowers in any way with the intent of forcing them to complete a loan transaction.

(k) Failing to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law.

(l) Making, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan. An example is advertising a discounted rate without clearly and conspicuously disclosing in the advertisement the cost of the discount to the borrower and that the rate is discounted.

(m) Engage in bait and switch advertising.

Bait and switch means a deceptive practice of soliciting or promising a loan at favorable terms, but later "switching" or providing a loan at less favorable terms. While bait and switch will be determined by the facts of a case, the following examples, alone or in combination, may exhibit a bait and switch practice:

(i) A deceptive change of loan program from fixed to variable rate.

(ii) A deceptive increase in interest rate.

(iii) The misrepresentation of discount points. This may include discount points that have a different rate buydown effect than promised, or origination fees that a borrower has been led to believe are discount points affecting the rate.

(iv) A deceptive increase in fees or other costs.

(v) A deceptive disclosure of monthly payment amount.

This practice may involve soliciting a loan with payments that do not include monthly amounts for taxes and insurance or other reserved items, while leading the borrower to believe that such amounts are included.

(vi) Additional undisclosed terms such as prepayment penalties or balloon payments, or deceiving borrowers about the effect of disclosed terms.

(vii) Additional layers of financing not previously disclosed that serve to increase the overall cost to the borrower. This practice may involve the surprise combination of first and second mortgages to achieve the originally promised loan amount.

(viii) Leading borrowers to believe that subsequent events will be possible or practical when in fact it is known that the events will not be possible or practical.

(ix) Advertising or offering rates, programs, or terms that are not actually available at the time. See WAC 208-660-440(5).

(n) Engage in unfair or deceptive advertising practices. Unfair advertising may include advertising that offends public policy, or causes substantial injury to consumers or to competition in the marketplace.

(o) Negligently making any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed by a mortgage broker or in connection with any investigation conducted by the department.

(p) Making any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

(q) Advertising a rate of interest without clearly and conspicuously disclosing the annual percentage rate implied by the rate of interest.

(r) Failing to comply with the federal statutes and regulations in RCW 19.146.0201(11).

(s) Failing to pay third-party providers within the applicable timelines.

(t) Collecting or charging, or attempting to collect or charge, or use or propose any agreement purporting to collect or charge any fees prohibited by the act.

(u) Acting as a loan originator and real estate broker or salesperson, or acting as a loan originator in a manner that violates RCW 19.146.0201(14).

(v) Failing to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.

(w) Intentionally delay closing of a residential mortgage loan for the sole purpose of increasing interest, costs, fees, or charges payable by the borrower.

(x) Steering a borrower to less favorable terms in order to increase the compensation paid to the company or mortgage loan originator.

(y) Receiving compensation or any thing of value from any party for assisting in real estate "flopping." Flopping occurs during some short sales where the value of the property is misrepresented to the lender who then authorizes the sale of the property for less than market value. The property is then resold at market value or near market value for a profit. The failure to disclose the true value of the property to the lender constitutes fraud and is a violation of this chapter.

(z) Abandoning records. If you do not maintain your records as required, you are responsible for the costs of collection, storage, conversion to electronic format, or proper destruction of the records.

(4) What additional practices are prohibited when providing residential mortgage loan modification services? You are prohibited from:

(a) Collecting an advance fee;

(b) Charging total fees in excess of usual and customary charges, or total fees that are not reasonable in light of the service provided when providing residential mortgage loan modification services;

(c) Failing to provide a written fee agreement as prescribed by the director when providing residential mortgage modification services. See also WAC 208-660-430(23);

(d) As a condition to providing loan modification services requiring or encouraging a borrower to:

(i) Sign a waiver of his or her legal defenses, counterclaims, and other legal rights against the servicer for future acts;

(ii) Sign a waiver of his or her right to contest a future foreclosure;

(iii) Waive his or her right to receive notice before the owner or servicer of the loan initiates foreclosure proceedings;

(iv) Agree to pay charges not enumerated in any agreement between the borrower and the lender, servicer, or owner of the loan;

(v) Cease communication with the lender, investor, or loan servicer or stop or delay making regularly scheduled payments on an existing mortgage unless a mortgage loan modification is completely negotiated and executed with the lender or investor and the modification agreement itself provides for a cessation or delay in making regularly scheduled payments; or

(e) Entering into any contract or agreement to purchase a borrower's property;

(f) Failing in a timely manner to:

(i) Communicate with or on behalf of the borrower;

(ii) Act on any reasonable request from or take any reasonable action on behalf of a borrower;

(g) Engaging in false or misleading advertising. In addition to WAC 208-620-630, examples of false or misleading advertising include:

(i) Advertising which includes a "guarantee" unless there is a bona fide guarantee which will benefit a borrower;

(ii) Advertising which makes it appear that a licensee has a special relationship with lenders when no such relationship exists;

(h) Leading a borrower to believe that the borrower's credit record will not be negatively affected by a mortgage loan modification when the licensee has reason to believe that the borrower's credit record may be negatively affected by the mortgage loan modification.

(5) What federal guidance has the director adopted for use by the department in determining if a violation under subsection (3)(b) of this section has occurred? The director has adopted the following documents:

(a) The Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators "Guidance on Nontraditional Mortgage Product Risks" (released November 14, 2006); and

(b) The Conference of State Bank Supervisors, American Association of Residential Mortgage Regulators, and

National Association of Consumer Credit Administrators "Statement on Subprime Mortgage Lending," effective July 10, 2007 (published in the Federal Register at Vol. 72, No. 131).

(6) **What must I do to comply with the federal guidelines on nontraditional mortgage loan product risks and statement on subprime lending?** You must adopt written policies and procedures implementing the federal guidelines that are applicable to your mortgage broker business. The policies and procedures must be maintained as a part of your books and records and must be made available to the department upon request.

(7) **When I develop policies and procedures to implement the federal guidelines, what topics must be included?** The policies and procedures must include, at a minimum, the following:

(a) **Consumer protection.**

Communication with borrowers. Providers must focus on information important to consumer decision making; highlight key information so that it will be noticed; employ a user-friendly and readily navigable format for presenting the information; and use plain language, with concrete and realistic examples. Comparative tables and information describing key features of available loan products, including reduced documentation programs, also may be useful for consumers. Promotional materials and other product descriptions must provide information about the costs, terms, features, and risks of nontraditional mortgages that can assist consumers in their product selection decisions. Specifically:

- Borrowers must be advised of potential increases in payment obligations. The information should describe when structural payment changes will occur and what the new payment would be or how it was calculated. For example, loan products with low initial payments based on a fixed introductory rate that expires after a short time and then adjusts to a variable index rate plus a margin must be adequately described to the borrower. Because initial and subsequent monthly payments are based on these low introductory rates, a wide initial spread means that borrowers are more likely to experience negative amortization, severe payment shock, and an earlier than scheduled recasting of monthly payments.

- Borrowers must be advised as to the maximum amount their monthly payment may be if the interest rate increases to its maximum rate under the terms of the loan.

- Borrowers must be advised as to the maximum interest rate that can occur under the terms of the loan.

- Borrowers must be alerted to the fact that the loan has a prepayment penalty and the amount of the penalty.

- Borrowers must be made aware of any pricing premium based on reduced documentation.

(b) **Control standards.** Actual practices must be consistent with the written policies and procedures. Employees must be trained in the policies and procedures and performance monitored for compliance. Incentive programs should not produce high concentrations of nontraditional products. Performance measures and reporting systems should be designed to provide early warning of increased risk.

(8) **May I charge a loan origination fee or discount points when I originate but do not make a loan?** No. You

may not charge a loan origination fee or discount points as described in Regulation X, Part 3500, Appendix A.

(9) **What mortgage broker fees may I charge?** You may charge a mortgage broker fee that was agreed upon between you and the borrower as stated on a good faith estimate disclosure form or similar document provided that such fee is disclosed in compliance with the act and these rules.

(10) **How do I disclose my mortgage broker fees on the good faith estimate and settlement statement?** You must disclose or direct the disclosure of your fees on the good faith estimate and HUD-1/1A Settlement Statement or similar document.

(11) **May I charge the borrower a fee that exceeds the fee I initially disclosed to the borrower?** Pursuant to RCW 19.146.030(4), you may not charge any fee that benefits you if it exceeds the fee you initially disclosed unless there is a valid change of circumstance as allowed under RESPA and:

(a) The need to charge the fee was not reasonably foreseeable at the time the initial disclosure was provided; and

(b) You have provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed. See WAC 208-660-430 for specific details, disclosures, and exceptions implementing RCW 19.146.030(4).

AMENDATORY SECTION (Amending WSR 09-24-091, filed 12/1/09, effective 1/1/10)

WAC 208-660-510 Director and department powers—Examination authority. (1) **Why is the department authorized to examine my business?** The department is authorized to examine your business to determine your compliance with the act.

(2) **When may the department examine my business?** The department may examine your business at any time.

(3) **Will the department give me advance notice of an examination?**

(a) The department will generally give you advance notice of at least thirty days of a routine examination to allow you to compile the requested documents and prepare for the examiner's arrival. However, you and the department may agree on an earlier date for the examination. Extensions of time beyond that are at the director's discretion.

(b) The department will not give you advance notice of "for cause" examinations. "For cause" means the department may have reason to believe you have violated the act.

(4) **What are the protocols for an examination of my business?** ~~((The examination protocols are detailed in the department's Mortgage Broker Examination Manual. A summary of the manual is available on the department's web site.))~~ The basic protocols include, but are not limited to:

(a) **Frequency of examinations.** The department's examination frequency will be determined using appropriate measurements of risk and random selection.

The primary purpose for measuring risk to determine the examination schedule and frequency cycle is to help the department identify those mortgage brokers whose compliance practices display potential weaknesses requiring examination attention. These same measurements of risk assist the

department in determining the need for expanding the scope of an examination or expanding the initial examination time period. The protocols for measuring risk may include, but are not limited to:

- (i) The history of licensing;
- (ii) Known enforcement issues or problems;
- (iii) The number and severity of complaints;
- (iv) The licensee's responsiveness to department inquiries;
- (v) The licensee's volume of loan activity;
- (vi) The number of licensed locations and staff size;
- (vii) Prior examination or investigation results; and
- (viii) The existence of internal and external systems and controls to ensure compliance.

(b) **Advance notice.** You will generally receive a department notice listing the documents the department will examine at your business. Your preparation before the arrival of the department examiners will help the examination proceed more efficiently. The department will make every effort to minimize the impact of the examination on your business. Information requirements may change to accommodate changes to state or federal law or as risk factors dictate. Any data point compiling system you use should allow flexibility in reporting the data points to meet the changes.

(c) **A preexamination meeting at your business.** The department examiner(s) will meet with you upon arrival at your business location.

(d) **The on-site review at your business.** The department examiner will conduct the examination of your business. When directed to do so by the examiner, you must provide the examiner with requested information.

(e) **An exit meeting after you have provided all the requested information, and the examiner has completed the preliminary analysis.** The examiner(s) may request additional information from you. After receiving that information and completing the preliminary analysis, the examiner may discuss the preliminary analysis with you.

(f) **Post examination work and report.** The department examiner will prepare an examination report and submit the report and examination file to the review examiner. After making any necessary changes, the department will deliver the report to you unless the violations are deemed serious and the file is delivered to enforcement.

(g) **Notification of violations and opportunity for response.** The department will document in the examination report any violations or deficiencies identified during the examination. You will have an opportunity to respond to the examination findings and any violations or deficiencies unless the violations are deemed serious or are repeat violations and the file is delivered to enforcement.

(h) **A possible referral to enforcement.** While any violation of the act or these rules may be referred to enforcement, it is usually the case that only serious or repeat violations are referred. An enforcement action may result in any, or all, or any combination of the following: A suspension or revocation of your license, the imposition of fines, the payment of restitution, ~~((or))~~ a ban from the mortgage broker industry.

(5) **What is the scope of the examination of my business?** In general, the scope of the examination will include, but is not limited to:

- (a) Reviewing trust accounting compliance.
- (b) Reviewing loan files.
- (c) Conducting interviews to better understand the business, solicitation practices, transactional events, disclosure compliance, and complaint resolution.
- (d) Reviewing the business books and records, including employee records.

(6) **When would the department expand the scope of an examination of my business?** If, during an examination, the department finds a clear need to expand the scope of the examination, it may do so. Two examples of a clear need to expand the scope of an examination are:

(a) When the department finds an apparent violation of trust accounting.

(b) When apparent violations of the prohibited practices section of the act are discovered. See RCW 19.146.0201 for prohibited practices.

(c) When there are clear systemic violations requiring greater review than is possible in a routine examination.

These examples are illustrative only and do not limit the circumstances under which the department may decide to expand the scope of an examination.

(7) **Will I receive notice if the department decides to expand the scope of the examination of my business?** Yes. The department will provide you with five business days' written notice if examination findings clearly identify the need to expand the scope of the examination. See subsection (6) of this section for examples of when the department may decide to expand the scope of the examination.

The expanded examination may include a different location and may go beyond the initial five-year time limit.

(8) **Will I have to pay for an examination of my business?**

(a) If you are located in Washington, you do not have to pay for the costs of the examination.

(b) If you are located outside of Washington, you will have to pay for the examiner's travel costs. Travel costs include, but are not limited to, transportation costs, meals, and lodging. Travel reimbursement rates are established by the Washington state office of financial management.

(c) If your examination was the result of a referral from enforcement, the department may charge an investigative fee. The department will not charge an investigation fee in ~~((an))~~ a complaint investigation or examination if it is determined that no violation occurred, or when the ~~((mortgage broker or loan originator))~~ licensee implements a remedy satisfactory to the complainant and the department, and no department order has been issued.

The department will send you an invoice and you will have thirty days to reimburse the department for the examination and the travel costs. See WAC 208-660-550, Department fees and costs.

(9) **May the department consider reports made by independent certified professionals instead of conducting their own examination of a mortgage broker business?** Yes. Instead of examining a mortgage broker's business, the department may consider the reports of independent certified

professionals who have examined the mortgage broker using the same standards used by the department (see the standards in the department's *Mortgage Broker Examination Manual*). The department may then prepare a report of examination that incorporates all or part of the independent certified professional's reports, or the examiner may expand the scope of the examination.

(10) **What are the pros and cons of hiring my own independent certified professional versus waiting for a department examination?** The department's cost of examination will not be charged to you directly, although you may experience some minor business interruption. If you hire your own independent certified professional, you will incur the cost of that examination; however, you will control the time and manner in which the examination is conducted. The greatest benefits you may derive from hiring your own independent certified professional are:

(a) Early notice of problems you may encounter during an examination;

(b) The ability to correct deficiencies or problems at an early stage when the greatest benefit of correction may be derived;

(c) The early implementation of a sound compliance program; and

(d) The ability to control the timing for your convenience.

(11) **If I want the department to consider an independent certified professional's report instead of examining my business, how must I make that request, and who submits the report to the department?** When you receive notice from the department that your business is scheduled for an examination, you must notify the department that you wish the department to consider the report of an independent certified professional instead of the department examining your business. The independent certified professional must then submit their report directly to the department, in a form acceptable to the department.

(12) **How may the department determine if the independent certified professional's report meets the standards of examination established by the department?** The department will ~~((compare))~~ consider the sufficiency of the report submitted by the independent certified professional ~~((to the requirements in the department's examination manual. If the report is missing any of the requirements from the manual, the department))~~ and may require the licensee to provide ~~((the missing))~~ additional information.

(13) **If the independent certified professional's report is missing information, how may the department obtain the missing information?** The department may interview, obtain records from, or otherwise contact the licensee, or with the licensee's permission contact the independent certified professional, if additional information is required for the department's review of the report.

(14) **What will the department do if the independent certified professional's report is not sufficient?** If the department determines the report is not sufficient, the department will notify the licensee and schedule an examination of the business.

(15) **What will the department do if the independent certified professional's report is sufficient?** If the depart-

ment determines the report is sufficient, the department will prepare a report of examination that incorporates all or part of the independent certified professional's report.

(16) **May the department retain professionals or specialists to examine a licensee?** Yes. The department, at its own expense, may retain attorneys, accountants, or other professionals or specialists as examiners, auditors, or investigators to examine a licensee.

(17) **Do I receive any reports from the examination?** Yes.

(a) When you have provided all the requested information, and the examiner has completed the preliminary analysis, the examiner will issue an exit report of examination containing preliminary examination findings.

(b) After additional department review, including the consideration of new information, if any, the department will issue a final report of examination.

(18) **Must I do anything as a result of the examination?** Yes. You will receive instructions from the department on the actions you must take. For example, if adverse findings or deficiencies were cited in the report of examination, you must respond to those findings.

(19) **How do I respond to findings in a report of examination?** You must respond in writing within thirty days of the date the department issues the report of examination. Your response must address any deficiencies noted in the report and describe the corrective actions you have taken.

(20) **What will happen if I do not respond to the report of examination?** If you fail to respond to the report of examination, you may be referred to enforcement where further administrative actions may be taken against you.

AMENDATORY SECTION (Amending WSR 06-23-137, filed 11/21/06, effective 1/1/07)

WAC 208-660-520 Director and department powers—Investigation authority. (1) **What is an investigation?** An investigation is an inquiry to determine compliance with the act and rules, to assess allegations of wrongdoing, or to evaluate the licensing qualifications of persons subject to the act. The inquiry may involve extensive research, fact gathering, the issuance of directives and subpoenas, witness interviews, and financial and legal analysis. Depending on the results of these efforts, an investigation may result in the pursuit of an enforcement action. An investigation may proceed at the same time as other matters and may continue during an enforcement action.

(2) **How often may the department investigate my mortgage broker or loan originator operations?** For the purpose of investigating violations or complaints, the department may investigate your business as often as necessary to carry out the purpose of the act.

(3) **Will the department give advance notice before requiring me to make my books and records available for its investigation?** The department is not required to give you advance notice before an investigation. However, the department may provide advance notice before an investigation if doing so would be in the best interests of all parties involved, including the department.

(4) **From whom may the department obtain information in an investigation?** The department may obtain information from any person whose testimony may be pertinent to the loans, business, or subject matter of an investigation.

(5) **How may the department obtain information during an investigation?** The department may direct, subpoena, or order a person to submit to a deposition, or produce written information.

(6) **What information may the department obtain during an investigation?** The department may obtain books, accounts, records, files, and any other documents the department deems relevant to the investigation.

(7) **What businesses may the department investigate?** The department may investigate the business of any person who is engaged in the business of mortgage brokering, whether the person is a licensee or whether the person acts or claims to act under, or without the authority of, the act.

(8) **May the director retain professionals or specialists to assist in an investigation, and if so, will I have to pay for those services?** Yes. The department may hire attorneys, accountants or other professionals as needed to conduct or assist in an investigation. The cost for these services will be assessed in accordance with WAC 208-660-550(5), Investigations.

(9) **When may the department charge ((a mortgage broker or loan originator)) an investigation fee?** The department may charge an investigation fee when it investigates the books and records of any ((mortgage broker or loan originator subject to the act)) licensee.

(10) **Are there circumstances in which the department will investigate a ((mortgage broker or loan originator)) licensee but will not charge an investigation fee?** Yes. The department will not charge an investigation fee in a complaint investigation if it is determined that no violation occurred, or when the ((mortgage broker or loan originator)) licensee implements a remedy satisfactory to the complainant and the department, and no department order has been issued.

(11) **How is the amount of the investigation fee determined?** The amount of the investigation fee is the number of hours expended by the department related to the investigation multiplied by an hourly rate established by the department. See WAC 208-660-550, Department fees and costs.

Citation of Existing Rules Affected by this Order: Repealing WAC 208-620-045, 208-620-055, 208-620-245 and 208-620-252; and amending WAC 208-620-010, 208-620-104, 208-620-105, 208-620-230, 208-620-231, 208-620-240, 208-620-250, 208-620-251, 208-620-260, 208-620-271, 208-620-280, 208-620-281, 208-620-282, 208-620-290, 208-620-300, 208-620-310, 208-620-320, 208-620-325, 208-620-340, 208-620-341, 208-620-370, 208-620-371, 208-620-373, 208-620-374, 208-620-420, 208-620-425, 208-620-430, 208-620-431, 208-620-440, 208-620-460, 208-620-490, 208-620-499, 208-620-500, 208-620-510, 208-620-520, 208-620-530, 208-620-540, 208-620-545, 208-620-550, 208-620-551, 208-620-552, 208-620-555, 208-620-560, 208-620-565, 208-620-567, 208-620-570, 208-620-580, 208-620-590, 208-620-610, 208-620-620, 208-620-621, 208-620-622, 208-620-630, 208-620-700, 208-620-710, 208-620-720, and 208-620-900.

Statutory Authority for Adoption: RCW 43.320.040.

Other Authority: RCW 31.04.165.

Adopted under notice filed as WSR 13-19-081 on September 17, 2013.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 208-620-230, proposed language amended to state the department's interpretation of the statutory language. See also the consistent proposed rule language in WAC 208-620-556.

2. WAC 208-620-232, proposed language amended to include the requirement that Washington law be followed in the event of a foreclosure.

3. WAC 208-620-440, proposed language amended to clarify that if the department's travel expenses are not paid through the examination or investigation process, the expenses will be included in the department's total cost of regulating the industry.

4. WAC 208-620-510 (3)(c), proposed language amended to clarify that a rate lock agreement is not required to be provided with the initial disclosures when the consumer does not want to lock the rate at the initial disclosure stage of a transaction.

5. WAC 208-620-510 (4)(e)(ii), proposed language amended to clarify that a rate lock agreement is not required to be provided with the initial disclosures when the consumer does not want to lock the rate at the initial disclosure stage of a transaction.

6. WAC 208-620-520 (3)(o), proposed language amended to clarify that evidence of a financial commitment to protect a rate lock is part of a company's books and records that must be retained for three years.

7. WAC 208-620-550(16), proposed language amended to clarify that both the initial and any revised loan applications must contain the company and mortgage loan originators' license numbers and the date the application was taken or revised.

8. WAC 208-620-550(19), proposed language amended to clarify that licensees may not charge fees that are not allowed pursuant to the requirements of a specific program loan such as FHA, VA, USDA, etc.

9. WAC 208-620-551(8), proposed language amended to clarify that the licensee must service a residential mortgage loan pursuant to the loan documents unless otherwise agreed to in writing by the borrower.

WSR 13-24-024

PERMANENT RULES

DEPARTMENT OF

FINANCIAL INSTITUTIONS

(Consumer Services)

[Filed November 22, 2013, 11:31 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: Amending the rules in chapter 208-620 WAC to implement the Consumer Loan Act, chapter 31.04 RCW, as amended by chapters 29 and 64, Laws of 2013, and to generally amend the rules for clarity and consistency.

The rules are being adopted pursuant to OFM Guidance 3.a. and e.

10. WAC 208-620-555 (3)(a), proposed language amended to clarify that fees paid to third parties must be reimbursed to the licensee at closing.

11. WAC 208-620-555 (3)(c), proposed language amended to clarify that the borrower's credit card may be used to pay third parties directly for services provided.

12. WAC 208-620-622(4), proposed language amended to clarify that license numbers must closely follow license names and is consistent with the amendment in subsection (1)(b) of the section.

13. WAC 208-620-710(26), proposed language amended to clarify and provide exceptions from the requirements of using license names and numbers when a mortgage loan originator is conducting business and advertising.

14. WAC 208-620-900 (5)(b)(iv), new language added to clarify that the single point of contact attaches when a borrower requests assistance in loss mitigation.

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 9, 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 57, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 48, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 57, Repealed 4; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 22, 2013.

Deborah Bortner, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-010 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

"Act" means the Consumer Loan Act, chapter 31.04 RCW.

"Advertise, advertising, and advertising material" means any form of sales or promotional materials used in connection with the business. Advertising material includes, but is not limited to, newspapers, magazines, leaflets, flyers, direct mail, indoor or outdoor signs or displays, point-of-sale literature or educational materials, other printed materials; radio, television, public address system, or other audio broadcasts; or internet pages.

"Affiliate" means any person who controls, is controlled by, or is under common control with another.

"Annual percentage rate" has the same meaning as defined in Regulation Z, 12 C.F.R. 1026 (formerly 12 C.F.R. Section 226) et seq., implementing the Truth in Lending Act.

"Application" means the submission of a borrower's financial information in anticipation of a credit decision relat-

ing to a residential mortgage loan, which includes the borrower's name, monthly income, Social Security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought. An application may be submitted in writing or electronically and includes a written record of an oral application. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a residential mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a residential mortgage loan.

"Bank Secrecy Act" means the Bank Secrecy Act (BSA), 31 U.S.C. 1051 et seq. and 31 C.F.R. Section 103.

"Bond substitute" means unimpaired capital, surplus and qualified long-term subordinated debt.

"Borrower," (~~means any natural person who consults with or retains a licensee or person subject to this chapter in an effort to obtain or seek information about obtaining a loan, regardless of whether that person actually obtains such a loan~~) See WAC 208-620-011.

"Commercial context" or "commercial purpose" means actions taken for the purpose of obtaining anything of value for oneself, or for an entity or individual for which the individual acts, rather than exclusively for public, charitable, or family purposes.

"Common ownership" exists if an entity or entities possess an ownership or equity interest of five percent or more in another entity.

"Creditor" has the same meaning as in the Truth in Lending Act, 15 U.S.C. 1602(f) and Regulation Z, 12 C.F.R. 1026 (formerly 12 C.F.R. 226).

"Department" means the department of financial institutions.

"Depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act on the effective date of this section, and includes credit unions.

"Depository Institutions Deregulatory and Monetary Control Act" means the Depository Institutions Deregulatory and Monetary Control Act of 1980 (DIDMCA), 12 U.S.C. § 1735f-7a.

"Director" means the director of the department of financial institutions or his or her designated representative.

"Dwelling" means the same as in Regulation Z implementing the Truth in Lending Act which is a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile or manufactured home, and trailer, if it is used as a residence. See 12 C.F.R. 1026.2.

"Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. section 1691 and Regulation B, 12 C.F.R. Part 1002 (formerly Part 202).

"Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Section 1681 et seq.

"Fair Debt Collection Practices Act" means the Fair Debt Collection Practices Act, 15 U.S.C. section 1692, 12 C.F.R. 1006.

"Federal banking agencies" means the Board of Governors of the Federal Reserve System, Comptroller of the Cur-

rency, (~~(Director of the Office of Thrift Supervision,)~~
National Credit Union Administration, (~~and~~) Federal
Deposit Insurance Corporation, and Consumer Financial Pro-
tection Bureau.

"Federal Trade Commission Act" means the Federal
Trade Commission Act, 15 U.S.C. section 45(a).

"Filing" means filing, recording, releasing or reconvey-
ing mortgages, deeds of trust, security agreements or other
documents, or transferring certificates of title to vehicles.

"Gramm-Leach-Bliley Act (GLBA)" means the Finan-
cial Modernization Act of 1999, 15 U.S.C. Sec. 6801-6809,
and the GLBA-mandated Federal Trade Commission (FTC)
privacy rules, at 16 C.F.R. Parts 313-314.

"Home Mortgage Disclosure Act" means the Home
Mortgage Disclosure Act (HMDA), 12 U.S.C. sections 2801
through 2810 and 12 C.F.R. Part 1003 (formerly Part 203).

"Immediate family member" means a spouse, child, sib-
ling, parent, grandparent, or grandchild. This includes step-
parents, stepchildren, stepsiblings, and adoptive relation-
ships.

"Individual servicing a mortgage loan" means a person
who on behalf of a lender or servicer licensed by this state, or
a lender or servicer exempt from licensing, who collects or
receives payments including payments of principal, interest,
escrow amounts, and other amounts due, on existing obliga-
tions due and owing to the licensed lender or servicer for a
residential mortgage loan when the borrower is in default, or
in reasonably foreseeable likelihood of default, working with
the borrower and the licensed lender or servicer, collects data
and makes decisions necessary to modify either temporarily
or permanently certain terms of those obligations, or other-
wise finalizing collection through the foreclosure process.

For purposes of this definition "on behalf of a lender or
servicer" means that the individual person is employed by the
lender or servicer and does not receive any compensation or
gain directly or indirectly from the borrower for performing
the described activities.

"Insurance" means life insurance, disability insurance,
property insurance, insurance covering involuntary unem-
ployment and such other insurance as may be authorized by
the insurance commissioner in accordance with Title 48
RCW.

"Lender" means any person that extends money to a bor-
rower with the expectation of being repaid.

"License" means a license issued under the authority of
this chapter with respect to a single place of business.

"License number" means your NMLS unique identifier
displayed as prescribed by the director. Some examples of the
way you may display your license number are: NMLS ID
12345, NMLS 12345, NMLS #12345, MB-12345, or MLO-
12345.

"Licensee" means a person who holds one or more cur-
rent licenses.

"Live check" means a loan solicited through the mail in
the form of a check, which, when endorsed by the payee,
binds the payee to the terms of the loan agreement contained
on the check.

"Loan" means a sum of money lent at interest or for a fee
or other charges and includes both open-end and closed-end
transactions.

"Loan originator" means the same as mortgage loan orig-
inator.

"Loan processor," (~~means an individual who performs
clerical or support duties as an employee at the direction of
and subject to the supervision and instruction of a person
licensed, or exempt from licensing, under chapter 31.04
RCW.~~

~~A loan processor engaged as an independent contractor
for a licensee must hold a mortgage loan originator license))
See WAC 208-620-011.~~

"Long-term subordinated debt" means for the purposes
required in RCW 31.04.045 outstanding promissory notes or
other evidence of debt with initial maturity of at least seven
years and remaining maturity of at least two years.

"Making a loan" means advancing, offering to advance,
or making a commitment to advance funds for a loan.

"Material litigation" means proceedings that differ from
the ordinary routine litigation incidental to the business. Liti-
gation is ordinary routine litigation if it ordinarily results
from the business and does not deviate from the normal busi-
ness litigation. Litigation involving five percent of the
licensee's assets or litigation involving the government would
constitute material litigation.

"Mortgage broker" means the same as in RCW 19.146.-
010 (~~except that for purposes of this chapter,).~~ A licensee or
person subject to this chapter cannot receive compensation as
both a consumer loan licensee making the loan and as a mort-
gage broker in the same transaction.

"Mortgage loan originator" or "loan originator" means
an individual who for direct or indirect compensation or gain
or in the expectation of direct or indirect compensation or
gain (1) takes a residential mortgage loan application; or (2)
offers or negotiates terms of a residential mortgage loan,
including short sale transactions.

Mortgage loan originator also includes an individual
who for compensation or gain performs residential mortgage
loan modification services or holds himself or herself out as
being able to perform residential mortgage loan modification
services.

Mortgage loan originator also includes an individual
who holds himself or herself out as being able to perform any
of the activities described in this definition. For purposes of
this definition, a person "holds themselves out" by advertis-
ing or otherwise informing the public that the person engages
in any of the activities of a loan originator, including the use
of business cards, stationery, brochures, rate lists or other
promotional items.

Mortgage loan originator does not include any individual
who performs purely administrative or clerical tasks and does
not include a person or entity solely involved in extensions of
credit relating to timeshare plans, as that term is defined in
section 101(53D) of Title 11, United States Code.

For the purposes of this definition, administrative or
clerical tasks means the receipt, collection, and distribution
of information common for the processing of a loan in the
mortgage industry and communication with a consumer to
obtain information necessary for the processing of a residen-
tial mortgage loan. An individual who holds himself or her-
self out to the public as able to obtain a loan is not performing
administrative or clerical tasks.

Mortgage loan originator does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law to conduct those activities, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. See the definition of real estate brokerage activity in this subsection.

~~((This definition does not apply to an individual servicing a mortgage loan before July 1, 2011.))~~

This definition does not apply to employees of a housing counseling agency approved by the United States department of Housing and Urban Development unless the employees of a housing counseling agency are required under federal law to be individually licensed as mortgage loan originators.

"NMLS" means a nationwide multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators and other license types.

"Out-of-state licensee" means a licensee that does not maintain a physical presence within the state, or a licensee that maintains headquarters or books and records outside Washington.

"Person" includes individuals, partnerships, associations, trusts, corporations, and all other legal entities.

"Principal" means either (1) any person who controls, directly or indirectly through one or more intermediaries, a ten percent or greater interest in a partnership, company, association or corporation; or (2) the owner of a sole proprietorship.

"Principal amount" means the loan amount advanced to or for the direct benefit of the borrower.

"Principal balance" means the principal amount plus any allowable origination fee.

"RCW" means the *Revised Code of Washington*.

"Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including (1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property; (2) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property; (3) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction; (4) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and (5) offering to engage in any activity, or act in any capacity, described in (1) through (4) of this definition.

"Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Sections 2601 et seq., and Regulation X, 12 C.F.R. Part 1024 (formerly 24 C.F.R. Part 3500).

"Records" mean books, accounts, papers, records and files, no matter in what format they are kept, which are used in conducting business under the act.

"Referring a delinquent loan to foreclosure" means taking any step in furtherance of foreclosure. Examples include,

but are not limited to: Sending a referral to a foreclosure trustee or attorney inside or outside of the servicing entity requesting they begin the foreclosure process; making a record in written or electronic form that flags, comments, blocks, suspends or in any way indicates in the electronic record of a mortgage loan that foreclosure has begun; any such marking of an electronic record that impairs the record in a way that payments will not be applied or will be routed into a suspense account.

"Registered mortgage loan originator" means any individual who (1) meets the definition of mortgage loan originator and is an employee of: A depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration; and (2) is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.

"Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling ~~((as defined in section 103(v) of the Truth in Lending Act))~~ or residential real estate upon which is constructed or intended to be constructed a dwelling.

"Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include, but are not limited to, forbearances; repayment plans; changes in interest rates, loan terms (length), or loan types; capitalizations of arrearages; or principal reductions.

"Residential mortgage loan modification services." See WAC 208-620-045.

"S.A.F.E. Act" means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Title V of the Housing and Economic Recovery Act of 2008 ("HERA"), Public Law No. 110-289, effective July 30, 2008; and Regulation G, 12 C.F.R. Part 1007; and Regulation H, 12 C.F.R. Part 1008.

"Senior officer" means an officer of a consumer loan company at the vice-president level or above.

"Service or servicing a loan." See WAC ~~((208-620-055))~~ 208-620-011.

"Simple interest method" means the method of computing interest payable on a loan by applying the rate of interest specified in the note, or its periodic equivalent to the unpaid balance of the principal amount outstanding for the time outstanding. For nonresidential mortgage loans, each payment must first be applied to any unpaid penalties, fees, or charges, then to accumulated interest, and last to the unpaid balance of the principal amount until paid in full. In using such method, interest must not be payable in advance or compounded. For residential mortgage loans, each payment must be applied as directed in the loan documents.

"State" means the state of Washington.

"Subsidiary" means a person that is controlled by another.

"Table funding" means a settlement at which a mortgage loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

"Telemarketing and Consumer Fraud and Abuse Act" means the Telemarketing and Consumer Fraud and Abuse Act, 15 U.S.C. § 6101 to 6108.

"Telephone Sales Rule" means the rules promulgated in 16 C.F.R. Part 310.

"Third-party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.

"Third-party service provider" means any person other than the licensee who provides goods or services to the licensee in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

"Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Sections 1601 et seq., and Regulation Z, 12 C.F.R. Part 1026 (formerly 12 C.F.R. Part 226).

"Unique identifier" means a number or other identifier assigned by protocols established by the NMLS.

NEW SECTION

WAC 208-620-011 How does the department interpret certain definitions in RCW 31.04.015(28)? "Borrower" means an individual who consults with or retains a licensee or person subject to this chapter in an effort to obtain or seek information about obtaining a loan or a residential mortgage loan modification, regardless of whether the individual actually obtains a loan or residential mortgage loan modification.

"Loan processor" or "underwriter" means an individual who performs clerical or support duties as an employee (not as an independent contractor) of a person licensed or exempt from licensing and at the direction of and subject to the supervision and instruction of an individual licensed, or exempt from licensing, under this chapter. A loan processor or underwriter engaged as an independent contractor by a licensee must hold a mortgage loan originator license.

"Residential mortgage loan modification services" means activities conducted for compensation or gain by individuals or entities not engaged in servicing the borrower's existing residential mortgage loan. The activities may include negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform residential mortgage loan modification services. The activities may also include the collection of data for submission to another entity performing mortgage loan modification services or to a residential mortgage loan servicer.

"Service" or "servicing a loan" means, with respect to residential mortgage loans:

(a) Collecting or attempting to collect payments on existing obligations due and owing to the lender or investor, including payments of principal, interest, escrow amounts, and other amounts due;

(b) Collecting fees due to the servicer for the servicing activities;

(c) Working with the borrower to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently; or

(d) Otherwise finalizing collection through the foreclosure process.

"Simple interest method" means the method of computing interest payable on a loan by applying the rate of interest specified in the note or its periodic equivalent to the unpaid balance of the principal amount outstanding for the time outstanding. Interest may not be compounded.

(a) For nonresidential mortgage loans, each payment must first be applied to any unpaid penalties, fees, or charges, then to accumulated interest, and last to the unpaid balance of the principal amount until paid in full. Interest must not be payable in advance.

(b) For residential mortgage loans, each payment must be applied as directed in the loan documents. No more than forty-five days of prepaid interest may be collected at the time of the loan closing.

(c) The prohibition on compounding interest does not apply to reverse mortgage loans made in compliance with the Washington State Reverse Mortgage Act within this chapter.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-104 Who is exempt from licensing as a consumer loan company? (1) See RCW 31.04.025 (~~((+))~~) (2)(a) (~~(through)~~), (b), (d) (~~(and)~~), (f) through (h), and (j) through (l).

(2) Under RCW 31.04.025 (2)(c), entities conducting transactions under chapter 63.14 RCW (Retail installment sales of goods and services); however, the entity is not exempt if the transactions are an extension of credit to purchase merchandise certificates, coupons, open or closed loop stored value, or any other item issued and redeemable by a retail seller other than the entity extending the credit.

(3) Under RCW 31.04.025 (2)(e), any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary residence.

~~((+))~~ (4) Under RCW 31.04.025 (2)(i), a nonprofit housing organization seeking exemption must meet the following standards:

(a) Has the status of a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986;

(b) Promotes affordable housing or provides home ownership education, or similar services;

(c) Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;

(d) Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;

(e) Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;

(f) Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and

(g) Meets other standards as prescribed by the director.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-105 Who is exempt from licensing as a mortgage loan originator under this act? The following are exempt from licensing as a mortgage loan originator:

- (1) Registered mortgage loan originators;
- (2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;
- (3) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence;
- (4) A Washington licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator;
- (5) Individuals who do not take residential mortgage loan applications or negotiate the terms of residential mortgage loans for compensation or gain or in the expectation of compensation or gain; and
- (6)(a) An employee of a bona fide nonprofit organization who acts as a loan originator only with respect to his or her work duties to the bona fide nonprofit organization, and who acts as a loan originator only with respect to residential mortgage loans with terms that are favorable to the borrower.
- (b) Terms favorable to the borrower are terms consistent with loan origination in a public or charitable context, rather than a commercial context.
- (7) See also WAC 208-620-232.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-230 Do I need a consumer loan license (if I am lending) to lend money (in the state of Washington), extend credit or service or modify the terms of residential mortgage loans? ~~((If you are in the business of making secured or unsecured loans of money or credit and you do not qualify for an exception under RCW 31.04.025, you must hold a license under this act.))~~ (1) Yes. If you do not qualify for an exemption under RCW 31.04.025, you must hold a license to:

- (a) Be located in Washington and lend money, extend credit, or service or modify residential mortgage loans;
- (b) Be located outside Washington and lend money or extend credit to Washington residents or service or modify residential mortgage loans on Washington real estate;
- (c) From any location solicit or advertise by any means to Washington residents including but not limited to mail, brochure, telephone, print, radio, television, internet, or any other electronic means;
- (d) From any location conduct business under the act with Washington residents by mail or internet;
- (e) Hold yourself out as able to conduct any of the activities in (a) through (d) of this subsection.

(2) If you violate subsection (1) of this section, on non-residential loans, you must refund to the borrower the interest

and nonthird-party fees charged in the transaction. On residential mortgage loans, you must refund to the borrower non-third-party fees charged in the transaction.

(3) See also WAC 208-620-232 for residential mortgage loans.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-231 Which companies must have a consumer loan license to service residential mortgage loans secured by Washington residential real estate or obligating Washington residents? (1) Companies servicing loans they originated.

- (2) Companies servicing loans purchased post closing.
- (3) Companies servicing loans owned by other companies.
- (4) You must comply with the annual assessment requirements for your residential mortgage loan servicing activity. See WAC 208-620-440.
- (5) See also WAC 208-620-106.

NEW SECTION

WAC 208-620-232 Can I make a small number of residential mortgage loans without being licensed at the company level? Pursuant to RCW 31.04.025(3) you may be eligible to make five or fewer residential mortgage loans during a calendar year without holding a company level license if you are not subject to licensing as a mortgage loan originator. See WAC 208-620-105. If you are eligible for the license waiver you must comply with the following conditions:

- (1) If you do not provide the borrower with a compliant federal disclosure of the loan terms and conditions and cost of financing you must provide the buyer with a disclosure prescribed by the director.
- (2) You must comply with the state's usury rate limit. See chapter 19.52 RCW.
- (3) You must follow Washington law if you pursue a foreclosure.

NEW SECTION

WAC 208-620-234 Must a company that provides loan processing or underwriting services on residential mortgage loans be licensed under the Consumer Loan Act? Yes. The company must license at the company level and must employ at least one licensed mortgage loan originator. Loan processors and underwriters are subject to the individual licensing requirements of the S.A.F.E. Act, 12 C.F.R. 1008 (Regulation H) if not supervised by an individual licensed as a mortgage loan originator under S.A.F.E. A company level license is required to provide the sponsorship for the supervising licensed mortgage loan originator.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-240 Once I am licensed, does the act apply to all loans I make? Yes. All loans you make to

Washington residents (~~and loans secured by Washington residential real estate~~), secured and unsecured, are subject to the authority and restrictions of the act including the provisions relating to the calculation of the annual assessment.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-250 If my out-of-state company applies for a license under the Consumer Loan Act do we have to have a branch in the state of Washington? (1) You are not required to maintain a physical presence in this state to hold a license but any location doing business under the act, wherever located, must be licensed. Your company's main office (headquarters), wherever located, must have a license.

(2) If you employ mortgage loan originators, those licensed employees must work from a licensed location. A licensed location (~~can be a~~) is a main or branch office (~~or~~) and an individual loan originator's home can be licensed as a branch office.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-251 Are there any additional requirements for out-of-state licensees? (1) **All locations must be licensed.** Any person that conducts business under the act with Washington residents or Washington residential real estate must obtain a license for all locations from which such business is conducted, including out-of-state locations, with the exception of those office locations providing only underwriting and back office services under WAC 208-620-310. The main office (headquarters), wherever located, must be licensed.

(2) **Keeping records out-of-state.** The director may approve the maintenance of a licensee's records at an out-of-state location. The licensee must request approval in writing and must agree to provide the director access to the records and pay the hourly rate plus travel costs pursuant to WAC 208-620-590.

(3) **Service on out-of-state licensee.** An out-of-state licensee's registered agent in Washington is the licensee's agent for service of process, notice, or demand.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-260 If I am licensed under the Consumer Loan Act, can I broker residential mortgage loans in the state of Washington? Yes. You may broker residential mortgage loans under the Consumer Loan Act. Brokered loans are subject to the annual assessment (~~under WAC 208-620-240~~). See WAC 208-620-440.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-271 Do I need a license to assist a borrower with a residential mortgage loan modification? Yes. Persons providing third-party loan modification services

for compensation or gain must be licensed under this chapter, or under chapter 19.146 RCW. See also WAC 208-620-550 (~~and 208-620-551~~).

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-280 How do I apply for a consumer loan license? (1) Your application consists of an online filing through the (~~NMLS~~) NMLS and Washington specific requirements provided directly to DFI. You must pay an application fee through the (~~NMLS~~) NMLS system.

(2) Upon application and periodically upon license renewal, each officer, director, and owner applicant must provide information concerning:

(a) Identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, the nationwide mortgage licensing system and registry, or any governmental agency or entity authorized to receive this information for a state and national criminal history background check;

(b) Personal history;

(c) Experience;

(d) Business record; and

(e) Other pertinent facts, as the director may reasonably require.

(3) Each principal, officer and director of the entity that is applying for a license is deemed responsible for the information submitted as part of the application.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-281 What will happen if my license application is incomplete? The department will only process complete applications. If your application is incomplete your file will be marked "pending-deficient" in the (~~NMLS~~) NMLS. The department will either identify each deficiency or respond that there are multiple deficiencies and ask you to contact the department. You are responsible for reviewing your record and responding to each issue.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-282 How do I withdraw my application for a license? You may withdraw the application through the (~~NMLS~~) NMLS. You will not receive a refund of the (~~NMLS~~) NMLS application fee but you may receive a partial refund of your licensing fee if the fee exceeds the department's actual cost to investigate the license application.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-290 What fees must I pay for my application for a consumer loan license? (1) (~~NMLS~~) NMLS fees. You must pay the (~~NMLS~~) NMLS system fee when you submit your application.

(2) **DFI fees.** You must pay \$95.55 per hour for review and investigation of the following:

- (a) New consumer loan company license;
- (b) New branch office license;
- (c) Notice of change of control; or
- (d) Opinions rendered regarding interpretations of statutes and rules.

(3) **Licenses.** You must pay \$106.71 for issuance of the following licenses:

- (a) New or replacement main office licenses; or
- (b) New or replacement branch licenses.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-300 ~~If I want to ((open)) operate my business from more than one office, do I have to ((file an application for)) license each location?~~ Yes. You must submit a branch office application through the ((NMLSR)) NMLS for each ((consumer loan company)) branch office, residential mortgage loan servicing location, or direct solicitation location((, and)). You must provide evidence of surety bond coverage for each branch and meet all other license requirements. See also WAC 208-620-252.

NEW SECTION

WAC 208-620-301 **If I make residential mortgage loans and employ managers, must they license individually as mortgage loan originators?** Your managers, including branch managers, must license individually as mortgage loan originators if they conduct the following activities:

- (1) Take residential mortgage loan applications, negotiate the terms or conditions of residential mortgage loans, or hold themselves out as being able to conduct these activities;
- (2) Supervise your loan processor or underwriting employees; or
- (3) Supervise your licensed mortgage loan originators.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-310 **Is it necessary to license an office that is only providing underwriting and other back-office services?** A location that is solely providing loan processing or underwriting ((and)) or other back-office services on Washington loans and has only incidental contact with the borrower, is not required to be licensed. Back office services do not include loan servicing. However, any location where a licensed mortgage loan originator works must be licensed. Also, your company's main office (headquarters), wherever located, must be licensed.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-320 **What is the amount of the bond required for my consumer loan license?** (1) Nonresidential loan origination. If you originate nonresidential loans the bond amount is based on the annual dollar amount of loans you originate. See the following chart:

1. Zero to twenty million in loans originated:	\$30,000
2. Twenty million to forty million:	\$50,000
3. Forty million to fifty million:	\$100,000
4. Fifty million and above:	\$150,000

(2) Residential mortgage loan origination.

(a) If you originate residential mortgage loans, the bond amount is based on the annual dollar amount of residential mortgage loans you originate. Use the chart in subsection (1) of this section for the bond amount.

(b) If you only service residential mortgage loans, your bond amount at application is thirty thousand dollars. Thereafter and subject to annual adjustment, your bond amount is based on the annual dollar amount of the residential mortgage loans serviced pursuant to the following schedule (see RCW 31.04.045(6)):

1. Zero to fifty million in loan principal:	\$30,000
2. Fifty million and above:	\$50,000

(c) If you originate and service residential mortgage loans, your bond amount will be based on your origination activity volumes.

(d) If you broker residential mortgage loans, your bond amount will be based on the principal amount of the loans brokered.

(3) Third-party loan modification services. If you only offer third-party residential mortgage loan modification services, your bond amount is thirty thousand dollars.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-325 **What will my bond amount be in the first year of licensing?** (1) If you lend money, your initial bond amount will be based on either your prior year's loan origination volume in Washington or one hundred thousand dollars. See the bonding chart in WAC 208-620-320.

(2) If you only service residential mortgage loans your initial bond amount is thirty thousand dollars. For subsequent years see the bonding chart in WAC 208-620-320.

(3) If you only provide third-party residential mortgage loan modification services, your bond amount is thirty thousand dollars initially and thereafter.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-340 **Do I have any alternative to maintaining a surety bond?** With the director's approval, you may use a bond substitute, as defined in WAC 208-620-010, that meets the following requirements:

(1) ~~((The))~~ Your company must be a Washington business corporation.

(2) ~~((The company's))~~ Your company must maintain unimpaired capital ((must be maintained)) in an amount so that the aggregate sum of the company's debt, including outstanding promissory notes or other evidences of debt, does

not at any time exceed three times the amount of its bond substitute.

(3) ~~((The company's))~~ You may exclude long-term subordinated debt, as defined in WAC 208-620-010, ~~((may be excluded from the company's debt))~~ for purposes of calculating the bond substitute only if any claim by the subordinate debtholder on the company's assets is junior to claims by the state or a consumer under the act. ~~((The licensee))~~ You must file with the director a subordination agreement in favor of the state.

(4) ~~((The company may))~~ You must not consider bad debts and uncollectible judgments as assets for purposes of calculating the bond substitute. A bad debt is any debt owed to ~~((the licensee))~~ you upon which any payment is six months or more past due. An uncollectible judgment is any judgment which is more than two years old and which has not been paid.

~~((5) The director may evaluate the documentation submitted by the licensee or other documentation requested by the director to determine whether the bond substitute meets the requirements of RCW 31.04.045(3).))~~

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-341 If I originate residential mortgage loans and my company relies on the bond substitute, must my licensed mortgage loan originators obtain an individual bond? Yes. They must each obtain individual bonds based on their mortgage loan origination volume. See WAC 208-620-710 (3)~~((4))~~(i).

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-370 What are the grounds for denying or conditioning my consumer loan company license application? The director may deny or condition approval of a license application if you or any principal, officer, or board director of the applicant:

(1) Fails to pay a fee due the department or the ~~((NMLS))~~ NMLS;

(2) Fails to demonstrate financial responsibility, experience, character, and general fitness to operate a business honestly, fairly, and efficiently within the purposes of the Consumer Loan Act. The director may find that the person has failed to make the demonstration if, among other things:

(a) ~~((The person))~~ Is or has been subject to an injunction or an administrative action issued pursuant to the Consumer Loan Act, the Consumer Protection Act, the Mortgage Broker Practices Act, the Insurance Code, the Securities Act, or similar laws in this or another state; or

(b) Is reported to have a history of unpaid debts as reported by an independent credit report issued by a recognized credit reporting agency ~~((indicates that the person has a history of unpaid debts))~~; or

(c) ~~((The person))~~ Is the subject of a criminal felony indictment, or a criminal gross misdemeanor charge involving dishonesty or financial misconduct (RCW 31.04.055 (1)(d)); or

(d) ~~((The person))~~ Is insolvent in the sense that the value of the applicant's or licensee's liabilities exceeds its assets or in the sense that the applicant or licensee cannot meet its obligations as they mature; or

(e) ~~((The person))~~ Has had a license to conduct lending, residential mortgage loan servicing, or to provide settlement services associated with lending or residential mortgage loan servicing revoked or suspended by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license (see RCW 31.04.093 (6)(c)).

(3) Has misrepresented, omitted or concealed a material fact from the department or has misrepresented a material fact to the department;

(4) Has been found to have committed an act of misrepresentation or fraud in any aspect of the conduct of the lending or brokering business or profession;

(5) Has failed to complete its application as defined in WAC 208-620-280, within a reasonable time after being notified that the department considers the file abandoned for failure to provide requested information or documentation;

(6) Fails to maintain a bond or bond alternative that is compliant with the act.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-371 May I employ someone to work with Washington residents or Washington property who has been convicted of a felony, or who has had a lending-related license revoked or suspended? No. (1) Pursuant to RCW 31.04.093(6), the director may prohibit any officer, principal, or employee from participating in the affairs of any licensee if that officer, principal, or employee has been convicted of or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(a) During the seven-year period preceding the date of the proposed employment; or

(b) At any time preceding the date of the proposed employment, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(2) For purposes of this section, "participation in the affairs of any licensee" means an officer, principal, or employee or independent contractor who will or does originate loans, supervise ~~((loan originators))~~ employees or independent contractors, or manage the loan production or other activities of the licensee.

(3) Additionally, the director may prohibit participation in the affairs of the licensee by any officer, principal, or employee or independent contractor, or person subject to the act, who has had a license to engage in lending, or performance of a settlement service related to lending, including loan modifications, revoked or suspended in this state or any state.

(4) The department considers it to be a deceptive practice in violation of RCW 31.04.027(2) for any licensee to employ an officer, principal, or employee ~~((to originate loans, supervise loan originators or manage the loan production activities of the licensee))~~ or independent contractor to conduct any of

the activities described in subsection (3) of this section without first conducting a background check.

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

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-373 What happens to residential mortgage loans in the pipeline if a mortgage loan originator leaves my company? Loan files belong to the company. Existing loan applications must be processed by another licensed loan originator in the company. At the borrower's written request, the loan must be transferred to another licensed entity within five days of the borrower's request. You may pay the original loan originator for the work he or she performed prior to leaving.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-374 What action must I take in the ((NMLSR)) NMLS if I fire a residential mortgage loan originator or if a residential mortgage loan originator quits? You must file a relationship termination through the ((NMLSR)) NMLS within ten days of firing someone or the person quitting.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-420 May I transact my company business in a name other than the name on my company license? (1) You may only transact business using the name on the license or as further described in this section.

(2) You may apply to the department to add a trade or doing business as (DBA) name to your main office license but you may not use the DBA alone to transact business. DBA names will only be attached to the main office license. Branch offices cannot have DBAs attached to the branch office license. The director may deny an application for a proposed DBA name if the proposed DBA name is similar to a currently existing licensee name.

(3) If you transact business using a DBA you must use either the main office license number or main office license name with the DBA. See also WAC 208-620-620, 208-620-621 and 208-620-622.

(4) Reserved.

AMENDATORY SECTION (Amending WSR 08-15-125, filed 7/22/08, effective 8/22/08)

WAC 208-620-425 May I transfer or assign my license? No. A license is given to a specific entity with specific individuals at a specific location. If twenty percent or more of the business is transferred or sold to another person, the licensee and the proposed new licensee(s) must apply to the department for a license. See also WAC 208-620-490.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-430 What are my annual filing requirements as a consumer loan licensee? Each year you are required to file two annual reports on forms provided by the department. You must also pay a fee (assessment) based on your activities during the reporting year. The reports and the assessment fee must be provided to the department on March 1st of each year or within thirty days of ceasing Washington operations (the due date).

(1) **Annual reports and assessment fee on activity.** You must provide the annual reports (annual assessment report and consolidated annual report) and the assessment fee by the due date.

(2) **Late penalties.** If you fail to submit the required annual reports and assessment fee by the due date you are subject to a penalty of fifty dollars for each item for each day of delay. For example, if the department receives the two annual reports and assessment fee on March 4th, you would have to pay an additional four hundred fifty dollars as a late penalty. If the items are filed with the department more than thirty days after ceasing Washington operations, the late penalty will accrue at the same rate. The maximum late penalty that will be assessed is five thousand dollars per reporting year. More penalties may be assessed if the department must make a bond claim to collect the amounts due. See subsection (3) of this section.

(3) **Failure to file.**

(a) If ~~((a licensee))~~ you fail~~((s))~~ to pay ~~((its))~~ the annual assessment fee or file the annual reports by the due date the director may file a claim against ~~((the licensee's))~~ your surety bond for failing to comply with the Consumer Loan Act. The department may make a claim for the late penalties under subsection (2) of this section and the greater of:

~~((a))~~ (i) The assessment fee paid the previous year;

~~((b))~~ (ii) The average annual assessment fee you paid in the previous two years; or

~~((c))~~ (iii) Fifteen hundred dollars.

~~((4))~~ **Annual reporting of residential mortgage loan data.** On an annual basis the company licensee must provide information on the characteristics of residential mortgage loan originations in an electronic format prescribed by the director. (b) Your license will expire if you fail to pay the annual assessment fee and file the annual reports by the due date. The department will provide you with notice of the pending expiration and you can stop the pending expiration by paying the assessment fee and providing the reports. If the department does not receive the assessment fee and reports within fifteen days from the date the department provides you with the notice, your license will expire. The notice warning you of the pending expiration is presumed received by you three days after the department mails it via first class mail to the last address of record with the department. You are responsible for updating your address of record with the department. Notice of the pending expiration is valid even if it is sent to an address of record that is incorrect due to your failure to provide an updated address.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-431 What are my quarterly call report filing requirements if I make, broker, or service residential mortgage loans? ~~((When the NMLSR develops the call report functionality))~~ You ~~((will be))~~ are required to file accurate and complete call reports on the dates and in a form prescribed by ~~((NMLSR))~~ the NMLS (see RCW 31.04.277).

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-440 How do I calculate my annual assessment for activity in Washington? (1)(a) **Calculation of the annual assessment for loans made, brokered or purchased.** The annual assessment is based on the "adjusted total loan value" as defined in subsection (2) of this section. The amount of the annual assessment is determined by multiplying the adjusted total loan value of the loans in the year being assessed by .000180271.

(b) **Calculation of the annual assessment for residential mortgage loans serviced.** The industry will be assessed the cost to DFI of regulating the industry. Costs include, but are not limited to, the cost of employee compensation, travel expenses not paid through the examination or investigation process, and goods and services expended in regulating the industry. Each licensee will pay a percentage of the regulatory cost based on the total annual volume of Washington residential mortgage loans serviced on January 1st. The minimum amount assessed will be five hundred dollars and the maximum amount assessed to any ((individual)) licensee will not exceed ((twenty-five)) one hundred thousand dollars.

(2) **All loans counted in assessment calculation.** The "adjusted total loan value" is the sum of:

(a) The principal loan balance on Washington loans in your loan portfolio on December 31 of the prior year; plus

(b) The total principal loan amount of all ~~((first and junior lien))~~ Washington loans ~~((both under and over twelve percent interest.))~~ you made, brokered, or purchased during the assessment year.

(3) **Reverse mortgages.** Each reporting year, you will report and be assessed on:

(a) The dollar amount of advances made; and

(b) The dollar amount of accrued interest.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-460 Must I file my annual reports even if I go out of business during the year? (1) ~~((A licensee that ceases))~~ If you cease operation(s) during the year, you must file the annual reports and pay the annual assessment required in WAC 208-620-430 within thirty days of closure.

(2) Failure to file within thirty days of closure will trigger the bond claim process as described in WAC 208-620-430(3), or other action. See also WAC 208-620-499.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-490 What are my reporting responsibilities when something of significance happens to my business? (1) **Prior notification required.** You must amend your ~~((NMLSR))~~ NMLS record at least ten days prior to a change of your:

(a) Principal place of business or any of branch offices;

(b) Name or legal status (e.g., from sole proprietor to corporation, etc.);

(c) Name and mailing address of your registered agent if you are located outside the state;

(d) Legal or trade name; or

(e) A change of ownership control of ten percent or more; or

(f) A closure or surrender of the license. See WAC 208-620-499.

(2) **Post notification within ten days.** You must amend your ~~((NMLSR))~~ NMLS record within ten days after an occurrence of any of the following:

(a) Change in mailing address, telephone number, fax number, or e-mail address;

(b) Cancellation or expiration of your Washington state ~~((master))~~ business license;

(c) Change in standing with the state of Washington secretary of state, including the resignation or change of the registered agent;

(d) Failure to maintain the appropriate unimpaired capital under WAC 208-620-340. See WAC 208-620-360;

(e) Receipt of notification of cancellation of your surety bond;

(f) Termination of sponsorship of loan originator; or

(g) Receipt of notification of a claim against your bond.

(3) **Post notification within twenty days.** You must amend your ~~((NMLSR))~~ NMLS record within twenty days after the occurrence of any of the following developments:

(a) Receipt of notification of license revocation procedures against your license in any state;

(b) The filing of a felony indictment or information related to lending or brokering activities against you or any officer, board director, or principal or an indictment or information involving dishonesty against you or any officer, board director, or principal;

(c) Conviction of you or any officer, director, or principal for a felony, or a gross misdemeanor involving lending, brokering or financial misconduct; or

(d) The filing of any material litigation against the company.

(4) See WAC 208-620-499 for the requirements when you close your business.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-499 What are my reporting requirements if I want to close my company or surrender my license? If you cease doing business in Washington you must do the following:

(1) Submit a surrender request through the ~~((NMLSR))~~ NMLS within ten days of closing the company or surrendering the license; and

(2) File the final closure form, annual reports, worksheet, and submit any fees owed as required in WAC 208-620-430. Failure to file these reports within thirty days of closure will trigger the bond claim process as described in WAC 208-620-430(3), or other action.

(3) If your license has expired or you are otherwise locked out of the NMLS data base, you must provide the documents described in subsection (2) of this section directly to the department.

Any Washington loans in your portfolio and activity under the act remain subject to the director's authority including investigation and examination, and the fees associated with those activities.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-500 What are my reporting requirements if I want to close one or more of my branch offices? If you close a branch office, you must submit a surrender request through the ~~((NMLSR))~~ NMLS at least ten days prior to the branch closing.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-510 What are my disclosure obligations to consumers? (1) Content requirements. In addition to complying with the applicable disclosure requirements in the federal and state statutes referred to in WAC 208-620-505 if the loan will be secured by a lien on real property, you must also provide the borrower or potential borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three business days of receipt of a loan application.

(2) **Proof of delivery.** The licensee must be able to prove that the disclosures under subsection (1) of this section were provided within the required time frames. For purposes of determining the timeliness of the required early disclosures, the department may use the date of the credit report or may use the date of an application received from a broker. In most cases, proof of mailing is sufficient evidence of delivery. If the licensee has an established system of disclosure tracking that includes a disclosure and correspondence log, checklists, and a reasonable system for determining if a borrower did receive the documents, the licensee will be presumed to be in compliance.

(3) **Residential mortgage loans—Rate locks.** Within three business days, including Saturdays, of receipt of a residential mortgage loan application you must provide the borrower with the following disclosure about the interest rate:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the RESPA good faith estimate is considered compliance.

(b) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, if guaranteed by a company

other than your company, you must provide the name of that company, whether and under what conditions any rate lock fees are refundable to the borrower, and:

(i) The number of days in the rate lock period;

(ii) The expiration date of the rate lock;

(iii) The rate of interest locked;

(iv) If applicable, the index and a brief explanation of the type of index used, the margin, the maximum interest rate, and the date of the first interest rate adjustment; and

(v) Any other terms of the rate lock agreement.

(c) If the borrower wants to lock the rate after the initial disclosure, you must provide a ~~((new))~~ rate lock agreement within three business days of the rate lock date that includes the items from (b) of this subsection.

(d) You must disclose payment of a rate lock fee as a cost in Block 2 of the GFE. On the HUD-1, the cost of the rate lock must be recorded on Line 802 and the credit must be recorded in section 204-209 ~~((with "P.O.C. (borrower)" recorded to the left of the borrower column))~~.

(4) **Residential mortgage loans—Loans brokered to other creditors.** Within three business days following receipt of a residential mortgage loan application you must provide to each borrower:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the RESPA good faith estimate is in compliance with subsection (3)(a) of this section~~((-))~~;

(b) An estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty;

(c) A good faith estimate that conforms with RESPA, Regulation X, 12 C.F.R. 1024;

(d) A truth in lending disclosure that conforms with TILA, Regulation Z, 12 C.F.R. 1026~~((-))~~;

(e) A rate lock disclosure containing the following:

(i) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, the name of the company providing the guarantee, whether and under what conditions any rate lock fees are refundable to the borrower, and:

(A) The number of days in the rate lock period;

(B) The expiration date of the rate lock;

(C) The rate of interest locked;

(D) If applicable, the index and a brief explanation of the type of index used, the margin, the maximum interest rate, and the date of the first interest rate adjustment; and

(E) Any other terms of the rate lock agreement.

(ii) If the borrower wants to lock the rate after the initial disclosure, you must provide a ~~((new))~~ rate lock agreement within three business days of the rate lock date. The rate lock agreement must include the items from ~~((this subsection (4)))~~(e) of this subsection.

(f) You must disclose payment of a rate lock fee as a cost in Block 2 of the GFE. On the HUD-1, the cost of the rate lock must be recorded on Line 802 and the credit must be recorded in section 204-209 ~~((with "P.O.C. (borrower)" recorded to the left of the borrower column))~~.

(5) **Residential mortgage loans—Shared appreciation mortgages (SAM) or mortgages with shared appreciation**

provisions. Within three business days following receipt of a loan application for a shared appreciation mortgage, or a mortgage with a shared appreciation provision, in addition to the disclosures required by federal law or by this chapter, you must provide each borrower with a written disclosure containing at a minimum the following:

- (a) The percentage of shared equity or shared appreciation you will receive (or a formula for determining it);
 - (b) The value the borrower will receive for sharing his or her equity or appreciation;
 - (c) The conditions that will trigger the borrower's duty to pay;
 - (d) The conditions that may cause the lender to terminate the mortgage or shared appreciation provision early;
 - (e) The procedure for including qualifying major home improvements in the home's basis (if any);
 - (f) Whether a prepayment penalty applies or other conditions applicable, if a borrower wishes to repay the loan early, including but not limited to, any date certain after which the borrower can repay the loan by paying back the lender's funds plus accrued equity; and
 - (g) The date on which the SAM terminates and the equity or appreciation becomes payable if no triggering event occurs.
- (6) **Loan modifications.** You must immediately inform the borrower in writing if the owner of the loan requires additional information from the borrower, or if it becomes apparent that a residential mortgage loan modification is not possible.
- (7) Each licensee must maintain in its files sufficient information to show compliance with state and federal law.

NEW SECTION

WAC 208-620-513 In a residential mortgage loan transaction, what are my disclosure obligations to the company that brokered the loan to me? You must provide copies of any disclosures you provided to the borrower, following the initial disclosures, within ten business days of providing the disclosures to the borrower.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-520 How long must I maintain my records under the Consumer Loan Act? What are the records I must maintain?

- (1) **General records.** Each licensee must maintain the books, accounts, records, papers, documents, files, and other information relevant to a loan or servicing of a loan for a minimum of ~~((twenty-five months))~~ three years, or the period of time required by federal law, whichever is longer, after making the final entry on that loan at a licensed location.
- (2) **Advertising records.** These records include newspaper and print advertising, scripts of radio and television advertising, telemarketing scripts, all direct mail advertising, and any advertising distributed directly by delivery, facsimile or computer network.
- (3) **Other specific records.** The records required under subsection (1) of this section include, but are not limited to:

- (a) All loan agreements or notes and all addendums, riders, or other documents that supplement the final loan agreements;
 - (b) All forms of loan applications, written or electronic (the Fannie Mae 1003 is an example);
 - (c) The initial rate sheet or other supporting rate information;
 - (d) The last rate sheet, or other supporting rate information, if there was a change in rates, terms, or conditions prior to settlement;
 - (e) Rate lock agreements and the supporting rate sheets or other rate supporting document;
 - (f) All written disclosures required by the act and federal laws and regulations. Some examples of federal law disclosures include, but are not limited to: The good faith estimate, truth in lending disclosures, Equal Credit Opportunity Act disclosures, affiliated business arrangement disclosures, and RESPA servicing disclosure statement;
 - (g) Documents and records of compensation paid to employees and independent contractors;
 - (h) An accounting of all funds received in connection with loans with supporting data;
 - (i) Settlement statements (the final HUD-1 or HUD-1A);
 - (j) Broker loan document requests (may also be known as loan document request or demand statements) that include any prepayment penalties, terms, fees, rates, yield spread premium, loan type and terms;
 - (k) Records of any fees refunded to applicants for loans that did not close;
 - (l) All file correspondence and logs;
 - (m) All mortgage broker contracts with lenders and all other correspondence with the lenders; ~~((and))~~
 - (n) All documents used to support the underwriting approval; and
 - (o) All documents that evidence a financial commitment made to protect a rate of interest during a rate lock period.
- (4) Loan servicing documents. See subsection (1) of this section.
- (5) Abandoned records. If you do not maintain your records as required, you are responsible for the costs of collection, storage, conversion to electronic format, or proper destruction of the records.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-530 Can I maintain my records electronically? Yes. (1) ~~((Records must be available. The records required to be maintained by RCW 31.04.145 may be maintained by means of))~~ You may maintain records electronically if you also maintain the electronic display equipment ((if such equipment is made)) and make it available upon request to the director or his or her representatives for purposes of examination or investigation.

- (2) The hardware or software needed to display the record must also be maintained during the required retention period under WAC 208-620-520(1).
- (3) ~~((Hard copy upon request.))~~ You must provide ((the)) records in hard copy upon request of the director.

AMENDATORY SECTION (Amending WSR 06-04-053, filed 1/27/06, effective 2/27/06)

WAC 208-620-540 Do I need to account separately for payments from borrowers for third party service providers? ~~((A licensee))~~ Yes. You must separately account for all deposits and disbursements made by or for borrowers for third party service providers. ~~((The funds may not be used for the benefit of the licensee or))~~ You must not use those funds for your benefit or for the benefit of any person not entitled to such benefit.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-545 Must I provide a written ~~((fee))~~ agreement when I provide third-party residential mortgage loan modification services? Yes. You must provide a written ~~((fee))~~ agreement as prescribed by the director when providing residential mortgage modification services. You must provide a copy of the signed ~~((fee))~~ agreement to the consumer and you must keep a copy as part of your books and records.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-550 What business practices are prohibited? In addition to RCW 31.04.027, the following constitute an "unfair or deceptive" act or practice:

(1) Failure to provide the exact pay-off amount as of a certain date within five business days after being requested in writing to do so by a borrower of record or their authorized representative;

(2) Failure to record a borrower's payment as received on the day it is delivered to any of the licensee's locations during its regular working hours;

(3) Collecting more than forty-five days of prepaid interest at the time of loan closing;

(4) Soliciting or entering into a contract with a borrower that provides in substance that the licensee may earn a fee or commission through its "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

~~((4))~~ (5) **Engaging in unfair or deceptive advertising practices.** Unfair advertising may include advertising that offends public policy, or causes substantial injury to consumers or to competition in the marketplace. See also WAC 208-620-630;

~~((5))~~ (6) Negligently making any false statement or willfully making any omission of material fact in connection with any application or any information filed by a licensee in connection with any application, examination or investigation conducted by the department;

~~((6))~~ (7) Making any payment, directly or indirectly, or withholding or threatening to withhold any payment, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

~~((7))~~ (8) Leaving blanks on a document that is signed by the borrower or providing the borrower with documents with blanks;

~~((8))~~ (9) Failing to clearly disclose to a borrower whether the payment advertised or offered for a real estate loan includes amounts for taxes, insurance or other products sold to the borrower;

~~((9))~~ (10) Purchasing insurance on an asset secured by a loan without first attempting to contact the borrower by mailing one or more notices to the last known address of the borrower, unless mail has been previously returned as undeliverable from the address, in order to verify that the asset is not otherwise insured;

~~((10))~~ (11) Willfully filing a lien on property without a legal basis to do so;

~~((11))~~ (12) Coercing, intimidating, or threatening borrowers in any way with the intent of forcing them to complete a loan transaction;

~~((12))~~ (13) Failing to reconvey title to collateral, if any, within thirty business days when the loan is paid in full unless conditions exist that make compliance unreasonable;

~~((13))~~ (14) Intentionally delaying the closing of a residential mortgage loan for the sole purpose of increasing interest, costs, fees, or charges payable by the borrower;

~~((14))~~ (15) Steering a borrower to a residential mortgage loan with less favorable terms than they qualify for in order to increase the compensation paid to the company or mortgage loan originator. An example is counseling, or directing a borrower to accept a residential mortgage loan product with a risk grade less favorable than the risk grade the borrower would qualify for based on the licensee or other regulated person's then current underwriting guidelines, prudently applied, considering the information available to the licensee or other regulated person, including the information provided by the borrower;

~~((15))~~ (16) Failing to indicate on all residential mortgage loan applications, initial and revised, the company's unique identifier, the loan originator's unique identifier, and the date the application was taken or revised;

~~((16))~~ (17) Receiving compensation or anything of value from any party for assisting in real estate "flopping." Flopping occurs during some short sales where the value of the property is misrepresented to the lender who then authorizes the sale of the property for less than market value. The property is then resold at market value or near market value for a profit. The failure to disclose the true value of the property to the lender constitutes fraud and is a violation of this chapter;

~~((17))~~ (18) Receiving compensation for making the loan and for brokering the loan in the same transaction.

(19) Charging a fee in a residential mortgage loan transaction that is more than the fees allowed by the state or federal agency overseeing the specific type of loan transaction. Examples include, but are not limited to, loans insured or guaranteed by the Veterans Administration, Home Equity Conversion Mortgages insured by HUD, and loans offered through the United States Department of Agriculture Rural Development.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-551 Residential mortgage loan servicers—What business practices are prohibited? (1) In addition to being subject to RCW 31.04.027, you are prohibited from requiring or encouraging a borrower to:

(a) Waive his or her legal defenses, counterclaims, and other legal rights against the servicer for future acts;

(b) Waive his or her right to contest a future foreclosure;

(c) Waive his or her right to receive notice before the owner or servicer of the loan initiates foreclosure proceedings;

(d) Agree to pay charges not enumerated in any agreement between the borrower and the lender, servicer, or owner of the loan; or

(e) Cease communication with the lender or investor.

(2) As to force placed insurance you are prohibited from:

(a) Purchasing insurance on a property secured by a loan you service without providing two prior written notices to the homeowner's last known address seeking verification of existing insurance coverage. The notices must state:

(i) How the homeowner provides proof there is insurance coverage in place;

(ii) That without proof of insurance the servicer may obtain coverage at the homeowner's expense, that such coverage may only protect the mortgage holder, and that the cost of the coverage may be higher than that the homeowner may be able to obtain privately;

(iii) That the homeowner may request the servicer to set up an escrow account to advance insurance payments and that upon establishment of an escrow account the servicer may charge the borrower the amount of the insurance payments advanced on the borrower's behalf respecting the mortgaged property including a cushion amount (see WAC 208-620-900 (4)(b));

(iv) The second written notice must be sent thirty days after the first written notice.

(b) Failing to advance payments to a property insurer regardless of the homeowner making a payment to the servicer when the homeowner has an escrow account for the payment of insurance.

(c) Purchasing force placed insurance at a price that is not commercially reasonable.

~~((d) Collecting private mortgage insurance beyond the date for which private mortgage insurance is no longer required.))~~ You must terminate force placed insurance within thirty days of receiving evidence from the homeowner of the existence of coverage. You must refund to the homeowner all premiums for force placed insurance collected during any period of time for which the homeowner's private insurance was in place.

(3) You are additionally prohibited from:

(a) Knowingly misapplying or recklessly applying loan payments to the outstanding balance of a loan.

(b) Knowingly misapplying or recklessly applying payments to escrow accounts.

(c) Charging excessive or unreasonable fees to provide loan payoff information.

(d) Knowingly or recklessly providing inaccurate information to a credit bureau, thereby harming a borrower's creditworthiness.

(e) Knowingly or recklessly facilitating the illegal foreclosure of real property collateral.

(4) You are prohibited from referring a delinquent mortgage to foreclosure if you have received the homeowner's loan modification application and you have not evaluated the homeowner for all available loan modifications.

(5) You are prohibited from using any funds in a suspense account to pay your own fees for servicing.

(6) You are prohibited from pursuing any collection activities while a complete loan modification application is being reviewed or while the borrower is making payments pursuant to a trial or permanent modification. This prohibition includes activities conducted by others on your behalf.

(7) You are prohibited from collecting private mortgage insurance beyond the date for which private mortgage insurance is no longer required.

(8) You are prohibited from failing to service the loan pursuant to the loan terms and conditions unless agreed to in writing by the borrower.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-552 Third-party residential loan modification service providers—What business practices are prohibited? In addition to RCW 31.04.027, you are prohibited from:

(1) Collecting an advance fee.

(2) Charging total fees in excess of usual and customary charges, or total fees that are not reasonable in light of the service provided when providing residential mortgage loan modification services.

(3) Failing to provide a written ((fee)) agreement as prescribed by the director when providing residential mortgage modification services. See also WAC 208-620-545.

(4) As a condition to providing loan modification services requiring or encouraging a borrower to:

(a) Waive his or her legal defenses, counterclaims, and other legal rights against the servicer for future acts;

(b) Waive his or her right to contest a future foreclosure;

(c) Waive his or her right to receive notice before the owner or servicer of the loan initiates foreclosure proceedings;

(d) Agree to pay charges not enumerated in any agreement between the borrower and the lender, servicer, or owner of the loan; or

(e) Cease communication with the lender, investor, or loan servicer or stop or delay making regularly scheduled payments on an existing mortgage unless a mortgage loan modification is completely negotiated and executed with the lender or investor and the modification agreement itself provides for a cessation or delay in making regularly scheduled payments; or

(f) Enter into any contract or agreement to purchase a borrower's property.

(5) You are further prohibited from failing in a timely manner to:

- (a) Communicate with or on behalf of the borrower;
- (b) Act on any reasonable request from or take any reasonable action on behalf of a borrower.
- (6) Engaging in false or misleading advertising. In addition to WAC 208-620-630, examples of false or misleading advertising include:
 - (a) Advertising which includes a "guarantee" unless there is a bona fide guarantee which will benefit a borrower.
 - (b) Advertising which makes it appear that a licensee has a special relationship with lenders when no such relationship exists.
 - (7) Leading a borrower to believe that the borrower's credit record will not be negatively affected by a mortgage loan modification when the licensee has reason to believe that the borrower's credit record may be negatively affected by the mortgage loan modification.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-555 What fees are allowed ((when making loans)) and when can they be collected from the borrower under the Consumer Loan Act? (1) Residential mortgage loans. This subsection does not apply to first lien residential mortgage loans originated by lenders who are creditors as defined in the Truth in Lending Act, 15 U.S.C. 1601 and Regulation Z, 12 C.F.R. 1026.

(a) Origination fees. ~~((On first lien mortgage loans, licensees that are not "creditors" under Depository Institutions Deregulatory and Monetary Control Act may))~~ You may charge a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan. ~~((On junior lien mortgage loans, all licensees may charge a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan.))~~

(b) Brokering fees. When agreed to in writing by the borrower, a fee to a mortgage broker that is not owned by the licensee or under common ownership with the licensee and that performed services in connection with the origination of the loan. A licensee may not receive compensation as a mortgage broker in connection with any loan made by the licensee.

(c) Third-party fees. The only third-party fee you may collect from the borrower before a loan is closed is the appraisal fee. You may collect from the borrower reimbursement for fees you actually and properly incurred in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by the lender or in the absence of borrower selection, selected by the lender. You must provide a copy of the appraisal to the borrower even if you do not receive reimbursement for the cost of the appraisal.

(2) Nonmortgage loans ~~((origination fees. All licensees))~~. You may charge a nonrefundable, prepaid, loan origi-

nation fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan.

~~(3) ((Mortgage broker fees. When agreed to in writing by the borrower, a fee to a mortgage broker that is not owned by the licensee or under common ownership with the licensee and that performed services in connection with the origination of the loan. A licensee may not receive compensation as a mortgage broker in connection with any loan made by the licensee.~~

~~(4))~~ Third-party fees. This subsection applies to residential and nonresidential lending.

(a) When agreed to in writing by the borrower, ~~((the payment of))~~ you may collect from the borrower at closing reimbursement for fees you paid to ~~((third parties other than the licensee who provide))~~ third-party service providers who provided goods or services ((to the licensee)) in connection with the preparation of the borrower's loan ~~((, including))~~. Such third-party service providers include, but are not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, and escrow companies((, when such fees are actually paid by the licensee to a third party for such services or purposes and)). The actual cost of such fees ~~((include such fees))~~ be included in the amount of the loan.

(b) ~~((However, no charge may be collected unless a loan is made, except for reasonable fees actually and properly incurred in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by the lender or in the absence of borrower selection, selected by the lender.~~

~~((e))~~ You must not charge or collect any fee to be paid to a third-party service provider, as defined in WAC 208-620-010, in excess of the actual costs paid or to be paid. ~~((You may charge the borrower for costs of allowable third party services as provided by RCW 31.04.105(3) at the time of application for the loan or at any time thereafter except as prohibited.~~

~~(5) Rate lock fees. When agreed to in writing by the borrower,))~~

(c) You may use a borrower's credit card information for payment of the credit report or appraisal when paid directly to the third-party service provider.

(d) You may charge a nonrefundable rate lock fee when agreed to in writing by the borrower. The fee may be retained if the borrower breaks the rate lock agreement and you are making the loan, if you have paid a third party for the interest rate lock, or if you have otherwise made a financial commitment to protect the rate during the lock period. The fee may not be retained if the borrower rescinds the loan under Regulation Z, ~~((or))~~ if the borrower does not qualify for a loan, or if the loan is denied based on the property appraisal. See also WAC 208-620-510(3).

~~((6) Underwriting fees. On first lien mortgages made by licensees that are not "creditors" under the Depository Institutions Deregulatory and Monetary Control Act, an underwriting fee.~~

~~(7))~~ (e) Late payment penalties. Not more than ten percent of any installment payment delinquent ten days or more.

~~((8))~~ (f) Attorneys' fees. Reasonable attorneys' fees, actual expenses, and costs incurred in connection with the collection of a delinquent debt, a repossession, or a foreclosure when a debt is referred for collection to an attorney who is not a salaried employee of the licensee.

~~((9))~~ (4) The fees allowed in subsection ~~((s(5) and (6)))~~ (3)(d) of this section must be included in the loan origination fee calculations described in subsections (1) and (2) of this section.

NEW SECTION

WAC 208-620-556 What fees must I refund to the borrower if I provide services subject to the act but do not have a license? (1) With residential mortgage loans you must refund any nonthird-party fees (not interest) that inured to your benefit.

(2) With nonresidential mortgage loans you must refund interest and nonthird-party fees that inured to your benefit.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-560 What fees are not allowed when making loans under the Consumer Loan Act? This section does not apply to first lien residential mortgage loans originated by lenders who are creditors as defined in the Truth in Lending Act, 15 U.S.C. 1601 and Regulation Z, 12 C.F.R. 1026.

(1) **Filing fees.** You must not charge or collect any funds from the borrower for the cost of filing, as defined in WAC 208-620-010, or for any other fees paid or to be paid to public officials, unless such charges are paid or are to be paid within one hundred eighty days by the licensee to public officials or other third parties for such filing. Any fee you collect for releasing or reconveying the security for the obligation must be paid to an unrelated third party unless you can demonstrate activities you conducted to facilitate the reconveyance.

(2) **Dishonored check fees.** You may charge or collect twenty-five dollars or the actual amount charged by the financial institution for a check, draft, ACH, or other transfer if returned unpaid or denied by the financial institution drawn upon. Only one fee may be collected with respect to a particular check, draft, ACH, or other transfer even if it has been returned or denied more than once.

(3) **Credit and noncredit insurance.**

(a) Except for the transaction described in (b) of this subsection, you may include the premiums for credit and non-credit insurance in the principal amount of the loan, provided that purchase of the insurance is not required to obtain a loan and that this fact is disclosed to the borrower in writing and the borrower's confirmation is obtained by signature on the disclosure form.

(b) You must not sell single premium credit insurance to a borrower at the inception of coverage unless the sale is in compliance with chapter 48.18 RCW.

(4) **Fees on existing loans.** Unless otherwise preempted under the Depository Institutions Deregulatory and Monetary Control Act, if you make a new loan or increases a credit line within one hundred twenty days after originating a previous loan or credit line to the same borrower, the origination fee on

the new loan or increased credit line must be limited as follows:

(a) You must only charge an origination fee on that part of the new loan not used to pay the amount due on the previous loan;

(b) You must only charge an origination fee on the difference between the amount of the existing credit line and the increased credit line;

(c) The limits in (a) and (b) of this subsection do not apply if you refund the origination fee on the existing loan or credit line;

(d) The limits in (a) and (b) of this subsection do not apply if you can demonstrate a net tangible benefit to the borrower for the new loan or credit line increase. For purposes of this subsection a net tangible benefit may be demonstrated by a lower monthly payment, or a decrease in the interest rate. Any net tangible benefit analysis must include the fees or charges for the new loan or credit line increase.

(5) **Discount points.**

(a) You must not collect a fee from the borrower for lowering the interest rate unless the interest rate is actually reduced.

(b) Any applicable program add-on fees must be disclosed as part of the discount points.

(6) **Administrative fees.** On nonmortgages, junior lien and first lien mortgages by licensees who are not "creditors" under the Depository Institutions Deregulatory and Monetary Control Act, you must not collect a document preparation fee, a processing fee, an administrative fee, an application fee, or a courier fee unless paid to an unrelated third party and agreed to in writing in advance by the borrower.

(7) **Underwriting fees.** ~~((On nonmortgage and junior lien mortgage loans))~~ You must not collect an underwriting fee.

(8) **Prepayment penalty.** You must not collect a prepayment penalty on the following loans:

(a) Any nonmortgage loan;

(b) Any adjustable rate residential mortgage loan, except as allowed by RCW 19.144.040;

(c) Any junior lien mortgage loan; or

(d) Any loan you made if you are not a "creditor" under DIDMCA.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-565 What fees am I allowed to charge or receive when acting as a residential mortgage loan broker under the act? (1) A broker's fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan.

(2) ~~((A yield spread premium (YSP) if available. You must disclose the YSP as a dollar amount credited to the borrower on the good faith estimate and as applicable on the settlement statement.~~

~~((3))~~ A processing fee when paid to an independent third-party processor.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-567 What fees can I charge when servicing residential mortgage loans under the act? (1) You may charge servicing fees authorized by the loan documents, by ~~((law))~~ the act, or by the borrower. Examples include, but are not limited to, late fees as authorized by the loan documents, insufficient check fees as authorized by ~~((law))~~ the loan documents or as allowed under WAC 208-620-560(2), and wire transfer fees for wire transfers requested by the borrower.

(2) You may only charge a fee for a default related service that is usual and customary or reasonable in light of the service provided.

(3) You may not charge fees paid to third parties in excess of the fee charged by the third party.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-570 What are the grounds for suspending or revoking a consumer loan company license? The director may suspend or revoke a license if the licensee, or any principal, officer, or board director of the licensee:

(1) **Failing to pay.** Fails to pay a fee due the department;

(2) **Injunction or administrative action.** Is or has been subject to an injunction or a civil or administrative action issued pursuant to the Consumer Loan Act, the Consumer Protection Act, the Mortgage Broker Practices Act or similar laws of this state or another state;

(3) **Substantial unpaid debt.** Has accumulated substantial unpaid debt;

(4) **Violation of lending laws.** Has been found in violation of another state's lending laws, securities laws, real estate laws or insurance laws resulting in substantial license limitations or significant fines, restitution, or both;

(5) **Criminal charges.** The person is the subject of a criminal felony charge, or a criminal misdemeanor charge involving dishonesty or financial misconduct;

(6) **Bond canceled.** Has had its surety bond canceled or revoked for cause;

(7) **Deterioration of business.** Has allowed the licensed consumer loan business to deteriorate into a condition which would result in denial of a new application for a license;

(8) **Aiding unlicensed practice.** Has aided or abetted an unlicensed person to practice in violation of the Consumer Loan Act or the Mortgage Broker Practices Act;

(9) **Incompetence resulting in injury.** Has demonstrated incompetence or negligence that results in financial harm to a person or that creates an unreasonable risk that a person may be harmed;

(10) **Insolvency.** Is insolvent in the sense that the value of the licensee's liabilities exceeds its assets or in the sense that the applicant or licensee cannot meet its obligations as they mature;

(11) **Failure to comply.** Has failed to comply with an order, directive, subpoena, or requirement of the director, or his or her designee, or with an assurance of discontinuance entered into with the director, or his or her designee;

(12) **Misrepresentation or fraud.** Has performed an act of misrepresentation or fraud in any aspect of the conduct of the lending or brokering business or profession;

(13) **Failure to cooperate.** Has failed to cooperate with the director, or his or her designee, including without limitation by:

(a) Not furnishing records requested by the director for purposes of conducting a lawful investigation for disciplinary actions or denial, suspension, or revocation of a license; or

(b) Not furnishing records requested by the director for purposes of conducting a lawful investigation into a complaint against the licensee filed with the department, or providing a full and complete written explanation of the circumstances of the complaint upon request by the director;

(14) **Interference with investigation.** Has interfered with a lawful investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action(-);

(15) Reserved.

AMENDATORY SECTION (Amending WSR 06-04-053, filed 1/27/06, effective 2/27/06)

WAC 208-620-580 As a licensee, will my business be subject to periodic examinations? ~~((Each consumer loan company))~~ (1) You can expect to be visited periodically by the department's examiners. The director or designee may examine, wherever located, the records used in the business of every licensee and of every person who is engaged in the consumer loan business, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For that purpose the director or designee shall have free access, at reasonable times during business hours, to the offices and places of business and all books and records of the business.

(2) When directed to do so during an examination you must provide information on the characteristics of loan originations in a format prescribed by the director.

AMENDATORY SECTION (Amending WSR 06-04-053, filed 1/27/06, effective 2/27/06)

WAC 208-620-590 How much will I be charged for my periodic examinations and when will the payment be due? (1) ~~((Hourly charge for examinations. A licensee))~~ You will be charged \$69.01 per hour for regular and special examinations of ~~((the licensee's))~~ your records.

~~((A licensee that makes loans pursuant to the act from out-of-state locations, maintains records outside the state or services loans pursuant to the act outside the state))~~ If the examination occurs outside of Washington, you will be charged the hourly rate plus travel costs.

~~((Billing for the examinations. The director will submit an invoice for the charges following the completion of any applicable examination. The charges must be paid))~~ You must pay examination costs within thirty days after receiving

the invoice (~~is submitted to the licensee~~) to avoid having to pay accrued interest.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-610 What authority does the department have to investigate violations of the Consumer Loan Act? (1) The director may enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter.

(2) The director may impose fines of up to one hundred dollars per day, per violation, upon the licensee, its employees or loan originators, or other persons subject to this chapter for any violation of this chapter or for failure to comply with any order or subpoena issued by the director under this chapter.

(3) Each day's continuance of the violation is a separate and distinct offense.

(4) **Testimony.** The director or designees may require the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or the subject matter of any investigation, examination, or hearing.

(5) **Production of records or copies.** The director or designee may require the production of books, accounts, papers, records, files, and any other information deemed relevant to the inquiry. The director may require the production of original books, accounts, papers, records, files, and other information; may require that such original books, accounts, papers, records, files, and other information be copied; or may make copies himself or herself or by designee of such original books, accounts, papers, records, files, or other information.

(6) **Subpoena authority.** If a licensee or person does not attend and testify, or does not produce the requested books, accounts, papers, records, files, or other information, then the director or designated persons may issue a subpoena or subpoena duces tecum requiring attendance or compelling production of the books, accounts, papers, records, files, or other information.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-620 How do I have to identify my business when I advertise? You must identify the business using your Washington consumer loan license name. You may also use an approved DBA name if you include the main office license name and license number (~~((CLA-123456))~~). For use of URL addresses and web pages, see WAC 208-620-621 and 208-620-622.

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-621 May I advertise over the internet using a URL address that is not my licensed business name? Yes, provided that any URL address you advertise takes the user directly to your main or home web page. If you want the user to be directed to a different main or home web

page, the URL address must contain your license name in addition to any other names or words in the URL address. URL addresses may be used as DBA names upon request to and approval from DFI. See also WAC 208-620-620 and 208-620-622.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-622 When I advertise using the internet or any electronic form (including, but not limited to, text messages), is there specific content my web pages must contain? Yes. You must provide the following language, in addition to any other, on your web pages or in any medium where you hold yourself out as being able to provide the services:

(1) Main or home page.

(a) The company's license name and NMLS unique identifier must be displayed on the licensee's main or home web page.

(b) If mortgage loan originators are named, their (~~(NMLS))~~ license numbers must closely follow the names.

(c) The main or home page must also contain a link to the NMLS consumer access web site page for the company.

(2) Branch office web page - No DBA. Comply with subsection (1) of this section.

(3) Main or branch office web page - DBA. If the company uses a DBA on a web page the web page must also contain the main office license name, license number, be in compliance with subsection (1)(b) of this section, and the web page must contain a link to the NMLS consumer access web site page for the company.

(4) Mortgage loan originator web page. If a loan originator maintains a separate home or main page, the sponsoring licensee's name and license number must also appear on the web page. The web page must also contain the loan originator's (~~(NMLS))~~ license name and license number closely following their name and a link to the NMLS consumer access web page for the company. An example of closely following is: Your license name followed by your title (if you use one) followed by your license number. See the definition of license number for examples of ways to display your license number. See also WAC 208-620-710(26).

(5) Compliance with other laws. Web site content used to solicit Washington consumers must comply with all relevant state and federal statutes for specific services and products advertised on the web site.

(6) Oversight. The company is responsible for web site content displayed on all company web pages used to solicit Washington consumers including main, branch, and mortgage loan originator web pages.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-630 What are some of the advertising restrictions I must comply with? (1) Licensees are prohibited from advertising with envelopes or stationery, or by using images in an electronic format that contain an official-looking emblem designed to resemble a government mailing or other method of communication that suggest

an affiliation that does not exist. Some examples of emblems or government-like names, language, or non-existent affiliations that will violate the state and federal advertising laws include, but are not limited to:

(a) Characterizing products as "government loan programs," "government-supported loans," or other words that may mislead a consumer into believing that the government is guaranteeing, endorsing, or supporting the advertised loan product. Using the words "FHA loan," "VA loan," or words for other products that are in fact endorsed or sponsored by a federal, state, or local government entity is allowed.

(b) An official-looking emblem such as an eagle, the Statue of Liberty, or a crest or seal that resembles one used by any state or federal government agency.

(c) Envelopes or electronic communications designed to resemble official government (~~(mailings)~~ communications, such as IRS or U.S. Treasury envelopes, or other government mailers or electronic communications.

(d) Warnings or notices citing government codes or form numbers not required by the U.S. Postmaster to be shown on the (~~(mailing)~~ communication.

(e) The use of the term "official business," or similar language implying official or government business, without also including the name of the sender.

(f) Any suggestion or representation that the licensee is, or is affiliated with, a state or federal agency, municipality, bank, savings bank, trust company, savings and loan association, building and loan association, credit union, or other entity that it does not actually represent.

(2) When I am advertising interest rates, the act requires me to conspicuously disclose the annual percentage rate (APR) implied by the rate of interest. What does it mean to "conspicuously" disclose the APR? The required disclosures in your advertisement must be reasonably understandable. Consumers must be able to see, read, or hear, and understand the information. Many factors, including the size, duration, and location of the required disclosures, and the background or other information in the advertisement, can affect whether the information is clear and conspicuous. This requirement applies to all mandatory disclosures. The presentation of the disclosure of the APR must be at least equivalent to the presentation of any other rates disclosed in the advertisement.

(3) The act prohibits me from advertising an interest rate unless that rate is actually available at the time of the advertisement. How may I establish that an advertised interest rate was "actually available" at the time it was advertised? Whenever a specific interest rate is advertised, the licensee must retain a copy of supporting rate information, and the APR calculation for the advertised interest rate.

(4) Must I quote the annual percentage rate when discussing rates with a borrower? Yes. You must quote the annual percentage rate and other terms of the loan if you give an oral quote of an interest rate to the borrower. TILA's Regulation Z, 12 C.F.R., part 226.26 provides guidance for using the annual percentage rate in oral disclosures.

(5) May a licensee advertise rates or fees as the "lowest" or "best"? No. Rates described as "lowest," "best," or other similar words cannot be proven to be actually available at the time they are advertised. Therefore, they are a false or

deceptive statement or representation prohibited by RCW 31.04.027.

(6) May I solicit using advertising that suggests or represents that I am affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, when I am not; or that I am an entity other than who I am? No. It is an unfair and deceptive act or practice and a violation of the act for you to suggest or represent that you are affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, or other entity you do not actually represent; or to suggest or represent that you are any entity other than who you are.

(7) If I advertise using a borrower's current loan information, what must I disclose about that information? When an advertisement includes information about a borrower's current loan that you did not obtain from a solicitation, application, or loan, you must provide the borrower with the name of the source of the information.

(8) Is it a violation to advertise that third-party services are "free" when the licensee has paid for the services? Yes. Advertising using the term "free," or any other similar term or phrase that implies there is no cost to the applicant is deceptive because you can recover the cost of the purportedly "free" item through the negotiation process. This is a violation of RCW 31.04.027 (2), (7), and (12). See the Federal Trade Commission's *Guide Concerning Use of the Word "Free" and Similar Representations*, available at <http://www.ftc.gov/bcp/guides/free.htm>, 16 C.F.R. § 251.1(g) (2003).

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-700 Mortgage loan originator—General. (1) **May I work from any location when I am a licensed loan originator?** No. You can only work from a licensed location. The licensed location can be the main office, or any licensed branch.

(2) **May I transfer loan files to another licensed entity?** No. Loan files are the property and responsibility of the company named on the loan application. Only the borrower may submit a written request to the company to transmit the borrower's selected information to another entity. The company must transmit the information within five business days after receiving the borrower's written request.

(3) **May I act as a loan originator and a real estate agent in the same transaction or for the same borrower in different transactions?** Yes, you may be both the loan originator and real estate broker or salesperson in the same transaction, or for the same borrower in different transactions. When either of these occur, you must provide to the borrower the following written disclosure:

"THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LOAN ORIGINATOR AND WOULD LIKE TO PROVIDE MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.

YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP AND TO SELECT ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING."

(4) **As a loan originator, may I be paid directly by the borrower for my services?** No. You may not be paid any compensation or fees directly by the borrower.

(5) **May I charge the borrower a fee, commission, or other compensation for preparing, negotiating, or brokering a loan for the borrower?** No. You may not charge the borrower a fee, commission, or compensation of any kind in connection with the preparation, negotiation, or brokering of a residential mortgage loan.

(6) **May I bring a lawsuit against a borrower for the collection of compensation?** No. Only the company may bring collection actions against borrowers to collect compensation.

(7) **May I work as a licensed loan originator for a consumer loan company located out of the state?** Yes. You may originate loans for any company you are sponsored by as long as the out-of-state company licenses a branch in Washington for you to work from. See subsection (1) of this section.

(8) **May I hire employees or independent contractors to assist me?** No. Only the consumer loan company can hire employees or independent contractors to work for the company. This prohibition against loan originators hiring employees or independent contractors includes clerical or administrative personnel and loan processors and underwriters whose work is related to the consumer loan company's activities.

(9) **Do loan processors and underwriters have to be licensed as loan originators?** W-2 employee loan processors and underwriters are not required to have a loan originator license provided they work under the supervision and instruction of ~~((a))~~ an individual licensed or exempt ~~((consumer loan company))~~ from licensing and do not hold themselves out as able to conduct the activities of a loan originator.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-710 Mortgage loan originator—Licensing. (1) **Must I have a license to act as a mortgage loan originator for a consumer loan company?** Yes. You must not engage in the business of a mortgage loan originator without first obtaining and maintaining annually a license under this act. You must register with and maintain a valid unique identifier issued by the NMLS.

(2) **How do I apply for a mortgage loan originator license?** Your application consists of filing an online application through the NMLS and providing Washington specific requirements directly to DFI. You must pay an application fee and filing fee through the NMLS. In addition to supplying the application information, both you and the company intending to sponsor you must be in good standing with the department.

(3) **What are the eligibility requirements to become a licensed mortgage loan originator?**

(a) Be eighteen years or older.

~~((b))~~ (b) ((Have a high school diploma, an equivalent to a high school diploma, or three years work experience in the industry-

~~(i) The work experience must be in one or more of the following, within the last five years:~~

~~(A) As a mortgage broker or designated broker of a mortgage broker for a minimum of two years; or~~

~~(B) As a mortgage banker, responsible individual, or manager of a mortgage banking business; or~~

~~(C) As a loan originator with responsibility primarily for originating loans secured by a lien on residential real estate; or~~

~~(D) As a branch manager of a lender with responsibility primarily for loans secured by a lien on residential real estate; or~~

~~(E) As a manager or supervisor of mortgage loan originators; or~~

~~(F) As a mortgage processor, underwriter, or quality control professional; or~~

~~(G) As a regulator, examiner, investigator, compliance expert, or auditor, whose primary function is the review of mortgage companies and their compliance processes, and the department determines your background is sufficient.~~

~~(ii) The work experience must be evidenced by a detailed work history and:~~

~~(A) W 2 Federal Income Tax Reporting Forms in the designated broker appointee's name; or~~

~~(B) 1099 Federal Income Tax Reporting Forms in the designated broker appointee's name; or~~

~~(C) Corporate tax returns signed by the designated broker appointee or corporate officer for a licensed or exempt residential mortgage company.~~

~~(iii) In addition to supplying the application information, both you and the company intending to sponsor you must be in good standing with the department.~~

~~((e))~~ **(d) Demonstrate financial responsibility.** For the purposes of this section, an applicant has not demonstrated financial responsibility when the applicant shows disregard in the management of his or her financial condition. A determination that an individual has shown disregard in the management of his or her financial condition may include, but is not limited to, an assessment of: Your credit report, current outstanding judgments, except judgments solely as a result of medical expenses; current outstanding tax liens or judgments or other government liens or filings; foreclosures within the last three years; or a pattern of seriously delinquent accounts within the past three years. Specifically, you are not eligible to receive a loan originator license if you have one hundred thousand dollars or more of tax liens against you at the time of application.

~~((d))~~ Complete twenty hours of prelicensing education from an NMLS approved provider. See WAC 208-620-720.

~~((e))~~ **(c) Pass a licensing test.** You must take and pass the NMLS test ~~((s))~~ that ~~((assess))~~ assesses your knowledge of the mortgage business and related regulations at the federal and state level. See WAC 208-620-725.

~~((f))~~ **(d) Complete prelicensing education.** You must complete prelicensing education before submitting an application. See WAC 208-620-720.

~~((g)) **Submit an application.** You must complete an application through the NMLS and provide information directly to DFI. You must pay application and filing fees to the NMLS.~~

~~((h))~~ **(e) Prove your identity.** You must provide information to prove your identity.

~~((i))~~ **(f) Provide a bond.**

(i) If you are employed by a company that is exempt from licensing, or uses a bond substitute, you must obtain and maintain an individual bond based on the volume of your mortgage loan origination activity. By March 1st of each year, you must determine your required bond amount and provide DFI with proof of having an adequate bond. The bond must be in the following amount:

- 1. Zero to twenty million in loans originated: \$20,000
- 2. Twenty million to thirty million: \$30,000
- 3. Thirty million to forty million: \$40,000
- 4. Forty million and above: \$50,000

(ii) If you are employed by a company that is exempt and is a nonprofit housing organization making loans under housing programs that are funded in whole or in part by federal or state programs with the primary purpose of assisting low-income borrowers with purchasing or repairing housing or for the development of housing for low-income Washington state residents, the bond must be in the following amounts:

- 1. Zero to fifty million in loans originated: \$10,000
- 2. Fifty +: \$20,000

~~((j))~~ **(g) File a quarterly call report.** Reserved.

(4) In addition to reviewing my application, what else will the department consider to determine if I qualify for a mortgage loan originator license?

(a) General fitness and prior compliance actions. The department will investigate your background to see that you demonstrate the experience, character, and general fitness that commands the confidence of the community and creates a belief that you will conduct business honestly and fairly within the purposes of the act. This investigation may include a review of the number and severity of complaints filed against you, or any person you were responsible for, and a review of any investigation or enforcement activity taken against you, or any person you were responsible for, in this state, or any jurisdiction.

(b) License suspensions or revocations. You are not eligible for a loan originator license if you have been found to be in violation of the act or the rules, or have had a license issued under the act or any similar state statute suspended or revoked.

(c) Criminal history. You are not eligible for a loan originator license if you have been convicted of, or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(i) During the seven-year period preceding the date of the application for licensing and registration; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(5) What will happen if my loan originator license application is incomplete? After submitting your online application through the NMLS and filing the required information and documentation with the department, the department will notify you of any application deficiencies.

(6) How do I withdraw my application for a loan originator license?

(a) Once you have submitted the online application through NMLS you may withdraw the application through NMLS. You will not receive a refund of the NMLS filing fee or the amount the department uses to investigate your license application.

(b) The withdrawal of your license application will not affect any license suspension or revocation proceedings in progress at the time you withdraw your application through the NMLS.

(7) When will the department consider my loan originator license application to be abandoned? If you do not respond within fifteen days and as directed by the department, your loan originator license application is considered abandoned and you forfeit all fees paid. Failure to provide the requested information will not affect new applications filed after the abandonment. You may reapply by submitting a new application package and new application fee.

(8) What happens if the department denies my application for a loan originator license, and what are my rights if the license is denied? See WAC 208-620-615.

(9) May I transfer, sell, trade, assign, loan, share, or give my loan originator license to someone else? No. A loan originator license authorizes only the individual named on the license to conduct the business at the location listed on the license.

(10) How do I change information on my loan originator license? You must submit an amendment to your license through the NMLS. You may be charged a fee.

(11) What is an inactive loan originator license? When a licensed loan originator is not sponsored by a licensed or exempt entity, the license is inactive. When a person holds an inactive license, they may not conduct any of the activities of a loan originator, or hold themselves out as a licensed loan originator.

(12) When my loan originator license is inactive, am I subject to the director's enforcement authority? Yes. Your license is granted under specific authority of the director and under certain situations you may be subject to the director's authority even if you are not doing any activity covered by the act.

(13) When my loan originator license is inactive, must I continue to pay annual fees, and complete continuing education for that year? Yes. You must comply with all the annual licensing requirements or you will be unable to renew your inactive loan originator license.

(14) May I originate loans from a web site when my license is inactive? No. You may not originate loans, or engage in any activity that requires a license under the act, while your license is inactive.

(15) How do I activate my loan originator license?

The sponsoring company must submit a sponsorship request for your license through the NMLS. The department will notify you and the sponsoring company if approved.

(16) When may the department issue interim loan originator licenses? To prevent an undue delay, the director may issue interim loan originator licenses with a fixed expiration date. The license applicant must meet the minimum requirements to obtain a license under the S.A.F.E. Act to receive an interim license.

(17) When does my loan originator license expire?

The loan originator license expires annually on December 31st. If the license is an interim license, it may expire in less than one year.

(18) How do I renew my loan originator license?

(a) Before the license expiration date you must renew your license through the NMLS. Renewal consists of:

(i) Paying the annual assessment fee; and

(ii) Meeting the continuing education requirement. You will not have a continuing education requirement in the year in which you complete the core twenty hours of prelicensing education. See WAC 208-620-730.

(b) The renewed license is valid until it expires, or is surrendered, suspended or revoked.

(19) If I let my loan originator license expire, must I apply to get a new license? If you complete all the requirements for renewal on or before the last day of February each year, you may renew an existing license. However, if you renew your license during this two-month period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection (17) of this section for the license renewal requirements.

During this two-month period, your license is expired and you must not conduct any business under the act that requires a license.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or department "date received" stamp by March 1st. If you fail to comply with the renewal request requirements you must apply for a new license.

(20) If I let my loan originator license expire and then apply for a new loan originator license (~~within one year of the expiration~~), must I comply with the continuing education requirements from the prior license period? Yes. Before the department will consider your new loan originator application complete, you must provide proof of satisfying the continuing education requirements from the prior license period.

(21) May I still originate loans if my loan originator license has expired? No. Once your license has expired you may no longer conduct the business of a loan originator, or hold yourself out as a licensed loan originator, as defined in the act and these rules.

(22) May I surrender my loan originator's license?

Yes. Only you may surrender your license before the license expires through the NMLS.

Surrendering your loan originator license does not change your civil or criminal liability, or your liability for

any administrative actions arising from acts or omissions occurring before the license surrender.

(23) Must I display my loan originator license where I work as a loan originator? No. Neither you nor the company is required to display your loan originator license. However, evidence that you are licensed as a loan originator must be made available to anyone who requests it.

~~(24) ((If I operate as a loan originator on the internet, must I display my license number on my web site? Yes. You must display your license number and license name. You must also display the license number and name as it appears on the license of the company you represent, on the web site.~~

~~(25))~~ **Must I include my loan originator license number on any documents?** You must include your license number ~~((immediately))~~ closely following your license name on ~~((solicitations, correspondence, business cards, advertisements, and residential mortgage loan applications))~~ ((a) through (d) of this subsection. An example of closely following is: Your license name followed by your title (if you use one) followed by your license number.

(a) Solicitations. This includes correspondence in any form. Correspondence that this not a solicitation does not have to include your license number.

(b) Business cards.

(c) All advertisements and marketing that contain your license name.

(d) Any state or federal form that requires your license number. See WAC 208-620-710(26).

~~((26))~~ **(25) When must I disclose my loan originator license number?** In the following situations you must disclose your loan originator license number and the name and license number of the company you are associated with:

(a) When asked by any party to a loan transaction, including third-party providers;

(b) When asked by any person you have solicited for business, even if the solicitation is not directly related to a mortgage transaction;

(c) When asked by any person who contacts you about a residential mortgage loan;

(d) When taking a residential mortgage loan application.

~~((27))~~ **(26) May I conduct business and advertise under a name other than the name on my loan originator license? ((No.))** You must ~~((only))~~ use the name on your license when you are conducting business~~((If you use a nickname for your first name, you must use your name like this: "FirstName "Nickname" LastName."~~

~~(28))~~ and in your advertisements with the following exceptions:

Except, use of your middle name is not required. Except, you may use only your middle and last name. Except, you may use a nickname as your first name if it is registered in NMLS on your MU4 as an "other" name.

(27) As a licensed mortgage loan originator, what are my reporting responsibilities? You must notify the director through amendment to the NMLS within ten business days to a change of:

(a) Answers to the NMLS generated disclosure questions;

(b) Sponsorship status;

- (c) Residence address; or
- (d) Any change in the information supplied to the director in your original application.

AMENDATORY SECTION (Amending WSR 13-06-012, filed 2/25/13, effective 4/1/13)

WAC 208-620-720 Loan originator—Prelicensing education. Must I complete prelicensing education in order to receive a loan originator license? Yes.

(1) You must complete at least twenty-two hours of prelicensing education approved by the ((NMLSR)) NMLS. The prelicensing education must include:

- (a) Three hours of federal law and regulations;
- (b) Three hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues;
- (c) Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
- (d) At least four hours of training specifically related to Washington law.

(2) You will receive credit for having completed the SAFE required prelicensing education for every state once you have successfully completed the SAFE required prelicensing education requirements approved by the NMLS for any state.

(3) **Must I take continuing education in the year I complete the prelicensing education? No.** You will not have a continuing education requirement in the year in which you complete the core twenty hours of prelicensing education.

AMENDATORY SECTION (Amending WSR 12-18-047, filed 8/29/12, effective 11/1/12)

WAC 208-620-900 What requirements must I comply with when servicing residential mortgage loans? In addition to complying with all other provisions of this act you must:

(1) Other applicable laws, regulations, and programs. Comply with the following:

(a) Chapters 61.24 and 19.148 RCW and any other applicable state or federal law, regulation, and program. Any conflict that arises between this chapter and chapter 19.148 RCW will be resolved in favor of this chapter.

(b) Comply with the federal Servicemembers Civil Relief Act.

(c) A violation of an applicable state or federal law, regulation, or program is a violation of this act.

(2) Servicing and ownership transfers or sales.

(a) As to acquiring servicing rights from another servicer you must:

(i) Continue processing loan modification requests and honoring trial and permanent modifications;

(ii) Designate the homeowner as a third-party intended beneficiary in any subsequent contract for transfer or sale, unless doing so would violate another state law or federal HAMP or GSE modification programs requirements; and

(b) As to transferring or selling the servicing of loans with pending modification requests or trial or permanent modifications you must:

(i) Inform the successor servicer if a loan modification is pending;

(ii) Obligate the successor servicer to accept and continue processing loan modification requests and to honor trial and permanent loan modification agreements; and

(iii) Designate the homeowner as a third-party intended beneficiary in any contract for transfer or sale, unless doing so would violate state law or federal HAMP or GSE modification programs requirements.

(3) Payment processing and fees.

(a) You must accept and credit all amounts received within one business day of receipt when the borrower has made the payment to the address where instructed, provided, that the borrower has provided sufficient information to credit the account. If you use the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. You must apply the payment as specified in the loan documents.

(b) You may enter into a written contract with the borrower whereby you hold funds of a certain type or sent by a certain method for a period of time until the funds are available before crediting them to the borrower's account.

(c) You must notify the borrower if a payment is received but not credited and instead placed in a suspense account. You must mail the notification to the borrower within ten business days by mail at the borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the borrower must take to make the residential mortgage loan current. If you provide monthly or more frequent statements that include this information you are not required to provide the information in a notice in addition to the monthly or more frequent statement. In the event of a conflict between this subsection (3)(c) or (d) of this section immediately following or both, and the requirements of an applicable bankruptcy court order, compliance with the bankruptcy court requirements are considered compliance with the subsections.

(d) When the suspense account contains enough money to make a full payment, you must apply that payment to the mortgage as of the date the full amount became available in the suspense account.

(e) You must assess any incurred fees to a borrower's account within forty-five days of the date on which the fee was incurred. You must clearly and conspicuously explain the fee in a statement mailed to the borrower at the borrower's last known address no more than thirty days after assessing the fee. If you provide monthly or more frequent statements that include this information you are not required to provide the information in a notice in addition to the monthly or more frequent statement.

(f) If you provide monthly or more frequent statements that include the information required under this subsection, you have until January 1, 2013, to program ((theses)) these changes. On and after January 1, 2013, you must be in compliance with this subsection.

(4) Maintenance of the escrow account.

(a)(i) If you collect escrow amounts held for the borrower for payment of insurance, taxes, or other charges with

respect to the property, you must collect and make all payments from the escrow account and, to the extent you have control, ensure that no late penalties are assessed or other negative consequences result for the borrower.

(ii) At least annually, or upon the borrower's request, you must inform the borrower in writing of the amount of reserve required in an escrow account. The notice must also advise the borrower of any fees the borrower will incur for not maintaining the reserve amount or fees the borrower will incur if you advance escrow amounts on the borrower's behalf and then collect the amounts from the borrower. You must comply with (a)(ii) of this subsection beginning on January 1, 2013.

(b) You may enter into a written agreement with the borrower whereby you are not required to make escrow payments unless funds are available in the escrow account. The agreement must include language that puts the borrower on notice that the borrower is responsible for the payment of the escrow amounts if a sufficient amount is not maintained in the escrow account.

(c) You must notify the borrower within ten business days of any change to the escrow account other than the changes brought about by the borrower's regularly scheduled payment. Examples of changes requiring notification include, but are not limited to, a reduction in the required reserve amount for the account, or a change in the property's tax assessment.

(5) Borrower requests for information.

(a) You must make a reasonable attempt to comply with a borrower's request for information about the residential mortgage loan account, including a request for information about loss mitigation, and to respond to any dispute initiated by the borrower about the loan account. A reasonable attempt includes, but is not limited to:

(i) Maintaining written or electronic records of each written request for information involving the borrower's account until the residential mortgage loan is paid in full, sold, or otherwise satisfied;

(ii) Providing a written statement to the borrower within fifteen business days of receipt of a written request from the borrower, or by following the response timelines for any loss mitigation program. The borrower's request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and sufficient detail regarding the information sought by the borrower to permit the servicer to comply.

(b) You must provide at a minimum the following information to a borrower's request described in subsection (5) of this section:

(i) Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default;

(ii) The current balance due on the residential mortgage loan, including the principal due, the amount of funds, if any, held in a suspense account, the amount of the escrow balance known to the servicer, if any, and whether there are any escrow deficiencies or shortages known to the servicer;

(iii) The identity, address, and other relevant information about the current holder, owner, or assignee of the residential mortgage loan; and

(iv) The telephone number and mailing address of an individual servicer representative with the information and authority to answer questions and resolve disputes and to act as a single point of contact for the homeowner during loss mitigation. This individual servicer representative must have the authority and ability to perform the following duties:

(A) Explain loss mitigation options and requirements;

(B) Track documents submitted by the homeowner and documents provided to the homeowner;

(C) Inform the homeowner of the status of their loss mitigation process;

(D) Ensure the homeowner is considered for all loss mitigation options; and

(E) Access individuals with the authority to delay or stop foreclosure proceedings.

You must comply with (b)(iv) of this subsection beginning on January 1, 2013.

~~(c) ((You may charge a fee for preparing and furnishing the statement described in this subsection not exceeding thirty dollars per statement.~~

~~(d))~~ You must promptly correct any errors and refund any fees assessed to the borrower resulting from an error you made.

~~((e))~~ (d) If the content of your response meets the requirements under RESPA for a response to a qualified written request, you will be deemed in compliance with the content requirements of this subsection. You must still comply with ~~((d))~~ (c) of this subsection.

~~((f))~~ (e) In addition to the statement described in (a) of this subsection, a borrower may request more detailed information from a servicer, and the servicer must provide the information within fifteen business days of receipt of a written request from the borrower. The request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and provide sufficient detail to the servicer regarding information sought by the borrower. If requested by the borrower, this statement must also include:

(i) A copy of the original note, or if unavailable, an affidavit of lost note, with all endorsements; and

(ii) A statement that identifies and itemizes all fees and charges assessed under the loan servicing transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the residential mortgage loan including escrow account activity and suspense account activity, if any.

(iii) The period of the account history shall cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the residential mortgage loan for the entire two-year time period, the servicer must provide the information going back to the date on which the servicer began servicing the home loan and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the home loan prior to the two-year period or the period during which the servicer has serviced the residential mortgage loan, the servicer must provide an account history beginning with the month that the servicer claims any out-

standing sums are owed on the residential mortgage loan up to the date of the request for the information.

(iv) If the borrower requests this statement, you must provide it free of charge; but the borrower is only entitled to one free statement annually. If the borrower requests more than one statement annually, you may charge thirty dollars for the second and subsequent statements.

(6) Loss mitigation.

(a) You must comply with all timelines and requirements for the federal HAMP or GSE modification programs if applicable, including denials and dual tracking prohibitions. If not using a HAMP or GSE loan modification program, you must:

(i) Develop an electronic system, or add to an existing system, the ability for borrowers to check the status of their loan modification, at no cost. The system must also allow communication from housing counselors. The system must be updated every ten business days. You have until April 1, 2013, to develop the system described in (a)(i) of this subsection. On and after April 1, 2013, you must be in compliance with (a)(i) of this subsection.

(ii) Review and make a determination on a borrower's completed loan modification application within thirty days of receipt.

(iii) Provide in the loan modification denial notice the reasons for denial and an opportunity for the homeowner to rebut the denial within thirty days. If the denial is due to the terms of an agreement between you and an investor, you must provide the name of the investor and a summary of the reason for the denial. If the denial is based on a net present value (NPV) model, you must provide the data inputs used to determine the NPV. Any loan modification denials must be reviewed internally by an independent evaluation process within thirty days of the denial determination or the mailing of the notice of denial to the borrower, whichever occurs earlier. See (b) of this subsection for additional requirements on borrower appeals.

(iv) Review and consider any complete loan modification application before referring a delinquent loan to foreclosure.

(v) Give a homeowner ten business days from your notice to them to correct any deficiencies in their loan modification application.

(vi) Stop the foreclosure from proceeding further if you receive a complete loan modification application. See (a)(viii) and (ix) of this subsection.

(vii) If the borrower accepts a loan modification verbally, in writing, or by making the first trial payment, you must suspend the foreclosure proceeding until such time as the borrower may fail to perform the terms of the loan modification.

(viii) Review and consider a complete loan modification application if received prior to thirty-seven days before a scheduled foreclosure sale. If you offer the borrower a loan modification, you must delay a pending foreclosure sale to provide the borrower with fourteen days in which to accept or deny the loan modification offer. If the borrower accepts a loan modification, you must suspend the foreclosure proceeding until such time as the borrower may fail to perform the terms of the loan modification.

(ix) Perform an expedited review of any complete loan modification application submitted between thirty-seven and fifteen days before the scheduled foreclosure sale. If you offer the borrower a loan modification, you must delay a pending foreclosure sale to provide the borrower with fourteen days in which to accept or deny the loan modification offer. If the borrower accepts a loan modification, you must suspend the foreclosure proceeding until such time as the borrower may fail to perform the terms of the loan modification.

(b) As to borrower appeals of loan modification denials you must:

(i) Give the borrower thirty days from your written notice of denial to request an appeal unless the denial is due to:

- (A) An ineligible mortgage;
- (B) An ineligible property;
- (C) The borrower did not accept the offer; or
- (D) The loan was previously modified.

(ii) Give the borrower the opportunity to obtain a full appraisal for purposes of contesting appraisal data used in a denial based on NPV.

(iii) Respond to the borrower's appeal within thirty days of receipt.

(iv) Provide the borrower with a description of any other loss mitigation option available if you uphold the denial.

(c) When a loan modification is granted, you must provide the borrower with a copy of the fully executed loan modification agreement within thirty days of receipt of the signed agreement from the borrower. A loan modification granted orally must be reduced to a written document with a summary of all of the terms and must be provided to the borrower within thirty days of approval of the loan modification.

(d) You must maintain adequate staffing levels and systems to comply with this section, including staffing and systems to track and maintain loan modification documents submitted by homeowners.

(e) You must make public all necessary information to inform homeowners about and allow homeowners to apply for your proprietary first and second lien modifications.

(f) You must make public all necessary information to inform homeowners about your short sale requirements.

(g) You must allow a homeowner to apply for and receive a short sale determination before the homeowner puts a house on the market.

(7) Foreclosure.

(a) Before you refer a loan to foreclosure, you must document in the loan file evidence to substantiate the borrower's default and your right to foreclose. The file must also contain loan ownership information.

(b) If a borrower's property goes into foreclosure and the foreclosure sale occurs, you must notify the borrower within three business days of sale of the completion of the sale. You must mail the notification to the borrower's last known address provided to you.

(8) Contracting with other parties. You must adopt written policies and procedures for the oversight of third-party providers including, but not limited to, foreclosure trustees, foreclosure firms, subservicers, agents, subsidiaries, and affiliates. You must maintain the policies and procedures as

part of your books and records and must provide them to the department when directed to do so.

(9) See also WAC 208-620-551.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 208-620-045 How does the department interpret the definition of residential mortgage loan modification services in RCW 31.04.015(23)?
- WAC 208-620-055 How does the department interpret the definition of service or servicing a loan in RCW 31.04.015(26)?
- WAC 208-620-245 Does the Consumer Loan Act allow me to make one or two loans without being licensed?
- WAC 208-620-252 If I am offering loans by mail or internet to Washington residents, do I have to license those locations?

WSR 13-24-025

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed November 22, 2013, 2:01 p.m., effective December 23, 2013]

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

Purpose: General licensing: Chapter 246-232 WAC, Radioactive material—Licensing applicability; chapter 246-233 WAC, Radioactive materials—General licenses; and chapter 246-235 WAC, Radioactive materials—Specific licenses. The department is adopting federal rule changes to make Washington state rules consistent with the federal Nuclear Regulatory Commission's (NRC) rules and make editorial changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-232-013; and amending WAC 246-232-001, 246-232-006, 246-232-007, 246-232-008, 246-232-009, 246-232-010, 246-232-011, 246-232-012, 246-232-014, 246-232-020, 246-232-040, 246-232-050, 246-232-060, 246-232-080, 246-232-130, 246-233-001, 246-233-005, 246-233-010, 246-233-012, 246-233-015, 246-233-020, 246-233-025, 246-233-030, 246-233-035, 246-233-040, 246-235-010, 246-235-075, 246-235-080, 246-235-090, 246-235-091, 246-235-093, 246-235-097, 246-235-100, 246-235-102, 246-235-103, 246-235-105, and 246-235-130.

Statutory Authority for Adoption: RCW 70.98.050.

Adopted under notice filed as WSR 13-18-049 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 37, Repealed 1; 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 37, Repealed 1.

Date Adopted: November 21, 2013.

Jessica Todorovich
Deputy Secretary
for John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-232-001 Purpose and scope. (1) This chapter prescribes rules governing licensing of radioactive material. ((A)) No person ((may not)) shall manufacture, produce, transfer, receive, acquire, own, possess, or use(, transfer, own or acquire)) radioactive material except:

(a) As authorized in a specific or general license issued under chapters 246-233 or 246-235 WAC;

(b) As authorized in a specific or general license issued under regulations of NRC or an agreement state equivalent to chapters 246-233 or 246-235 WAC; or

(c) As otherwise provided in this chapter.

(2) In addition to the requirements of this chapter, and chapters 246-233 or 246-235 WAC, all licensees must comply with chapters 246-220, 246-221, 246-222, 246-231, 246-247, and 246-254 WAC. Licensees engaged in the practice of nuclear medicine are subject to chapter 246-240 WAC, licensees engaged in industrial radiographic operations are subject to chapter 246-243 WAC, licensees using sealed sources in the healing arts are subject to chapter 246-240 WAC, licensees using radioactive material in well logging and subsurface tracer studies are subject to chapter 246-244 WAC, licensees engaged in land disposal of radioactive waste are subject to chapter 246-250 WAC, and licensees owning or operating uranium or thorium mills and associated mill tailings are subject to chapter 246-252 WAC.

(3) No person may introduce radioactive material into a product or material, knowing or having reason to believe that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-232-006 Exemption of certain source material. (1) A person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, ((owns, or)) transfers, or delivers, source material in any

chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution, or alloy.

(2) A person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material, provided such person shall not refine or process such ore unless authorized to do so in a specific license.

(3) A person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses or transfers:

(a) Any quantities of thorium contained in:

(i) Incandescent gas mantles;

(ii) Vacuum tubes;

(iii) Welding rods;

(iv) Electric lamps for illuminating purposes if each lamp contains fifty milligrams or less of thorium;

(v) Germicidal lamps, sunlamps and lamps for outdoor or industrial lighting if each lamp contains two grams or less of thorium;

(vi) Rare earth metals and compounds, mixtures, and products containing 0.25 percent or less by weight thorium, uranium, or any combination of these; or

(vii) Personnel neutron dosimeters if each dosimeter contains 1.85 gigabecquerels (50 milligrams) or less of thorium;

(b) Source material contained in the following products:

(i) Glazed ceramic tableware if the glaze contains twenty percent or less by weight source material; and

(ii) Piezoelectric ceramic containing two percent or less by weight source material;

(c) Photographic film, negatives and prints containing uranium or thorium;

(d) Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys if the thorium content of the alloy is four percent or less by weight. The exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Thorium contained in finished optical lenses if each lens contains thirty percent or less by weight of thorium. The exemption contained in this subparagraph shall not be deemed to authorize either:

(i) The shaping, grinding or polishing of lens or manufacturing processes other than the assembly of such lens into optical systems and devices without alteration of the lens; or

(ii) The receipt, possession, use or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments;

(f) Uranium contained in detector heads for use in fire detection units if each detector head contains 185 becquerels (0.005 microcuries) or less of uranium; or

(g) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy if:

(i) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(ii) The thorium content in the nickel-thoria alloy is four percent or less by weight.

(4) The exemptions in subsection (3) of this section do not authorize the manufacture of any of the products described.

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-007 Exemption of certain depleted uranium items. (1) A person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses or transfers:

(a) Depleted uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles, or stored or handled in connection with installation or removal of such counterweights if:

(i) The counterweights are manufactured in accordance with a specific license issued by the ((United States Nuclear Regulatory Commission)) NRC authorizing distribution by the licensee pursuant to 10 C.F.R. Part 40;

(ii) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM"*;

(iii) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"*; and

(iv) The exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweight other than repair or restoration of any plating or other covering;

*Note: The requirements specified in (c) (v) (B) and (C) of this subsection need not be met by counterweights manufactured prior to December 31, 1969: Provided, That such counterweights are impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM," as previously required by the ((regulations)) rules.

(b) Natural or depleted uranium used as shielding constituting part of any shipping container which is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM" and the uranium metal is encased in mild steel or in an equally fire resistant metal of a minimum wall thickness of 3.2 millimeters.

(2) The exemptions in this subsection do not authorize the manufacture of any of the products described.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-232-008 Exemption of certain timepieces, hands or dials. A person is exempt from ((these regulations)) the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, transfers, owns or acquires, and does not apply radioactive material to, or incorporate radioactive material into, the following timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation*:

*Note: ((Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or by product material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission)) No person may introduce radioactive material into a product or material, knowing or having reason to believe that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

(1)(a) 925 megabecquerels (25 millicuries) ~~((or less))~~ of tritium per timepiece;

(b) 185 megabecquerels (5 millicuries) ~~((or less))~~ of tritium per hand;

(c) 555 megabecquerels (15 millicuries) ~~((or less))~~ of tritium per dial (bezels when used shall be considered as part of the dial);

(d) 3.7 megabecquerels (100 microcuries) ~~((or less))~~ of promethium-147 per watch or 7.4 megabecquerels (200 microcuries) ~~((or less))~~ of promethium-147 per any other timepiece;

(e) 740 kilobecquerels (20 microcuries) ~~((or less))~~ of promethium-147 per watch hand or 1.48 megabecquerels (40 microcuries) ~~((or less))~~ of promethium-147 per other timepiece hand;

(f) 2.22 megabecquerels (60 microcuries) ~~((or less))~~ of promethium-147 per watch dial or 4.44 megabecquerels (120 microcuries) ~~((or less))~~ of promethium-147 per other timepiece dial (bezels when used shall be considered as part of the dial);

(2) The levels of radiation from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(a) For wrist watches, 1 microgray (0.1 millirad) per hour at 10 centimeters from any surface;

(b) For pocket watches, 1 microgray (0.1 millirad) per hour at 1 centimeter from any surface;

(c) For any other timepiece, 2 micrograys (0.2 millirad) per hour at 10 centimeters from any surface.

(3) 37 kilobecquerels (1 microcurie) of radium-226 per timepiece in intact timepieces manufactured prior to ~~((the effective date of these regulations))~~ November 30, 2007.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-232-009 Exemption of certain items containing radioactive material. A person is exempt from ~~((these regulations))~~ the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent the person receives, possesses, uses, transfers, owns or acquires, and does not apply radioactive material to, or incorporate radioactive material into, the following products:*

*Note: ((Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or by product material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission)) No person may introduce radioactive material into a product or material, knowing or having reason to believe that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

~~(1) ((Lock illuminators containing 555 megabecquerels (15 millicuries) or less of tritium or 74 megabecquerels (2 millicuries) or less of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed 10 micrograys (1 millirad) per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.~~

~~(2) Precision))~~ Balances of precision containing not more than 37 megabecquerels (1 millicurie) ((or less)) of tritium per balance or 18.5 megabecquerels (0.5 millicurie) ((or less)) of tritium per balance part manufactured before December 17, 2007.

~~((3) Automobile shift quadrants containing 925 megabecquerels (25 millicuries) or less of tritium.~~

~~(4))~~ (2) Marine compasses containing not more than 27.8 gigabecquerels (750 millicuries) ((or less)) of tritium gas and other marine navigational instruments containing not more than 9.25 gigabecquerels (250 millicuries) ((or less)) of tritium gas manufactured before December 17, 2007.

~~((5) Thermostat dials and pointers containing 925 megabecquerels (25 millicuries) or less of tritium per thermostat.~~

~~(6))~~ (3) Ionization chamber smoke detectors containing not more than 37 kilobecquerels (1 microcurie) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

(4) Electron tubes* ((#)) provided that each tube contains no more than one of the following specified quantities of radioactive material and the levels of radiation from each electron tube do not exceed 10 micrograys (1 millirad) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber:

(a) 5.55 gigabecquerels (150 millicuries) ((or less)) of tritium per microwave receiver protector tube or 370 megabecquerels (10 millicuries) ((or less)) of tritium per any other electron tube;

(b) 37 kilobecquerels (1 microcurie) ((or less)) of cobalt-60;

(c) 185 kilobecquerels (5 microcuries) ((or less)) of nickel-63;

(d) 1.11 megabecquerels (30 microcuries) ((or less)) of krypton-85;

(e) 185 kilobecquerels (5 microcuries) ((or less)) of cesium-137;

(f) 1.11 megabecquerels (30 microcuries) ((or less)) of promethium-147((;))

~~(g) 37 kilobecquerels (1 microcurie) or less of radium-226;~~

*Note: For purposes of this ~~(subdivision)~~ subsection, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

~~((7)) (5)~~ Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more ~~((but not to exceed 10 exempt))~~ sources of radioactive material~~(-)~~, provided that:

(a) Each ~~((individual))~~ source ~~((shall not exceed 1.85 kilobecquerels (0.05 microcuries) of americium-241 or the applicable))~~ contains not more than one exempt quantity set forth in WAC 246-232-120, Schedule B~~(-)~~, exempt quantities of radioactive materials; and

(b) ~~((An individual source may contain more than one radionuclide but the total quantity in the individual source shall not exceed unity based on the sum of the fractional parts of one or more of the exempt quantities set forth in WAC 246-232-120, Schedule B. For purposes of this subsection, 1.85 kilobecquerels (0.05 microcuries) of americium-241 is considered an exempt quantity.~~

~~(8) Spark gap irradiators containing 37 kilobecquerels (1 microcurie) or less of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons (11.4 liters) per hour-))~~ Each instrument contains no more than 10 exempt quantities. For purposes of this subsection, an instrument's source(s) may contain either one type or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in WAC 246-232-120, Schedule B, exempt quantities of radioactive materials, provided that the sum of such fractions must not exceed unity.

(c) For purposes of this subsection, 1.85 kilobecquerels (0.05 microcurie) of americium-241 is considered an exempt quantity.

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-010 Exempt concentrations and exempt quantities. This section shall not be deemed to authorize the import of radioactive material or products containing radioactive material.

(1) Exempt concentrations.

(a) Except as provided in (b) of this subsection, a person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, transfers, owns or acquires, and does not apply radioactive material to, or incorporate radioactive material into, products or materials containing radioactive material in concentrations ((less than or equal to)) in excess of those ((listed)) in WAC 246-232-130, Schedule C, exempt concentrations.

(b) No person may introduce radioactive material into a product or material~~(-)~~ knowing, or having reason to believe, that it will be transferred to persons exempt under ~~((a) of)~~

this ~~((subsection))~~ section or equivalent regulations of the ~~((United States Nuclear Regulatory Commission, any))~~ NRC or an agreement state ((or licensing state)), except in accordance with a specific license issued ((under WAC 246-235-105 or the general license provided in WAC 246-232-040)) by the NRC, Washington, D.C. 20555.

(c) A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that this person transfers radioactive material contained in a product or material in concentrations not in excess of those specified in WAC 246-232-130, Schedule C, and introduced into the product or material by a licensee holding a specific license issued by the NRC expressly authorizing such manufacture or introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(2) Exempt quantities.

(a)(i) Except as provided in (b) ~~((and (e)))~~ through (d) of this subsection, ~~((a))~~ any person is exempt from ((these regulations)) the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that such person receives, possesses, uses, transfers, owns, or acquires, and does not apply radioactive material to, or incorporate radioactive material into, radioactive material in individual quantities, each of which ((is less than or equal to)) does not exceed the applicable quantity set forth in WAC 246-232-120, Schedule B, exempt quantities of radioactive materials.

(ii) Any person who possesses radioactive material received or acquired under the general license is exempt from the requirements for a license set forth in chapters 246-333, 246-235 WAC, and this chapter to the extent that such person uses, transfers, or owns such radioactive material. Such exemption does not apply for Radium-226 or use by agreement states whose regulations formerly contained a general license for small quantities of radioactive material.

(b) This subsection does not authorize the production, packaging ~~((or))~~, repackaging, or transfer of radioactive material for the purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(c) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in WAC 246-232-120, Schedule B, exempt quantities of radioactive materials, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under ((subsection (2) of)) this section or equivalent ((regulations)) rules of the ((United States Nuclear Regulatory Commission)) NRC or ((any)) an agreement state ((or licensing state)), except in accordance with a specific license issued by the ((United States Nuclear Regulatory Commission, under Section 32.18 of 10 C.F.R. Part 32 or by the department under WAC 246-235-105 which license states that the radioactive material may be transferred by the licensee to persons exempt under subsection (2) of this section or the equivalent regulations of the United States

Nuclear Regulatory Commission or any agreement state or licensing state)) NRC, Washington, D.C. 20555.

(d) No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by this exemption so that the aggregate quantity exceeds the limits set forth in WAC 246-232-120, Schedule B, exempt quantities of radioactive materials, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by these rules.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-232-011 Exemption of certain self-luminous products containing radioactive material(s). (1) Hydrogen-3 (Tritium), krypton-85, or promethium-147. A person is exempt from ((these regulations)) the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, transfers, owns or acquires, and does not manufacture, process, produce, apply radioactive material to, incorporate radioactive material into, or initially transfer for sale or distribution, self-luminous products containing hydrogen-3 (tritium), krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, imported or initially transferred in accordance with a specific license issued by the ((United States Nuclear Regulatory Commission under Section 32.22 of 10 C.F.R. Part 32, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements)) NRC. The exemption in this subsection does not apply to hydrogen-3, (tritium), krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

(2) ((Radium 226. A person is exempt from these regulations to the extent that the person receives, possesses, uses, transfers or owns articles containing less than 3.7 kilobecquerels (0.1 microcurie) of radium-226 which were manufactured prior to October 1983.)) No person may introduce radioactive material into a product or material knowing, or having reason to believe, that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-012 Exemption of certain gas and aerosol detectors containing radioactive material. (1) A person is exempt from ((these regulations)) the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, transfers, owns or acquires, and does not apply radioactive material to, or incorporate radioactive material into, manufacture, process or produce, radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards if the detectors have been manufactured, imported, or transferred in accordance with a specific license issued by the ((United States Nuclear Regu-

latory Commission* or an agreement state, under Section 32.26 of 10 C.F.R. Part 32, or licensing state under WAC 246-235-105, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements)) NRC.

(*Note: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or by product material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.)

(2) ((Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an agreement state shall be considered exempt under subsection (1) of this section if the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device and if the device meets the requirements of WAC 246-235-105.

(3) Gas and aerosol detectors containing naturally occurring and accelerator produced radioactive material (NARM) previously manufactured and distributed in accordance with a specific license issued by a licensing state shall be considered exempt under subsection (1) of this section if the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and if the device meets the requirements of WAC 246-235-105.)) No person may introduce radioactive material into a product or material knowing, or having reason to believe, that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-232-014 Exemption of C-14 urea diagnostic capsules for human use. (1) Except as provided in subsections (2) and (3) of this section, a person is exempt from the requirements for a license ((set forth in)) and from this chapter and chapters 246-233 and 246-235 WAC if the person receives, possesses, uses, transfers, owns, or acquires, and does not apply radioactive material to, or incorporate radioactive material into, capsules containing 37 kilobecquerels (1 microcurie) of carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for "in-vivo" diagnostic use for humans.

(2) A person who desires to use the capsules for research involving human subjects ((shall)) must apply for and receive a specific license under chapters 246-240 and 246-235 WAC.

(3) A person who desires to manufacture, prepare, process, produce, package, repack, or transfer for commercial distribution these capsules ((shall apply for and receive)) must do so in accordance with a specific license ((from)) issued by the ((United States Nuclear Regulatory Commission under Section 32.21 of 10 C.F.R. Part 32)) NRC, Washington, D.C. 20555.

(4) Nothing in this section relieves persons from complying with applicable United States Food and Drug Administra-

tion, ~~((other))~~ federal, and state requirements governing receipt, administration, and use of drugs.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-232-020 Types of licenses. Licenses for radioactive material(s) are of two types: General and specific.

(1) A general license(s) is provided (in chapter 246-233 WAC are) by regulation and grants authority to a person for certain activities involving radioactive material, and is effective without ((the)) filing ((of)) an application(s) with the department or ((the)) issuance of licensing documents to ((the)) a particular person(s, although). However, registration or the filing of a certificate with the department may also be required by the particular general license. The general licensee is subject to all other applicable ((portions of these regulations)) rules and any limitations of the general license.

(2) ((Specific licenses require the submission)) The department issues a specific license to a named person, after review and approval of an application ((to the department and the issuance of a licensing document by the department)). The licensee is subject to all applicable ((portions of these regulations as well as)) rules, including chapter 246-235 WAC, Radioactive materials - Specific licenses, and any limitations specified in the ((licensing document)) specific license. ((See chapter 246-235 WAC.))

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-232-040 Reciprocal recognition of licenses. Before radioactive material can be used at any temporary job site, the jurisdictional status of the job site must be determined. Authorization for use of radioactive material at job sites under exclusive federal jurisdiction must be obtained from the appropriate regional office of the NRC, Washington, D.C. 20555. Before radioactive materials can be used as a temporary job site in another state, authorization must be obtained from that state if it is an agreement state, or from the NRC if it is a nonagreement state.

(1) ((Subject to these regulations, any)) A person ((who holds)) authorized by a ((specific)) license ((from)) issued by the ((United States Nuclear Regulatory Commission)) NRC or ((any)) an agreement state ((or licensing state, and)), may obtain authorization from the department to work in Washington state provided:

(a) The out-of-state license is issued by the ((agency having)) NRC or agreement state with jurisdiction where the licensee maintains an office for directing the licensed ((activity)) work and ((at which)) for retaining radiation safety records ((are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this));

(b) The out-of-state licensee must not possess or use radioactive materials or conduct authorized work in Washington state for ((a period not in excess of)) more than one hundred eighty days in that twelve month period which ((commences)) starts the date approval is granted, and the

appropriate fee is received((;)) by the department ~~((provided that:~~

~~((a)))~~, as required in chapter 246-254 WAC;

~~((c))~~ The out-of-state licensing document ~~((does not limit the activity authorized by such document to specified installations or locations))~~ authorizes the work conducted;

~~((b))~~ (d) The licensed ~~((activity))~~ work is not conducted in an area under exclusive federal jurisdiction;

~~((e))~~ (e) The appropriate fee is currently paid, as required in chapter 246-254 WAC. Licensees send fees to Washington State Department of Health, Revenue Accounting, P.O. Box 1099, Olympia, Washington 98504-1099;

(f) The out-of-state licensee notifies the department in writing ~~((and pays or has paid the appropriate fee (refer to chapter 246-254 WAC.))~~ at least three days ~~((prior to))~~ before each entry ~~((to the))~~ into Washington state to ~~((engage in such activity))~~ conduct licensed work.

(i) The written notification must be sent to the Radioactive Materials Section, Department of Health, ~~((Mailstop))~~ P.O. Box 47827, Olympia, Washington 98504-7827 ~~((and the fee should be sent to Washington State Department of Health, Revenue Accounting, P.O. Box 1099, Olympia, Washington 98504. Such))~~. Fax, e-mail, or other notifications may be approved by the department.

(ii) The written notification ~~((shall indicate the))~~ must include use and storage location(s), ~~((period,))~~ start and end dates of licensed work, and type of proposed possession and use ~~((within the))~~ in Washington state, and ~~((shall be accompanied by copies of the pertinent))~~ must include licensing documents authorizing the licensed work.

(iii) ~~((If ((for a specific case,)) an unexpected need or emergency means the three-day ((period)) notice is impossible or would impose an undue hardship on the out-of-state licensee, the out-of-state licensee may ((upon)) telephone ((application to)) the department (((360-236-3220)) 360-236-3221), ((obtain)) for permission to proceed ((sooner)) immediately.~~

(iv) The department may waive the requirement for filing additional written notifications during the remainder of the twelve months following the receipt of the initial notification ~~((from a person engaging in activities under the general license provided in this subsection;~~

~~((d)))~~.

(g) The out-of-state licensee ~~((complies with all applicable regulations of the department and with all the terms and conditions of the licensing document, except any such terms and conditions which may be inconsistent with applicable regulations of the department;~~

(e) The out-of-state licensee supplies such other information as the department may request; and

~~((f))~~ must:

(i) Comply with all terms and conditions of the licensing document issued by the licensing authority except such terms or conditions contrary to the requirements or rules of the department or this section;

(ii) Comply with all applicable rules, terms and conditions of the department; and

(iii) Promptly provide other information the department may request.

(h) The out-of-state licensee must request approval for changes in work locations, radioactive material, or work conducted if different from the most recent information provided to the department.

(i) The out-of-state licensee ~~((shall))~~ may not transfer or dispose of radioactive material ~~((possessed or used under the general license provided in this subsection))~~ except by transfer to a person~~((:~~

~~((i))~~ specifically licensed by the department or by the ~~((United States Nuclear Regulatory Commission,))~~ NRC or an agreement state ~~((or a licensing state))~~ to receive such material~~((:~~

~~((ii))~~ Exempt from the requirements for a license for such material under WAC 246-232-010(1)).

(j) The out-of-state specific licensee may possess or use radioactive material or conduct authorized work in offshore waters for more than one hundred eighty days in any calendar year, if the specific license issued by an agreement state or the NRC authorizes the specific licensee to possess or use radioactive material or conduct authorized work in offshore waters for an unlimited period of time.

(2) ~~((Notwithstanding the provisions of subsection (1) of this section, any))~~ A person who holds a specific license issued by the ~~((United States Nuclear Regulatory Commission,))~~ NRC or an agreement state ~~((or a licensing state))~~ authorizing the holder to manufacture, ~~((transfer,))~~ install, or service a device described in WAC 246-233-020 within the areas subject to the jurisdiction of the licensing body is hereby granted a general license to install~~((, transfer, demonstrate or))~~ and service ~~((a))~~ such device in this state in areas not under exclusive federal jurisdiction provided ~~((that))~~:

(a) Such person ~~((shall))~~ must file a report with the department within thirty days after the end of each calendar quarter in which any device is transferred or from, or installed in this state. Each ~~((such))~~ report ~~((shall))~~ must identify each general licensee to or from whom such device is transferred by name and address, the ~~((type of))~~ device ~~((transferred))~~ manufacturer (or initial transferor), model number and serial number, and the quantity and type of radioactive material contained in the device;

(b) The device has been, and is, manufactured, labeled, installed, and serviced in accordance with applicable provisions of the specific license issued to ~~((such))~~ a person by the ~~((United States Nuclear Regulatory Commission,))~~ NRC or an agreement state ~~((or a licensing state))~~;

(c) Such person ~~((shall assure))~~ must ensure that any labels required to be affixed to the device under ~~((regulations))~~ rules of the authority which licensed the manufacture of the device bear a statement that ~~((the))~~ removal of ~~((this))~~ the label is prohibited~~((:))~~; and

(d) The ~~((holder of the))~~ specific ~~((license shall furnish to))~~ licensee must provide each general licensee to and from whom such device is transferred, or on whose premises such device is installed, a copy of the general license ~~((contained))~~ in WAC 246-233-020~~((:))~~.

(3) The department may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed pursuant to such licensing document, upon determining that such action is necessary ~~((in order))~~ to prevent undue

hazard to public health and safety, or to the environment, or to property.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-232-050 Terms and conditions of licenses.

(1) Each license issued pursuant to this part shall be subject to all the provisions of the act, as now or hereafter in effect, and to all rules, regulations, and orders of the department.

(2) No license issued or granted under chapters 246-232, 246-233 ~~((and)),~~ or 246-235 WAC and no right to possess or ~~((utilize))~~ use radioactive material granted by any license issued pursuant to chapters 246-233 and 246-235 WAC shall be transferred, assigned, or in any manner disposed, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the department shall, after securing full information, find that the transfer is in accordance with the provisions of the act, and ~~((shall))~~ gives its consent in writing.

(3) Each person licensed by the department pursuant to chapters 246-233 and 246-235 WAC shall confine use and possession of the material licensed to the locations and purposes authorized by the license.

(4) Approval of licensee's procedures by the department does not release the licensee from responsibility if adherence to these procedures results in undue exposure to individuals or loss of control of radioactive material.

(5) Each specific licensee ~~((shall))~~ must notify the department of health, office of radiation protection, in writing, ~~((within five working days))~~ immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(a) The licensee;

(b) ~~((A person))~~ An entity (as the term is defined in 11 U.S.C. 101(15)) controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate (as the term is defined in 11 U.S.C. 101(2)) of the licensee.

(6) The specific licensee's bankruptcy notification must include:

(a) The bankruptcy court in which the petition for bankruptcy was filed;

(b) The date of the filing of the petition;

(c) A complete and detailed inventory of all radioactive material possessed under the license including nuclide, form, activity and planned disposition;

(d) An estimation of the type and quantities of radioactive material the licensee plans to continue to receive ~~((and/))~~ or use on a routine basis;

(e) A description of security and storage for the radioactive material currently possessed;

(f) A plan for radioactive waste disposal, the estimated completion date(s), and the cost;

(g) An evaluation of facility and equipment contamination, estimate of clean-up costs, and a decontamination plan which includes a thorough description of how the cleanup will be funded and how it will be accomplished;

(h) An organizational chart specifying sole owners, partnerships, or officers in the corporation who have legal and fiscal responsibilities for the licensee;

(i) A description of any other changes affecting the terms and conditions of the radioactive materials license.

(7) Each specific licensee (~~shall~~) must notify the department within five working days if any items in subsection (6) of this section change during bankruptcy proceedings.

(8) The department will consider clean-up costs as part of the licensee's administrative costs if decontamination is necessary to comply with these regulations;

(9) Each general licensee (~~that is~~) required to register by WAC 246-233-020 (3)(k) (~~shall~~) must notify the department of health, radiation protection, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(a) The licensee;

(b) (~~A person~~) An entity (as that term is defined in 11 U.S.C. 101(15)) controlling the licensee or listing the licensee as property of the estate; or

(c) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

(10) The general licensee's bankruptcy notification must include:

(a) The bankruptcy court in which the petition for bankruptcy was filed; and

(b) The date of the filing of the petition.

(11) For the purposes of this section, "affiliate" means:

(a) A person as defined in WAC 246-220-010 that directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the licensee (unless that person holds such securities (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities, or (ii) solely to secure a debt, if such person has not in fact exercised such power to vote);

(b) A corporation, twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the licensee;

(c) A person whose business is operated under a lease or operating agreement by a licensee, or person substantially all of whose property is operated under an operating agreement with the licensee; or

(d) A person that operates the business or substantially all of the property of the licensee under a lease or operating agreement.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-232-060 Termination of licenses and decommissioning of sites and separate buildings or outdoor areas. (1) Each specific licensee shall immediately notify the department in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license and request termination of the license. This notification and request for termination of the license must include the reports and information specified in

subsection (3)(c) and (d) of this section. The licensee is subject to the provisions of subsections (3) and (4) of this section, as applicable.

(2) No less than thirty days before the expiration date specified in a specific license, the licensee shall either:

(a) Submit an application for license renewal under WAC 246-235-050; or

(b) Notify the department in writing if the licensee decides not to renew the license.

(3) If a specific licensee does not submit an application for license renewal under WAC 246-235-050, the licensee shall on or before the expiration date specified in the license:

(a) Terminate use of radioactive material;

(b) Properly dispose of radioactive material;

(c) Submit a completed departmental form "Certificate of disposition of radioactive material" or equivalent; and

(d) Submit a radiation survey report to confirm the absence of radioactive materials or establish the levels of radioactive contamination, unless the department determines a radiation survey report is not necessary.

(i) If no radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and subsection (3)(c) and (d) of this section is adequate, the department will notify the licensee in writing that the license is terminated.

(ii) If detectable levels of radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material present as contamination until the licensee meets the criteria established in chapter 246-246 WAC and the department notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of subsection (4) of this section. In addition to the information submitted under subsection (3)(c) and (d) of this section, the licensee shall submit a plan for decontamination, if necessary.

(4) Each specific licensee who possesses residual radioactive material under subsection (3)(d)(ii) of this section, following the expiration of the (~~facility and/or equipment date specified in the~~) license, shall:

(a) Be limited to actions, involving radioactive material related to decontamination and preparation for release in accordance with chapter 246-246 WAC; and

(b) Continue to control entry to restricted areas until:

(i) Such areas are suitable for release in accordance with chapter 246-246 WAC;

(ii) Contaminated equipment complies with guidance contained in WAC 246-232-140, Schedule D; and

(iii) The department notifies the licensee in writing that the license is terminated.

(5) Each general licensee licensed under the provisions of WAC 246-233-040, shall immediately notify the department in writing when the licensee decides to discontinue all activities involving radioactive materials authorized under the general license. Such notification shall include a description of how the generally licensed material was disposed and

the results of facility surveys, if applicable, to confirm the absence of radioactive materials.

(6) Within sixty days of the occurrence of any of the following, each specific licensee shall provide notification to the department in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the site, building, or outdoor area is suitable for release in accordance with chapter 246-246 WAC, or submit within twelve months of notification a decommissioning plan, if required by subsection (10)(a) of this section, and begin decommissioning upon approval of that plan if:

(a) The license has expired or has been revoked by the department; or

(b) The licensee has decided to permanently cease principal activities, as defined in this section, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the site, building, or outdoor area is unsuitable for release in accordance with chapter 246-246 WAC; or

(c) No principal activities under the license have been conducted for a period of twenty-four months; or

(d) No principal activities have been conducted for a period of twenty-four months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with chapter 246-246 WAC.

(7) As used in this section, principal activities means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(8) Coincident with the notification required by subsection (6) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to WAC 246-235-075 or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to subsection (10)(d)(v) of this section. Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the department.

(9) The department may grant a request to extend the time periods established in subsection (6) of this section if the department determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than thirty days before notification pursuant to subsection (6) of this section. The schedule for decommissioning set forth in subsection (6) of this section may not commence until the department has made a determination on the request.

(10)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the department and these procedures could

increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) The department may approve an alternate schedule for submittal of a decommissioning plan required pursuant to subsection (6) of this section if the department determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in (a) of this subsection with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(ii) A description of planned decommissioning activities;

(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey;

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning;

(vi) A description of the physical security plan and material control and accounting plan provisions in place during decommissioning;

(vii) For decommissioning plans calling for completion of decommissioning later than twenty-four months after plan approval, the plan shall include a justification for the delay based on the criteria in subsection (12) of this section.

(e) The proposed decommissioning plan will be approved by the department if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(11)(a) Except as provided in subsection (12) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than twenty-four months following the initiation of decommissioning.

(b) Except as provided in subsection (12) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than twenty-four months following the initiation of decommissioning.

(12) The department may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the department determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted twenty-four-month period;

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted twenty-four-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the department may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(13) As the final step in decommissioning, the licensee shall:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed certificate of disposition of radioactive material or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC. The licensee shall, as appropriate:

(i) Report levels of gamma radiation in units of millisieverts (microrentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per one hundred square centimeters—removable and fixed—for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(14) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the department determines that:

(a) Radioactive material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC; and

(d) Records required by subsections (16) and (18) of this section have been received.

(15) Specific licenses for uranium and thorium milling are exempt from subsections (6)(d), (9) and (10) of this section with respect to reclamation of tailings impoundments ~~((and/))~~ or waste disposal areas.

(16) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than one hundred twenty days, in an unsealed form, shall forward the following records to the department:

(a) Records of disposal required by WAC 246-221-230 (8)(a); and

(b) Records of results required by WAC 246-221-230 (7)(h).

(17) If licensed activities are transferred or assigned in accordance with WAC 246-232-050(2), each licensee authorized to possess radioactive material, with a half-life greater than one hundred twenty days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) Records of disposal required by WAC 246-221-230 (8)(a); and

(b) Records of results required by WAC 246-221-230 (7)(h).

(18) Prior to license termination, each licensee shall forward the records required by WAC 246-235-075(6) to the department.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-232-080 Transfer of material. (1) No licensee shall transfer radioactive material except as authorized pursuant to this section.

(2) Except as otherwise provided in the license and subject to the provisions of this section, ~~((any))~~ a licensee may transfer radioactive material:

(a) To the department. A licensee may transfer material to the department only after receiving prior approval from the department;

(b) To the United States Department of Energy;

(c) To ~~((any))~~ a person exempt from the ~~((regulations))~~ rules in this part to the extent permitted under such exemption;

(d) To ~~((any))~~ a person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the department, the ~~((United States Nuclear Regulatory Commission, any))~~ NRC or an agreement state ~~((or any licensing state))~~, or to ~~((any))~~ a person otherwise authorized to receive such material by the federal government or ~~((any))~~ an agency thereof, the department, ~~((any))~~ or an agreement state ~~((or any licensing state))~~; or

(e) As otherwise authorized by the department in writing.

(3) Before transferring radioactive material to a specific licensee of the department, the ~~((United States Nuclear Regulatory Commission,))~~ NRC or an agreement state ~~((or a licensing state))~~, or to a general licensee who is required to

register with the department, the (~~United States Nuclear Regulatory Commission~~) NRC or an agreement state (~~or a licensing state~~) prior to receipt of the radioactive material, the licensee transferring the material (~~shall~~) must verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

(4) The following methods for the verification required by subsection (3) of this section are acceptable:

(a) The transferor may obtain for possession, and read, a current copy of the transferee's specific license or registration certificate;

(b) The transferor may obtain for possession a written certification from the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;

(c) For emergency shipments the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date: Provided, That the oral certification is confirmed in writing within ten days;

(d) The transferor may obtain other sources of information compiled by a reporting service from official records of the department, the (~~United States Nuclear Regulatory Commission~~) NRC or the licensing agency of an agreement state (~~or a licensing state~~) as to the identity of licensees and the scope and expiration dates of licenses and registration; or

(e) When none of the methods of verification described in subsection (4) of this section are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the department, the (~~United States Nuclear Regulatory Commission~~) NRC or the licensing agency of an agreement state (~~or a licensing state~~) that the transferee is licensed to receive the radioactive material.

(5) Preparation for shipment and transport of radioactive material (~~shall~~) must be in accordance with the provisions of WAC 246-232-090.

(6) The requirements of subsection (4) of this section notwithstanding, no verification is required when returning used, unused or decayed sources of radiation to the original manufacturer, (e.g., industrial radiography sources, high dose-rate afterloader sources, teletherapy sources, portable moisture/density gauge sources, fixed gauge sources, and Mo-99/Tc-99m or Rb-82/Sr-82 generators).

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-130 Schedule C, exempt concentrations. (See WAC 246-232-010(1).)

Element (atomic number)	(Isotope) Radionuclide	Column I Gas concentration μCi/ml ¹	Column II Liquid and solid concentration μCi/ml ²
Antimony (51)	Sb-122		3x10 ⁻⁴
	Sb-124		2x10 ⁻⁴
	Sb-125		1x10 ⁻³
Argon (18)	Ar-37	1x10 ⁻³	
	Ar-41	4x10 ⁻⁷	
Arsenic (33)	As-73		5x10 ⁻³
	As-74		5x10 ⁻⁴
	As-76		2x10 ⁻⁴
	As-77		8x10 ⁻⁴
Barium (56)	Ba-131		2x10 ⁻³
	Ba-140		3x10 ⁻⁴
Beryllium (4)	Be-7		2x10 ⁻²
Bismuth (83)	Bi-206		4x10 ⁻⁴
Bromine (35)	Br-82	4x10 ⁻⁷	3x10 ⁻³
Cadmium (48)	Cd-109		2x10 ⁻³
	Cd-115m		3x10 ⁻⁴
	Cd-115		3x10 ⁻⁴
Calcium (20)	Ca-45		9x10 ⁻⁵
	Ca-47		5x10 ⁻⁴
Carbon (6)	C-14	1x10 ⁻⁶	8x10 ⁻³
Cerium (58)	Ce-141		9x10 ⁻⁴
	Ce-143		4x10 ⁻⁴
	Ce-144		1x10 ⁻⁴
Cesium (55)	Cs-131		2x10 ⁻²
	Cs-134m		6x10 ⁻²
	Cs-134		9x10 ⁻⁵
Chlorine (17)	Cl-38	9x10 ⁻⁷	4x10 ⁻³
Chromium (24)	Cr-51		2x10 ⁻²
Cobalt (27)	Co-57		5x10 ⁻³
	Co-58		1x10 ⁻³
	Co-60		5x10 ⁻⁴
Copper (29)	Cu-64		3x10 ⁻³
Dysprosium (66)	Dy-165		4x10 ⁻³
	Dy-166		4x10 ⁻⁴
Erbium (68)	Er-169		9x10 ⁻⁴
	Er-171		1x10 ⁻³
Europium (63)	Eu-152 (9.2 h)		6x10 ⁻⁴
	Eu-155		2x10 ⁻³
	Eu-155		2x10 ⁻³
Fluorine (9)	F-18	2x10 ⁻⁶	8x10 ⁻³

Element (atomic number)	((Isotope)) Radionuclide	Column I Gas concentration μCi/ml ¹	Column II Liquid and solid concentration μCi/ml ²	Element (atomic number)	((Isotope)) Radionuclide	Column I Gas concentration μCi/ml ¹	Column II Liquid and solid concentration μCi/ml ²
Gadolinium (64)	Gd-153		2x10 ⁻³	Palladium (46)	Pd-103		3x10 ⁻³
	Gd-159		8x10 ⁻⁴		Pd-109		9x10 ⁻⁴
Gallium (31)	Ga-72		4x10 ⁻⁴	Phosphorus (15)	P-32		2x10 ⁻⁴
Germanium (32)	Ge-71		2x10 ⁻²	Platinum (78)	Pt-191		1x10 ⁻³
Gold (79)	Au-196		2x10 ⁻³		Pt-193m		1x10 ⁻²
	Au-198		5x10 ⁻⁴		Pt-197m		1x10 ⁻²
	Au-199		2x10 ⁻³		Pt-197		1x10 ⁻³
Hafnium (72)	Hf-181		7x10 ⁻⁴	Potassium (19)	K-42		3x10 ⁻³
Hydrogen (1)	H-3	5x10 ⁻⁶	3x10 ⁻²	Praseodymium (59)	Pr-142		3x10 ⁻⁴
Indium (49)	In-113m		1x10 ⁻²		Pr-143		5x10 ⁻⁴
	In-114m		2x10 ⁻⁴	Promethium (61)	Pm-147		2x10 ⁻³
Iodine (53)	I-125	3x10 ⁻⁹	2x10 ⁻⁵		Pm-149		4x10 ⁻⁴
	I-126	3x10 ⁻⁹	2x10 ⁻⁵	Radium (88)	Ra-226		1x10 ⁻⁷
	I-131	3x10 ⁻⁹	2x10 ⁻⁵		Ra-228		3x10 ⁻⁷
	I-132	8x10 ⁻⁸	6x10 ⁻⁴	Rhenium (75)	Re-183		6x10 ⁻³
	I-133	1x10 ⁻⁸	7x10 ⁻⁵		Re-186		9x10 ⁻⁴
	I-134	2x10 ⁻⁷	1x10 ⁻³		Re-188		6x10 ⁻⁴
Iridium (77)	Ir-190		2x10 ⁻³	Rhodium (45)	Rh-103m		1x10 ⁻¹
	Ir-192		4x10 ⁻⁴		Rh-105		1x10 ⁻³
	Ir-194		3x10 ⁻⁴	Rubidium (37)	Rb-86		7x10 ⁻⁴
Iron (26)	Fe-55		8x10 ⁻³	Ruthenium (44)	Ru-97		4x10 ⁻³
	Fe-59		6x10 ⁻⁴		Ru-103		8x10 ⁻⁴
Krypton (36)	Kr-85m	1x10 ⁻⁶			Ru-105		1x10 ⁻³
	Kr-85		3x10 ⁻⁶		Ru-106		1x10 ⁻⁴
Lanthanum (57)	La-140		2x10 ⁻⁴	Samarium (62)	Sm-153		8x10 ⁻⁴
Lead (82)	Pb-203		4x10 ⁻³	Scandium (21)	Sc-46		4x10 ⁻⁴
Lutetium (71)	Lu-177		1x10 ⁻³		Sc-47		9x10 ⁻⁴
Manganese (25)	Mn-52		3x10 ⁻⁴		Sc-48		3x10 ⁻⁴
	Mn-54		1x10 ⁻³	Selenium (34)	Se-75		3x10 ⁻³
	Mn-56		1x10 ⁻³	Silicon (14)	Is-31		9x10 ⁻³
Mercury (80)	Hg-197m		2x10 ⁻³	Silver (47)	Ag-105		1x10 ⁻³
	Hg-197		3x10 ⁻³		Ag-110m		3x10 ⁻⁴
	Hg-203		2x10 ⁻⁴		Ag-111		4x10 ⁻⁴
Molybdenum (42)	Mo-99		2x10 ⁻³	Sodium (11)	Na-24		2x10 ⁻³
Neodymium (60)	And-147		6x10 ⁻⁴	Strontium (38)	Sr-85		1x10 ⁻³
	And-149		3x10 ⁻³		Sr-89		1x10 ⁻⁴
Nickel (28)	Ni-65		1x10 ⁻³		Sr-91		7x10 ⁻⁴
Niobium (Columbium)(41)	Nb-95		1x10 ⁻³		Sr-92		7x10 ⁻⁴
	Nb-97		9x10 ⁻³	Sulfur (16)	S-35	9x10 ⁻⁸	6x10 ⁻⁴
Osmium (76)	So-185		7x10 ⁻⁴	Tantalum (73)	Ta-182		4x10 ⁻⁴
	So-191m		3x10 ⁻²	Technetium (43)	Tc-96m		1x10 ⁻¹
	So-191		2x10 ⁻³		Tc-96		1x10 ⁻³
	So-193		6x10 ⁻⁴				

Element (atomic number)	((Isotope)) Radionuclide	Column I Gas concentration μCi/ml ¹	Column II Liquid and solid concentration μCi/ml ²
Tellurium (52)	Te-125m		2x10 ⁻³
	Te-127m		6x10 ⁻⁴
	Te-127		3x10 ⁻³
	Te-129m		3x10 ⁻⁴
	Te-131m		6x10 ⁻⁴
	Te-132		3x10 ⁻⁴
Terbium (65)	Tb-160		4x10 ⁻⁴
Thallium (81)	Tl-200		4x10 ⁻³
	Tl-201		3x10 ⁻³
	Tl-202		1x10 ⁻³
	Tl-204		1x10 ⁻³
Thulium (69)	Tm-170		5x10 ⁻⁴
	Tm-171		5x10 ⁻³
Tin (50)	Sn-113		9x10 ⁻⁴
	Sn-125		2x10 ⁻⁴
Tungsten (Wolfram) (74)	W-181		4x10 ⁻³
	W-187		7x10 ⁻⁴
Vanadium (23)	V-48		3x10 ⁻⁴
Xenon (54)	Xe-131m	4x10 ⁻⁶	
	Xe-133	3x10 ⁻⁶	
	Xe-135	1x10 ⁻⁶	
Ytterbium (70)	Yb-175		1x10 ⁻³
Yttrium (39)	Y-90		2x10 ⁻⁴
	Y-91m		3x10 ⁻²
	Y-91		3x10 ⁻⁴
	Y-92		6x10 ⁻⁴
	Y-93		3x10 ⁻⁴
Zinc (30)	Zn-65		1x10 ⁻³
	Zn-69m		7x10 ⁻⁴
	Zn-69		2x10 ⁻²
Zirconium (40)	Zr-95		6x10 ⁻⁴
	Zr-97		2x10 ⁻⁴
Beta ((and/)) or gamma emitting radioactive material not listed above with half-life less than 3 years		1x10 ⁻¹⁰	1x10 ⁻⁶

Note 1: Many ~~((radioisotopes disintegrate))~~ radionuclides decay into ~~((isotopes))~~ nuclides which are also radioactive. In expressing the concentrations in Schedule C the activity stated is that of the parent ~~((isotope))~~ nuclide and takes into account the daughters.

Note 2: For purposes of WAC 246-232-010(1) where there is involved a combination of ~~((isotopes))~~ nuclides, the limit for the combination should be derived as follows: Determine for each ~~((isotope))~~ nuclide in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule C for the specific ~~((isotope))~~ nuclide when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

Example:

$$\frac{\text{Concentration of } \del((\text{Isotope})) \text{ Nuclide A in Product}}{\text{Exempt concentration of } \del((\text{Isotope})) \text{ Nuclide A}} + \frac{\text{Concentration of } \del((\text{Isotope})) \text{ Nuclide B in Product}}{\text{Exempt concentration of } \del((\text{Isotope})) \text{ Nuclide B}} \leq 1$$

Note 3: For the purpose of determining concentration in a product or device, the total quantity of radioactive material present is divided by only that weight or volume of the discrete part or component throughout which the radioactive material is relatively uniformly distributed. If the weight or volume of this part or component cannot be determined then the product or device should be evaluated on the basis of the total quantity of radioactive material present.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-232-013 Exemption of certain resins containing scandium-46 and designed for sand consolidation in oil wells.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-233-001 Purpose and scope. This chapter establishes general licenses for the possession and use of radioactive material ~~((contained in certain items))~~ and a general license for ownership of radioactive material. Chapter 246-232 WAC also contains provisions applicable to the general licenses established in this part.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-233-005 Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this chapter, ~~((this))~~ a general ~~((license does))~~ licensee under this section is not ~~((authorize the))~~ authorized to manufacture, ~~((production))~~ produce, transfer,

Notes: ¹ Values are given in Column I only for those materials normally used as gases
² μCi/gm for solids

~~((receipt)) receive, ((possession or)) possess, use ((of)), import or export radioactive material, except as authorized by a specific license.~~

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-233-010 General licenses—Source material. (1) A general license is hereby issued authorizing use, possession, and transfer of not more than fifteen pounds of source material at any one time by persons in the following categories:

(a) Pharmacists using the source material solely for the preparation of medicinal compounds;

(b) Physicians using the source material for medicinal purposes;

(c) Persons receiving possession of source material from pharmacists and physicians in the form of medicinals or drugs;

(d) Commercial and industrial firms, and research, educational, and medical institutions, and state and local government agencies for research, development, educational, operational, or commercial purposes: And provided, That no such person shall, pursuant to this general license, receive more than a total of one hundred fifty pounds of source material in any one calendar year.

(2) Persons who receive, possess, use, or transfer source material pursuant to the general license issued in subsection (1) of this section are exempt from the provisions of chapters 246-221 and 246-222 WAC to the extent that such receipt, possession, use, or transfer is within the terms of such general license: Provided, however, That this exemption shall not be deemed to apply to any such person who is also in possession of source material under a specific license issued pursuant to chapter 246-235 WAC.

(3) A general license is hereby issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use, or transfer source material.

(4) Depleted uranium in industrial products and devices.

(a) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with the provisions of ~~((paragraphs (4))~~(b), (c), (d), and (e) of this ~~((section))~~ subsection, depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(b) The general license in ~~((paragraph (4))~~(a) of this ~~((section))~~ subsection applies only to industrial products or devices which have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to WAC 246-235-091 or in accordance with a specific license issued to the manufacturer by the ~~((United States Nuclear Regulatory Commission))~~ NRC or an agreement state which authorizes manufacture of the products or devices for distribution to persons generally licensed by the ~~((United States Nuclear Regulatory Commission))~~ NRC or an agreement state.

(c)(i) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by ~~((paragraph (4))~~(a) of this ~~((section))~~ subsection shall file

department form RHF-20 "Registration certificate - Use of depleted uranium under general license," with the department. The form shall be submitted within thirty days after the first receipt or acquisition of such depleted uranium. The registrant shall furnish on department form RHF-20 the following information and such other information as may be required by that form:

(A) Name and address of the registrant;

(B) A statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in ~~((paragraph (4))~~(a) of this ~~((section))~~ subsection and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) Name and ~~((or))~~ title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in ~~((item (4))~~(c)(i)(B) of this ~~((section))~~ subsection.

(ii) The registrant possessing or using depleted uranium under the general license established by ~~((paragraph (4))~~(a) of this ~~((section))~~ subsection shall report in writing to the department any changes in information previously furnished on the "Registration certificate - Use of depleted uranium under general license." The report shall be submitted within thirty days after the effective date of such change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by ~~((paragraph (4))~~(a) of this ~~((section))~~ subsection:

(i) Shall not introduce such depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium.

(ii) Shall not abandon such depleted uranium.

(iii) Shall transfer or dispose of such depleted uranium only by transfer in accordance with the provision of chapter 246-232 WAC. In the case where the transferee receives the depleted uranium pursuant to the general license established by ~~((paragraph (4))~~(a) of this ~~((section))~~ subsection the transferor shall furnish the transferee a copy of this regulation and a copy of department form RHF-20.

In the case where the transferee receives the depleted uranium pursuant to a general license contained in the ~~((United States Nuclear Regulatory Commission's))~~ NRC's or agreement state's regulation equivalent to ~~((paragraph (4))~~(a) of this ~~((section))~~ subsection the transferor shall furnish the transferee a copy of this regulation and a copy of department form RHF-20 accompanied by a note explaining that use of the product or device is regulated by the ~~((United States Nuclear Regulatory Commission))~~ NRC or agreement state under requirements substantially the same as those in this regulation.

(iv) Shall maintain and make available to the department upon request the name and address of the person receiving the depleted uranium pursuant to such transfer.

(v) Shall not export such depleted uranium except in accordance with a license issued by the ~~((United States Nuclear Regulatory Commission))~~ NRC pursuant to 10 C.F.R. Part 110.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by ~~((paragraph (4))~~(a) of this ~~((section))~~ subsection is exempt from the requirements of chapters 246-221 and 246-222 WAC of these regulations with respect to the depleted uranium covered by that general license.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-233-012 General license for certain items and self-luminous products containing radium-226. (1) A general license shall be issued to any person to acquire, receive, possess, use, or transfer, in accordance with the provisions of subsections (2), (3), and (4) of this section, radium-226 contained in:

(a) Antiquities originally intended for use by the general public. For the purposes of this subsection, antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.

(b) Intact timepieces containing greater than 0.037 megabecquerel (1 microcurie), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.

(c) Luminous items installed in air, marine, or land vehicles.

(d) All other luminous products, provided that no more than one hundred items are used or stored at the same location at any one time.

(e) Small radium sources containing no more than 0.037 megabecquerel (1 microcurie) of radium-226. For the purposes of this subsection, "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinharioscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the department ~~((of health))~~.

(2) Persons who acquire, receive, possess, use, or transfer radioactive material~~((s))~~ under the general license issued in subsection (1) of this section are exempt from the provisions of chapters 246-221 and 246-222 WAC to the extent that such receipt, possession, use, or transfer is within the terms of such general license. This exemption shall not apply to any person who is also in possession of radioactive material~~((s))~~ under a specific license issued under chapter 246-235 WAC.

(3) Any person who acquires, receives, possesses, uses, or transfers ~~((by product))~~ radioactive material in accordance with the general license in subsection (1) of this section:

(a) Shall notify the department should there be any indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the department within thirty days.

(b) Shall not abandon products containing radium-226. The product, and any radioactive material from the product,

may only be transferred or disposed ~~((of))~~ in accordance with chapter 246-232 WAC, or as otherwise approved by the department.

(c) Shall not export products containing radium-226 except in accordance with chapter 246-231 WAC.

(d) Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under chapter 246-235 WAC, or equivalent regulations of an agreement state, or as otherwise approved by the NRC.

(e) Shall respond to written requests from the department to provide information relating to the general license within thirty calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing a written justification for the request.

(4) The general license in subsection (1) of this section does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-233-015 Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the ~~((United States Nuclear Regulatory Commission))~~ NRC for use pursuant to Section 31.3 of 10 C.F.R. Part 31. This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, chapters 246-232, 246-221** and 246-222 WAC.

(1) *Static elimination device.* Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerels (500 microcuries) of Polonium-210 per device.

(2) *Ion generating tube.* Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerels (500 microcuries) of Polonium-210 per device or a total of not more than ~~((18.5 megabecquerels))~~ 1.85 gigabecquerels (50 millicuries) of Hydrogen-3 (tritium) per device.

** Attention is directed particularly to the provisions of chapter 246-221 WAC which relate to the labeling of containers.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-233-020 (~~General license~~) Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere. (1) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and federal, state, or local government agencies to (~~own,~~) acquire, receive, possess, use or transfer, in accordance with the provisions of subsections (2), (3), and (4) of this section, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(2) The general license in subsection (1) of this section applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the department pursuant to WAC 246-235-093 or in accordance with an equivalent specific license issued by the (~~Nuclear Regulatory Commission,~~) NRC or an agreement state (~~or a licensing state~~), which authorizes distribution or transfer of devices to persons generally licensed by the (~~United States Nuclear Regulatory Commission,~~) NRC or an agreement state (~~or licensing state~~).** The devices (~~shall~~) must have been received from one of the specific licensees described in this subsection or through a transfer made under subsection (3)(h) of this section.

**Note: Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in Section 179.21 of 21 C.F.R. Part 179.

(3) Any person who (~~owns,~~) acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in subsection (1) of this section:

(a) Shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;

(b) Shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label, however:

(i) Devices containing only krypton need not be tested for leakage of radioactive material; and

(ii) Devices containing only tritium or not more than 3.7 megabecquerels (100 microcuries) of other beta (~~and~~) or gamma emitting material or 370 kilobecquerels (10 microcuries) of alpha emitting material need not be tested for any purpose. Devices held in storage in the original shipping container prior to initial installation need not be tested until immediately prior to use;

(c) Shall assure that the tests required by (b) of this subsection and other testing, installing, servicing, and removing

from installation involving the radioactive material(~~s~~), its shielding or containment, are performed:

(i) In accordance with the instructions provided by the labels; or

(ii) By a person holding a specific license (~~from~~) issued by the department (~~or from~~), the (~~United States Nuclear Regulatory Commission~~) NRC or (~~from any~~) an agreement state (~~or from a licensing state~~) to perform such activities;

(d) Shall maintain records showing compliance with the requirements of (b) and (c) of this subsection. The records (~~shall~~) must show the results of tests. The records also (~~shall~~) must show the dates of performance and the names of persons performing, testing, installing, servicing, and removing from installation (~~concerning the~~) radioactive material(~~s~~) and its shielding or containment. Records of tests for leakage of radioactive material required by (b) of this subsection (~~shall~~) must be (~~maintained~~) retained for three years after the next required leak test is performed or the sealed source is transferred or disposed. Records of tests of the on/off mechanism and indicator required by (b) of this subsection (~~shall~~) must be (~~maintained~~) retained for three years after the next required test of the on/off mechanism and indicator is performed or the sealed source is transferred or disposed. Records of other testing, installation, servicing, and removal from installation required by (c) of this subsection (~~shall~~) must be (~~maintained~~) retained for a period of three years from the date of the recorded event or until the device is transferred or disposed;

(e) (~~Upon the occurrence of~~) Shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of, or damage to, the shielding of the radioactive material or the on/off mechanism or indicator, or upon the detection of 185 becquerels (0.005 microcurie(~~s~~)) or more removable radioactive material(~~s~~), shall immediately suspend operation of the device). The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license (~~from~~) issued by the department, the (~~United States Nuclear Regulatory Commission,~~) NRC or (~~from~~) an agreement state (~~or a licensing state~~) to repair such devices, or disposed by transfer to a person authorized by a specific license to receive the radioactive material contained in the device (~~and~~) or as otherwise approved by the department. Within thirty days, (~~furnish to~~) the licensee must send the department a written report containing a brief description of the event and the remedial action taken; and, in the case of detection of 185 becquerels (0.005 microcurie(~~s~~)) or more of removable radioactive material, or failure of, or damage to, a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use (see WAC 246-246-020);

(f)(i) Shall not abandon the device containing radioactive material;

(ii) Shall not export the device containing radioactive material except in accordance with the provisions of 10 C.F.R. 110;

(g) Except as provided in (h) of this subsection, (~~shall~~) must transfer or dispose of the device containing radioactive material only by transfer to a person (~~holding~~) with a spe-

cific license (~~(of)~~) issued by the department, the (~~(United States Nuclear Regulatory Commission))~~ NRC, or an agreement state, (~~(or a licensing state whose specific license)~~) which authorizes the person to receive the device (~~(and)~~). Within thirty days after export or transfer of a device to a specific licensee (~~(shall furnish)~~), the general licensee must send a report to the department (~~(a report)~~), containing (~~(identification)~~) the identity of the device (~~(by manufacturer's)~~) and manufacturer (or initial (~~(transferor's name)~~) transferor), model number, (~~(and)~~) serial number, the nuclide(s), and activity of radioactive material contained in the device; the name, address, and license number of the person receiving the device, and the date of transfer. Prior written approval from the department is required before transferring the device to any other specific licensee not specifically identified in this subsection; however, a specific licensee may transfer a device for possession and use under its own specific license without prior approval, if the specific licensee:

(i) Verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(ii) Removes, alters, covers, or clearly and unambiguously augments the existing label, so that the device is labeled in compliance with WAC 246-221-120(9); however, the manufacturer, model number, and serial number must be retained;

(iii) Obtains the manufacturer's or initial transferor's maintenance information applicable under the specific license (such as leak test procedures); and

(iv) Reports the transfer under WAC 246-233-020 (3)(g).

(h) Shall transfer the device to another general licensee only if:

(i) (~~(Where)~~) The device remains in use at a particular location. In such case, the transferor shall give the transferee a copy of this section, a copy of WAC 246-221-240, 246-221-250, 246-232-050, and 246-232-060, and any safety documents identified (~~(in)~~) by the label of the device (~~(and)~~). Within thirty days of the transfer, the transferor shall report to the department: The (~~(manufacturer's)~~) name of the manufacturer (or (~~(transferor's name)~~) initial transferor), model number, (~~(and)~~) serial number (~~(of device)~~), and the source, nuclide(s), and original activity contained in the device(s) transferred(~~(-)~~); the transferee's name and mailing address for the location of use, and the name, title, and phone number of the responsible individual identified by the transferee in accordance with (j) of this subsection to have knowledge of and authority to take action(~~(s)~~) to ensure compliance with the appropriate regulations and requirements; or

(ii) (~~(Where)~~) The device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee;

(i) Shall comply with the provisions of WAC 246-221-240 and 246-221-250 for reporting radiation incidents, or theft or loss of (~~(licensed)~~) radioactive material, but shall be exempt from (~~(the)~~) other requirements of chapters 246-221 and 246-222 WAC;

(j) Shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements

and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any (~~(of its)~~) responsibility in this regard;

(k)(i) Shall register, in accordance with (k)(ii) and (iii) of this subsection, devices containing at least 370 megabecquerels (10 millicuries) of Cesium-137, 3.7 megabecquerels (0.1 millicuries) of Strontium-90, 3.7 megabecquerels (100 microcuries) of Radium-226, 37 megabecquerels (1 millicurie) of Cobalt-60, or 37 megabecquerels (1 millicurie) of Americium-241, (~~(3.7 megabecquerels (0.1 millicurie) of Radium-226)~~) or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under (k)(iii)(D) of this subsection, represents a separate general licensee and requires a separate registration and fee;

(ii) If in possession of a device meeting the criteria of (k)(i) of this subsection, shall register these devices annually with the department and shall pay the fee required by WAC 246-254-090. Registration must be done by verifying, correcting, (~~(and/)~~) or adding to the information provided in a request for registration received from the department. The registration information must be submitted to the department within thirty days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of (k)(i) of this subsection is subject to the bankruptcy notification requirement in WAC 246-232-050;

(ii) (~~(In)~~) When registering devices, the general licensee shall (~~(furnish)~~) provide the following information and any other information specifically requested by the department:

(A) Name and mailing address of the general licensee;

(B) Information about each device: The manufacturer (or initial transferor), model number, serial number, the radionuclide and activity (as indicated on the label);

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under (j) of this subsection;

(D) Address or location at which the device(s) are used (~~(and/)~~) or stored. For portable devices, the address of the primary place of storage;

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and (~~(checking)~~) verification of label information;

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general licensee;

(iv) (~~(Persons generally)~~) WAC 246-232-040, Reciprocal recognition of licenses describes how persons licensed by the (~~(U.S. Nuclear Regulatory Commission))~~ NRC or an agreement state (~~(with respect to devices meeting the criteria in (k)(i) of this subsection are not subject to registration requirements if the devices are used in areas subject to Washington state jurisdiction for a period less than one hundred eighty days in any calendar year. The department will not~~)

request registration information from such licensees;)) may obtain approval to work in Washington.

(l) Shall report changes to the mailing address for the location of use (including change in name of general licensee) to the department within thirty days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage;

(m) Shall not hold devices that are not in use for longer than two years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by subsection (3)(b) of this ((subsection)) section need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby;

(n) Must respond to written requests from the department to provide information relating to the general license within thirty calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within the same time period, request a longer period to supply the information by providing a written justification for the extension request.

(4) The general license in subsection (1) of this section does not authorize the manufacture, import, or export of devices containing radioactive material. A person must not export the device containing radioactive material except in accordance with NRC's regulations, including 10 C.F.R. Part 110, and in accordance with other applicable federal, state, and local regulations including, but not limited to, the U.S. Department of Commerce, U.S. Department of Revenue, U.S. Department of Transportation, and any other applicable jurisdiction for each export.

(5) The general license provided in this subsection is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-221-240, 246-221-250, 246-232-050, 246-232-060, 246-232-070, 246-232-080, and 246-232-090.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-233-025 General license—Luminous safety devices for aircraft. (1) A general license is hereby issued to own, receive, acquire, possess and use Hydrogen-3 (tritium) or Promethium-147 contained in luminous safety devices for use in aircraft, provided:

(a) Each device contains not more than 370 gigabecquerels (10 curies) of Hydrogen-3 (tritium) or 11.1 gigabecquerels (300 millicuries) of Promethium-147; and

(b) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the ~~((United States Nuclear Regulatory Commission))~~ NRC, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license

issued by the department or any agreement state to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in Section 32.53 of 10 C.F.R. Part 32 of the regulations of the ~~((United States Nuclear Regulatory Commission))~~ NRC.

(2) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in this subsection are exempt from the requirements of chapters 246-221 and 246-222 WAC except that they shall comply with the provisions of WAC 246-221-240 and 246-221-250.

(3) This general license does not authorize the manufacture, assembly, or repair of luminous safety devices containing Hydrogen-3 (tritium) or Promethium-147.

(4) This general license does not authorize the ownership, receipt, acquisition, possession or use of Promethium-147 contained in instrument dials.

(5) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-233-030 General license—Ice detection devices. (1) A general license is hereby issued to own, receive, acquire, possess, use and transfer Strontium-90 contained in ice detection devices, provided each device contains not more than 185 megabecquerels (50 microcuries) of Strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the ~~((United States Nuclear Regulatory Commission))~~ NRC or each device has been manufactured in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer of such device pursuant to licensing requirements equivalent to those in Section 32.61 of 10 C.F.R. Part 32 of the regulations of the ~~((United States Nuclear Regulatory Commission))~~ NRC.

(2) Persons who own, receive, acquire, possess, use or transfer Strontium-90 contained in ice detection devices pursuant to the general license in (a) of this subsection:

(a) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license ~~((from))~~ issued by the ((United States Nuclear Regulatory Commission)) NRC or an agreement state to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of these regulations;

(b) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(c) Are exempt from the requirements of chapters 246-221 and 246-222 WAC except that such persons shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250.

(3) This general license does not authorize the manufacture, assembly, disassembly or repair of Strontium-90 sources in ice detection devices.

(4) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-233-035 General license—Calibration and reference sources. (1) A general license is hereby issued to those persons listed below to own, receive, acquire, possess, use and transfer, in accordance with the provisions of subsections (4) and (5) of this section, Americium-241 in the form of calibration or reference sources:

(a) Any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material; or

(b) Any person who holds a specific license issued by the (~~United States Nuclear Regulatory Commission~~) NRC which authorizes that person to receive, possess, use and transfer special nuclear material.

(2) A general license is hereby issued to own, receive, possess, use and transfer Plutonium in the form of calibration or reference sources in accordance with the provisions of subsections (4) and (5) of this section to any person who holds a specific license issued by the department or the NRC which authorizes that person to receive, possess, use and transfer radioactive material.

(3) A general license is hereby issued to own, receive, possess, use and transfer Radium-226 in the form of calibration or reference sources in accordance with the provisions of subsections (4) and (5) of this section to any person who holds a specific license issued by the department or the NRC which authorizes that person to receive, possess, use and transfer radioactive material.

(4) The general licenses in subsections (1), (2) and (3) of this section apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the (~~United States Nuclear Regulatory Commission~~) NRC pursuant to Section 32.57 of 10 C.F.R. Part 32 or Section 70.39 of 10 C.F.R. Part 70 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the department or any agreement state (~~or licensing state~~) pursuant to licensing requirements equivalent to those contained in Section 32.57 of 10 C.F.R. Part 32 or Section 70.39 of 10 C.F.R. Part 70 of the regulations of the (~~United States Nuclear Regulatory Commission~~) NRC.

(5) The general licenses provided in subsections (1), (2) and (3) of this section are subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, 246-232-090, chapters 246-221 and 246-222 WAC.

In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(a) Shall not possess at any one time, at any one location of storage or use, more than 185 kilobecquerels (5 microcuries) of Americium-241 and 185 kilobecquerels (5 microcu-

ries) of plutonium and 185 kilobecquerels (5 microcuries) of Radium-226 in such sources;

(b) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

- (i) The receipt, possession, use and transfer of this source, Model, Serial No., are subject to a general license and the regulations of the (~~United States Nuclear Regulatory Commission~~) NRC or of a state with which the commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.
CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS (AMERICIUM-241). (PLUTONIUM)*. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

.....
Name of manufacturer or importer

*Note: Showing only the name of the appropriate material.

- (ii) The receipt, possession, use and transfer of this source, Model, Serial No., are subject to a general license and the regulations of (~~any licensing state~~) an agreement state or NRC. Do not remove this label.
CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

.....
Name of manufacturer or importer

(c) Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license (~~from~~) issued by the department, the (~~United States Nuclear Regulatory Commission~~) NRC, or an agreement state (~~or licensing state~~) to receive the source;

(d) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain Americium-241, Plutonium, or Radium-226/Radon-222 which might otherwise escape during storage; and

(e) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(6) These general licenses do not authorize the manufacture of calibration or reference sources containing Americium-241, Plutonium, or Radium-226.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-233-040 General license for use of radioactive material for certain *in-vitro* clinical or laboratory testing.* (1) A general license is hereby issued to any physician, veterinarian, clinical laboratory or hospital to receive,

acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of subsections (2), (3), (4), (5), and (6) of this section the following radioactive material((s)) in prepackaged units:

(a) Iodine-125, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in *in-vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(b) Iodine-131, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in *in-vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(c) Carbon-14, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in *in-vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(d) Hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerels (50 microcuries) each for use in *in-vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(e) Iron-59, in units not exceeding 740 kilobecquerels (20 microcuries) each for use in *in-vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(f) Cobalt-57, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in *in-vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(g) Selenium-75, in units not to exceed 370 kilobecquerels (10 microcuries) each for use in *in-vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(h) Mock Iodine-125 reference or calibration sources, in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of Iodine-129 and 185 becquerels (0.005 microcurie) of Americium-241 each for use in *in-vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

*Note: The new drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.

(2) No person shall receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by subsection (1) of this section until that person has received a validated copy of department Form RHF-15 "Certificate((—))*in-vitro* testing with radioactive material under general license." Annual validation requires annual resubmittal of revised department Form RHF-15 and submittal of the annual fee to the department. The physician, veterinarian, clinical laboratory or hospital shall furnish on depart-

ment Form RHF-15 the following information and such other information as may be required by that form:

(a) Name and address of the physician, veterinarian, clinical laboratory or hospital;

(b) The location of use; and

(c) A statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out *in-vitro* clinical or laboratory tests with radioactive material as authorized under the general license in subsection (1) of this section and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive material.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by subsection (1) of this section shall comply with the following:

(a) The general licensee shall not possess at any one time, pursuant to the general license in subsection (1) of this section at any one location of storage or use, a total amount of Iodine-125, Iodine-131, Selenium-75, Iron-59, ((and/))or Cobalt-57 in excess of 7.4 megabecquerels (200 microcuries).

(b) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(c) The general licensee shall use the radioactive material only for the uses authorized by subsection (1) of this section.

(d) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the department, the ((United States Nuclear Regulatory Commission, any)) NRC, or an agreement state ((or licensing state)), nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(e) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in subsection (1)(h) of this section as required by WAC 246-221-170.

(4) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to subsection (1) of this section:

(a) Except as prepackaged units which are labeled in accordance with the provision of an applicable specific license issued pursuant to WAC 246-235-097 or in accordance with the provisions of a specific license issued by the ((United States Nuclear Regulatory Commission)) NRC, or ((any)) an agreement state ((or licensing state)) which authorizes the manufacture and distribution of Iodine-125, Iodine-131, Carbon-14, Hydrogen-3 (tritium), Iron-59, Selenium-75, Cobalt-57, or Mock Iodine-125 to persons generally licensed under this subsection or its equivalent; and

(b) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in-vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the ~~((regulations))~~ rules and a general license of ~~an agreement state or the ((United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority))~~ NRC.

.....
Name of manufacturer

This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in-vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the ~~((regulations))~~ rules and a general license of ~~((a licensing))~~ an agreement state or the NRC.

.....
Name of manufacturer

(5) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license of subsection (1) of this section shall report in writing to the department, any changes in the information previously furnished in the "Certificate~~((---))~~in-vitro testing with radioactive material under general license," department Form RHF-15. The report shall be furnished within thirty days after the effective date of such change.

(6) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-090 and 246-220-100. In addition, any person using radioactive material pursuant to the general license of subsection (1) of this section is exempt from the requirements of chapters 246-221 and 246-222 WAC with respect to radioactive material covered by that general license, except that such persons using the Mock Iodine-125 described in subsection (1)(h) of this section shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250 and of these ~~((regulations))~~ rules.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-235-010 Filing application for specific licenses. (1) Applications for specific licenses shall be filed on department form RHF-1.

(2) The department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the department to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application shall be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's behalf.

(4) An application for a license may include a request for a license authorizing one or more activities.

(5) In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the department provided such references are clear and specific.

(6) An application for a specific license to use radioactive materials in the form of a sealed source or in a device that contains the sealed source must:

(a) Identify the source or device by manufacturer and model number; or

(b) Be registered with the ~~((U.S. Nuclear Regulatory Commission))~~ NRC under 10 C.F.R. 32.210; or

(c) For sources not registered with the ~~((U.S.))~~ NRC, provide sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use, relevant operational safety history, and the results of the most recent leak test.

(7) Applications and documents submitted to the department may be made available for public inspection except that the department may withhold any document or part thereof from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.

AMENDATORY SECTION (Amending WSR 07-03-049, filed 1/12/07, effective 2/12/07)

WAC 246-235-075 Financial assurance and record-keeping for decommissioning. (1) Each applicant for one of the following licenses shall submit a decommissioning funding plan as described in this section:

(a) A specific license authorizing receipt of radioactive waste for the purpose of volume reduction, repackaging or interim storage.

(b) Receipt of contaminated articles, scrap material, equipment, or clothing to be decontaminated at the licensee's facility.

(c) A specific license authorizing the possession and use of radioactive material of half-life greater than one hundred twenty days and in quantities for unsealed material exceeding 10³ times and for sealed forms exceeding 10¹⁰ times the applicable quantities set forth in WAC 246-221-300 Appendix B (for a combination of ~~((isotopes))~~ nuclides the unity rule applies. A decommissioning funding plan will be required if R is greater than 1, where R is defined as the sum of the ratios of the quantity for sealed and unsealed forms of each ~~((isotope))~~ nuclide compared to the applicable value derived from WAC 246-221-300).

(d) A specific license authorizing possession and use of source material in readily dispersible form and in quantities greater than 370 megabecquerels (10 millicuries).

(2) Each decommissioning funding plan shall contain:

(a) A cost estimate for decommissioning facilities impacted by the activities authorized in the specific license.

(b) A description of the method of assuring funds for decommissioning.

(c) A means for adjusting cost estimates and associated funding levels periodically over the life of the facility or facilities.

(d) A description of methods and general procedures for performing facility decontamination, maintaining security, and performing a final radiation survey.

(e) A commitment to clean up accidental spills promptly and to begin decommissioning of the facility or facilities within twelve months of ceasing operation involving radioactive material.

(3) Each cost estimate for decommissioning shall include:

(a) A description of the facility and areas within the facility likely to require decommissioning as a result of routine operation.

(b) Anticipated labor, equipment and material costs.

(c) Anticipated waste volume.

(d) Anticipated packaging, transportation and waste disposal costs.

(e) An assessment of costs associated with an accident involving licensed material.

(4) Each applicant shall submit a certification that financial assurance for decommissioning shall be provided by one or more of the following methods:

(a) Prepayment. Prepayment is the deposit of sufficient funds to pay decommissioning costs. Funds shall be deposited prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(b) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid should the licensee default. A surety method may be in the form of a surety bond, letter of credit, or line of credit. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

(i) The surety method or insurance shall be open-ended or, if written for a specified term, such as five years, shall be renewed automatically unless ninety days or more prior to the renewal date, the issuer notifies the department, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance shall also require that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the department within thirty days after receipt of notification of cancellation.

(ii) The surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the department. Acceptable trustees include an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(iii) The surety method or insurance must remain in effect until the department has terminated the license.

(c) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control. The total amount of funds in the external sinking fund shall be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions shall be as stated in subsection (4)(b) of this section.

(d) Statement of intent. In the case of state or local government licensees, a statement of intent containing a cost estimate for decommissioning and indicating that funds for decommissioning will be obtained when necessary.

(e) Other methods of financial assurance as approved by the department. The department may approve other financial mechanisms submitted by the applicant or licensee if the alternate method meets, at a minimum, the requirements of 10 C.F.R. 30.35 and associated ((U.S. Nuclear Regulatory Commission)) NRC guidance.

(5)(a) The applicant or licensee shall submit to the department an initial decommissioning funding plan prior to license issuance and shall submit an updated plan at intervals not to exceed three years.

(b) The applicant or licensee shall incorporate department comments into the decommissioning funding plan including its cost estimate and shall revise its financial surety accordingly.

(c) Applicants shall obtain the appropriate financial assurance as approved by the department prior to receipt of licensed material. The department may issue a new license if the applicant agrees to comply with the decommissioning funding plan as approved. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of this section shall be submitted to the department before receipt of licensed material.

(d) Licensees shall implement the financial assurance requirements within thirty days of receiving department approval of the initial or updated decommissioning funding plan. Licensees shall submit copies of the financial surety within thirty days of securing the surety and annually thereafter.

(6) Each person licensed under this chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with WAC 246-232-050(2), licensees shall transfer all records described in this subsection to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated by the department. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the department considers important to decommissioning consists of:

(a) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records shall include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(b) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used ~~((and/))~~ or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(c) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or depleted uranium used only for shielding or as penetrators in unused munitions, or radioactive materials having only half-lives of less than sixty-five days, a list contained in a single document and updated every two years, of the following:

(i) All areas designated and formerly designated as restricted areas as defined under WAC 246-220-010;

(ii) All areas outside of restricted areas that require documentation under (a) of this subsection;

(iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under WAC 246-221-230 (8)(a); and

(iv) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in chapter 246-246 WAC or apply for approval for disposal under WAC 246-221-180. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-235-080 Special requirements for possession and use of medical calibration and reference sources.

(1) Leak tests.

(a) Any licensee or registrant who possesses sealed sources as calibration or reference sources ~~((shall))~~ must test for leakage or contamination each sealed source containing radioactive material, other than Hydrogen-3, with a half-life greater than thirty days in any form other than gas ~~((and/or contamination))~~ at least every six months. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, the sealed sources ~~((shall))~~ must not be used until tested. However, leak tests are not required when: The source contains 3.7 megabecquerels (100 microcuries) or less of beta ~~((and/))~~ or

gamma emitting material or 370 kilobecquerels (10 microcuries) or less of alpha emitting material or the sealed source is stored and is not being used: Provided, a physical inventory of the source and wipe surveys of the storage area or storage container are conducted as required by these rules or license condition.

(b) The leak test ~~((shall))~~ must be capable of detecting the presence of 185 becquerels (0.005 microcurie) of radioactive material on the test sample. The test sample shall be taken from the sealed source or from the surfaces of the device in which the sealed source is mounted or stored on which contamination might be expected to accumulate. Records of leak test results ~~((shall))~~ must be kept in units of microcuries and maintained for inspection by the department.

(c) If the leak test reveals the presence of 185 becquerels (0.005 microcurie) or more of removable contamination, the licensee or registrant ~~((shall))~~ must immediately withdraw the sealed source from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with chapters 246-235 and 246-221 WAC. The licensee must file a report within five days of the test with the department describing the equipment involved, the test results, and the corrective action taken.

(2) Any licensee or registrant who possesses and uses calibration and reference sources ~~((shall))~~ must:

(a) Follow the radiation safety and handling instructions approved by the department, the ~~((United States Nuclear Regulatory Commission,))~~ NRC or an agreement state ~~((or a licensing state))~~ and furnished by the manufacturer on the label attached to the source, or permanent container thereof, or in the leaflet or brochure that accompanies the source, and maintain the instructions in a legible and conveniently available form; and

(b) Conduct a quarterly or semi-annual physical inventory to account for all sources received and possessed. Records of the inventories ~~((shall))~~ must be maintained for inspection by the department and ~~((shall))~~ must include, at a minimum, the quantities and kinds of radioactive material, location of sources, name of person performing the inventory, and the date of the inventory.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-235-090 Special requirements for specific licenses of broad scope. This section prescribes requirements for the issuance of specific licenses of broad scope for radioactive material ("broad licenses") and certain regulations governing holders of these licenses.*

*Note: No person may introduce radioactive material into a product or material, knowing or having reasons to believe that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by NRC, Washington, D.C. 20555. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity or other product containing source material ~~((or)),~~ by-product material or radioactive material, whose subsequent possession, use, transfer and disposal

by all other persons (~~who are~~) exempted from regulatory requirements may be obtained only from the (~~United States Nuclear Regulatory Commission~~) NRC, Washington, D.C. 20555.

(1) *The different types of broad licenses are listed below:*

(a) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in the millicurie range.

(b) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in WAC 246-235-140 Schedule B, for any authorized purpose. The possession limit for a Type B broad license, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in WAC 246-235-140 Schedule B, Column I. If two or more radionuclides are possessed, the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in WAC 246-235-140 Schedule B, Column I, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(c) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in WAC 246-235-140 Schedule B, for any authorized purpose. The possession limit for a Type C broad license, if only one radionuclide is possessed, is the quantity specified for that radionuclide in WAC 246-235-140 Schedule B, Column II. If two or more radionuclides are possessed, the possession limit is determined for each as follows: For each radionuclide determine the ratio of the quantity possessed to the applicable quantity specified in WAC 246-235-140 Schedule B, Column II, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(2) *The department will approve an application for a Type A specific license of broad scope if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020.

(b) The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and

(c) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(i) The establishment of a radiation safety committee composed of a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;

(ii) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(ii) The establishment of appropriate administrative procedures to assure:

(A) Control of procurement and use of radioactive material;

(B) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(C) Review, approval, and recording by the radiation safety committee of safety evaluation of proposed uses prepared in accordance with item (2)(c)(iii)(B) of this section prior to use of the radioactive material.

(3) *The department will approve an application for a Type B specific license of broad scope if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020; and

(b) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(i) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(ii) The establishment of appropriate administrative procedures to assure:

(A) Control of procurement and use of radioactive material;

(B) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(C) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared in accordance with item (3)(b)(ii)(B) of this section prior to use of the radioactive material.

(4) *The department will approve an application for a Type C specific license of broad scope if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020.

(b) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of individuals, who have received:

(i) A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

(ii) At least forty hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and

(c) The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.

(5) *Specific licenses of broad scope are subject to the following conditions:*

(a) Unless specifically authorized by the department, persons licensed under this section shall not:

(i) Conduct tracer studies in the environment involving direct release of radioactive material;

(ii) Receive, acquire, own, possess, use or transfer devices containing 3700 terabecquerels (100,000 curies) or more of radioactive material in sealed sources used for irradiation of materials;

(iii) Conduct activities for which a specific license issued by the department under chapter 246-240 WAC, WAC 246-235-086 or 246-235-091 through 246-235-105 is required; or

(iv) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug or other product designed for ingestion or inhalation by, or application to, a human being.

(b) For each Type A specific license of broad scope radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.

(c) For each Type B specific license of broad scope radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.

(d) For each Type C specific license of broad scope radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-091 Manufacture and distribution of industrial products containing depleted uranium under general license. (1) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to WAC 246-233-010(4) or equivalent regulations of the (~~United States Nuclear Regulatory Commission~~) NRC or an agreement state will be approved if:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in one year a radiation dose in excess of ten percent of the limits specified in WAC 246-221-010(1); and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the department will approve

an application for a specific license under this section only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The department may deny any application for a specific license under this section if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to subsection (1) of this section shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to:

(i) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and

(ii) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the (~~United States Nuclear Regulatory Commission~~) NRC or of an agreement state;

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: "Depleted uranium";

(d) Furnish to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license contained in WAC 246-233-010(4) or its equivalent:

(i) A copy of the general license contained in WAC 246-233-010(4) and a copy of department Form RHF-20; or

(ii) A copy of the general license contained in the (~~United States Nuclear Regulatory Commission's~~) NRC's or agreement state's regulation equivalent to WAC 246-233-010(4) and a copy of the (~~United States Nuclear Regulatory Commission's~~) NRC's or agreement state's certificate, or alternatively, furnish a copy of the general license contained in WAC 246-233-010(4) and a copy of department Form RHF-20 with a note explaining that use of the product or device is regulated by the (~~United States Nuclear Regulatory Commission~~) NRC or an agreement state under requirements substantially the same as those in WAC 246-233-010(4).

(e) Report to the department all transfers of industrial products or devices to persons for use under the general license in WAC 246-233-010(4). Such report shall identify each general licensee by name and address, an individual by name (~~and~~) or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under chapter 246-233 WAC during the reporting period, the report shall so indicate;

(f) Provide certain other reports as follows:

(i) Report to the ~~((United States Nuclear Regulatory Commission))~~ NRC all transfers of industrial products or devices to persons for use under the ~~((United States Nuclear Regulatory Commission))~~ NRC general license in Section 40.25 of 10 C.F.R. Part 40;

(ii) Report to the responsible department all transfers of devices manufactured and distributed pursuant to this section for use under a general license in that state's regulations equivalent to WAC 246-233-010(4);

(iii) Such report shall identify each general licensee by name and address, an individual by name ~~((and/))~~ or position who may constitute a point of contact between the department and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person;

(iv) If no transfers have been made to ~~((United States Nuclear Regulatory Commission))~~ NRC licensees during the reporting period, this information shall be reported to the ~~((United States Nuclear Regulatory Commission))~~ NRC;

(v) If no transfers have been made to general licensees within a particular agreement state during the reporting period, this information shall be reported to the responsible department; and

(g) Keep records showing the name, address and point of contact for each general licensee to whom the person transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in WAC 246-233-010(4) or equivalent regulations of the ~~((United States Nuclear Regulatory Commission))~~ NRC or of an agreement state. The records shall be maintained for a period of two years and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of this section.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-235-093 Manufacture, assembly or distribution of devices under general license. (1) An application for a specific license to manufacture or initially transfer or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under WAC 246-233-020 or equivalent regulations of the ~~((United States Nuclear Regulatory Commission))~~ NRC or an agreement state ~~((or a licensing state))~~ will be approved if:

(a) The applicant satisfies the general requirements of WAC 246-235-020;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(i) The device can be safely operated by persons not having training in radiological protection;

(ii) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the

device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in one year a dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1); and

(iii) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

- Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye 15 ~~((rems))~~ centigray (15 rem)
- Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one square centimeter 200 ~~((rems))~~ centigray (200 rem)
- Other organs 50 ~~((rems))~~ centigray (50 rem)

(c) Each device bears a durable, legible, clearly visible label or labels approved by the department, which contain in a clearly identified and separate statement:

(i) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(ii) The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by ~~((isotope))~~ nuclide, quantity of radioactivity, and date of determination of the quantity; and

(iii) The information called for in one of the following statements, as appropriate, in the same or substantially similar form:

(A) The receipt, possession, use and transfer of this device, Model, Serial No. Note*, are subject to a general license or the equivalent, and the regulations of the ~~((United States Nuclear Regulatory Commission))~~ NRC or a state with which the ~~((United States Nuclear Regulatory Commission))~~ NRC has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

.....
(Name of manufacturer or distributor)*

(B) The receipt, possession, use and transfer of this device, Model, Serial No. Note*, are subject to a general license or the equivalent, and the ~~((regulations))~~ rules of ((a licensing)) an agreement state. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

.....
(Name of manufacturer or distributor)*

*Note: The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(d) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the ~~((isotope))~~ nuclide and quantity, the words, "CAUTION - RADIOACTIVE MATERIAL," the radiation symbol described in WAC 246-221-120, and the name of the manufacturer or initial distributor;

(e) Each device meeting the criteria of WAC 246-233-020 (3)(k), bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "CAUTION - RADIOACTIVE MATERIAL," and, if practicable, the radiation symbol described in WAC 246-221-120.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the department will consider information which includes, but is not limited to:

- (a) Primary containment (source capsule);
- (b) Protection of primary containment;
- (c) Method of sealing containment;
- (d) Containment construction materials;
- (e) Form of contained radioactive material;
- (f) Maximum temperature withstood during prototype tests;
- (g) Maximum pressure withstood during prototype tests;
- (h) Maximum quantity of contained radioactive material;
- (i) Radiotoxicity of contained radioactive material; and
- (j) Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under WAC 246-233-020, or under equivalent regulations of the ~~((United States Nuclear Regulatory Commission,))~~ NRC or an agreement state ~~((or a licensing state))~~ be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive in one year a radi-

ation dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1).

(4) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to generally licensed persons ~~((shall, prior to the transfer to the intended user or the initial transfer to an intermediate person, if used:))~~ must provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. If transfer is through an intermediate person, the information much also be provided to the intended user before initial transfer to the intermediate person.

(a) ~~((Furnish to the intended user and to each person to whom a device is transferred as an intermediary, the following:))~~ If a device containing radioactive material is to be transferred for use under the general license contained in WAC 246-233-020, the required information must include:

(i) A copy of the general license contained in WAC 246-233-020. If WAC 246-233-020 (3)(b), (c), and (d) or (k) do not apply, those subsections may be omitted;

(ii) A copy of WAC 246-232-050, 246-221-230, 246-221-240, and 246-221-250;

(iii) A list of the services that can only be performed by a specific licensee; and

(iv) Information on acceptable disposal options including estimated costs of disposal; and

(v) An indication that the NRC's policy is to issue high civil penalties for improper disposal.

(b) ~~((Furnish to the intended user))~~ If a device containing radioactive material is to be transferred for use in another jurisdiction ((and to each person to whom a device is transferred as an intermediary, the following)) under a general license equivalent to WAC 246-233-020, the required information must include:

(i) A copy of the appropriate NRC or an agreement state's regulations, equivalent to WAC 246-233-020, 246-232-050, 246-221-230, 246-221-240, and 246-221-250 ~~((contained in the United States Nuclear Regulatory Commission's, agreement state's, or licensing state's regulation))~~. If a copy of ~~((the general license in))~~ WAC 246-233-020, 246-232-050, 246-221-230, 246-221-240, and 246-221-250 is ~~((furnished))~~ provided to ((such a person:)) a prospective general licensee in lieu of the NRC's or the agreement state's regulations, it shall be accompanied by a note explaining that the use of the device is regulated by the ~~((United States Nuclear Regulatory Commission,))~~ NRC or the agreement state ((or licensing state under requirements substantially the same as those in WAC 246-233-020)). If certain subsections do not apply to the particular device, those subsections may be omitted;

(ii) A list of the services that can only be performed by a specific licensee;

(iii) Information on acceptable disposal options including estimated cost of disposal;

(iv) The name or title, address, and phone number of the contact at the appropriate NRC or an agreement state regulatory agency from which additional information may be obtained; and

(v) An indication that ~~((U.S. Nuclear Regulatory Commission))~~ NRC policy is to issue high civil penalties for improper disposal;

(c) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under WAC 246-233-020 must report to the department all transfers of ~~((such))~~ devices to persons for use under the general license in WAC 246-233-020 and all receipts of devices from persons licensed under WAC 246-233-020.

(i) ~~((Such))~~ Each report ~~((shall))~~ must be clear and legible and contain all of the data required. The required information for transfers to general licensees includes:

(A) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee ~~((shall be submitted along))~~ must be included with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The manufacturer or initial transferor, the type, model number and serial number of the device transferred; and

(E) The ~~((quantity and type))~~ source serial(s), nuclide(s), activity, and date(s) of original activity of radioactive material contained in the device.

(ii) If one or more intermediate persons will temporarily possess the device at the intended place of use ~~((prior to))~~ before its possession by the user, the report ~~((shall))~~ must include ~~((identification of))~~ the same information for both the intended user and each intermediate person, clearly identify and designate each intermediate person by name, address, contact, and relationship to the intended user.

(iii) For devices received from ~~((persons generally licensed))~~ a general licensee under WAC 246-233-020, the report must include:

(A) The identity of the general licensee by name and address;

(B) The type, model number, and serial number of the device received; and the source serial(s), nuclide(s), activity, and date(s) of original activity of radioactive material contained in the device;

(C) The date of receipt; and

(D) In the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(iv) If the licensee makes changes to a device possessed by a person generally licensed under WAC 246-233-020, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(v) If no transfers have been made to or from persons generally licensed under WAC 246-233-020 during the reporting period, the report ~~((shall))~~ must so indicate.

(vi) The report ~~((shall))~~ must cover each calendar quarter, ~~((shall))~~ must clearly indicate the period covered by the

report, and ~~((shall))~~ must be filed within thirty days of the end of the calendar quarter.

(vii) The report ~~((shall))~~ must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(d) Reports to ~~((other departments))~~ NRC or an agreement state regulatory agency.

(i) ~~((Report to the United States Nuclear Regulatory Commission all transfers of such devices to persons for use under the United States Nuclear Regulatory Commission general license in Section 31.5 of 10 C.F.R. Part 31 and all receipts of devices therefrom.))~~ Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under the NRC's regulations equivalent to WAC 246-233-020 must report to the NRC all transfers of devices to persons for use under a general license equivalent to WAC 246-233-020 and all receipts of devices from persons licensed under regulations equivalent to WAC 246-233-020.

(ii) ~~((Report to the responsible department all transfers of devices manufactured and distributed pursuant to this section for use under a general license in that state's regulations equivalent to WAC 246-233-020 and all receipts of devices from persons generally licensed under WAC 246-233-020 or equivalent.))~~ Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under an agreement state's regulations equivalent to WAC 246-233-020 must report to the agreement state's regulatory authority all transfers of devices to persons for use under a general license equivalent to WAC 246-233-020 and all receipts of devices from persons licensed under regulations equivalent to WAC 243-233-020.

(iii) Such report ~~((s shall))~~ must be clear and legible and contain all of the data required. The required information for transfers to general licenses must include:

(A) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type ~~((and))~~, model number and serial number of the device transferred; and

(E) The quantity and type of radioactive material contained in the device.

(iv) If one or more intermediate persons will temporarily possess the device at the intended place of use ~~((prior to))~~ before its possession by the user, the report ~~((shall))~~ must include ~~((identification of each intermediate person by name, address, contact, and relationship to the intended user))~~ the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(v) For devices received from persons generally licensed under NRC's or an agreement state's regulations equivalent to WAC 246-233-020, the report must include:

(A) The identity of the general licensee by name and address;

(B) The type, model number, and serial number of the device received;

(C) The date of receipt; and

(D) In the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(vi) If the licensee makes changes to a device possessed by a person generally licensed under NRC's or an agreement state's regulations equivalent to WAC 246-233-020, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(vii) The report (~~(shall be submitted)~~) must cover each calendar quarter, must be filed within thirty days (after) of the end of (each) the calendar quarter (in which such a device is transferred to the generally licensed person), and (~~(shall)~~) must clearly indicate the period covered by the report.

(viii) The report (~~(shall)~~) must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(ix) If no transfers have been made to (~~United States Nuclear Regulatory Commission~~) or from NRC licensees during the reporting period, this information shall be reported to the (~~United States Nuclear Regulatory Commission~~) NRC.

(x) If no transfers have been made to or from general licensees within (~~a particular~~) an agreement state during the reporting period, this information shall be reported to the responsible (~~department~~) agreement state agency upon request of the (~~department~~) agency.

(e) The person shall maintain all information and keep records concerning transfers and receipts of devices that support the reports required by this section. Records required by this section (shall) must be maintained for a period of three years following the date of the recorded event.

(f) If a notification of bankruptcy has been made under WAC 246-233-050 or the license is to be terminated, each person licensed under this section shall provide, upon request, to the department, the (~~United States Nuclear Regulatory Commission~~) NRC or an agreement state, (~~or a licensing state~~) records of final disposition required under this subsection (4) (of this section) (e).

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-235-097 Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license. An application for a specific license to manufacture or distribute radioactive material for use under the general license of WAC 246-233-040 will be approved if:

(1) The applicant satisfies the general requirements specified in WAC 246-235-020;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Iodine-125 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(b) Iodine-131 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(c) Carbon-14 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(d) Hydrogen-3 (tritium) in units not exceeding 1.85 megabecquerels (50 microcuries) each;

(e) Iron-59 in units not exceeding 740 kilobecquerels (20 microcuries) each;

(f) Cobalt-57 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(g) Selenium-75 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(h) Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 370 kilobecquerels (10 microcuries) of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 1850 kilobecquerels (50 microcuries) of hydrogen-3 (tritium); 740 kilobecquerels (20 microcuries) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each; and

(b) Displaying the radiation caution symbol described in WAC 246-221-120 (1)(a) and the words, "CAUTION, RADIOACTIVE MATERIAL," and "Not for internal or external use in humans or animals."

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the (~~United States Nuclear Regulatory Commission~~) NRC or of a state with which the (~~commission~~) NRC has entered into an agreement for the exercise of regulatory authority.

.....
Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of (~~the~~) the NRC or an agreement state.

.....
Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements (~~(set out)~~) in WAC 246-221-170 of these (~~(regulations)~~) rules.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-235-100 Manufacture, production, preparation, ~~(and)~~ or transfer of radiopharmaceuticals for medical use. (1) An application for a specific license to manufacture, produce, prepare, (~~and~~) or transfer for distribution radiopharmaceuticals containing radioactive material for use by persons licensed under chapter 246-240 WAC for medical use in humans will be approved if:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020;

(b) The applicant submits evidence that the applicant is:

(i) Registered or licensed with the (~~U.S.~~) Food and Drug Administration (FDA) as a drug manufacturer, preparer, propagator, compounder or processor of a drug under 21 C.F.R. 207.20(a); or

(ii) Licensed as a nuclear pharmacy by the state board of pharmacy;

(iii) Registered or licensed as a radiopharmaceutical production facility or nuclear pharmacy with the (~~U.S. Nuclear Regulatory Commission~~) NRC or a state agency;

(iv) Operating as a nuclear pharmacy within a federal medical institution; or

(v) A positron emission tomography drug production facility registered with a state agency.

(c) The applicant submits information on the radionuclide, chemical and physical form, maximum activity per vial, syringe, generator, or other container of the radiopharmaceutical, and shielding provided by the packaging of the radioactive material which is appropriate for safe handling and storage of radiopharmaceuticals by medical use licensees; and

(d) The applicant satisfies the following labeling requirements:

(i) Those specified by the state board of pharmacy in WAC 246-903-020 for both commercial and noncommercial distribution;

(ii) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol, the words "caution-radioactive material" or "danger-radioactive material," the name of the radioactive drug or its abbreviation, and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half-life greater than one hundred days, the time may be omitted;

(iii) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol, the words "caution-radioactive material" or "danger-radioactive material" and an identifier that allows the syringe, vial, or other container to be correlated with the information on the transport radiation shield label; and

(iv) For a drug manufacturer, the labels required by this subsection are in addition to the labeling required by the Food and Drug Administration (FDA) and may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

(2) A medical facility or an educational institution, may produce positron emission tomography or other approved accelerator-produced radioactive drugs, for noncommercial transfer to licensees within their consortium, as defined in WAC 246-220-010 and 246-235-010, if they have a valid Washington radioactive materials license and are authorized for medical use under chapter 246-240 WAC or an equivalent agreement state or (~~U.S. Nuclear Regulatory Commission~~) NRC license; and

(a) Request authorization to produce accelerator-produced radionuclides at a radionuclide production facility within their consortium to prepare approved radioactive drugs for use only by licensees within that consortium. The applicant must have a current state radioactive materials license or evidence of an existing license issued by (~~U.S. Nuclear Regulatory Commission or another~~) an agreement state.

(b) The applicant must be qualified to produce radioactive drugs for medical use by meeting the criteria in subsections (1) and (3) of this section.

(c) Identification of individual(s) authorized to prepare radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in subsection (3) of this section.

(d) Labeling information identified in subsection (1)(d) of this section is applied to any radiopharmaceuticals or radioactive materials to be noncommercially transferred to members of its consortium.

(3) A nuclear pharmacy licensee:

(a) May prepare radiopharmaceuticals for medical use provided the radiopharmaceutical is prepared by or under the supervision of an authorized nuclear pharmacist.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(i) This individual qualifies as an authorized nuclear pharmacist as defined in WAC 246-240-010;

(ii) This individual meets the state board of pharmacy requirements in WAC 246-903-030, Nuclear pharmacists, and the requirements of WAC 246-240-081 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(iii) This individual is designated as an authorized nuclear pharmacist in accordance with (d) of this subsection.

(c) The actions authorized in (a) and (b) of this subsection are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist as an authorized nuclear pharmacist if:

(i) The individual was identified as of December 2, 1994, as an "authorized user" on a nuclear pharmacy license issued by the department, the ~~((U.S.))~~ NRC, or an agreement state; or

(ii) The individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator-produced radioactive material, and the individual practiced at a pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at any other pharmacies as of December 1, 2008.

(e) Shall provide to the department a copy of each individual's letter of notification from the state board of pharmacy recognizing the individual as a nuclear pharmacist, within thirty days of the date the licensee allows the individual to work as an authorized nuclear pharmacist under (b), (c) or (d) of this subsection.

~~((3))~~ (4) A manufacturer or nuclear pharmacy licensee shall possess and use instrumentation to measure the radioactivity of radiopharmaceuticals. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radiopharmaceuticals, prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests on each instrument before initial use, periodically, and following repair, ~~((on each instrument))~~ for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

~~((4))~~ (5) A licensee preparing radiopharmaceuticals from generators; (e.g., molybdenum-99/technetium-99m or rubidium-82 from strontium-82/rubidium-82) shall test generator eluates for breakthrough or contamination of the parent ~~((isotope))~~ nuclide, in accordance with WAC 246-240-160. The licensee shall record the results of each test and retain each record for three years after the record is made.

~~((5))~~ (6) Nothing in this section relieves the licensee from complying with applicable FDA, ~~((other))~~ federal, and state requirements governing radiopharmaceuticals.

AMENDATORY SECTION (Amending WSR 07-14-131, filed 7/3/07, effective 8/3/07)

WAC 246-235-102 Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed under chapter 246-240 WAC for use as a calibration, transmission, or reference source or for the uses listed in WAC 246-240-251, 246-240-301, and 246-240-351 will be approved if:

(1) The applicant satisfies the general requirements in WAC 246-235-020;

(2) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(a) The radioactive material contained, its chemical and physical form and amount;

(b) Details of design and construction of the source or device;

(c) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(d) For devices containing radioactive material, the radiation profile of a prototype device;

(e) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(f) Procedures and standards for calibrating sources and devices;

(g) Legend and methods for labeling sources and devices as to their radioactive content; and

(h) Instructions for handling and storing the source or device from the radiation safety standpoint, these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device: Provided that instructions which are too lengthy for the label may be summarized on the label and printed in detail on a brochure which is referenced on the label.

(3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity and date of assay, and a statement that the named source or device is licensed by the department for distribution to persons licensed under chapter 246-240 WAC or under equivalent regulations of the ~~((United States Nuclear Regulatory Commission))~~ NRC or an agreement state ~~((or a licensing state))~~: Provided that the labeling for sources which do not require long term storage may be on a leaflet or brochure which accompanies the source.

(4) If the applicant desires that the source or device be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that the longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source.

(5) In determining the acceptable interval for test of leakage of radioactive material, the department will consider information that includes, but is not limited to:

(a) Primary containment (source capsule);

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

(j) Operating experience with identical sources or devices or similarly designed and constructed sources or devices.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-235-103 Prototype tests for manufacture of calibration or reference sources containing americium-241 or radium-226. An applicant for a license under this chapter shall, for any type of source which is designed to contain more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226, conduct prototype tests, in the order listed, on each of no less than five prototypes of the source, which contains more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226, as follows:

(1) *Initial measurement.* The quantity of radioactive material deposited on the source shall be measured by direct counting of the source.

(2) *Dry wipe test.* The entire radioactive surface of the source shall be wiped with filter paper with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper or by direct measurement of the radioactivity on the source following the dry wipe.

(3) *Wet wipe test.* The entire radioactive surface of the source shall be wiped with filter paper, moistened with water, with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper after it has dried or by direct measurement of the radioactivity remaining on the source following the wet wipe.

(4) *Water soak test.* The source shall be immersed in water at room temperature for a period of twenty-four consecutive hours. The source shall then be removed from the water. Removal of radioactive material from the source shall be determined by direct measurement of the radioactivity on the source after it has dried or by measuring the radioactivity in the residue obtained by evaporation of the water in which the source was immersed.

(5) *Dry wipe test.* On completion of the preceding test in this section, the dry wipe test described in subsection (2) of this section shall be repeated.

(6) *Observations.* Removal of more than 0.005 microcurie (185 becquerels) of radioactivity in any test prescribed by this section shall be cause for rejection of the source design. Results of prototype tests submitted to the department or the ((U.S. Nuclear Regulatory Commission)) NRC shall be given in terms of radioactivity in microcuries (or becquerels) and percent of removal from the total amount of radioactive material deposited on the source.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-235-105 Manufacture, assembly or distribution of radioactive material exempt from regulation.

~~((1) Licensing the introduction of radioactive material into products in exempt concentrations.~~ In addition to the requirements set forth in WAC 246-235-020, a specific license authorizing the introduction of radioactive material into a

product or material owned by or in the possession of the licensee or another to be transferred to persons exempt under WAC 246-232-010(1) will be issued if:

(a) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer; and

(b) The applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in WAC 246-232-130, Schedule C, that reconstruction of the radioactive material in concentrations exceeding those in WAC 246-232-130, Schedule C, is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to a human being.

(c) Each person licensed under subsection (1) of this section shall file an annual report with the department which shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product and material, into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to subsection (1) of this section during the reporting period, the report shall so indicate. The report shall cover the year ending June 30, and shall be filed within thirty days thereafter.

~~(2) Licensing the distribution of certain radioactive material in exempt quantities.*~~

*Note: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing source material or radioactive material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the department or the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) An application for a specific license to distribute naturally occurring and accelerator-produced radioactive material (NARM) to persons exempted from these regulations pursuant to WAC 246-232-010 (2)(b) will be approved if:

(i) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(ii) The radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to

be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product, or device intended for commercial distribution; and

(iii) The applicant submits copies of prototype labels and brochures and the department approves such labels and brochures.

(b) The license issued under (a) of this subsection is subject to the following conditions:

(i) No more than ten exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions shall not exceed unity.

(ii) Each exempt quantity shall be separately and individually packaged. No more than ten such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to WAC 246-232-010 (2)(b). The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem per hour.

(iii) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

(A) Identifies the radionuclide and the quantity of radioactivity; and

(B) Bears the words "radioactive material."

(iv) In addition to the labeling information required by (b)(iii) of this subsection, the label affixed to the immediate container, or an accompanying brochure, shall:

(A) State that the contents are exempt from licensing state requirements;

(B) Bear the words "Radioactive material—Not for human use—Introduction into foods, beverages, cosmetics, drugs, or medicinals, or into products manufactured for commercial distribution is prohibited—Exempt quantities should not be combined"; and

(C) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(e) Each person licensed under (a) of this subsection shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under WAC 246-232-010 (2)(b) or the equivalent regulations of a licensing state, and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the department. Each report shall cover the year ending June 30, and shall be filed within thirty days thereafter. If no transfers of radioactive material have been made pursuant to subsection (2) of this section during the reporting period, the report shall so indicate.

(3) *Licensing the incorporation of naturally occurring and accelerator-produced radioactive material into gas and aerosol detectors.* An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under WAC 246-232-012 will be approved if the application satisfies requirements equivalent to those contained in Section 32.26 of 10 C.F.R. Part 32.

*Note: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing source material or radioactive material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the department or the United States Nuclear Regulatory Commission, Washington, D.C. 20555.)

A person may not introduce radioactive material into a product or material knowing, or having reason to believe, that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-235-130 Appendix—General laboratory rules for safe use of unsealed sources. (1) In addition to the requirements ((set forth)) in WAC 246-235-020, a specific licensee who uses unsealed, unplated ((and/)) or liquid sources shall possess adequate facilities including ventilation systems which are compatible with the proposed uses; and,

(2) Possess, use, and store((s)) radioactive material((s)) in accordance with, but not limited to, the following:

(a) Receive, handle, and store radioactive material((s)) only at specifically designated locations within the applicant's facility. Vessels containing radioactive material must be labeled as required by chapter 246-221 WAC.

(b) Wear disposable gloves at all times when handling dispersible radioactive material or potentially contaminated items.

(c) Wear personnel monitoring devices (film badge ((and/)), OSL, or TLD), when required, at all times when working with, or in the vicinity of, radioactive materials. Extremity doses shall be considered ((in)) when evaluating the need for separate extremity dosimeters. Extremity dosimetry should be worn when working with millicurie or greater quantities of material (excluding low energy beta emitters and pure alpha emitters). Monitoring devices, when not in use, ((shall)) must be stored only in a designated low-background area. Calculations based on ((whole body badge)) whole-body dosimeter results for photon-emitters may be used in lieu of separate extremity dosimeters.

(d) Use remote tools, lead shields, lead-glass shields, ((and/)) or plexiglass shields as appropriate.

(e) Prohibit eating, chewing, drinking, smoking, and application of cosmetics in any area where radioactive material is used or stored.

(f) Do not store food, drink or personal effects in any area, container, or refrigerator designated for radioactive materials use or storage.

(g) Do not pipette radioactive materials or perform any similar operation by employing mouth suction.

(h) Use disposable absorbent material with impervious backing to cover work surfaces where spillage is possible.

(i) Properly dress and protect open wounds on exposed body surfaces before working with radioactive materials.

(j) Wear laboratory coats when working with radioactive material. Potentially contaminated laboratory coats shall not be worn outside the immediate work area.

(k) Nuclides in gaseous or volatile form, or with a high potential for volatilization shall be used only in areas with adequate ventilation systems.

WSR 13-24-028

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed November 25, 2013, 8:58 a.m., effective December 26, 2013]

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

Purpose: The university is updating the procedures regarding requesting public records from Washington State University.

Citation of Existing Rules Affected by this Order: Amending 5.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 13-16-093 on August 7, 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 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, 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 5, Repealed 0.

Date Adopted: November 22, 2013.

Ralph T. Jenks, Director
Procedures, Records, and Forms
and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-04-027, filed 1/29/07, effective 3/1/07)

WAC 504-45-020 Agency description—Contact information—Public records officer. (1) Washington State University is an institution of higher education, authority for which is located in chapter 28B.30 RCW. The administrative offices of the university are located at the university's main campus at Pullman, Washington. Regional campuses are located in Spokane, Tri-Cities, and Vancouver, Washington. Agricultural research centers are located at Mt. Vernon, Prosser, Puyallup, Vancouver and Wenatchee, Washington. Cooperative extension offices are maintained in the county seats of all counties in the state. ~~((The Intercollegiate College of Nursing is located in Spokane, Washington. Learning Centers are located in Longview, Aberdeen, Goldendale, Wenatchee, Port Hadlock, Tacoma, Mt. Vernon, Yakima and~~

~~Walla Walla, Washington.))~~ The university also has operations offices in Seattle and Olympia, Washington.

(2) Any person wishing to request access to public records of the university, or seeking assistance in making such a request should contact the university's public records ~~((officer))~~ office located at the Pullman administrative offices. Current contact information and additional information regarding release of public records can be found on the university web site at <http://www.wsu.edu>.

(3) The public records officer will oversee compliance with the act but another university staff member may process the request. Therefore, these rules will refer to the public records officer or "designee." The public records officer or designee and the university will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the university.

AMENDATORY SECTION (Amending WSR 07-04-027, filed 1/29/07, effective 3/1/07)

WAC 504-45-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the university. For the purposes of this chapter, the normal business hours for the public records office shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding the university's holidays and scheduled and emergency closure periods. Records must be inspected at the offices of the university.

(2) Index of records. An index of final orders, declaratory orders, interpretive statements, and policy statements entered after June 30, 1990, is available at the office of the university's rules coordinator at the Pullman campus. The university will post links to many of these records on its web site at <http://www.wsu.edu>.

(3) Organization of records. The university will maintain its records in a reasonably organized manner. The university will take reasonable actions to protect records from damage and disorganization. A requestor shall not take university records from university offices without the permission of the public records officer or designee. Certain records are available on the university web site at www.wsu.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or copy public records of the university should make the request in writing on the university's request form, or by letter, fax, or e-mail addressed to the public records officer ~~((and including))~~ or designee. The following information must be included in the request:

- (i) Name of ~~((requestor))~~ the person requesting records;
- (ii) Mailing address of requestor;
- (iii) Other contact information, including telephone number and any e-mail address;
- (iv) Identification of the public records adequate for the public records officer or designee to locate the records; and
- (v) The date of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to RCW 42.56.120, standard photocopies will be provided at a rate of no more than fifteen cents per page. The university may charge the current approved rate for scanned images of paper records if images are requested. A requestor may refer to the university web site at <http://www.wsu.edu> for current rates.

(c) A form is available for use by requestors at the ~~((office of the))~~ public records ~~((officeer))~~ office and on the university's web site at <http://www.wsu.edu>.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

AMENDATORY SECTION (Amending WSR 07-04-027, filed 1/29/07, effective 3/1/07)

WAC 504-45-040 Processing of public records requests—General. (1) Providing "fullest assistance." The university is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with the essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer or designee will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available;

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone, e-mail or mail. Based upon that clarification, the public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) Consequences of failure to respond. If the university does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer or designee to determine the reason for the failure to respond.

(4) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the

requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the university believes that a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the university shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the university to copy.

(b) The requestor must claim or review the assembled records within thirty days of the university's notification to him or her that the records are available for inspection or copying. The university will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the university to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the university may close the request. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) Providing copies of records. After inspection is complete, the public records officer or designee shall make any copies of records requested by the requestor or arrange for copying.

(8) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the university has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer or designee will close the request and indicate to the requestor that the university has closed the request.

(11) Later discovered documents. If, after the university has informed the requestor that it has provided all available records, the university becomes aware of additional responsible documents existing at the time of the request, it will promptly inform the requestor of the additional documents and will make them available for inspection or provide copies upon payment on an expedited basis.

AMENDATORY SECTION (Amending WSR 07-04-027, filed 1/29/07, effective 3/1/07)

WAC 504-45-050 ((Reserved.)) Processing of public records requests—Electronic records. (1) Requesting electronic records. The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records. When a requestor requests records in an electronic format, the public records officer or designee will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

(3) Customized access to data bases. With the consent of the requestor, the university may provide customized access under RCW 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. The university may charge a fee consistent with RCW 43.41A.130 for such customized access.

AMENDATORY SECTION (Amending WSR 07-04-027, filed 1/29/07, effective 3/1/07)

WAC 504-45-070 Costs of providing copies of public records. (1) Costs for ((paper)) copies of paper records. There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page or scanned images at the current approved rate per image. Before beginning to make the copies or images, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The university will not charge sales tax when it makes copies of public records. The university may charge actual costs for special arrangements necessary for providing copies of records when required by the requestor, e.g., costs of color copying.

(2) Costs of mailing. The university may also charge actual costs of mailing, including the cost of the shipping container.

(3) Payment. Payment may be made by cash, check or money order to the university.

WSR 13-24-029

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed November 25, 2013, 9:00 a.m., effective December 26, 2013]

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

Purpose: Washington State University (WSU) is adding health and safety regulations specific to WSU Vancouver. WSU Vancouver seeks to expand the tobacco-free area mandated by the Washington Clean Indoor Act (which prohibits smoking in public buildings and places of employment, as well as within twenty-five feet of doors, windows, and ventilation intakes), to include all campus grounds and state-owned vehicles and equipment.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 13-17-099 on August 21, 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 3, Amended 0, Repealed 0.

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

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

Date Adopted: November 22, 2013.

Ralph T. Jenks, Director
Procedures, Records, and Forms
and University Rules Coordinator

Chapter 504-37 WAC

HEALTH AND SAFETY REGULATIONS SPECIFIC TO WASHINGTON STATE UNIVERSITY (WSU) VANCOUVER

NEW SECTION

WAC 504-37-010 Smoking and tobacco use—
Authority. Pursuant to RCW 28B.30.150(1), the Washington State University (WSU) board of regents is granted authority to establish rules and regulations for tobacco use on property owned, operated, and/or maintained by the university.

NEW SECTION

WAC 504-37-020 Smoking and tobacco products. Washington State University Vancouver acknowledges the findings of the United States Surgeon General that tobacco use in any form, active and passive, is a significant health hazard. The university further recognizes that the United States Environmental Protection Agency classifies environ-

mental tobacco smoke as a class A carcinogen. In light of these health risks, and in support of a safe and healthy learning/working environment, WSU Vancouver establishes the restrictions in this section, WAC 504-37-010, and 504-37-030, otherwise collectively referred to as the WSU Vancouver smoking and tobacco use policy.

(1) Smoking or other tobacco usage is not permitted within the perimeter of WSU Vancouver property. Smoking materials must be extinguished and disposed of prior to entering WSU Vancouver property or exiting vehicles. Improper disposal, including spitting smokeless tobacco or discarding cigarette butts on the ground or out of a vehicle, is not permitted.

(2) The WSU Vancouver smoking and tobacco use policy applies to all students, faculty, and staff or other persons using university facilities.

(3) The WSU Vancouver smoking and tobacco use policy is not intended to impede on institutional review board (IRB) research projects. IRB-approved research projects are exempt from this policy.

(4) Definitions. For the purposes of this chapter, the terms "tobacco products" and "premises" are defined as follows:

(a) Tobacco products. Cigarettes, cigars, pipes, hookah, all forms of smokeless tobacco, electronic cigarettes, clove cigarettes and other alternative products made primarily with tobacco.

(b) Premises. All buildings, grounds, state-owned vehicles and equipment (motor pool, maintenance) including, but not limited to, parking lots, bus stops, county-owned and WSU-maintained streets or sidewalks, recreational fields and all open common areas within the WSU Vancouver campus.

(5) The sale and/or free distribution of tobacco products or tobacco-related merchandise is prohibited on university property.

(6) Sponsorship of campus events by tobacco-promoting organizations is prohibited.

(7) Advertisement of tobacco products at university events is prohibited regardless of sponsorship.

(8) Tobacco use on university property or improper disposal of smoking materials may result in disciplinary action. Employees may be subject to corrective or disciplinary action and students may be referred to the WSU Vancouver office of student conduct. Other violators may be trespassed from the WSU Vancouver campus and subject to other sanctions available to enforce the smoking and tobacco use policy.

(9) Signage: Signs declaring WSU Vancouver "tobacco-free" are to be posted at the campus entries and other conspicuous places.

NEW SECTION

WAC 504-37-030 Smoking and tobacco use—Communication and compliance. (1) The enforcement of the smoking and tobacco use rules and regulations in this section, WAC 504-37-010 and 504-37-020 is the responsibility of campus public safety personnel with the assistance of all members of the WSU Vancouver community. Members of the WSU Vancouver community may notify public safety of repeat offenders and/or of disruptive behavior. The following

WSU Vancouver persons and departments are responsible for ensuring that the WSU Vancouver smoking and tobacco use policy is communicated to employees, students, visitors and others in the WSU Vancouver community as indicated:

- (a) Human resources regarding employees;
- (b) Student affairs regarding students;
- (c) Department leads regarding contractors and other visitors;
- (d) Communications and scheduling offices for events with external visitors;
- (e) Facilities operations for outside contractors and vendors working on campus;
- (f) Public safety regarding campus visitors;
- (g) Chancellor's office regarding partner institutions.

(2) Each of the above responsible persons and departments may establish procedures and protocols, consistent with each other and the WSU Vancouver smoking and tobacco use policy, designed to eliminate tobacco use from campus, increase compliance, and assist tobacco users in availing themselves of tobacco dependency treatment options.

(3) Any person who repeatedly violates the WSU Vancouver smoking and tobacco use policy may be asked to leave the premises and/or may be removed and subject to trespass admonition. Employees may be subject to corrective or disciplinary action and students may be subject to student conduct action. Public safety officers are authorized to control, and regulate facilities use as prescribed by this policy.

(4) Any person interfering with a university public safety officer in the discharge of the WSU Vancouver smoking and tobacco use policy may be in violation of WSU Vancouver policy and state law (RCW).

WSR 13-24-040

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 26, 2013, 8:09 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: The department is creating WAC 388-478-0090 What are the monthly income limits for the aged, blind, or disabled (ABD) cash assistance and housing and essential needs (HEN) referral programs? and amending WAC 388-400-0060 Who is eligible for aged, blind, or disabled (ABD) cash assistance?, 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?, 388-449-0035 How does the department assign severity ratings to my impairment?, 388-449-0060 Sequential evaluation process step II—How does the department review medical evidence to determine if I am eligible for benefits?, and 388-449-0080 Sequential evaluation process step IV—How does the department evaluate if I am able to perform [relevant] past work?

These changes are necessary to conform to SHB 2069, Laws of 2013, which:

- Establishes a single financial eligibility standard for the ABD cash assistance and the HEN referral programs; and
- Creates a less restrictive ABD disability standard by reducing the minimum duration requirement from twelve to nine months and reducing consideration of an individual's ability to perform past work from fifteen to ten years.

Citation of Existing Rules Affected by this Order: Amending WAC 388-400-0060, 388-449-0001, 388-449-0035, 388-449-0060, and 388-449-0080.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030.

Other Authority: SHB 2069, Laws of 2013.

Adopted under notice filed as WSR 13-19-062 on September 17, 2013.

Changes Other than Editing from Proposed to Adopted Version: The only change to the adopted version is a corrected WAC number. WAC 388-478-0009 What are the monthly income limits for the aged, blind, or disabled (ABD) cash assistance and housing and essential needs (HEN) referral programs? was changed to WAC 388-478-0090 in the adopted version. This change was necessary to correct a typographical error.

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 6, 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 6, Repealed 0.

Date Adopted: November 18, 2013.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-478-0090 What are the monthly income limits for the aged, blind, or disabled (ABD) cash assistance and housing and essential needs (HEN) referral program? You must have countable income, as defined in WAC 388-450-0162, at or below the monthly income limit in order to receive aged, blind, or disabled (ABD) cash assistance or a referral to the housing and essential needs (HEN) program.

(1) The ABD cash assistance and HEN referral monthly income limits for individuals with an obligation to pay shelter costs are:

Assistance Unit Size	Monthly Income Limit
1	\$339
2	\$428

(2) The ABD cash assistance and HEN referral monthly income limits for individuals with shelter provided at no cost are:

Assistance Unit Size	Monthly Income Limit
1	\$206
2	\$261

(3) The ABD cash assistance and HEN referral monthly income limits for individuals in medical institutions and group living facilities are:

Facility Type	Assistance Unit Size	Monthly Income Limit
Medical institutions (including nursing homes and hospitals)	1	\$41.62
Adult family homes	1	\$339.00
Boarding homes (including assisted living, enhanced residential centers (EARC), and adult residential centers (ARC))	1	\$38.84
Developmental disability administration (DDA) group homes	1	\$38.84
Mental health adult residential treatment facilities (ARTF)	1	\$38.84

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-400-0060 Who is eligible for aged, blind or disabled (ABD) cash assistance? (1) Effective November 1, 2011, you are eligible for aged, blind, or disabled (ABD) cash benefits if you:

- (a) Are:
 - (i) At least sixty-five years old;
 - (ii) Blind as defined by the Social Security Administration (SSA); or
 - (iii) Likely to be disabled as defined in WAC 388-449-0001 through 388-449-0100; and
- (b) Are at least eighteen years old or, if under eighteen, a member of a married couple;
- (c) Are in financial need according to ABD cash income and resource rules in chapters 388-450, 388-470 and 388-488 WAC. We determine who is in your assistance unit according to WAC 388-408-0060;

(d) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090.

(e) Meet the citizenship/alien status requirements under WAC 388-424-0015;

~~((e))~~ (f) Provide a Social Security number as required under WAC 388-476-0005;

~~((f))~~ (g) Reside in the state of Washington as required under WAC 388-468-0005;

~~((g))~~ (h) Sign an interim assistance reimbursement authorization agreeing to repay the monetary value of general assistance, disability lifeline, or aged blind or disabled benefits subsequently duplicated by supplemental security income benefits as described under WAC 388-449-0200, 388-449-0210 and 388-474-0020;

~~((h))~~ (i) Report changes of circumstances as required under WAC 388-418-0005; and

~~((i))~~ (j) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.

(2) You aren't eligible for aged, blind, or disabled cash benefits if you:

(a) Are eligible for temporary assistance for needy families (TANF) benefits;

(b) Are eligible for state family assistance (SFA) benefits;

(c) Refuse or fail to meet a TANF or SFA eligibility rule;

(d) Refuse or fail to pursue federal aid assistance, including but not limited to medicaid, without good cause.

(e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220 without good cause;

~~((e))~~ (f) Refuse or fail to follow through with the SSI application as required in WAC 388-449-0200 without good cause;

~~((f))~~ (g) Refuse or fail to participate in vocational rehabilitation services as required in WAC 388-449-0225 without good cause;

~~((g))~~ (h) Are eligible for supplemental security income (SSI) benefits;

~~((h))~~ (i) Are an ineligible spouse of an SSI recipient; or

~~((i))~~ (j) Failed to follow a Social Security Administration (SSA) program rule or application requirement and SSA denied or terminated your benefits.

(3) If you reside in a public institution and meet all other requirements, your eligibility for ABD cash depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for ABD cash if you are:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and:

(A) Sixty-five years of age or older; or

(B) Twenty years of age or younger.

(4) You aren't eligible for ABD cash when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement:

(a) In a work release program; or

(b) Outside of the institution including home detention.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?

(1) For the purposes of this chapter, the following definitions apply:

(a) "We" and "us" refer to the department of social and health services.

(b) "You" means the applicant or recipient.

(c) "Disabled" ~~((is defined by the Social Security Administration for supplemental security income (SSI) as))~~ means the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which ((can be expected to result in death or which)) has lasted or can be expected to last for a continuous period of not less than ~~((twelve))~~ nine months with available treatment or result in death.

(d) "Physical impairment" means a diagnosable physical illness.

(e) "Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to alcohol or drug abuse or addiction.

(2) We determine if you are likely to be disabled when:

(a) You apply for ABD cash benefits;

(b) You become employed;

(c) You obtain work skills by completing a training program; or

(d) We receive new information that indicates you may be employable.

(3) We determine you are likely to be disabled if:

(a) You are determined to meet SSA disability criteria by the Social Security Administration (SSA);

(b) You are determined to meet SSA disability criteria by disability determination services (DDDS) based on the most recent DDDS determination;

(c) The Social Security Administration (SSA) stops your supplemental security income (SSI) payments solely because you are not a citizen;

(d) You are eligible for long-term care services from aging and ~~((disability services))~~ long-term support administration for a medical condition that is expected to last ~~((twelve))~~ nine months or more or result in death; or

(e) You are approved through the sequential evaluation process (SEP) defined in WAC 388-449-0005 through 388-449-0100. The SEP is the sequence of five steps. Step 1 considers whether you are currently working. Steps 2 and 3 consider medical evidence and whether you are likely to meet or equal a listed impairment under Social Security's rules. Steps 4 and 5 consider your residual functional capacity and vocational factors such as age, education, and work experience in order to determine your ability to do your past work or other work.

(4) If you have a physical or mental impairment and you are impaired by alcohol or drug addiction and do not meet the other disability criteria in subsection (2)(a) through (d) above, we decide if you are eligible for ABD cash by applying the sequential evaluation process described in WAC 388-449-0005 through 388-449-0100. You aren't eligible for ABD cash benefits if you are disabled primarily because of alcoholism or drug addiction.

(5) In determining disability, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: sitting, standing, walking, lifting, carrying, handling, and other physical functions (including manipulative or postural functions such as pushing, pulling, reaching, handling, stooping, or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and coworkers, tolerating the pressures of a work setting, maintaining appropriate behavior, and adapting to changes in a routine work setting.

(6) We determine you are not likely to meet SSI disability criteria if SSA denied your application for SSI or Social Security Disability Insurance (SSDI) based on disability in the last twelve months unless:

- (a) You file a timely appeal with SSA;
- (b) SSA decides you have good cause for a late appeal;

or

(c) You give us medical evidence of a potentially disabling condition that SSA did not consider or medical evidence confirming your condition has deteriorated.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-449-0035 How does the department assign severity ratings to my impairment? (1) "Severity rating" is a rating of the extent of your impairment and how it impacts your ability to perform basic work activities. The following chart provides a description of limitations on work activities and the severity ratings assigned to each.

Effect on Work Activities	Degree of Impairment	Numerical Value
(a) There is no effect on your performance of one or more basic work-related activities.	None	1
(b) There is no significant limit on your performance of one or more basic work-related activities.	Mild	2
(c) There are significant limits on your performance of one or more basic work-related activities.	Moderate	3
(d) There are very significant limits on your performance of one or more basic work-related activities.	Marked	4
(e) You are unable to perform basic work-related activities.	Severe	5

(2) We use the description of how your condition impairs your ability to perform work activities given by the acceptable medical source or your treating provider, and review other evidence you provide, to establish severity ratings when the impairments are supported by, and consistent with, the objective medical evidence.

(3) A contracted doctor reviews your medical evidence and the ratings assigned to your impairment when:

(a) The medical evidence indicates functional limitations consistent with at least a moderate physical or mental health impairment;

(b) Your impairment has lasted or is expected to last, ~~((twelve))~~ nine months or more with available medical treatment; and

(c) You are not an active ABD recipient previously determined likely to be disabled as defined in WAC 388-449-0010 through 388-449-0100.

(4) The contracted doctor reviews your medical evidence, severity rating, and functional assessment to determine whether:

(a) The Medical evidence is objective and sufficient to support the findings of the provider;

(b) The description of the impairment(s) is supported by the medical evidence; and

(c) The severity rating, duration, and assessment of functional limitations assigned by DSHS are consistent with the medical evidence.

(5) If the medical provider's description of your impairment(s) is not consistent with the objective evidence, we will:

(a) Assign a severity rating, duration, and functional limitations consistent with the objective medical evidence; and

(b) Clearly describe why we rejected the medical evidence provider's opinion; and

(c) Identify the medical evidence used to make the determination.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-449-0060 Sequential evaluation process step II—How does the department review medical evidence to determine if I am eligible for benefits? When we receive your medical evidence, we review it to determine if it is sufficient to decide whether your circumstances meet disability requirements.

(1) We require written medical evidence to determine disability. The medical evidence must:

(a) Contain sufficient information as described under WAC 388-449-0015;

(b) Be written by an acceptable medical source or treating provider described in WAC 388-449-0010;

(c) Document the existence of a potentially disabling condition by an acceptable medical source described in WAC 388-449-0010; and

(d) Document the impairment has lasted or is expected to last ~~((twelve))~~ nine continuous months or more with available treatment, or result in death.

(2) If the information received isn't clear, we may require more information before we determine whether you meet ABD disability requirements. As examples, we may require

you to get more medical tests or be examined by a medical specialist.

(3) We deny disability if:

(a) We don't have evidence that your impairment is of at least moderate severity as defined in WAC 388-449-0035, 388-449-0040, 388-449-0045, or 388-449-0050;

(b) Your impairment hasn't lasted or isn't expected to last ~~((twelve))~~ nine or more months with available treatment or result in death; or

(c) We have evidence drug or alcohol abuse or addiction is material to your impairment(s).

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-449-0080 Sequential evaluation process step IV—How does the department evaluate if I am able to perform relevant past work? (1) If we neither deny disability at Step 1 or 2 nor approve it at Step 3, we consider our assessment of your physical and/or mental functional capacity, per WAC 388-449-0020 and 388-449-0030, to determine if you can do work you have done in the past.

(2) We evaluate your work experience to determine if you have relevant past work and transferable skills. "Relevant past work" means work:

(a) Defined as substantial gainful activity per WAC 388-449-0005;

(b) You have performed in the past ~~((fifteen))~~ ten years; and

(c) You performed long enough to acquire the knowledge and skills necessary to continue performing the job. You must meet the specific vocational preparation level as defined in Appendix C of the Dictionary of Occupational Titles.

(3) For each relevant past work situation, we compare:

(a) The exertional, nonexertional, and skill requirements of the job based on the Appendix C of the Dictionary of Occupational Titles; and

(b) Current cognitive, social, exertional, and nonexertional factors that significantly limit your ability to perform past work.

(4) We deny disability when we determine that you are able to perform any of your relevant past work.

(5) We approve disability when you are fifty-five years of age or older and don't have the physical, cognitive, or social ability to perform past work.

WSR 13-24-041

**PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 26, 2013, 8:53 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: The department is amending by permanent adoption WAC 388-478-0015 Need standards for cash assistance. This rule filing is required by state law, RCW 74.04.770 which states the department must establish consolidated standards of need each year.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090

Adopted under notice filed as WSR 13-19-063 on September 17, 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 0, Repealed 0.

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

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

Date Adopted: November 19, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-24-034, filed 11/29/12, effective 1/1/13)

WAC 388-478-0015 Need standards for cash assistance. The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	\$(1,192)) <u>1,189</u>
2	((1,508)) <u>1,504</u>
3	((1,862)) <u>1,857</u>
4	((2,197)) <u>2,191</u>
5	((2,532)) <u>2,526</u>
6	((2,867)) <u>2,860</u>
7	((3,314)) <u>3,305</u>
8	((3,668)) <u>3,658</u>
9	((4,022)) <u>4,011</u>
10 or more	((4,376)) <u>4,364</u>

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	\$(621)) <u>609</u>
2	((786)) <u>770</u>
3	((970)) <u>951</u>
4	((1,145)) <u>1,122</u>
5	((1,319)) <u>1,293</u>
6	((1,494)) <u>1,465</u>

Assistance Unit Size	Need Standard
7	((1,727)) <u>1,693</u>
8	((1,914)) <u>1,873</u>
9	((2,095)) <u>2,054</u>
10 or more	((2,280)) <u>2,235</u>

WSR 13-24-042**PERMANENT RULES****DEPARTMENT OF LICENSING**

[Filed November 26, 2013, 8:54 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: Amending cosmetology, barber, manicurist, esthetician, chapter 308-20 WAC. SHB 1779 was passed during the 2013 legislative session giving the department authority to modify the license requirements for estheticians. Also, stakeholders that the department regularly works with have requested the existing safety and sanitation procedures be updated and amended for clarity, intent, and statutory authority.

Citation of Existing Rules Affected by this Order: Amending WAC 308-20-040 Student records, 308-20-055 Apprentice records, 308-20-065 Student and apprentice registration, 308-20-080 Minimum instruction guidelines for cosmetology, barbering, manicuring and esthetics training, 308-20-090 Student credit for training in a licensed school, 308-20-091 Student credit for training in a licensed salon/shop, 308-20-101 Apprentice credit for training in an approved apprentice salon/shop, 308-20-105 Minimum instruction requirements for instructor trainees, 308-20-107 Use and training of instructor-trainees, 308-20-110 Minimum safety and sanitation standards for schools, cosmetologists, manicurists, estheticians, barbers, instructors, salon/shops, mobile units and personal services, 308-20-115 Reciprocity-Persons licensed in other jurisdictions, 308-20-120 Written and performance examinations, 308-20-210 Fees, 308-20-550 Posting of required licenses, registrations, permits, notice to consumers and current inspection form, 308-20-572 Inspection of schools, and 308-20-575 School license renewal process.

Statutory Authority for Adoption: RCW 43.24.023, 18.16.030.

Adopted under notice filed as WSR 13-20-138 on October 2, 2013.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-20-080 (5)(h), amended the master esthetics curriculum to include "Advanced theories; alternative, touch, and spa body treatments." This will address the full scope of master esthetics to include medium depth chemical peels and other advanced practices.

WAC 308-20-210, added a new title of fee to include "master esthetician" under the current esthetics fees. There is no increase or decrease to the fees.

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 6, 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 16, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 16, 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 16, Repealed 0.

Date Adopted: November 26, 2013.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-06-092, filed 3/2/10, effective 4/2/10)

WAC 308-20-040 Student records. (1) Schools shall collect and record monthly and final student reports. These reports as described in WAC 308-20-010 shall contain the cumulative number of hours the student has attended class and the number of times the student performs an activity as described in WAC 308-20-080. The hours attended shall not be recorded in less than one-quarter hour increments. Each monthly report shall include the month and the year.

(2) Monthly and final student reports shall be signed by ~~((either the school owner, school manager or a person the school has authorized to sign the student reports))~~ an instructor who is licensed in the curriculum being taught and is employed at the school where the student is enrolled.

(3) The school shall certify ~~((to the department))~~ ~~((the))~~ a student has satisfied the minimum instruction guidelines described in WAC 308-20-080 ~~((on the student's license examination application. Certification shall be by a person authorized to sign student reports according to subsection (2) of this section))~~ at the time the final hours are reported to the department.

(4) Schools shall maintain student records on the school premises for at least three years. The student records shall include documentation of student training including the monthly student reports.

(5) The school shall notify the department of the persons authorized to sign student records on the school data sheet.

~~((6) Weekly reports provided by salon/shops verifying hours student earns in salon training must be included in student's records and recorded on student's monthly and final reports.))~~

AMENDATORY SECTION (Amending WSR 08-22-029, filed 10/28/08, effective 2/1/09)

WAC 308-20-055 Apprentice records. (1) Apprentice salon/shops shall collect and record monthly and final apprentice training records. These reports described in WAC 308-20-010(8) shall contain the cumulative number of hours the apprentice has earned in each area of the minimum instruction guidelines and the number of times an apprentice

performs an activity. Records shall include the month, year, and daily activities of the apprentice in each subject.

(2) Copies of each apprentice's records shall be kept on file at the apprentice salon shop for the duration of training for each apprentice and provided to the apprentice and the apprenticeship program at the end of each month of training.

(3) Monthly and final apprentice records shall be signed by the trainer and shop owner. The apprentice salon/shop shall notify the department of persons authorized to sign the apprentice's records on forms provided by the department.

(4) ~~((At the completion of training))~~ The apprenticeship program shall certify ((to the department on forms provided by the department)) that ((the)) an apprentice has satisfied the minimum ((number of training hours)) instruction guidelines required in the standards of the apprenticeship program ((which must include the minimum instruction requirements for cosmetology, barbering, manicuring and esthetics training)) as described in WAC 308-20-080 at the time the final hours are reported to the department.

(5) The apprentice records shall be maintained by the shop during the training and by the Washington state apprenticeship and training committee for three years once training is completed. The apprentice records shall include documentation of apprentice training.

AMENDATORY SECTION (Amending WSR 08-22-029, filed 10/28/08, effective 2/1/09)

WAC 308-20-065 Student and apprentice registration. (1) All schools and apprentice shops shall register any new student to the department in a manner and format prescribed by the department.

(2) At least one time per month, on or before the tenth day of the month, schools and apprentice shops shall submit to the department, a record of each student or apprentice's accrued clock hours in a manner and format prescribed by the department. A school or apprentice shop's initial submission of clock hours shall include all hours accrued at the school or apprentice shop and all transferred hours received by the school or apprentice shop.

(3) Upon graduation, a school shall certify in a manner and format prescribed by the department that a student has completed the curriculum hours approved by the department.

(4) Upon completion of the apprenticeship training program, the apprentice shop shall certify in a manner and format prescribed by the department that an apprentice has completed the minimum number of training hours approved by the department.

~~((4))~~ (5) Schools and apprentice shops shall ~~((submit))~~ report a student or apprentice's withdrawal or termination to the department, in a manner and format prescribed by the department, within ten calendar days ~~((after))~~ of the withdrawal or termination.

~~((5))~~ (6) Schools and apprentice shops shall ~~((submit))~~ report a student or apprentice's leave of absence request approved by the school or apprentice shop to the department, in a manner and format prescribed by the department, within ten calendar days of the start date of the leave.

AMENDATORY SECTION (Amending WSR 08-22-029, filed 10/28/08, effective 2/1/09)

WAC 308-20-080 Minimum instruction guidelines for cosmetology, barbering, manicuring and esthetics training. The minimum instruction guidelines for training required for a student or apprentice to be eligible to take the license examination for the following professions shall include:

- (1) For cosmetology:
 - (a) Theory of the practice of cosmetology ~~((, barbering, manicuring and esthetics services))~~ including business practices;
 - (b) At least 100 hours of skills in the application of manicuring and pedicuring services;
 - (c) At least 100 hours of skills in the application of esthetics services;
 - (d) Shampooing including draping, brushing, scalp manipulations, conditioning and rinsing;
 - (e) Scalp and hair analysis;
 - (f) Hair cutting and trimming including scissors, razor, thinning shears and clippers;
 - (g) Hair styling including wet, dry and thermal styling, braiding and styling aids;
 - (h) Cutting and trimming of facial hair including beard and mustache design and eyebrow, ear and nose hair trimming;
 - (i) Artificial hair ~~((that may include extensions and fitting))~~;
 - (j) Permanent waving including sectioning, wrapping, preperm test curl, solution application, processing test curl ~~((and)), neutralizing and removal of chemicals~~;
 - (k) Chemical relaxing including sectioning, strand test, ~~((and)) relaxer application, and removal of chemicals~~;
 - (l) Hair coloring and bleaching including predisposition test and strand test, and measurement, mixing, application and removal of chemicals;
 - (m) Sanitizing and disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;
 - (n) Diseases and disorders of the scalp, hair, skin and nails;
 - (o) Safety including proper use and storage of chemicals, implements and electrical appliances;
 - (p) First aid as it relates to cosmetology ~~((, barbering, manicuring and esthetics))~~; and
 - (q) No more than twenty-five percent of skills training using mannequins.
- (2) For barbering:
 - (a) Theory of the practice of barbering services and business practices;
 - (b) Shampooing including draping, brushing, scalp manipulations, conditioning and rinsing;
 - (c) Scalp and hair analysis;
 - (d) Hair cutting and trimming including scissors, razor, thinning shears and clippers;
 - (e) Hair styling, wet, dry and thermal styling and styling aids;
 - (f) Cutting and trimming of facial hair including shaving, beard and mustache design and eyebrow, ear and nose hair trimming;

- (g) Artificial hair;
- (h) Sanitizing and disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;
- (i) Diseases and disorders of the skin, scalp and hair;
- (j) Safety including proper use of implements and electrical appliances;
- (k) First aid as it relates to barbering; and
- (l) No more than twenty-five percent of skills training using mannequins.
- (3) For manicuring:
 - (a) Theory in the practice of manicuring and pedicuring services and business practices;
 - (b) Artificial nails including silk, linen, fiberglass, acrylic, gel, powder, extensions and sculpting, preparation, application, finish and removal;
 - (c) Cleaning, shaping and polishing of nails of the hands and feet and treatment of cuticles;
 - ~~((d))~~ ~~(Cleaning, shaping and polishing of nails of the feet;~~
 - ~~((e))~~ Sanitizing and disinfecting of individual work station, individual equipment and tools and proper use and storage of linens;
 - ~~((f))~~ (e) Diseases and disorders of the nails of the hands and feet;
 - ~~((g))~~ (f) Safety including proper use and storage of chemicals, implements and electrical appliances;
 - ~~((h))~~ (g) First aid as it relates to manicuring and pedicuring; and
 - ~~((i))~~ (h) No more than twenty-five percent of skills training using mannequins.
- (4) For esthetics:
 - ~~((a))~~ Theory in the practice of esthetics services ~~(;)~~ and business practices (750 hours);
 - ~~((b))~~ (a) Care of the skin ~~((care of the face, neck and hands including hot))~~ compresses, massage, facials, wraps, masks, exfoliation, use of electrical or mechanical appliances or chemical compounds;
 - ~~((c))~~ Facials;
 - ~~((d))~~ (b) Temporary removal of superfluous hair of the ~~((face, neck and hands))~~ skin by means including tweezing, waxing, tape, chemicals, lotions, creams, sugaring, threading, mechanical or electrical apparatus and appliances;
 - ~~((e))~~ (c) Sanitizing and disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;
 - ~~((f))~~ (d) Diseases and disorders of the skin of the face, neck and hands;
 - ~~((g))~~ (e) Safety including proper use and storage of chemicals, implements and electrical appliances;
 - ~~((h))~~ (f) First aid as it relates to esthetics; and
 - ~~((i))~~ (g) No more than twenty-five percent of skills training using mannequins.
- (5) Master esthetics (450 additional hours):
Theory in the practice of master esthetics and business practices includes all of subsection (4) of this section and the following:
 - (a) Exfoliation and medical esthetic procedures;
 - (b) Laser, light frequency, radio frequency, ultrasound, and plasma practices;
 - (c) Medium depth chemical peels;

(d) Advanced client assessment, documentation, and indications/contraindications;

(e) Pretreatment and post-treatment procedures;

(f) Lymphatic drainage and advanced facial massage;

(g) Advanced diseases and disorders of the skin; and

(h) Advanced theories: alternative, touch, and spa body treatments.

AMENDATORY SECTION (Amending WSR 08-22-029, filed 10/28/08, effective 2/1/09)

WAC 308-20-090 Student credit for training in a licensed school. (1) A maximum of twenty students per instructor is required within a licensed school.

(2) Only those hours of instruction a student is given under the direction of a licensed instructor of the licensed school in which the student is enrolled and in the courses listed in WAC 308-20-080 and 308-20-105 or hours earned under WAC 308-20-091 shall be credited toward completion of the course of study required in RCW 18.16.100.

(3) When all of a school's requirements have been met by a student and within thirty days of a student leaving a school, the school shall provide to the student a certified copy of the student's final report and refer the student for examination(s) in a manner and format prescribed by the department.

(4) Students may transfer between the schools and apprenticeship salon/shops licensed under chapter 18.16 RCW and may receive credit toward completion of the curriculum in the new school or apprenticeship salon/shop. In order to ~~((receive))~~ enroll a transfer student or apprentice, the new school or apprentice salon/shop shall do the following:

(a) Confirm that the student is available for transfer through the student registration process in a manner and format prescribed by the department;

(b) Evaluate the certified final student report provided by the student or apprentice and compare the report with the new school or apprentice salon/shop curriculum requirements; and

~~((b))~~ (c) The new school or apprentice salon/shop may accept or reject the final student or apprentice report in part or in total from the previous school or salon/shop and shall prepare a monthly report that documents the amount of instructions being accepted.

(5) Both the transferring and receiving school or salon/shop shall maintain student or apprentice records including the transfer record as required in WAC 308-20-040(4).

(6) Licensed instructors must be physically present where the students are training.

(7) Certified training hours expire three years after the last day of attendance. Any hours earned by a student that are more than three years old are considered by the department to be expired and will not be considered valid towards initial licensure.

AMENDATORY SECTION (Amending WSR 03-14-046, filed 6/24/03, effective 7/25/03)

WAC 308-20-091 Student credit for training in a licensed salon/shop. (1) A maximum ten percent of the total curriculum hours required may be earned by a student in a licensed salon/shop under a contract approved by the depart-

ment signed by the student, the school owner, and the salon/shop manager.

(2) A copy of the signed contract shall be kept in the student file, kept on file at the salon shop and given to the student and shall be made available to the department on request.

(3) Only those hours of instruction a student is given under the direction of a licensed operator in the contracted salon/shop and in the subjects agreed to in the contract shall be credited towards completion of the course of study required in RCW 18.16.100.

~~((3))~~ (4) Students will not receive any wages or commission for hours of credit earned in a salon/shop.

~~((4))~~ (5) Salon/shops shall provide weekly reports to the school~~(s)~~ and student with hours the student earned in each area of agreed training.

~~((5) Licensed operators must be physically present where students are training.)~~

(6) Weekly reports provided by salon/shops verifying hours student earns in salon training must be included in student's records and recorded on student's monthly and final reports.

(7) Licensed operators must be physically present where students are training.

(8) Students in training must wear identification visible to the public that states that they are students in training.

(9) Certified training hours expire three years after the last day of attendance. Any hours earned by a student that are more than three years old are considered by the department to be expired and will not be considered valid towards initial licensure.

AMENDATORY SECTION (Amending WSR 08-22-029, filed 10/28/08, effective 2/1/09)

WAC 308-20-101 Apprentice credit for training in an approved apprentice salon/shop. (1) A minimum of one trainer per apprentice is required.

(2) Only those hours of theory instruction given under the direction of an instructor licensed under chapter 18.16 RCW shall be credited towards completion of the apprentice curriculum requirements for theory hours. Cosmetologist, barber, manicurist and esthetician theory hours must be taught in a classroom setting under the direct supervision of an instructor licensed in the curriculum for which he or she is providing theory instruction.

(3) With the exception of theory hours, only those hours of instruction an apprentice is given under the direction of an apprentice trainer as defined in WAC 308-20-010 and in the standards developed by the apprenticeship program shall be credited toward completion of the apprenticeship training.

(4) When all of the apprenticeship program requirements have been met by the apprentice and within thirty days of an apprentice's completed training, the committee shall provide to the apprentice a copy of the apprentice's final report.

(5) An apprentice may transfer between shops only when the ~~((committee))~~ Washington state apprenticeship council or the Washington state department of labor and industries approves the transfer.

(6) Apprentice trainers and instructors must be physically present where apprentices are receiving practical training.

(7) Certified training hours expire three years from last date of attendance. Any hours earned by an apprentice that are more than three years old are considered by the department to be expired and will not be considered valid towards initial licensure.

AMENDATORY SECTION (Amending WSR 03-14-046, filed 6/24/03, effective 7/25/03)

WAC 308-20-105 Minimum instruction requirements for instructor-trainees. The minimum instruction requirements for a student to be eligible to take the examination to be licensed as an instructor shall include, but not be limited to:

(1) Preparation for classroom activities including, but not limited to:

- (a) Choice of teaching methods;
- (b) Classroom setup;
- (c) Topic/subject matter;
- (d) Written lesson plans;
- (e) Student assignments;
- ~~((e))~~ (f) Materials and supplies; and
- ~~((f))~~ (g) Recordkeeping.

(2) Presentation of information including, but not limited to:

- (a) Lectures ~~((oral and written))~~;
 - (b) Demonstrations;
 - (c) Questions and answers;
 - (d) Project methods; and
 - (e) Discussions.
- (3) Application of practice including, but not limited to:
- (a) Clinic supervision;
 - (b) Classroom management; and
 - (c) Client relations.
- (4) Evaluation by the instructor-trainee of the student's understanding and performance including, but not limited to:
- (a) Written/practical assessment; and
 - (b) Communication skills.

AMENDATORY SECTION (Amending WSR 10-06-092, filed 3/2/10, effective 4/2/10)

WAC 308-20-107 Use and training of instructor-trainees. (1) Instructor-trainees shall be supervised at all times by a licensed instructor. The licensed instructor shall be physically present where the instructor-trainee is working and be available for consultation with the instructor-trainee.

(2) Instructor-trainees shall hold a current Washington state cosmetology, barber, manicurist ~~((or))~~, esthetician, or master esthetician license in good standing prior to ~~((becoming))~~ enrolling in an instructor-trainee program. A copy of the instructor-trainee's valid Washington state operator license shall be kept in the student's file.

AMENDATORY SECTION (Amending WSR 07-14-066, filed 6/29/07, effective 8/1/07)

WAC 308-20-110 Minimum safety and sanitation standards for schools, cosmetologists, manicurists, estheticians, barbers, instructors, salons/shops, mobile units and personal services. Every licensee shall maintain the following safety and sanitation standards. In addition, school instructors and apprentice trainers must assure persons training in a school or apprentice salon/shop will adhere to the following safety ~~((and))~~, sanitation and disinfection standards:

(1) Requirements and standards.

(a) All locations where chemical services are provided to clients must have a dispensing sink with hot and cold running water. Dispensing sinks are used for mixing chemicals, and disinfecting supplies, tools, equipment, and other materials. Dispensing sinks must be labeled "not for public use."

(b) On-site laundry facilities must be maintained in a sanitary condition.

(c) Single-use hand soap and disposable or single-use hand-drying towels for customers must be provided.

(d) Use of bar soap or a common towel is prohibited.

(e) Licensees must not ~~((work))~~ perform or continue services on a client(s) with visible parasites, open wounds, or signs of infection. If the licensee has reason to believe or observes that the client has a contagious condition such as head lice, nits, ringworm, an open wound or sore or signs of infection in the area to be serviced, the licensee must:

(i) Stop services immediately in a safe manner;

(ii) Inform the client of the reason the service was stopped;

(iii) Sanitize and disinfect all affected tools, work, and waiting areas.

~~((Licensees must sanitize and disinfect affected work area if visible parasites, open wounds, or signs of infection are found on a client.))~~ A licensee who has a contagious disease, visible parasite, or open wound of a nature that may be transmitted, must not perform services on a client until the licensee takes medically approved measures to prevent transmission of the disease.

~~((Creams and lotions must be dispensed using a disposable, or sanitized and disinfected applicator, and liquids must be dispensed with a squeeze bottle or pump.))~~ All liquids, creams, and other cosmetic preparations including paraffin wax and depilatory wax must be kept in clean and closed containers.

~~((Wash hands with single-use soap and/or hand sanitizer and disposable or single use hand-drying towels after restroom use and before providing service to each client.~~

~~((Waste containers must be emptied, sanitized and disinfected daily.~~

~~((All bottles and containers must be distinctly and correctly labeled to disclose their contents. All bottles and containers containing poisonous substances must be additionally and distinctly marked as such.~~

(i) Items subject to possible cross contamination such as liquids, creams and lotions, cosmetic preparations and chemicals including paraffin wax and depilatory wax must be dispensed in a way that does not contaminate the remaining portion by using a disposable, or sanitized and disinfected applicator. Applicators shall not be redipped in product. Liquids

must be dispensed with a squeeze bottle or pump. Any product that becomes contaminated shall be discarded after use on that particular client.

(j) Pencil cosmetics must be sharpened before each use. Sanitize and disinfect or dispose of the sharpener after service on each client.

(k) A licensee must thoroughly wash his or her hands with soap and warm water or any equally effective cleansing agent immediately before providing services to each client, before checking a student's work on a client, or after smoking, eating, or using the restroom.

(l) A client's skin upon which services will be performed must be washed with soap and warm water or wiped with antiseptic or waterless hand cleanser approved for use on skin before a service on the hands and feet.

(m) After service on each client, hair and nail clippings must immediately be placed in a closed covered waste container.

~~((2)) **(Personal cleanliness.**~~

~~((a) A licensee must thoroughly wash his or her hands with soap and warm water or any equally effective cleansing agent immediately before providing services to each client, before checking a student's work on a client, or after smoking, eating or using the restroom.~~

~~((b) A client's skin upon which services will be performed must be washed with soap and warm water or wiped with disinfectant or waterless hand cleanser approved for use on skin before a service on the hands and feet.~~

~~((c) A licensee who has a contagious disease, visible parasite, or open wound of a nature that may be transmitted, must not perform services on a client until the licensee takes medically approved measures to prevent transmission of the disease.~~

~~((3)) **Articles in contact with a client.**~~

~~((a) A neck strip or towel must be placed around the client's neck to prevent direct contact between a multiple use haircloth or cape and the client's skin, and must be in place during entire service.~~

~~((b) All items, which come in direct contact with the client's skin that do not require disinfecting, must be sanitized; ((to include)) including reusable gloves.~~

~~((c) All articles, which come in direct contact with the client's skin that cannot be sanitized and disinfected, must be disposed of in a waste receptacle immediately after service on each client.~~

~~((d) Disposable protective gloves must be disposed of after service on each client.~~

~~((4)) **Materials in contact with a client.**~~

~~((a) All chemical substances, including paraffin wax must be dispensed from containers in a manner to prevent contamination of the unused portion.~~

~~((b) Any part of the body being immersed in paraffin wax must be sanitized with soap and water or sanitizing solution.~~

~~((c) Paraffin wax must be covered when not in use, and maintained at a temperature specified by the manufacturer's instructions.~~

~~((5)) **(3) Materials in contact with a client.**~~

(a) Paraffin wax and depilatory wax must be covered in a manner to prevent contamination except during the waxing

service, and maintained at a temperature specified by the manufacturer's instructions.

(b) Paraffin wax and depilatory wax must be dispensed in a way that does not contaminate the remaining portion by using one of the following methods:

(i) Use a new spatula each time wax is removed from the pot;

(ii) Apply wax directly onto a disposable strip;

(iii) Use one dedicated spatula to remove wax from the pot, and then spread the wax with a second spatula. The first spatula should never come in contact with either the client's skin or the second spatula; or

(iv) Separate a quantity of wax from the main wax pot to use on a single client; this quantity should be placed in a small single-use container. Double-dipping is allowed as long as the remaining wax is not reused between clients. Once the waxing procedure is complete, any remaining wax, as well as the single-use container, must be discarded.

(c) All used wax that has been in contact with a client's skin shall not be reused under any circumstances and shall be disposed of immediately after each use.

(d) All wax pots shall be cleaned and disinfected according to manufacturer's recommendations. No applicators shall be left standing in wax at any time.

(4) Chemical use and storage.

(a) When administering services to a client that involve the use of chemicals or chemical compounds, all licensees must follow safety procedures according to manufacturer's instructions or material safety data sheets (MSDSs), ~~((which))~~ to prevent injury to the client's person or clothing.

(b) ~~((Licensees using chemicals or chemical compounds in providing services to clients must store the chemicals so as to prevent fire, explosion, or bodily harm))~~ Salon shops and schools shall have in the immediate working area access to all material safety data sheets (MSDSs) provided by manufacturers for any chemical products used.

~~((+))~~ (c) Flammable chemicals must be stored away from potential sources of ignition.

~~((+))~~ (d) Chemicals which could interact in a hazardous manner such as oxidizers, catalysts, and solvents, must be stored per manufacturer's instruction.

~~((+))~~ (e) Licensees using chemicals or chemical compounds in providing services to clients must store the chemicals so as to prevent fire, explosion, or bodily harm. All chemicals must be stored in accordance with the manufacturer's directions.

~~((6))~~ (5) Refuse and waste material.

(a) All ~~((chemical, flammable, toxic or otherwise harmful waste material must be deposited in a closed container at the conclusion of each service on a client and removed from the premises to a fire retardant container at the close of each business day.~~

~~((b) All nonchemical waste related to the performance of services must be deposited in a covered container to avoid the potential for cross-contamination through release of or exposure to infectious waste materials.~~

~~((c) All waste unrelated to the performance of services must be deposited in a covered waste disposal container. Containers located in the reception or office area, which do~~

~~not contain waste relating to the performance of services, are exempt from having covers.~~

~~((d) Outer surfaces of waste disposal containers must be kept clean))~~ waste must be deposited in a covered waste disposal container. Containers located in the reception or office area, which do not contain waste relating to the performance of services, are exempt from having covers.

(b) All chemical, flammable, toxic or otherwise harmful waste material must be disposed of in the manner required by local hazardous waste management regulations.

(c) All waste containers must be emptied when full and at the end of each day and be kept clean by sanitizing or using plastic liners. Outer surfaces of waste disposal containers must be kept clean.

~~((e))~~ (d) Any disposable sharp objects that come in contact with blood or other body fluids must be disposed of in a sealable rigid (puncture proof) labeled container that is strong enough to protect the licensee, client and others from accidental cuts or puncture wounds that could happen during the disposal process.

~~((f))~~ (e) Licensees must have ((both sealable plastic bags and)) sealable rigid containers available for use at all times services are being performed.

~~((7))~~ (6) Sanitation/disinfecting.

(a) All tools and implements~~((including reusable skin cleaning sponges and skin care bowls,))~~ must be sanitized and disinfected or disposed of after service on each client. Tools and implements not approved for disinfection and reuse under manufacturers' specifications must be given to the client or discarded after service on each client. These tools and implements include, but are not limited to: Nail files, cosmetic make-up sponges, buffer blocks, sanding bands, toe separators or sleeves, orangewood sticks, and disposable nail bits. Presence of used articles in the work area will be considered prima facie evidence of reuse.

(b) When used according to the manufacturer's instructions, each of the following is an approved method of disinfecting tools and implements after they are cleaned of debris:

(i) Complete immersion or spray with an EPA-registered hospital grade disinfectant solution of the object(s) or portion(s) thereof to be disinfected; or

(ii) Steam sterilizer, registered and listed with the U.S. Food and Drug Administration; or

(iii) Dry heat sterilizer, registered and listed with the U.S. Food and Drug Administration, or Canadian certification.

(c) All sanitized and disinfected tools and implements must be ~~((kept))~~ stored in a ~~((sanitizer or))~~ closed nonairtight container or UV sterilizer. UV sterilizers shall be used only for clean storage of already sanitized and disinfected tools and implements.

(d) All disinfecting solutions and/or agents must be kept at manufacturer recommended strengths to maintain effectiveness, be free from foreign material and be available for immediate use at all times the location is open for business.

(e) ~~((Nail files, cosmetic make-up sponges, buffer blocks, sanding bands, toe separators or sleeves, orangewood sticks, and disposable nail bits which have not been approved for disinfection and reuse, must be given to the client or dis-~~

carded after service on each client. Presence of these articles in the work area will be prima facie evidence of reuse.

~~(8))~~ All articles, which come in direct contact with the client's skin that cannot be sanitized and disinfected, must be disposed of in a waste receptacle immediately after service on each client. Presence of these articles in the work area will be considered prima facie evidence of reuse.

(f) Disposable protective gloves must be disposed of after service on each client.

(7) Disinfecting nonelectrical tools and implements.

(a) All tools and implements used within a field of practice must be sanitized and disinfected after service on each client in the following order:

(i) **Remove** all hair and/or foreign material;

(ii) ~~((Clean))~~ **Sanitize** thoroughly with soap or detergent and water;

(iii) **Rinse** thoroughly with clear, clean water; and

(iv) **Disinfect** with an EPA-registered hospital grade disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, ~~((and use))~~ used according to manufacturer's instructions or in a steam sterilizer or dry heat sterilizer under subsection (6)(b)(ii) and (iii) of this section.

(b) Tools and implements without sharp edges or points, including but not limited to combs, brushes, rollers, rods, etc., must be totally immersed in an EPA registered hospital grade disinfectant according to manufacturer's instructions.

(c) Clips or other tools and instruments must not be placed in mouths, pockets or unsanitized holders.

(d) A client's personal tools and instruments must not be used in the establishment except when prescribed by a physician.

~~((9))~~ **(8) Disinfecting electrical tools and implements.** Electrical tools and implements must be disinfected after service on each client in the following order:

(a) Remove hair and/or foreign matter;

(b) Disinfect with an EPA hospital grade disinfectant specifically made for electrical tools and implements.

~~((10))~~ **(9) Storage of tools and implements.**

(a) New and/or sanitized and disinfected tools and implements must be stored separately from all other ~~((s))~~ items.

(b) Used tools and implements must be stored in a labeled drawer or container at the work station.

(c) Roller storage receptacles and contents must be sanitized and disinfected and free of foreign material.

~~((e))~~ (d) Storage cabinets, work stations and storage drawers for sanitized and disinfected tools and implements must be clean, free of debris and used only for sanitized and disinfected tools and implements.

~~((d))~~ Storage of used tools and implements that are not in a labeled drawer or container is prohibited at the workstation.

~~((11))~~ **(10) Cleaning and disinfecting ((footspas)) foot spas.**

(a) As used in this section, "~~((footspa))~~ foot spa" or "spa" is defined as any basin using circulating water.

(b) After ~~((service upon each client, each footspa must be cleaned and disinfected in the following order:~~

~~(i) All water must be drained and all debris must be removed from the spa basin.~~

~~(ii) The spa basin must be cleaned with soap or detergent and water.~~

~~(iii) The spa basin must be disinfected with an EPA-registered hospital grade disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, which must be used according to manufacturer's instructions.~~

~~(iv) The spa basin must be wiped dry with a clean towel.~~

~~(e) At the end of each day, each footspa must be cleaned and disinfected in the following order:~~

~~(i) The screen must be removed, all debris trapped behind the screen must be removed, and the screen and the inlet must be washed with soap or detergent and water.~~

~~(ii) Before replacing the screen, the screen must be totally immersed in an EPA-registered hospital grade disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, which must be used according to the manufacturer's instructions.~~

~~(iii) The spa system must be flushed with low sudsing soap and warm water for at least ten minutes, after which the spa must be rinsed and drained.~~

~~(d) Every other week (biweekly), after cleaning and disinfecting as provided in (c) of this subsection, each footspa must be cleaned and disinfected in the following order:~~

~~(i) The spa basin must be filled completely with water and one teaspoon of 5.25% bleach for each one gallon of water, or a solution of sodium hypochlorite of approximately 50 ppm used according to manufacturer's instructions.~~

~~(ii) The spa system must be flushed with the bleach and water solution, or sodium hypochlorite solution, for five to ten minutes and allowed to sit for six to ten hours.~~

~~(iii) The spa system must be drained and flushed with water before service upon a client.)~~ each client:

(i) Drain the water from the foot spa basin and remove any visible debris;

(ii) Clean the surfaces of the foot spa with soap or detergent, rinse with clean water and drain;

(iii) Disinfect the surface with an EPA registered hospital grade disinfectant according to the manufacturer's directions on the label. Surfaces must remain wet with disinfectant for ten minutes or the time stated on the label.

(c) Nightly:

(i) For whirlpool foot spas, air-jet basins, "pipeless" foot spas and other circulating spas:

(A) Drain the water from the foot spa basin or bowl and remove any visible debris.

(B) Clean the surfaces of the foot spa with soap or detergent, rinse with clean water and drain.

(C) Disinfect - Fill the basin with clean water, adding the appropriate amount of EPA registered hospital grade disinfectant. Turn the unit on to circulate the disinfectant for the entire contact time according to the manufacturer's directions on the label.

(D) Drain and rinse the basin with clean water and allow to air dry.

(ii) For foot spas with filter screens, inlet jets and other removable parts that require special attention during the disinfecting process.

(A) Drain the water from the foot spa basin and remove any visible debris.

(B) Remove the filter screen, inlet jets and all other removable parts from the basin and clean out any debris trapped behind or in them.

(C) Scrub the removable parts using a brush and soap or detergent.

(D) Rinse the removed parts with clean water and replace them in the basin.

(E) Clean the surfaces of the foot spa with soap or detergent, rinse with clean water and drain.

(F) Disinfect - Fill the basin with clean water, adding the appropriate amount of EPA registered hospital grade disinfectant. Turn the unit on to circulate the disinfectant for the entire contact time according to the manufacturer's directions on the label.

(G) Drain and rinse the basin with clean water and allow to air dry.

(d) Weekly: Once per week after the nightly cleaning and disinfecting as provided in (c) of this subsection, each foot spa must be cleaned and disinfected in the following order:

(i) Fill the spa basin completely with water and one teaspoon of 5.25% bleach for each gallon of water, or a solution of sodium hypochlorite of approximately 50 ppm used according to manufacturer's instructions.

(ii) Flush the spa system with the bleach and water solution or sodium hypochlorite solution for five to ten minutes and allow to sit for six to ten hours.

(iii) Drain the spa system and flush with water before service on a client.

(e) A record must be made of the date and time of each cleaning and disinfecting as required by (c) and (d) of this subsection, and indicate whether the cleaning was a daily or ~~((biweekly))~~ weekly cleaning. This record must be made at the time of cleaning and disinfecting. Cleaning and disinfecting records must be made available upon request by either a client or a department representative.

~~((12))~~ (f) For simple basins and reusable liners (no circulation):

(i) Drain the basin and remove any visible debris.

(ii) Scrub the basin with a clean brush and soap or detergent following manufacturer's instructions.

(iii) Rinse the basin with clean water and drain.

(iv) Disinfect basin surfaces with an EPA registered hospital grade disinfectant following manufacturer's instructions. Surfaces must remain wet with disinfectant for ten minutes or the contact time stated on the label.

(v) Drain and rinse the basin with clean water and allow to air dry.

(11) Headrests, shampoo bowls, and treatment tables.

(a) The headrest of chairs must be sanitized~~((;))~~ and disinfected ~~((and covered with a clean towel or paper sheet))~~ after service on each client.

(b) Shampoo trays and bowls must be sanitized and disinfected after each shampoo, kept in good repair and in a sanitary condition at all times.

(c) All treatment tables must be sanitized, disinfected and covered with sanitary linens or examination paper, which must be changed after each service on a client.

~~((13))~~ (12) Walls, floors, and ceilings. Walls, floors, and ceilings must be sanitized and disinfected as necessary and kept clean and free of excessive spots, mildew, condensation, or peeling paint.

~~((14))~~ Liquids, creams, powders and cosmetics:

~~(a) All liquids, creams, and other cosmetic preparations must be kept in clean and closed containers.~~

~~(b) All bottles and containers must be distinctly and correctly labeled to disclose their contents. All bottles and containers containing poisonous substances must be additionally and distinctly marked as such.~~

~~(c) When only a portion of a cosmetic preparation is to be used on a client, it must be removed from the container in such a way as not to contaminate the remaining portion.~~

~~(d) Pencil cosmetics must be sharpened before each use. Sanitize and disinfect or dispose of the sharpener after service on each client.~~

~~(15))~~ (13) Towels or linens. Clean towels or linens must be used for each client in cosmetology, esthetics, manicuring and barbering services. Towels and linens must be sanitized and disinfected ~~((with a product that is labeled 10% bleach solution or the equivalent))~~ by washing with hot water, laundry detergent and chlorine bleach used according to manufacturer's instructions for disinfection purposes.

~~((16))~~ (14) Prohibited hazardous substances((-)) - Use of products. No establishment or school may have on the premises cosmetic products containing hazardous substances which have been banned by the U.S. Food and Drug Administration for use in cosmetic products. Use of 100% liquid methyl methacrylate monomer and methylene chloride products are prohibited. No product must be used in a manner that is disapproved by the U.S. Food and Drug Administration.

~~((17))~~ (15) Prohibited instruments or practices.

~~((18))~~ Any razor-edged tool, which is designed to remove calluses.

~~((19))~~ ~~(b) Neck and nail dusters to remove debris from client.~~

~~((20))~~ (16) Blood spills. If there is a blood spill or exposure to other body fluids during a service, licensees and students must stop and proceed in the following order:

(a) Stop service;

(b) Put on gloves;

~~((21))~~ (c) Clean the wound with an antiseptic solution;

~~((22))~~ (d) Cover the wound with a sterile bandage;

~~((23))~~ (e) If the wound is on a licensee hand in an area that can be covered by a glove or finger cover, the licensee must wear a clean, fluid proof protective glove or finger cover. If the wound is on the client, the licensee providing service to the client must wear gloves on both hands~~((;))~~;

(f) Discard all contaminated objects. Contaminated objects shall be placed in a sealed plastic bag labeled "biohazard" and that bag must be placed inside another plastic bag and discarded;

(g) All equipment, tools and instruments that have come into contact with blood or other body fluids must be sanitized and disinfected or discarded. ~~((Blood-contaminated tissue or cotton or other blood-contaminated material must be placed in a sealed, labeled plastic bag and that plastic bag must be placed into another plastic bag (double bagged), and discarded. Licensees must wear gloves if there is contact with blood or other body fluids, and must sanitize and disinfect or discard gloves and wash hands.~~

~~((24))~~ (h) Remove gloves; and

(i) Wash hands with soap and water before returning to the service.

(17) **First-aid kit.** The establishment must have a first-aid kit that contains at a minimum:

- Small bandages((?));
- Gauze(?);
- Antiseptic(?); and
- A blood spill kit that contains:
 - Disposable bags(?);
 - Gloves ((and hazardous waste stickers-

(20) **Medical devices.** Any medical device listed with the U.S. Food and Drug Administration as a "prescriptive device" must be used within the scope of RCW 18.16.020(12) under the delegation and supervision of a licensed physician or physician's assistant or an advanced registered nurse practitioner (ARNP) as defined under chapters 18.71, 18.57, 18.71A, and 18.57A RCW, and RCW 18.79.050); and

- Biohazard labels.

((21)) (18) **Restroom.**

(a) All locations must have a restroom available. The restroom must be located on the premises or in adjoining premises, which is reasonably accessible.

(b) All restrooms located on the premises must be kept clean, sanitary and in proper working order at all times.

AMENDATORY SECTION (Amending WSR 10-06-092, filed 3/2/10, effective 4/2/10)

WAC 308-20-115 Reciprocity—Persons licensed in other jurisdictions. The department shall issue a license to any person who is properly licensed in any state, territory, or possession of the United States, or foreign country if the applicant submits:

- (1) Application;
- (2) Fee;

(3) Proof that he or she is currently licensed in good standing as a cosmetologist, barber, manicurist, esthetician, master esthetician, instructor, or the equivalent in that jurisdiction;

(4) Provides proof that he or she has passed an examination approved by the director.

AMENDATORY SECTION (Amending WSR 10-06-092, filed 3/2/10, effective 4/2/10)

WAC 308-20-120 Written and performance examinations. (1) The department shall administer or approve the administration of a written and performance license examination. The department may approve written or performance examinations given by department-approved examination providers.

(2) The written and performance examinations for cosmetologist, barber, manicurist ((and)), esthetician, and master esthetician shall reasonably measure the applicant's knowledge of safe and sanitary practice.

(3) The written and performance examinations for instructors shall be constructed to measure the applicant's knowledge of lesson planning and teaching techniques.

(4) In order to be eligible for licensure, a license applicant must pass both the written and performance examinations in the practice for which they are applying.

(5) The minimum passing score for both the written and performance examinations in all practices is a scaled score of 75.

(6) Examination results expire three years from the date of the examination. Examination results that are more than three years old are considered by the department to be expired and will not be considered valid towards initial licensure.

AMENDATORY SECTION (Amending WSR 09-24-062, filed 11/25/09, effective 1/1/10)

WAC 308-20-210 Fees. In addition to any third-party examinations fees, the following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Cosmetologist:	
License application	\$25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate license	15.00
((Certification	25.00))
Instructor:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate license	15.00
((Certification	25.00))
Manicurist:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate	15.00
((Certification	25.00))
Esthetician:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate	15.00
((Certification	25.00))
<u>Master esthetician:</u>	
<u>License application</u>	<u>25.00</u>
<u>Reciprocity license</u>	<u>50.00</u>

Title of Fee	Fee
<u>Renewal (two-year license)</u>	<u>55.00</u>
<u>Late renewal penalty</u>	<u>55.00</u>
<u>Duplicate license</u>	<u>15.00</u>
Barber:	
License application	25.00
Reciprocity license	50.00
Renewal (two-year license)	55.00
Late renewal penalty	55.00
Duplicate license	15.00
((Certification	25.00))
School:	
License application	300.00
Renewal (one-year license)	300.00
Late renewal penalty	175.00
Duplicate	15.00
((Curriculum review	15.00))
Salon/shop:	
License application	110.00
Renewal (one-year license)	110.00
Late renewal penalty	50.00
Duplicate license	15.00
Mobile unit:	
License application	110.00
Renewal (one-year license)	110.00
Late renewal penalty	50.00
Duplicate license	15.00
Personal services:	
License application	110.00
Renewal (one-year license)	110.00
Late renewal penalty	50.00
Duplicate license	15.00

AMENDATORY SECTION (Amending WSR 07-14-066, filed 6/29/07, effective 8/1/07)

WAC 308-20-550 Posting of required licenses, registrations, permits, notice to consumers, and current inspection form. (1) Licenses, the consumer notice required by chapter 18.16 RCW, the apprentice salon/shop notice as defined in WAC 308-20-555, and the most current inspection form shall be posted in direct public view.

(2) Original operator licenses with an attached current photograph shall be posted in clear view of clients in the operator's work station.

(3) Original instructor licenses with an attached current photograph shall be posted in clear view of the public.

(4) Original school, instructor, salon/shop, and mobile unit licenses shall be ~~((displayed))~~ posted in the reception area.

~~((4))~~ (5) Personal services shall display their licenses and consumer notice in direct view of their client.

~~((5))~~ (6) A pocket identification card may not be used in lieu of an original license.

~~((6))~~ (7) No license which has expired or become invalid for any reason shall be displayed by any operator, instructor, or business in connection with the practice of cosmetology, barbering, esthetics, or manicuring. Any license so displayed shall be surrendered to a department representative upon its request.

~~((7))~~ (8) Licenses issued by another state, territory, or foreign country shall not be displayed in any salon/shop.

~~((8))~~ (9) A receipt, issued by the department of licensing, showing the application for a duplicate license may be used if the original has been lost, stolen, or otherwise destroyed until the duplicate license is received.

AMENDATORY SECTION (Amending WSR 10-06-092, filed 3/2/10, effective 4/2/10)

WAC 308-20-572 Inspection of schools. (1) Prior to approval of application or renewal for licensure, any person wishing to operate a school shall, meet the requirements in RCW 18.16.140; submit to an inspection of the site; and provide the following:

(a) Name of owner and current mailing and physical address if solely owned.

(b) Names of partners and current mailing and physical addresses if a partnership.

(c) Names of corporate officers and current mailing and physical addresses if a corporation.

(d) Name of the school, complete mailing address, and physical address.

(e) Days and hours of operation of the school.

(f) A signed fire inspection report from the local fire authority indicating all standards and requirements have been met.

~~((f))~~ (g) Listing of all instructors including license number and expiration date.

~~((g))~~ (h) Sample of all monthly student reports.

~~((h))~~ (i) Sample of student packet to be provided to student at enrollment that must contain, but is not limited to, a copy of the school's catalog, brochure, enrollment contract, and cancellation and refund policies.

~~((i))~~ (j) Floor plan drawn to scale showing placement of all equipment; areas designated for the clinic, dispensary, classroom, office and restrooms; and identify student capacity. The floor plan shall include the square footage of the school.

(2) All locations shall pass a ~~((preinspection))~~ prelicensing inspection by a department representative by meeting the following requirements:

(a) ~~((A))~~ A permanent entrance sign designating the name of the school.

(b) A time clock and time cards or other equipment necessary for verification of daily student attendance and hours earned.

(c) An adequate supply of hot and cold running water shall be available for school operation.

(d) Textbooks/teaching materials - ~~Textbooks~~ shall be ~~(provided)~~ required for each student in attendance.

(e) Lavatories with hot and cold running water, single-use hand soap and disposable or single-use hand drying towels or an automatic hand dryer.

(f) When a salon and school are under the same ownership in the same building, separate operation of the salon and the school must be maintained. Common reception areas and restrooms will be allowed; however, the salon and school must have separate entrances and meet location requirements identified in chapter 18.16 RCW.

(g) Emergency evacuation plans posted for staff and students.

(h) There must be a sufficient number of tables/desks and chairs to accommodate the registered students.

(i) Department of licensing safety and sanitation guidelines posted in all dispensaries and classrooms.

(j) Supplemental training space must be preapproved by the department.

(i) The supplemental training space must be located within two miles of the original facility of the licensed school.

~~((These facilities must))~~ (ii) A duplicate copy of the school license shall be posted at the supplemental training space.

(iii) A duplicate copy of each instructor's license with a current photograph shall be posted at the supplemental training space.

(iv) The supplemental training space shall bear the same name as the original licensed school ((and it)).

(v) Supplemental training space is only approved for theory and/or practice rooms. No clinic services shall be provided in ((additional facilities)) supplemental training space.

(k) Schools must post a sign that contains the words "work done exclusively by students" or "all work performed by students under supervision of a licensed instructor" in the reception or clinic area.

AMENDATORY SECTION (Amending WSR 10-06-092, filed 3/2/10, effective 4/2/10)

WAC 308-20-575 School license renewal process. (1) Each school license shall be renewed on a yearly basis. In addition to the site inspection, the renewal request shall be accompanied by:

~~((1))~~ (a) Certification of annual gross tuition and surety bond in an amount equal to ten percent of the annual gross tuition, but not less than ten thousand dollars or more than fifty thousand dollars(-);

~~((2) Changes in))~~ (b) Current copies of curriculum, catalogs, and brochures(-);

~~((3))~~ (c) Current list of instructor((s on forms provided by the department.)) names and license numbers;

(d) Updated school information on forms provided by the department including the days and hours of operation of the school; and

~~((4))~~ (e) Verification of current student/instructor ratio.

~~((5))~~ (2) Licenses must be renewed on or before the expiration date. Failure to renew the license by the expiration date shall result in a penalty.

~~((6))~~ (3) Failure to receive a notice of license renewal from the department does not constitute cause for failure to renew.

WSR 13-24-043

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 26, 2013, 8:56 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: The department is amending WAC 388-482-0005, 388-444-0010, 388-444-0015, 388-450-0100, 388-486-0010 and 388-310-0900, to remove the term "general educational development (GED) test" and replace it with the term "high school equivalency certificate."

The amendments are necessary to conform with ESHB 1686, chapter 39, Laws of 2013, which creates a high school equivalency certificate as a certificate issued jointly by the state board of community and technical colleges and the office of the superintendent of public instruction. A certificate will indicate that the holder attained scores at or above the minimum proficiency level on a high school equivalency test.

Citation of Existing Rules Affected by this Order: Amending WAC 388-482-0005, 388-444-0010, 388-444-0015, 388-450-0100, 388-486-0010, and 388-310-0900.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.250.

Other Authority: ESHB 1686, chapter 39, Laws of 2013.

Adopted under notice filed as WSR 13-19-066 on September 17, 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 6, 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 6, Repealed 0.

Date Adopted: November 14, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-14-019, filed 6/22/09, effective 7/23/09)

WAC 388-310-0900 WorkFirst—Basic education. (1) What is basic education?

Basic education is high school completion, classes to prepare for (~~(general equivalency diploma (GED))~~) high school equivalency, testing to acquire (~~(GED certification))~~ high school equivalency, adult basic education (ABE) or English as a second language (ESL) training. Basic education also includes approved homework and study activities associated with the educational activity.

(2) When do I participate in basic education as part of WorkFirst?

You may participate in basic education as part of WorkFirst under any of the following circumstances:

(a) You are twenty years of age or older and your comprehensive evaluation shows you need this education to become employed or get a better job and:

(i) You are participating the equivalent of twenty hours or more per week in job search, vocational education, issue resolution, paid work or unpaid work that meets the federal definition of core activities; or

(ii) You have limited-English proficiency and you lack language skills that are needed to qualify for entry level jobs.

(b) You may be required to participate if you are a mandatory participant, a parent eighteen or nineteen years of age, you do not have a high school diploma or (~~(GED certificate))~~ high school equivalency and you need this education in order to find employment.

(c) You will be required to be in high school or a (~~(GED certification))~~ high school equivalency program if you are a mandatory participant, sixteen or seventeen years old and you do not have a high school diploma or (~~(GED))~~ high school equivalency certificate.

(d) You are enrolled in the pregnancy to employment pathway and your comprehensive evaluation shows basic education would help you find and keep employment. (See WAC 388-310-1450.)

AMENDATORY SECTION (Amending WSR 10-18-048, filed 8/26/10, effective 10/1/10)

WAC 388-444-0010 Who is exempt from work registration while receiving Basic Food? If you receive Basic Food, you are exempt from work requirements in chapter 388-444 WAC if you meet any of the following conditions:

(1) You are age sixteen or seventeen, not the head of household, and:

(a) Attend school such as high school or (~~(GED))~~ high school equivalency programs; or

(b) Are enrolled at least half time (using the institutions definition) in an employment and training program under:

(i) The Workforce Investment Act (WIA);

(ii) Section 236 of the Trade Act of 1974; or

(iii) Another state or local employment and training program.

(2) You are a student age eighteen or older enrolled at least half time as defined by the institution in:

(a) Any accredited school;

(b) A training program; or

(c) An institution of higher education. If you are enrolled in higher education, you must meet the requirements under WAC 388-482-0005 to be eligible for Basic Food benefits.

(3) You are an employed or self-employed person working thirty hours or more per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty;

(4) You are complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);

(5) You receive unemployment compensation (UC) benefits or have an application pending for UC benefits;

(6) You are responsible to care for:

(a) A dependent child under age six; or

(b) Someone who is incapacitated.

(7) We determine that you are physically or mentally unable to work; or

(8) You regularly participate in a drug addiction or alcoholic treatment and rehabilitation program.

AMENDATORY SECTION (Amending WSR 10-18-048, filed 8/26/10, effective 10/1/10)

WAC 388-444-0015 How can the Basic Food employment and training (BF E&T) program help me find work? The Basic Food employment and training (BF E&T) program is the name for Washington's voluntary supplemental nutrition assistance program (SNAP) employment and training program.

(1) If you receive federally-funded Basic Food benefits, you may choose to receive services through the BF E&T program in one or more of the following activities, if we currently provide the service in the county where you live:

(a) Job search;

(b) Paid or unpaid work;

(c) Training or work experience;

(d) (~~(General education development (GED))~~) High school equivalency classes; or

(e) English as a second language (ESL) classes.

(2) If you are eligible to participate in a BF E&T activity, there is no limit to the number of hours you can participate.

(3) If you receive benefits under the state-funded food assistance program (FAP), you are not eligible to participate in BF E&T.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-450-0100 Allocating income—Definitions. The following definitions apply to the allocation rules for TANF/SFA, RCA, PWA, and ABD cash programs:

(1) **"Dependent"** means a person who:

(a) Is or could be claimed for federal income tax purposes by the financially responsible person; or

(b) The financially responsible person is legally obligated to support.

(2) **"Financially responsible person"** means a parent, stepparent, adoptive parent, spouse or caretaker relative.

(3) A **"disqualified assistance unit member"** means a person who is:

(a) An unmarried pregnant or parenting minor under age eighteen who has not completed a high school education or

~~((general education development (GED)))~~ high school equivalency certification and is not participating in those educational activities which would lead to the attainment of a high school diploma or ~~((GED))~~ high school equivalency;

(b) An unmarried pregnant or parenting minor under age eighteen who is not living in a department-approved living situation;

(c) The financially responsible person who does not report to the department within five days of the date it becomes reasonably clear that the absence of a child will exceed ninety days;

(d) A person who has been convicted in federal or state court of having made a fraudulent statement or representation about their place of residence in order to receive assistance from two or more states at the same time as defined in WAC 388-446-0010; and

(e) A person who has been convicted of unlawfully receiving public assistance as defined under WAC 388-446-0005.

(4) **"Ineligible assistance unit member"** means an individual who is:

(a) Ineligible for cash assistance due to the citizenship/alien status requirements in WAC 388-424-0010;

(b) Ineligible to receive assistance under WAC 388-442-0010 for having been convicted after August 21, 1996, under federal or state law, of possession, use or distribution of a controlled substance;

(c) Ineligible to receive assistance under WAC 388-442-0010 for fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime;

(d) Ineligible to receive assistance under WAC 388-442-0010 for violating a condition of probation or parole which was imposed under a federal or state law as determined by an administrative body or court of competent jurisdiction;

(e) The spouse of a woman who receives cash benefits from the PWA program; or

(f) The adult parent of a minor parent's child.

AMENDATORY SECTION (Amending WSR 13-13-004, filed 6/6/13, effective 7/7/13)

WAC 388-482-0005 How does being a student of higher education impact my eligibility for the Washington Basic Food program? (1) For Basic Food, we consider you a student of higher education if you are:

(a) Age eighteen through forty-nine;

(b) Physically and mentally able to work (we determine if you are unable to work);

(c) Enrolled in an institution of higher education at least half-time as defined by the institution; and

(d) Enrolled in coursework considered to be higher education.

(2) An institution of higher education is:

(a) Any educational institution that requires a high school diploma or ~~((general education development))~~ high school equivalency certificate ~~((GED))~~;

(b) A business, trade, or vocational school that requires a high school diploma or ~~((GED))~~ high school equivalency; or

(c) A two-year or four-year college or university that offers a degree but does not require a high school diploma or ~~((GED))~~ high school equivalency.

(3) If you are a student of higher education, you must also meet one of the following conditions to be eligible for Basic Food:

(a) You have paid employment of at least twenty hours per week.

(b) You are self-employed, work, and earn at least the amount you would earn working twenty hours at the federal minimum wage;

(c) You were participating in a state or federal work study program during the regular school year.

(i) To qualify under this condition, you must:

(A) Have approval for work study at the time of application for Basic Food;

(B) Have work study that is approved for the school term; and

(C) Anticipate actually working during that time.

(ii) The work study exemption begins:

(A) The month in which the school term starts; or

(B) The month work study is approved, whichever is later.

(iii) Once begun, the work study exemption shall continue until:

(A) The end of the month in which the school term ends;

or

(B) We find out you refused a work study assignment.

(d) You are responsible for more than half the care of a dependent person in your assistance unit (AU) who is age five or younger;

(e) You are responsible for more than half the care of a dependent person in your AU who is between age six and eleven, if we have determined that there is not adequate child care available during the school year to allow you to:

(i) Attend class and satisfy the twenty-hour work requirement; or

(ii) Take part in a work study program.

(f) You are a single parent responsible for the care of your natural, step, or adopted child who is eleven or younger;

(g) You are an adult who has the parental responsibility of a child who is age eleven or younger if none of the following people live in the home:

(i) The child's parents; or

(ii) Your spouse.

(h) You participate in the WorkFirst program under WAC 388-310-0200;

(i) You receive TANF or SFA benefits;

(j) You attend an institution of higher education through:

(i) The Workforce Investment Act (WIA);

(ii) The Basic Food employment and training (BF E&T) program under chapter 388-444 WAC;

(iii) An approved state or local employment and training program; or

(iv) Section 236 of the Trade Act of 1974.

(4) If you are a student of higher education and the only reason you are eligible for Basic Food is because you are participating in work study, you are only eligible while you work and receive money from work study. If your work study stops

during the summer months, you must meet another condition to be an eligible student during this period.

(5) If you are a student of higher education, your status as a student:

- (a) Begins the first day of the school term; and
- (b) Continues through vacations. This includes the summer break if you plan to return to school for the next term.
- (6) We do not consider you a student of higher education if you:
 - (a) Graduate;
 - (b) Are suspended or expelled;
 - (c) Drop out; or
 - (d) Do not intend to register for the next normal school term other than summer school.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-486-0010 Unmarried pregnant or parenting minors—Required school attendance. (1) This rule affects only the minor's eligibility for cash assistance. It does not affect the eligibility of the minor parent's child for a cash grant.

(2) To be eligible for TANF or SFA, an unmarried pregnant or parenting minor who has not completed high school or a (~~general education development (GED))~~ high school equivalency certificate program must participate in educational activities leading to the attainment of a high school diploma or (~~GED~~) high school equivalency certificate.

(3) The minor must meet the standard for satisfactory attendance set by the school or program in which the minor is enrolled.

(4) An unmarried minor is exempt from this rule if the minor has:

- (a) Been emancipated by a court; or
- (b) A child who is less than twelve weeks old.
- (5) The income of a minor parent found ineligible under this section is treated according to WAC 388-450-0100 and 388-450-0115 when determining the eligibility and benefit level of the minor parent's child.

WSR 13-24-044

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 26, 2013, 8:59 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: To establish the housing and essential needs (HEN) referral program effective January 1, 2014.

The department is amending WAC 388-442-0010; and creating WAC 388-400-0065, 388-400-0070, 388-406-0056, 388-408-0070, 388-447-0001, 388-447-0005, 388-447-0010, 388-447-0020, 388-447-0030, 388-447-0040, 388-447-0050, 388-447-0060, 388-447-0070, 388-447-0080, 388-447-0090, 388-447-0100, 388-447-0110, 388-447-0120, 388-450-0113, 388-450-0138, and 388-450-0178.

These changes are necessary to comply with SHB 2069, Laws of 2013.

Citation of Existing Rules Affected by this Order: Amending WAC 388-442-0010.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.08.025, 74.62.030.

Other Authority: SHB 2069, Laws of 2013.

Adopted under notice filed as WSR 13-19-065 on September 17, 2013.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

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 21, Amended 1, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 21, Amended 1, Repealed 0.

Date Adopted: November 21, 2013.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 14-01 issue of the Register.

WSR 13-24-045

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed November 26, 2013, 9:05 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: To permanently adopt amendments to sections of chapter 388-845 WAC, DDD home and community based services waivers, to remain in compliance with the requirements of chapter 49, Laws of 2012 (related to community access services). In addition these amendments remove basic waiver, add dental services as a waiver service option until January 1, 2014; align this chapter with amendments to chapter 388-828 WAC for community access services; and provides updates to WAC and RCW references, titles and links, names of state agencies and updates to language structure so that readers will have an easier and better overall understanding of the rules.

Citation of Existing Rules Affected by this Order: See Reviser's note below.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Chapter 49, Laws of 2012.

Adopted under notice filed as WSR 13-17-112 on August 21, 2013.

Changes Other than Editing from Proposed to Adopted Version: The definition "ADS" was removed and all references to ADS in the rule was changed to either DSHS or developmental disabilities administration (DDA).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 17, Repealed 1; 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 98, 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 115, Repealed 1.

Date Adopted: November 19, 2013.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 14-02 issue of the Register.

WSR 13-24-046

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Division of Behavioral Health and Recovery)

[Filed November 26, 2013, 9:06 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 Alcohol and Drug Addiction Treatment and Support Act (ADATSA) beyond December 31, 2013. Individuals eligible under ADATSA 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 388-800-0040, 388-800-0045, and 388-800-0120 because the legislature did not appropriate funds for the ADATSA program beyond December 31, 2013. Individuals eligible for this program may be considered newly eligible under the federal Patient Protection and Affordable Care Act (ACA) rules beginning January 1, 2014.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-800-0040, 388-800-0045, and 388-800-0120.

Statutory Authority for Adoption: RCW 41.05.021, 74.04.050.

Other Authority: Patient Protection and Affordable Care Act established under Public Law 111-148; 42 C.F.R. §431, 435, and 457; and at 45 C.F.R. §155.

Adopted under notice filed as WSR 13-20-063 and September 26, 2013.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 3; 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 3.

Date Adopted: November 19, 2013.

Katherine I. Vasquez
Rules Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-800-0040 What is ADATSA?

WAC 388-800-0045 What services are offered by ADATSA?

WAC 388-800-0120 As an eligible ADATSA client, when would I get state-funded medical assistance?

WSR 13-24-056

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 26, 2013, 1:39 p.m., effective December 27, 2013]

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

Purpose: The department filed a permanent rule on October 22, 2013, as WSR 13-21-126 with an erroneous version of the text. The changes proposed in WAC 388-444-0075 were not included in the permanent filing. This filing contains the text that was originally proposed as WSR 13-09-027. No changes were made to the text as a result of the public hearing, and no public comments were received. The text of the rule does not differ from what was proposed under WSR 13-09-027.

Citation of Existing Rules Affected by this Order: Amending WAC 388-444-0075.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Other Authority: 7 C.F.R. § 273.7.

Adopted under notice filed as WSR 13-09-027 on April 9, 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 1, 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 1, Repealed 0.

Date Adopted: November 21, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-23-112, filed 11/17/10, effective 12/18/10)

WAC 388-444-0075 What are the penalties if I quit a job or reduce my work effort without good cause? (1) If you have applied for Basic Food and have voluntarily quit a job or reduced your work effort as defined under WAC 388-444-0065 without good cause within sixty days before applying for Basic Food, we deny your application and you must have a penalty period as described under subsection (3) from the date of your application.

(2) If you already receive Basic Food and you quit your job or reduce your work effort without good cause, we send you a letter notifying you that you will be disqualified from Basic Food. The disqualification in subsection (3) of this section begins the first of the month following the notice of adverse action.

(3) You are disqualified for the following minimum periods of time and until the conditions in subsection (4) of this section are met:

(a) For the first quit or reduction of work effort, one month;

(b) For the second quit or reduction of work effort, three months; and

(c) For the third or subsequent quit or reduction of work effort, six months.

(4) You may reestablish eligibility after serving the disqualification period(;) if (~~otherwise eligible by:~~

~~(a) Getting a new job; or~~

~~(b) Participating in Workfare as provided in WAC 388-444-0040.)~~ you comply with the work requirements under WAC 388-444-0005 and are otherwise eligible.

(5) If you become exempt from work registration under WAC 388-444-0010, we end your disqualification for a job quit or reduction of work effort unless you are exempt (~~for~~) because you are applying for or receiving unemployment

compensation (UC), or participating in an employment and training program under TANF.

(6) If you are disqualified and move from the assistance unit and join another assistance unit, we continue to treat you as an ineligible member of the new assistance unit for the remainder of the disqualification period.

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

WSR 13-24-066
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 27, 2013, 9:40 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: The elevator program reviews their rules for additions and revisions on a regular basis to ensure the rules are consistent with the national conveyance safety standards and industry practice.

The rule making will adopt:

- The current national conveyance safety standards for elevators and escalators, platform lifts and chair lifts, belt man lifts, and personnel hoists;
- Exceptions to the national conveyance safety standards to ensure public, worker, and building safety;
- Language to clarify statutory requirements for conveyance owners, mechanics and contractors;
- Proposals requested by stakeholders, such as requiring withdraw notices to be submitted to the department, if a mechanic leaves to work in another state and plans to return to work in the state of Washington;
- Rules to provide clarification for existing conveyance safety standards; and
- Language for general housekeeping, grammatical and reference corrections to bring the rules up-to-date.

Citation of Existing Rules Affected by this Order: Amending WAC 296-96-00500 Scope, purpose, and authority, 296-96-00600 What rules apply to your conveyance?, 296-96-00650 Which National Elevator Codes and Supplements has the department adopted?, 296-96-00700 Chapter definitions, 296-96-00902 Are there exceptions from the elevator mechanic licensing requirements?, 296-96-00903 Are there exceptions from the elevator contractor licensing requirements?, 296-96-00904 What must you do to become and remain a licensed elevator contractor?, 296-96-00906 What must you do to become a licensed elevator mechanic?, 296-96-00910 What are the elevator mechanic license categories?, 296-96-00912 How long is the elevator contractor, elevator mechanic, and temporary mechanics licensing period and what is required for renewal?, 296-96-01000 What is the permit process for conveyances?, 296-96-01070 What are the civil (monetary) penalties for violating the conveyance permit and operation requirements of chapter 70.87

RCW and this chapter?, 296-96-02405 What is the inspection and approval process for alterations?, 296-96-02410 Are there additional work requirements when performing an alteration?, 296-96-02455 What is the minimum working space required in machine rooms/control rooms?, 296-96-02460 What are the requirements for electrical main line disconnects?, 296-96-02505 What is the minimum acceptable initial transfer time for an elevator door?, 296-96-02525 What is required for installation and operation of emergency communication systems?, 296-96-02530 What requirements apply to the size and location of car handrails?, 296-96-02550 ASME A17.1-3.18.3.8.3 and ASME A17.1-8.7.3.23.1—What are the requirements for underground hydraulic elevator pipes, fittings, and cylinders?, 296-96-02560 What are the requirements for submersible pumps or sumps?, 296-96-02580 Are keys required to be on-site?, 296-96-02595 What are the general requirements for LULA elevators?, 296-96-02600 What is required for physically handicapped lifts?, 296-96-02605 Private residence inclined stairway chairlifts, 296-96-05070 What car enclosure requirements apply to lifts?, 296-96-05080 How much running clearance is permitted between a car sill and a hoistway?, 296-96-05140 What requirements apply to car safeties?, 296-96-05240 What are the minimum maintenance requirements for lifts?, 296-96-07035 What are the minimum maintenance requirements for inclined private residence elevators?, 296-96-08035 What are the minimum maintenance requirements for inclined private residence elevators for transporting property?, 296-96-09001 What regulations apply to personnel hoists?, 296-96-10001 What regulations apply to material hoists?, 296-96-11001 What regulations apply to belt manlifts?, 296-96-16210 What specific requirements apply to hydraulic casket lifts?, 296-96-23100 Are keys required to be on-site?, 296-96-23101 What are the conveyance number requirements?, 296-96-23216 What requirements apply to the lining materials used on passenger car enclosures?, 296-96-23408 How much clearance is required between skirt panels and step treads?, 296-96-23600 What is the scope of Part VI, Alterations, Repairs and Maintenance?, 296-96-23610 What requirements apply to routine examinations and periodic or category 01, 03, and 05 safety tests?, and 296-96-23710 What requirements apply to lifts for the physically handicapped?; new sections WAC 296-96-00907 ASME A17.1-8.11.1.5 Making safety devices ineffective, 296-96-01008 Decommissioning a conveyance, 296-96-02401 ASME A17.1-8.7.1 Alteration general requirements, 296-96-02411 ASME A17.1-8.7.2.13 Door reopening devices, 296-96-02421 Layout drawings, 296-96-02451 When a control space is used in lieu of a machine room, 296-96-02452 Machines, beams and hitch supports must meet the following requirements, 296-96-02466 ASME A17.1-8.9 Code data plate location and material, 296-96-02471 ASME A17.1-2.27.8 FEO-K1 Fire service keys, 296-96-02481 Sprinklers and shunt trip within in the city limits of Seattle, 296-96-02486 ASME A17.1-5.7.10.5 Special purpose elevator car doors or gates, 296-96-02551 ASME A17.1-2.6 and ASME A17.1-8.7.2.6 Protection of spaces below hoistways, 296-96-02552 Location of equipment in hoistway, 296-96-02556 Minimum width, clearances, and access of pit ladders, 296-96-02557 Pit lighting and stop switch, 296-96-02558 Pit equipment, 296-96-

02564 ASME A17.1-2.4.12.1-2005 Distance required for car top refuge space, 296-96-02566 ASME A17.1-2.14.7.1.4 Requirements for top of car lighting and receptacle for elevators, 296-96-02567 ASME A17.1-2.7.6.3.4 Access to governors and brake, 296-96-02568 ASME A17.1-5.3.1.1 Residential hoistway enclosures, 296-96-02620 Private residence vertical platform lifts, 296-96-02625 Private residence incline platform lifts, 296-96-02630 Commercial vertical and incline platform lifts, 296-96-02640 Incline commercial stairway chair lifts, 296-96-05009 What are the requirements for existing material lifts?, 296-96-13136 What are the minimum maintenance requirements for electric manlifts?, 296-96-14011 What are the minimum maintenance requirements for hand powered manlifts?, 296-96-16011 What are the minimum maintenance requirements for casket lifts?, 296-96-18011 What are the minimum maintenance requirements for boat launch elevators?, 296-96-20010 What are the minimum maintenance requirements for mechanized parking garage equipment?, 296-96-23105 What is the scope of subpart I?, 296-96-23601 ASME A17.1-8.6.1.2.1 General maintenance requirements for conveyances regulated by ASME A17.1 Part 8, 296-96-23602 ASME A17.1-8.6.1.4 Maintenance records, 296-96-23603 ASME A17.1-8.6.1.6.3(a) Wiring diagrams, 296-96-23604 ASME A17.1-8.6.1.7 Periodic tests, 296-96-23605 ASME A17.1-8.6.4 Maintenance, examination and testing of elevators, 296-96-23606 ASME A17.1-8.11 Covers periodic inspections, examinations, and tests of existing ASME A17.1 installations, 296-96-23621 ASME A17.1-8.1.1.7 Repairs and replacement and 296-96-23701 Periodic examinations and safety tests; and repealing WAC 296-96-02565 What are the requirements for top of car lighting for freight and passenger elevators?

Statutory Authority for Adoption: Chapter 70.87 RCW.

Adopted under notice filed as WSR 13-18-063 on September 3, 2013.

Changes Other than Editing from Proposed to Adopted Version: Changes were made to the following WAC sections, based on requests from stakeholders: WAC 296-96-00700, 296-96-02410, 296-96-02556, 296-96-05140, 296-96-16210, 296-96-23601, and 296-96-23602.

The following amendments were made to the proposed rules:

- WAC 296-96-00700, amended language for grammatical correction in the definition of "examination."
- WAC 296-96-02410 (1)(a), removed code reference "(4)(a)" for duplication.
- WAC 296-96-02556(1), changed "two hundred twenty five millimeters" to "three hundred five" to reflect the proper millimeters of the ladder.
- WAC 296-96-05140, amended language to read: "This shall be demonstrated during the acceptance inspection and test procedure with an over speed or gravity drop test, minimum two safeties at a time", due to an incorrect term used to describe setting the safeties during an acceptance test.
- WAC 296-96-16210(1), amended language to include "hydraulic" to casket lifts for consistency purposes.

- WAC 296-96-23601(3), amended language for punctuation correction.
- WAC 296-96-23602(1), changed "demonstrate" to "documented" for error correction.

A final cost-benefit analysis is available by contacting Alicia Curry, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6244, fax (360) 902-5292, e-mail Alicia.Curry@Lni.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 39, Amended 42, Repealed 1.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 39, Amended 42, Repealed 1.

Date Adopted: November 27, 2013.

Joel Sacks
Director

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

WAC 296-96-00500 Scope, purpose, and authority. This chapter is authorized by chapter 70.87 RCW covering elevators, lifting devices, moving walks, and other conveyances. The purpose of this chapter is to:

- (1) Provide for the safe design, installation, mechanical and electrical operation, maintenance, examinations, safety

AMENDATORY SECTION (Amending WSR 08-23-085, filed 11/18/08, effective 12/19/08)

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

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators	American Standard Safety Code (ASA) A17.1, 1962	11/1/1963	12/29/1967	Adopted Standard
Moving Walks	American Safety Association A17.1.13, 1962	11/1/1963	12/29/1967	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	U.S.A. Standards (USAS) USAS A17.1, 1965; Supplements A17.1a, 1967; A17.1b, 1968; A17.1c, 1969;	12/30/1967	2/24/1972	Adopted Standard USAS 1965 includes revision and consolidation of A17.1-1, 1960, A17.1a, 1963, and A17.1-13, 1962. Adopted code and supplements, excluding Appendix E and ANSI 17.1d, 1970.
Elevators, Dumbwaiters, Escalators, and Moving Walks	American National Standard Institute ANSI A17.1, 1971	2/25/1972	6/30/1982	Adopted Standard as amended and revised through 1971.

tests and inspection of conveyances, and the performance of conveyance work(:)).

(2) Ensure that all such operation, design inspection, and conveyance work subject to the provisions of this chapter will be reasonably safe to persons and property and in conformity with the provisions of this chapter and the applicable statutes of the state of Washington.

(3) Establish and ensure compliance with the minimum standards for becoming a licensed elevator contractor and/or licensed elevator mechanic performing work on elevators or other conveyances covered by chapter 70.87 RCW and this chapter.

(4) In any case where the national standards codes adopted by reference in chapter 296-96 WAC conflict with the requirements of national standards adopted, this chapter supersedes.

(5) When no applicable standard exists to address subsections (1), (2), and (3) of this section the department will issue a ruling or interpretation that outlines the intent of this chapter.

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

WAC 296-96-00600 What rules apply to your conveyance? Elevators and other conveyances must comply with the rules adopted by the department that were in effect at the time the conveyance was permitted, regardless of whether the rule(s) has been repealed, unless any new rule specifically states that it applies to all conveyances, regardless of when the conveyance was permitted. Copies of previous rules adopted by the department are available upon request.

Please note, if the conveyance is altered the components associated with the alteration must comply with all of the applicable rules adopted by the department in effect at the time the conveyance ~~((was altered))~~ alteration was permitted. If the department determines that a conveyance was altered without a permit and inspection, the alteration will be required to comply with the applicable rules adopted by the department at the time the noncompliant alteration was identified.

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1971; A17.1a, 1972	2/25/1972	6/30/1982	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1981	7/1/1982	1/9/1986	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a, 1982	3/1/1984	1/9/1986	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b, 1983	12/1/1984	1/9/1986	Adopted Supplement, except portable escalators covered by Part VIII of A17.1b, 1983.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1984	1/10/1986	12/31/1988	Adopted Standard Except Part XIX. After 11/1/1988 Part II, Rule 211.3b was replaced by WAC 296-81-275.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a, 1985	1/10/1986	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b, 1985; A17.1c, 1986; A17.1d, 1986; and A17.1e, 1987	12/6/1987	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1987	1/1/1989	12/31/1992	Adopted Standard Except Part XIX and Part II, Rule 211.3b. WAC 296-81-275 replaced Part II, Rule 211.3b.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1990	1/1/1993	2/28/1995	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1993	3/1/1995	6/30/1998	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1996	6/30/1998	6/30/2004	Adopted Standard Except Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 2000; A17.1a, 2002; A17.1b, 2003	7/1/2004	1/1/2008	Adopted Standards and Addenda Except Rules 2.4.12.2, 8.6.5.8 and Sections 5.4, 7.4, 7.5, 7.6, 7.9, 7.10, 8.10.1.1.3 and 8.11.1.1.
Safety Standards for Platform Lifts and Stairway Chairlifts	ASME A18.1, 1999; A18.1a, 2001; A18.1b, 2001	7/1/2004	1/1/2008	Adopted Standards and Addenda.
Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose	ASME A17.1-2004; A17.1a-2005	1/1/2008	((Current)) <u>1/1/2014</u>	Adopted Standards and Addenda Except Rules ((2.4.12.2)) 2.4.7.2, marked car top clearance space, 8.6.5.8, Maintenance of safety bulkhead, 5.4, Private residence incline elevators, 7.4 & 7.5 & 7.9 & 7.10 Material lifts, 8.10.1.1.3 and 8.11.1.1, QEI-1 inspector.
Safety Code for Platform Lifts and Stairway Chairlifts	ASME A18.1-2005	1/1/2008	((Current)) <u>1/1/2014</u>	
Safety Code for Belt Manlifts	ASME A90.1-2003	1/1/2008	((Current)) <u>1/1/2014</u>	
Safety Code for Personnel Hoists, Retroactive	ANSI A10.4-2004	1/1/2008	((Current)) <u>1/1/2014</u>	
<u>Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose</u>	<u>ASME A17.1-2010</u>	<u>1/1/2014</u>	<u>Current</u>	
<u>Standard for Elevator Suspension, Compensation, and Governor Systems</u>	<u>ASME A17.6-2010</u>	<u>1/1/2014</u>	<u>Current</u>	
<u>Safety Code for Platform Lifts and Stairway Chairlifts</u>	<u>ASME A18.1-2011</u>	<u>1/1/2014</u>	<u>Current</u>	

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Safety Code for Belt Manlifts Safety	ASME A90.1-2009	1/1/2014	Current	
Safety Code for Personnel Hoists	ANSI A10.4-2007	1/1/2014	Current	

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

Comments: National codes adopted by this chapter will be identified with the applicable ASME/ANSI code reference number contained within the rules or as excluded or amended below.

(1) Exclude all references to OEI certification in ASME A17.1 from code adoption.

(2) Exclude all references and sections to Aramid fiber ropes in ASME A17.1 and A17.6 from code adoption.

(3) ASME A17.1, SECTION 1.2 PURPOSE AND EXCEPTIONS amended as follows:

The purpose of this code is to provide for the safety of life and limb, and to promote the public welfare. Compliance with this code shall be achieved by:

(a) Conformance with the requirements in ASME A17.1/CSA B44 and chapter 296-96 WAC. Additions or modifications to ASME A17.1/CSA B44 and/or chapter 296-96 WAC shall require approval from the department; or

(b) Conformance with a combination of the requirements in ASME A17.1/CSA B44, chapter 296-96 WAC, and ASME A17.7/CSA B44.7 with the following ASME A17.7 inclusions:

(i) All system or component certifications performed by an accredited elevator/escalator certification organization (AECO) under ASME A17.7/CSA B44.7, shall be approved by the department before any such system or component is allowed to be permitted or installed in the state of Washington. The applicant must submit all code documentation required by ASME A17.7 Section 2.10 and any other documentation as may be requested.

(ii) Sections of chapter 296-96 WAC that have taken exception to, made additions to, or modifications to ASME A17.1/CSA B44, such exceptions, additions and modifications shall supersede corresponding requirements in ASME A17.7/CSA B44.7.

(iii) The department has the final authority regarding acceptance of any item in ASME A17.7. The department may remove approval if a design has changed or unforeseen or undisclosed information is obtained.

(iv) The department will post the specific ASME A17.7 AECO certificate including exceptions agreed upon. At that time the certificate and exceptions become part of the adopted rule in the state of Washington and not subject to a variance process. The installer shall post the certificate and exceptions including all required information on each conveyance installed utilizing the ASME A17.7 method.

(v) The department may charge an additional fee for each item in review based upon the variance fee table.

(4) MARINE ELEVATOR SECTION 5.8

This chapter only applies to elevators installed on board a marine vessel flying the Washington state flag and under one hundred gross metric tons.

(5) Exclude ASME A17.1-2.4.7.2 reference for clearance reduction.

(6) Exclude ASME A17.1-5.4 private residence incline elevators and ASME A17.1-7.4, 7.5, 7.6, 7.9, and 7.10 material lifts and their corresponding 8.10.1.1.3.

(7) Exclude ASME A17.1-2.14.1.5.2 on elevators in partially enclosed hoistways. A top emergency exit shall be required.

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

WAC 296-96-00700 Chapter definitions. The following definitions apply to this chapter (see RCW 70.87.010 for additional definitions necessary for use with this chapter):

"ANSI" means the American National Standard Institute.

"ASA" means the American Safety Association.

"ASME" means the American Society of Mechanical Engineers.

"Acceptable proof" refers to the documentation that must be provided to the department during the elevator contractor and mechanic license application and renewal process. Acceptable proof may include department-approved forms documenting years of experience, affidavits, letters from previous employers, declarations of experience, education credits, copies of contractor registration information, etc. Additional documentation may be requested by the department to verify the information provided on the application.

"Code" refers to nationally accepted codes (i.e., ASME, ANSI, ASA, and NEC) and the Washington Administrative Code.

"Control room" refers to an enclosed control space outside the hoistway of the elevator or dumbwaiter, intended for full bodily entry that contains the motor and motion controller. The room could also contain electrical and/or mechanical equipment used directly in connection with the elevator or dumbwaiter, but not the electric driving machine.

"Control space" refers to a space outside the hoistway of the elevator, intended to be accessed without full bodily entry, which contains the motor and motion controller. This space could also contain electrical and/or mechanical equipment used directly in connection with the elevator but not the electric driving machine or the hydraulic machine. A control space* is limited to elevators, dumbwaiters, special purpose, and material lifts. The space shall not share any location, area or room which is also accessible to the general public.

***Note:** A control space must be preapproved and is limited on a case-by-case basis and should not be considered a normal installation process.

"(~~Decommissioned~~) Decommissioning conveyance" means ~~((an installation whose power feed lines have been disconnected and:~~

~~(a) A traction elevator, dumbwaiter, or material lift whose suspension ropes have been removed, whose car and counterweight rests at the bottom of the hoistway, and whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side;~~

~~(b) A hydraulic elevator, dumbwaiter, or material lift whose car rests at the bottom of the hoistway, pressure piping has been disassembled and a section removed from the premises, hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side, suspension ropes have been removed and counterweights, if provided, landed at the bottom of the hoistway; or~~

~~(c) An escalator or moving walk whose entrances have been permanently barricaded))~~ a group of tasks that must be accomplished in order to place the conveyance in a long-term out-of-service status.

"Elevator machine room" means an enclosed machinery room outside the hoistway, intended for full bodily entry that contains the electric driving machine or the hydraulic machine and the motor controller. The room could also contain electrical and/or mechanical equipment used directly in connection with the elevator.

"Elevator machinery space" means a space inside or outside the hoistway, intended to be accessed with or without full bodily entry that contains elevator mechanical equipment and could also contain electrical equipment used directly in connection with the elevator. This space could also contain the electric driving machine.

"Examination" means a routine process or procedural task(s) or test(s) that ensures a conveyance and its systems and subsystems remain properly maintained and safe to operate.

"Final judgment" means any money that is owed the department as the result of an individual's or firm's unsuccessful appeal of a civil penalty. Final judgment also includes any penalties assessed against an individual or firm owed the department as a result of an unappealed civil penalty or any outstanding fees due under chapter 70.87 RCW and this chapter.

"General direction - Installation and alteration work" means the necessary education, assistance, and supervision provided by a licensed elevator mechanic (in the appropriate category) who is on the same job site as the helper/apprentice at least seventy-five percent of each working day. The ratio of helper to mechanic shall be one-to-one.

"General direction - Maintenance work" means the necessary education, assistance, and supervision provided by a licensed elevator mechanic (in the appropriate category) to ensure that the maintenance work is performed safely and to code.

"Layout drawings" or "plans" or "shop drawings" means engineering drawings that show required clearances and dimensions of elevator equipment in relation to building structure and shall include a machine room plan, hoistway plan, hoistway elevation, detail drawings, and general elevator data.

"Lockout" means the placement of a lockout device on an energy isolating device, in accordance with an established procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed.

"Primary point of contact" is the designated individual employed by a licensed elevator contractor.

"Private residence elevator" (residential elevator) means a power passenger elevator which is limited in size, capacity, rise and speed and is installed in a private residence or multiple dwelling as a means of access to a private residence provided the elevators are so installed that they are not accessible to the general public or to other occupants in the building.

"Red tag" or "red tag status" means an elevator or other conveyance that has been removed from service and operation because of noncompliance with chapter 70.87 RCW and this chapter or at the request of the owner.

~~("Private residence elevator" (residential elevator) means a power passenger elevator which is limited in size, capacity, rise and speed and is installed in a private residence or multiple dwelling as a means of access to a private residence provided the elevators are so installed that they are not accessible to the general public or to other occupants in the building.))~~

"RCW" means the Revised Code of Washington.

"Tagout" means the placement of a tagout device on an energy isolating device, in accordance with an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed by the individual who established the tag or by a person designated by the chief elevator inspector.

"Traction elevator" means an elevator in which the friction between the hoist ropes and the machine sheave is used to move the elevator car.

"USAS" means the U.S.A. Standards.

"WAC" means the Washington Administrative Code.

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

WAC 296-96-00902 Are there exceptions from the elevator mechanic licensing requirements? Yes.

(1) Elevator mechanic licenses issued under chapter 70.87 RCW and this chapter are not required for:

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

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

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

writing and must approve the scope of work prior to it being performed.

(3) An elevator mechanic license in accordance with RCW 70.87.230, is not required when dismantling or removing a conveyance, as long as the building or structure as defined by its foundation outline is totally secure from public and unauthorized access, and:

(a) The entire building is completely demolished down to and including the foundation; or

(b) The entire building is returned to the basic supporting walls, floors, and roof.

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

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

WAC 296-96-00903 Are there exceptions from the elevator contractor licensing requirements? Yes. Elevator contractor licenses issued under chapter 70.87 RCW and this chapter are not required for:

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

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

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

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

WAC 296-96-00904 What must you do to become and remain a licensed elevator contractor? (1) Obtain and maintain a valid specialty or general contractor registration under chapter 18.27 RCW to engage in the business of conveyance work.

(2) Complete and submit a department-approved application. As part of the application:

(a) Specify the employee who is the licensed elevator contractor's primary point of contact.

(b) The person representing the company, firm or company who is applying for the elevator contractor's license must:

(i) Provide acceptable proof to the department that shows that the person representing the company, firm, or company has five years of work experience in performing conveyance work as verified by current and previous state of Washington elevator contractor licenses to do business; or

(ii) Pass a written examination administered by the department on chapter 70.87 RCW and this chapter. (In the case of a firm or company, the exam will be administered to the designated primary point of contact.)

(iii) Failure to pass the examination will require the submittal of a new application.

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

(4) The department may deny application or renewal of a license under this section if the applicant owes outstanding final judgments to the department.

(5) If the primary point of contact identified in subsection (2)(a) of this section separates employment, his/her rela-

tionship or designation is terminated, or death of the designated individual occurs, the elevator contractor must, within ninety days, designate a new individual who has successfully completed the elevator contractor examination and inform the department of the change in writing or the elevator contractor license will be automatically suspended.

(6) ASME A17.1-8.11.1.7 Unique or product-specific procedures or methods. Where unique or product-specific procedures or methods are required to inspect or test equipment, such procedures or methods shall be:

(a) Provided by the manufacturer or installer or their license may be suspended.

(b) Available to owners for their use or used by their qualified service provider.

(c) Accessible on-site to elevator personnel (see also ASME A17.1-8.6.1.2.1(f)).

(7) ASME A17.1-8.6.1.2.1 A written maintenance control program shall be in place to maintain the equipment in compliance with the requirements of ASME A17.1-8.6 and this chapter.

All elevator companies and other approved maintenance providers (see RCW 70.87.270) who continuously demonstrate noncompliance with the maintenance, examination, testing, documentation, and performance of work outlined in ASME A17.1 and this chapter, specifically Part D, Section VI, shall:

(a) Be notified in writing by the department outlining the reason or reasons for noncompliance;

(b) Respond to the department inquiry within fifteen days;

(c) Outline a solution(s) agreeable to the department within thirty days;

(i) Otherwise the elevator company's license may be suspended until such a time as they can demonstrate compliance; and

(ii) Other approved maintenance providers shall cease maintenance, examination, and testing until such a time as they can demonstrate compliance. Continuous demonstrations of maintenance, examination, and testing noncompliance shall result in approval being revoked.

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

WAC 296-96-00906 What must you do to become a licensed elevator mechanic? (1) Qualify for licensing:

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

(i) Test.

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

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

(ii) National exam/education.

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

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

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

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

Test.

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

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

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

Test.

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

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

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

Test.

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

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

(e) For temporary mechanic licenses as identified in WAC 296-96-00910 category (09) the applicant must provide acceptable proof from a licensed elevator contractor that attests that the temporary mechanic is certified as qualified

and competent to perform work under chapter 70.87 RCW and this chapter.

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

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

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

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

NEW SECTION

WAC 296-96-00907 ASME A17.1-8.11.1.5 Making safety devices ineffective. No person shall at any time make any required safety device or electrical protective device ineffective, except where necessary during tests and inspections. Such devices must be restored to their normal operating condition in conformity with the applicable requirements prior to returning the equipment to service (see ASME A17.1-2.26.7). If a required safety device or electrical protective device is found ineffective during the course of normal operation the conveyance must be immediately taken out of service. If the authorized mechanic or elevator company is found responsible for disabling the device(s) and placing the conveyance back into service they may have their license suspended until they can demonstrate conformity to the chapter (examples include, but are not limited to: Safety circuit, door and gate, terminal slowdowns, door reopening devices, anti-egress devices, or over current protection devices).

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

WAC 296-96-00910 What are the elevator mechanic license categories? The following are the licensing categories for qualified elevator mechanics or temporary elevator mechanics:

(1) **Category (01):** A general elevator mechanic license encompasses mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, decommission, and repair of all types of elevators and other conveyances in any location covered under chapter 70.87 RCW and this chapter.

(2) **Category (02):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, decommission, and repair of the following commercial and residential conveyances:

(a) Residential conveyances:

(i) Wheelchair lifts;

(ii) Dumbwaiters;

(iii) Incline chairlifts; and

(iv) Residential elevators;

(b) Commercial conveyances:

(i) Wheelchair lifts;

(ii) Dumbwaiters; and

(iii) Incline chairlifts.

(3) **Category (03):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, decommission, and repair of the following conveyances in industrial sites and grain terminals:

- (a) Electric and hand powered manlifts;
- (b) Special purpose elevators; and
- (c) Belt manlifts.

(4) **Category (04):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, decommission, and repair of the following conveyances:

- (a) Temporary personnel hoists;
- (b) Temporary material hoists; and
- (c) Special purpose elevators.

(5) **Category (05):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, decommission, and repair of material lifts.

(6) **Category (06):**

(a) This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, decommission, and repair of the following conveyances:

- (i) Residential wheelchair lifts;
- (ii) Residential dumbwaiters; and
- (iii) Residential incline chairlifts.

(b) Work experience on conveyances in (a)(i), (ii), and (iii) of this subsection may not be all inclusively applied toward the category (02) license requirements.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements provided that the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the general public. Such exempt work does not count toward work experience for licensure.

(7) **Category (07):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, decommission, and repair of residential inclined elevators.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements provided that the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the general public. Such exempt work does not count toward work experience for licensure.

(8) **Category (08):** This license is limited to maintenance and nonalteration repair and replacement of all conveyances and is further limited to employees of public agencies to obtain and maintain the license. This work should not count towards other licenses.

(9) **Category (09):** This temporary license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, decommission, and repair of conveyances. This license is limited to individuals that are certified as qualified and competent by licensed elevator contractors and have met the education and training requirements in the category of license for

the work performed. See policy number 07-16-104. The individual must be an employee of the licensed elevator contractor. The contractor shall furnish acceptable proof of competency as the department may require. Each license must recite that it is valid for a period of thirty days from the date of issuance and for such particular elevators or geographical areas as the department may designate, and otherwise entitles the licensee to the rights and privileges of an elevator mechanic license issued under chapter 70.87 RCW and this chapter.

Note: See policy number ((07-04)) 07-16-104.

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

WAC 296-96-00912 How long is the elevator contractor, elevator mechanic, and temporary mechanics licensing period and what is required for renewal? (1) Elevator contractors.

(a) The renewal period is two years from the date of issuance.

(b) As part of the renewal process the elevator contractor must:

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

(ii) Designate an employee as a primary point of contact.

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

(2) Elevator mechanics (category 01-08).

(a) The renewal period is two years from the date of your birthday. The initial license may be for a shorter period as follows. If your birth year is:

(i) In an even-numbered year, your certificate will expire on your birth date in the next even-numbered year.

(ii) In an odd-numbered year, your certificate will expire on your birth date in the next odd-numbered year.

(b) As part of the renewal process you must:

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

(ii) Have attended an approved continuing education course and submitted a certificate of completion for the course. The course must consist of not less than eight hours of instruction that must have been attended and completed within one year immediately preceding any license renewal.

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

(3) Temporary elevator mechanics (category 9). The renewal is limited to two consecutive months and further limited by no greater than six permits issued in a twelve-month period. The limitation may be extended at the discretion of the department. Examples include, but are not limited to, abnormally high rate of construction, natural disaster or work stoppage.

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

(b) As part of the renewal process you must:

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

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

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

(4) The department may deny renewals of licenses under this section if the applicant owes outstanding final judgments to the department.

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

(6) Late renewal is for renewal applications received after the expiration date of the license but no later than ninety days after the expiration of the licenses. If the application is not received within ninety days from license expiration, the licensee must reapply and pass the competency examination.

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

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

WAC 296-96-01000 What is the permit process for conveyances? (1) Prior to construction, alteration, or relocation of any conveyance, the licensed elevator contractor shall:

(a) Submit an installation application to the department. See WAC 296-96-01010 through 296-96-01025.

(b) ~~((Plans must be submitted))~~ Submit plans to ((and approved by)) the department for approval. See WAC 296-96-01030.

EXCEPTION: Most alterations will not require plans.

(c) Post an approved installation or alteration permit ~~((from))~~ issued by the department on the job site.

(i) The annual operating certificate is considered suspended once alteration work begins.

(ii) The certificate shall not be reinstated until the alteration work is approved by an inspector employed by the department.

(d) Obtain and pass an inspection prior to placing the conveyance in service. See WAC 296-96-01035.

(e) Abstain from working without a permit or releasing the conveyance for use without the department's written permission. Failure to comply is a violation of this chapter and may result in civil penalties (WAC 296-96-01070 (1)(a)).

(2) The owner must obtain and renew an annual operating certificate for each conveyance that they own, except for residential conveyances. See WAC 296-96-01065.

(3) After initial purchase and inspection, private residence conveyance(s) do not require an annual operating certificate. However, annual inspections may be conducted upon request. See WAC 296-96-01045 for the permit process.

NEW SECTION

WAC 296-96-01008 Decommissioning a conveyance. A licensed elevator mechanic working for a licensed elevator

company must decommission the conveyance. If the elevator is the only one in the building and the owner/agent wants the conveyance decommissioned the owner/agent must obtain a letter of approval from the local building official.

Note: Decommissioning is not dismantling or removing the conveyance.

(1) A conveyance is considered to be in decommissioned status when:

(a) The power feed lines from the disconnect switch to the controller have been removed; and

(b) The traction elevator, dumbwaiter, or material lift suspension ropes have been removed, and if applicable, the counterweight rests at the bottom of the hoistway. The hoistway doors, except for the bottom landing, have been permanently barricaded or sealed in the closed position on the hoistway side; and

(c) A hydraulic elevator, dumbwaiter, or material lift car rests at the bottom of the hoistway; pressure piping has been disassembled and a section removed from the premises; hoistway doors except for the bottom landing have been permanently barricaded or sealed in the closed position on the hoistway side; suspension ropes have been removed and counterweights, if provided, landed at the bottom of the hoistway; and

(d) The escalator or moving walk entrances have been permanently barricaded.

(2) After decommissioning work is complete:

(a) The elevator mechanic must contact the department to schedule an inspection;

(b) The department will perform an inspection and send the results and applicable fee to the conveyance owner;

(c) Upon inspection and approval by the department, annual inspections will no longer be required, until such time that the conveyance is returned to service.

(3) If returning the conveyance to service and prior to operating the conveyance, an acceptance inspection and temporary operating permit must be obtained. The conveyance acceptance inspection shall be performed to the code in effect from the date of its original installation or alteration.

AMENDATORY SECTION (Amending WSR 12-06-065, filed 3/6/12, effective 4/30/12)

WAC 296-96-01070 What are the civil (monetary) penalties for violating the conveyance permit and operation requirements of chapter 70.87 RCW and this chapter?

(1) Any licensee, installer, owner or operator of a conveyance who violates a provision of chapter 70.87 RCW and this chapter shall be subject to the following civil penalties:

- (a) Operation of a conveyance without a permit or written approval from the department:
 - First violation \$171.20
 - Second violation \$342.60
 - Each additional violation \$500.00
- (b) Installation of a conveyance without a permit:
 - First violation \$171.20

	Second violation	\$342.60
	Each additional violation	\$500.00
(c)	Relocation of a conveyance without a permit:	
	First violation	\$171.20
	Second violation	\$342.60
	Each additional violation	\$500.00
(d)	Alteration of a conveyance without a permit:	
	First violation	\$171.20
	Second violation	\$342.60
	Each additional violation	\$500.00
(e)	(i) Operation of a conveyance for which the department has issued a red tag or has revoked or suspended an operating permit or operation of a decommissioned elevator	\$500.00
	(ii) Removal of a red tag from a conveyance	\$500.00
(f)	Failure to comply with a correction notice:	
	After 90 days	\$114.10
	After 180 days	\$285.40
	After 270 days	\$457.00
	After 360 days	\$500.00
	Each 30 days after 360 days	\$500.00
	Note: Penalties are cumulative	
(g)	Failure to submit official written notification that all corrections have been completed:	
	After 90 days	\$114.10
	After 180 days	\$285.40
	After 270 days	\$457.00
	After 360 days	\$500.00
	Each 30 days after 360 days	\$500.00
	Note: Penalties are cumulative	
(h)	Failure to notify the department of each accident to a person requiring the services of a physician or resulting in a disability exceeding one day may result in a \$500.00 penalty per day. The conveyance must be removed from service until the department authorizes the operation of the conveyance. This may require an inspection and	\$500.00 Plus WAC 296-96-01057

the applicable fees will be applied. Failure to remove the conveyance from service may result in an additional \$500.00 penalty per day.

(i) Falsifying official written documentation submitted to the department. Each day is a separate violation. \$500.00

(2) A violation as described in subsection (1)(a), (b), (c), and (d) of this section will be a "second" or "additional" violation only if it occurs within one year of the first violation.

(3) The department must serve notice by certified mail to an installer, licensee, owner, or operator for a violation of chapter 70.87 RCW, or this chapter.

PART C - REGULATIONS FOR NEW AND ALTERED ELEVATORS AND LIFTING DEVICES

NOTE: The following rules set the minimum standard for all new installations and, where applicable, alterations.

NOTE: Part C is not intended to replace the current adopted standards outlined in WAC 296-96-00650. In conflicts between Part C and the adopted standards, Part C (~~(a))~~ shall take precedent.

NEW SECTION

WAC 296-96-02401 ASME A17.1-8.7.1 Alteration general requirements. Alterations or replacement of new equipment to existing hoistway, machine room and machine space must follow the current rules for new elevators as related to location of equipment, motor controllers, motion controllers, drives, transformers, and other equipment as amended by this chapter.

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

WAC 296-96-02405 What is the inspection and approval process for alterations? The following process must be followed when performing alterations:

(1) Obtain an alteration permit from the department prior to performing the alteration. The permit application must include detailed information on the scope of the alteration.

(2) Take the conveyance out-of-service and perform the alteration.

(3)(~~(a))~~ If the conveyance requires an inspection prior to being returned to service (as identified on the alteration permit), you must contact the department to (~~(perform))~~ schedule an inspection at least seven days in advance and:

((~~(a))~~) (a) A licensed mechanic must be present and if the conveyance passes the inspection, the conveyance may be placed back into service.

((~~(b))~~) (b) If the conveyance fails the inspection, the conveyance must remain out-of-service until the corrections are made, reinspection scheduled and approved by the department.

((~~(b))~~) (4) If the conveyance is not required to be inspected prior to being returned to service, you must contact

the department immediately to ((perform)) schedule an inspection within seven days and obtain written permission prior to returning the conveyance to service. A licensed mechanic must be present during the scheduled inspection and:

((i)) (a) If the conveyance passes the inspection, the conveyance may remain in service.

((ii)) (b) If the conveyance fails the inspection, the conveyance will be placed out-of-service until the corrections are made, reinspection scheduled and approved by the department.

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

WAC 296-96-02410 Are there additional work requirements when performing an alteration? For certain types of alterations additional work may be required as part of the alteration and prior to approval of the conveyance. These alterations include, but are not limited to:

(1) Replacements of controllers will require the following:

(a) Firefighter service requirements must be ((met)) in accordance with the most recent code adopted by the department and include ASME A17.1-8.7.2.27.4(a) when travel is five feet or more above or below the designated landing.

(b) Seismic requirements ((²)) for derailment and/or seismic switch as required(²) must be met in accordance with the most recent code adopted by the department. In addition, the ((~~car~~)) conveyance must operate according to ASME A17.1 seismic requirements.

(c) Lighting in the machine room and pit must comply with the most recent code adopted by the department.

(d) Electrical outlets in the machine room and pit must be of the ground fault interrupter type.

(2) Replacement of controllers and a car operating panel and/or hall fixtures:

(a) The requirements of subsection (1) of this section must be met.

(b) All panels and fixtures must meet the applicable (e.g., height, sound, Braille, etc.) requirements in accordance with this chapter.

(3) Replacement of door operators and/or door equipment: Any changes to these items require the installation of door restrictors.

(4) Hydraulic piping: Replacement or relocation of hydraulic piping including a control valve will require the installation of a rupture (overspeed) valve. Gaskets and seals are excluded from this requirement.

Note: The department may grant exceptions to the requirements identified in this section.

NEW SECTION

WAC 296-96-02411 ASME A17.1-8.7.2.13 Door reopening devices. Where a reopening device for power-operated car doors or gates is altered, replaced or added, it is considered an alteration and the following requirements shall apply:

(1) Requirement 2.13.4;

(2) Requirement 2.13.5; and

(3) When firefighters' emergency operation is provided, door reopening devices and door closing on Phase I and Phase II shall comply with the requirements applicable at the time of installation of the firefighters' emergency operation.

NEW SECTION

WAC 296-96-02421 Layout drawings. Two sets of legible layout/plans must be submitted to the department, in addition to the layout criteria in ASME, include the following:

(1) A machine room plan identifying room dimensions, location of drive machine and motor controller, mainline disconnect, outlet, light switch, and door swing;

(2) A hoistway plan identifying hoistway and conveyance equipment dimensions and clearances, foot print of cab showing doors and inside cab dimensions, and location and dimensions of hoistway and cab door or gates;

(3) A hoistway elevation section identifying elevation of the hoistway and conveyance equipment dimensions and clearances, location of rail brackets, pit ladder, pit light, light switch, pit stop switch, top of car clearances, and on MRLs the height to the equipment from the horizontal plane of the top of the car with the car positioned at the top landing; and

(4) Detail drawings identifying specific details of conveyance components: Rail bracket fastening, sill support and fastening, machine beams, entrance installation assembly, loads and reactions, and additional seismic requirements (when required by building code).

General conveyance data includes:

(a) Conveyance type (model) and capacity;

(b) Location number (within building);

(c) Up/down full load speed;

(d) Car enclosure (construction material);

(e) Door type and manufacturer (single speed, two-speed, center opening, RH/LH opening);

(f) Platform thickness;

(g) Finish floor (tile, carpet);

(h) Power unit/drive motor (manufacturer and HP);

(i) Power requirements;

(j) Equipment heat generation (BTU) (Items (k)-(o) are applicable to hydraulic);

(k) Jack model;

(l) Plunger O.D. (if telescoping O.D. of each section);

(m) Plunger wall thickness;

(n) Cylinder O.D.;

(o) Cylinder wall thickness (items (p)-(u) are applicable to roped-hydraulic and electric);

(p) Size and number of hoist ropes;

(q) Roping type (1:1, 2:1, underslung);

(r) Governor location;

(s) Governor rope size and number;

(t) Safety manufacture and type;

(u) Emergency brake manufacture and type;

(v) Care buffer type and stroke;

(w) CWT buffer type, impact, and stroke; and

(x) Top/bottom runby.

NEW SECTION**WAC 296-96-02451 When a control space is used in lieu of a machine room.**

Note: For elevators, a control space may be approved on a limited case-by-case basis and should not be considered a normal installation process.

(1) The control space cannot be located where the entrance to the space is accessible to the public.

(2) The space must be designed to prevent full bodily entry with the door closed.

(3) The control space shall not open into:

(a) Hazardous locations;

(b) The outside environment when exposed on any side, top or bottom; and

(c) A space that is not environmentally controlled to maintain the elevator within the manufacturer's recommended temperature and humidity levels.

(4) Barricaded control space must be free of areas containing piping conveying liquid, vapor, or gas.

(5) If metal access doors are used, proper electrical clearances must be provided per the National Electrical Code.

(6) The space must have full environmental control as required by a machine room.

(7) Barricades must be:

(a) Minimum depth equal to forty-eight inches from the controller cabinet door to barricade;

(b) Minimum width equal to thirty-two inches and shall be the full width of the access opening;

(c) Minimum height equal to six feet;

(d) Minimum material equal to nonconductive rating;

(e) Permanently affixed to the inside door or jamb as to not be removed from the space;

(f) Constructed to withstand a force of two hundred fifty pounds of pressure applied in any direction without deflecting more than one-half inch (may require a floor mount when attached only to the door to meet deflection requirements);

(g) Provided with signage, "if you leave this area, you must replace guards and close doors." The minimum height of lettering shall be one inch.

(8) The control space shall be fire rated equivalent to the International Building Code, chapter 30.

NEW SECTION

WAC 296-96-02452 Machines, beams and hitch supports must meet the following requirements. When the machine space is provided inside the hoistway:

(1) The machine and overhead sheaves cannot be located more than six feet six inches from the horizontal plane of the cartop.

(2) The cartop inspection shall not operate past the normal terminal stopping device.

Note: Where access is greater than six feet six inches (see WAC 296-96-23115).

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

WAC 296-96-02455 What is the minimum working space required in machine rooms/control rooms? (1) In machine rooms with equipment requiring maintenance and inspection, an eighteen-inch working space must be established.

(2) There must be a minimum of eighteen inches working space (other than the required controller panel clearances) on one of the four sides of the hydraulic tank.

(3) The requirements in subsections (1) and (2) of this section do not supersede NFPA 70.

(4) The side with the hydraulic outlet pipe is not considered usable working space.

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

WAC 296-96-02460 What are the requirements for electrical main line disconnects? (1) The main line disconnect switch(es) or circuit breaker must be located per NEC 620.51(c) and:

(a) Inside the machine room door on the lock jamb side of the machine room door (~~and~~);

(b) Not more than twenty-four inches from the jamb to the operating handle; and (~~it must~~)

(c) Be at a height (~~of~~) not less than thirty-six inches and not more than sixty-six inches above the finish floor as measured centerline to the disconnect handle.

(2) For multicar machine rooms the switches shall be grouped together as close as possible to that location.

(3) For machine rooms with double swing doors, the doors must swing out and the switch(es) must be on the wall adjacent to the hinge side of the active door panel.

(4) The switch(es) must be designed so that they may be locked out and tagged in the open position.

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

NEW SECTION

WAC 296-96-02466 ASME A17.1-8.9 Code data plate location and material. (1) An individual data plate shall be provided and maintained for each unit (see 1.1.1). The data plate shall indicate:

(a) Code to be used for inspections and tests (see 8.10.1.2);

(b) Code and edition in effect at the time of installation; and

(c) Code in effect at the time of any alteration and indicate the applicable requirements of 8.7, including reference number.

(2) The data plate shall be of such material and construction that the letters and figures stamped, etched or cast to the face shall remain permanently and readily legible. The height of the letters and figures shall be not less than 3.2 millimeters (0.125 inches).

(3) All data plates shall be provided with either of the additional requirements listed in 8.9.3 (a) or (b).

NEW SECTION

WAC 296-96-02471 ASME A17.1-2.27.8 FEO-K1 Fire service keys. The key switches required by ASME A17.1-2.27.2 through 2.27.5 for all new and altered elevators in a building shall be operable by the FEO-K1 key. The keys shall be Group 3 Security (see ASME A17.1-8.1). A separate key shall be provided for each switch. This key shall be of a tubular, 7 pin, style 137 construction and shall have a biting code of 6143521 starting at the tab sequences clockwise as viewed from the barrel end of the key. The key shall be coded "FEO-K1." The possession of the "FEO-K1" key shall be limited to elevator personnel, emergency personnel, elevator equipment manufacturers, and authorized personnel during checking of firefighters emergency operation.

Note: (ASME A17.1-2.27.8) Local fire or building authorities may specify the requirements for a uniform keyed lock box and its location to contain the necessary keys. Where required, a lock box, including its lock and other components, shall conform to the requirements of UL 1037 (see Part 9). These keys shall be kept on the premises in a location readily accessible to firefighters and emergency personnel, but not where they are available to the public.

NEW SECTION

WAC 296-96-02481 Sprinklers and shunt trip within in the city limits of Seattle. Within the city limits of Seattle application of water will be manually controlled and elevator shut down will be installed per the current code adopted by the city of Seattle elevator section.

NEW SECTION

WAC 296-96-02486 ASME A17.1-5.7.10.5 Special purpose elevator car doors or gates. Interlocks or a combination consisting of mechanical locks and electric contacts must be provided for all elevators having car doors. An electrical/mechanical interlock must be provided on car gates on elevators in unenclosed hoistways unless a safe means of self-evacuation is provided. Such means must be approved by the department.

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

WAC 296-96-02505 What is the minimum acceptable initial transfer time for an elevator door? The minimum acceptable time from notification that a car is answering a call until the doors of that car start to close shall be calculated from the following equation:

$T = ((D(1.5 \text{ ft/s})) / 1.5 \text{ ft})$ or $T = D / (455 \text{ mm}) = 5$ seconds minimum, where T equals the total time in seconds and D equals the distance (in feet or millimeters) from the point in the lobby or corridor 60 inches (1525 mm) directly in front of the farthest call button controlling that car to the centerline of its hoistway door.

EXCEPTION: For car with in car lanterns, T shall be permitted to begin when the signal is visible from the point sixty inches directly in front of the furthest hall call button and the audible signal is sounded.

Elevator doors shall remain fully open in response to a car call for three seconds minimum.

EXCEPTION: Special purpose and residential elevators are exempt.

EXCEPTION: Limited use/limited application (LULA), special purpose, and residential elevators are exempt from this section.

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

WAC 296-96-02525 What is required for installation and operation of emergency communication systems?

Every elevator must contain an emergency two-way communication system. The installation and operation of this emergency communication system must comply with the ASME A17.1 code in effect when the department issued the elevator's installation permit. In addition to the appropriate ASME A17.1 code, the following requirements apply:

(1) The communication device located in the elevator car must comply with the following:

(a) The maximum height of any operable part of the communication system is forty-eight inches above the floor.

(b) Raised symbols and letters must identify the communication system. These symbols and letters must be located adjacent to the communication device. The characters used must be:

(i) At least 5/8 inches but no more than two inches high;

(ii) Raised 1/32 inch;

(iii) Upper case;

(iv) Sans serif or simple serif type; and

(v) Accompanied by Grade 2 Braille.

(c) If the system is located in a closed compartment, opening the door to the compartment must:

(i) Require the use of only one hand without tight grasping, pinching, or twisting of the wrist; and

(ii) Require a maximum force of five pounds.

(d) The emergency communication system must not be based solely upon voice communication since voice-only systems are inaccessible to people with speech or hearing impairments. An indicator light must be visible when the telephone is activated. This nonverbal means must enable the message recipient to determine the elevator's location address and, when more than one elevator is installed, the elevator's number.

(e) The emergency communication system must use a line that is capable of communicating with and signaling to a person or service that can respond appropriately to the emergency at all times.

(2) A communication device (intercom), if required by ASME A17.1, must be installed in the lobby adjacent to the Phase I key switch. This device must be a two-way communication device used to communicate with individuals in the elevator.

(a) The height of any communication device(s) located in the lobby must be located between forty-eight and sixty inches above the floor.

(b) Additional communication device(s) may also be located in other parts of the building in addition to the one located in the lobby.

(c) ASME A17.1-2.27.1.1.6(a) The two way voice communication (intercom) within the building is not required to meet the telephone operability verification requirements if the connections are hardwired.

EXCEPTION: Elevators that have less than sixty feet of travel do not require an intercom.

(3) Subsections (1) and (2) of this section do not apply to special purpose elevators. However, residential and special purpose elevators must have a means of communication located inside the elevator cab. This communication device must be permanently installed and available at all times. Cell phones and radios do not meet this requirement.

EXCEPTION: Residential inclined elevators are exempt from this section.

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

WAC 296-96-02530 What requirements apply to the size and location of car handrails? A handrail must provide coverage lengthwise at least ninety percent from wall to wall.

(1) A handrail must be installed on all car walls not used for normal exits. The handrails must be:

(a) Attached to the wall at a height of between thirty-two and thirty-five inches from the floor(-) to the top of the handrail:

(b) Attached to the wall with a 1-1/2 inch space between the wall and the rail;

(c) Constructed with the hand grip portion not less than 1-1/4 inches but not more than two inches wide;

(d) Constructed with a cross-section shape that is substantially oval or round;

(e) Constructed with smooth surfaces and no sharp corners. Approaching handrail ends on a blank wall in the interior corners of a car do not have to return to the wall. However, if the handrail is located on the closing door wall of a single-slide or two-speed entrance elevator and it projects an abrupt end towards people entering the car, the handrail end must return to the wall.

(2) Residential elevators must have at least one handrail. The handrail must be installed on a car wall not used for normal exits.

EXCEPTION: Special purpose elevators are exempt from this section.

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

WAC 296-96-02550 ASME A17.1-3.18.3.8.3 and ASME A17.1-8.7.3.23.1—What are the requirements for underground hydraulic elevator pipes, fittings, and cylinders? All newly installed underground pressure cylinders and pipes containing hydraulic elevator fluids shall be encased in an outer plastic containment.

(1) The plastic casing shall be constructed of polyethylene or polyvinyl chloride (PVC). The plastic pipe wall thickness must not be less than 0.125 inches (3.175 mm). The casing shall be capped at the bottom and all joints must be solvent or heat welded.

~~((2))~~ (a) The casing shall be sealed and dry around hydraulic pipe and cylinder to contain any leakage into the ground and to prevent electrolysis to the hydraulic pipe and the cylinder. Dry sand may be used to stabilize the hydraulic cylinder.

~~((3))~~ (b) A one-half inch pipe nipple with a one-way check valve shall be located between the casing and cylinder for monitoring purposes.

~~((4))~~ (c) Alternate methods must receive approval from the department prior to installation.

~~((5))~~ (d) This rule shall apply to all conveyances with installation permits issued by the department on or after 01/01/1993.

(2) ASME A17.1-3.18.2.2 Plunger design. Plungers shall be made of steel and shall be designed and constructed in compliance with the applicable formula in ASME A17.1-8.2.8.1 for calculation of elastic stability, bending, and external pressure. Plungers subject to internal pressure shall also be designed and constructed in accordance with cylinder design formula in ASME A17.1-8.2.8.2.

NEW SECTION

WAC 296-96-02551 ASME A17.1-2.6 and ASME A17.1-8.7.2.6 Protection of spaces below hoistways. Shall meet the requirements in WAC 296-96-23140.

NEW SECTION

WAC 296-96-02552 Location of equipment in hoistway. (1) Motor controllers, motion controller, drive, hydraulic control valves, hydraulic reservoir (tank), and hydraulic pump motor shall not be located in the hoistway or pit.

(2) Elevator controls and machinery other than driving machines, hydraulic cylinder, piston, governor, and their components shall be located in a room dedicated exclusively to elevator equipment.

(3) Drive sheaves, deflector sheaves, machine parts and supports are permitted to project into the hoistway.

(4) Driving machines shall not be located in the pit.

NEW SECTION

WAC 296-96-02556 Minimum width, clearances, and access of pit ladders. (1) ASME A17.1-2.2.4.2.2 The ladder rungs, cleats, or steps shall be a minimum of four hundred millimeters (sixteen inches) wide. When obstructions are encountered, the width may be permitted to be decreased to less than four hundred millimeters (sixteen inches). The reduced width shall be as wide as the available space permits, but not less than three hundred five millimeters (twelve inches).

(2) ASME A17.1-2.2.4.2.4 A clear distance of not less than one hundred fifteen millimeters (four and one-half inches) from the centerline of the rungs, cleats, or steps to the nearest permanent object in back of the ladder shall be provided. A permanent object is to include pipes, wiring, duct, switches, etc., protruding from the pit wall or structure.

(3) All pits shall comply with ASME A17.1-2.2.4.5 and shall include:

ASME A17.1-2.2.4.5(f) Separate pit access doors shall not be located where a person, upon entering the pit, can be struck by any part of the car or counterweight when either is on its fully compressed buffer.

(4) ASME A17.1-2.2.4.4 Pits shall be accessible only to elevator personnel. The owner or other authorized people may access the pit for retrieval, sump pump, drain, and 110VAC lighting service, only if they have been properly trained for pit access entry and a record of the training is kept on-site.

NEW SECTION

WAC 296-96-02557 Pit lighting and stop switch. (1) ASME A17.1-2.2.5.3 The light switch shall be so located as to be accessible from the pit access door on the ladder side and adjacent to the pit stop switch.

(2) ASME A17.1-2.2.6.2 In elevators where access to the pit is through the lowest landing hoistway door, a stop switch shall be located between thirty-six inches and forty-eight inches above the floor level of the landing, within reach from the access floor and adjacent to the pit ladder, if provided. When the pit exceeds one thousand seven hundred millimeters (sixty-seven inches) in depth, an additional stop switch is required adjacent to the pit ladder and approximately one thousand two hundred millimeters (forty-seven inches) above the pit floor.

NEW SECTION

WAC 296-96-02558 Pit equipment. (1) ASME A17.1-2.4.2 When oil buffers are used, the bottom runby shall be not less than one hundred fifty millimeters (six inches). Sections (a) and (b) from the ASME A17.1-2.4.2.1 code are not adopted.

(2) ASME A17.1-2.2.8 When working platform inspection operation is provided, according to ASME A17.1-2.7.5.3.6 in hoistways containing a single elevator:

- (a) A pit access door is required; or
- (b) Additional elevator personnel shall be present outside the hoistway when the pit inspection operation is in effect.

AMENDATORY SECTION (Amending WSR 08-23-085, filed 11/18/08, effective 12/19/08)

WAC 296-96-02560 What are the requirements for submersible pumps or sumps? (1) Sump pumps and drains are not required in most elevator pits. Sump holes must be installed and measure a minimum of eighteen inches by eighteen inches by eighteen inches. If drains or sump pumps are installed, they must not be directly connected to sewers and/or storm drains. P-traps and check valves are not allowed. All installations must meet the NEC and all plumbing codes. Drains meeting the above requirements may be installed in lieu of sump holes.

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

(2) ASME A17.1-2.2.2.5 Elevators that are provided as fire service access elevators (one hundred twenty feet) or occupant evacuation elevators (four hundred feet) a drain or

sump pump shall be provided. The sump pump or drain shall have the capacity to remove a minimum of three thousand gallons/hour per elevator and meet all requirements in ASME A17.1, ICC and this chapter.

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

NEW SECTION

WAC 296-96-02564 ASME A17.1-2.4.12.1-2005 Distance required for car top refuge space. An unobstructed horizontal area of not less than half meters² (5.4 feet²) shall be provided on top of the car enclosure for refuge space. It shall measure not less than six hundred millimeters (twenty-four inches) on any side. This area shall be permitted to include the space utilized for the top emergency exit (see ASME A17.1-2.14.1.5.1(f)). The minimum vertical distance in the refuge area between the top of the car enclosure and the overhead structure or other obstruction shall be not less than one thousand one hundred millimeters (forty-three inches) when the car has reached its maximum upward movement.

NEW SECTION

WAC 296-96-02566 ASME A17.1-2.14.7.1.4 Requirements for top of car lighting and receptacle for elevators. Each elevator shall be provided with lighting and a duplex receptacle fixture on the car top.

(1) The lighting shall be permanently connected and fixed to provide an illumination level of not less than one hundred lux (ten foot candle) measured:

(a) At the point of any elevator part or equipment, where maintenance or inspection is to be performed from the car top; and

(b) Across the entire horizontal plane of the top of the car up to a minimum height of six feet.

(2) All lighting fixture(s) shall be equipped with guards and protected from accidental breakage.

(3) The light switch shall be accessible from the landing when accessing the car top.

(4) Where the access to machinery space is from the top of the car the cartop receptacle may be used.

EXCEPTION: Residential elevator, special purpose installed without lighting.

NEW SECTION

WAC 296-96-02567 ASME A17.1-2.7.6.3.4 Access to governors and brake. (1) For governors that are located in the hoistway, governor access from outside the hoistway is required unless:

(a) The governor is manually reset from the controller;

(b) The governor switches are manually reset from the controller;

(c) A means is available for tripping the governor by either a switch or key from the controller or control room;

(d) A permanent means from the controller or control room is provided that shows the car direction and speed, plus the governor tripping speed;

(e) A means of servicing and inspecting the governor can be performed from inside the hoistway;

(f) Access to the governor is via the cartop working platform or per WAC 296-96-23115; and

(g) Access is safe, convenient and within easy reach for inspection, maintenance and testing purposes and not from the adjacent car.

(2) If governor or brake access is required from outside the hoistway the access panel must:

(a) Be a minimum of twelve inches by twelve inches and a maximum of twenty-four inches by twenty-four inches;

(i) Access openings in a residential hoistway enclosure where full bodily entry is not necessary for rescue operation, maintenance and inspection of components shall be a minimum of ninety-six square inches with a minimum of eight inches on one side and have a maximum width and height of twenty-four by twenty-four inches.

(ii) ASME A17.1-5.3.1.7.7 Where direct observation of the drive machine, suspension means, or brake is not possible from the access opening, a means conforming to the requirements of ASME A17.1-2.7.6.4 shall be provided.

(b) Self-closing and self-locking, security level key outlined in ASME A17.1-8.1 with key in key box (exempt residential for key box);

(c) If located more than sixty inches above the floor provide a work platform that provides safe and convenient access to the panel (exempt residential);

(d) Meet the fire rated requirement of the hoistway;

(e) Cannot be located above the hoistway if a fall hazard into the hoistway is created by the access panel; and

(f) Access must be safe, convenient and within easy reach for inspection, maintenance, and testing procedures.

NEW SECTION

WAC 296-96-02568 ASME A17.1-5.3.1.1 Residential hoistway enclosures. Residential hoistways shall be solidly enclosed throughout their height without grillwork or openings other than for landing or access doors. Enclosures shall be of sufficient strength to support in true alignment the hoistway doors, gates and their locking equipment. The fire resistance rating shall be in accordance with the requirements of the building code. Any exterior windows within the hoistway shall be protected by metal grillwork. Grillwork shall reject a ball seventy-six millimeters (three inches) in diameter and shall be securely fastened from the inside of the hoistway.

Note: See ASME requirements for partially enclosed hoistways.

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

WAC 296-96-02580 Are keys required to be on-site? The keys to the machine room and the keys that are necessary to operate the elevator must be located in a locked key retainer box in the elevator lobby at the designated level above the hall buttons, or located by machine room doors at no more than six feet above the floor, provided access to the key box doesn't require passage through locked doors. If in order to meet this requirement the box would be located in an

unsecured location (such as the outside portion of a condo), other arrangements shall be accommodated with the written permission of the department.

The key retainer box must be:

- Readily accessible to authorized personnel;
- Clearly labeled "ELEVATOR";
- Securely mounted;
- Equipped with a 1-inch mortise cylinder cam lock with keyway set to a #39504 Fort type key and securely mounted;

Further:

• Keys for access to elevator machine rooms and for operating elevator equipment must be tagged and kept in the key box.

• The box must contain all keys.

• Mechanical hoistway access devices must be located in the key box or machine room.

Note: The cities of Seattle and Spokane may designate their own options for keys and lockbox arrangement via their rule processes. ASME A17.1-2.27.8 Local fire or building code authorities may specify the requirements for a uniform keyed lock box and its location to contain the necessary keys (this will be in addition to the requirements above). Where required, a lock box, including its lock and other components, shall conform to the requirements of UL 1037 (see Part 9). These keys shall be kept on the premises in a location readily accessible to fire-fighters and emergency personnel, but not where they are available to the public.

EXCEPTION: Residential elevators are exempt from this section.

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

WAC 296-96-02595 What are the general requirements for LULA elevators? (1) LULAs may be permitted in churches, private clubs, and buildings listed on the historical register that are not required to comply with accessibility requirements.

(2) ~~((Installation of LULAs in existing buildings that are not required to comply with accessibility requirements will be considered on a case-by-case basis by the department.~~

~~(3))~~ For LULAs installed according to subsection((§))

(1) ~~((and(2)))~~ of this section a form provided by the department must be signed by the local building official.

~~((4))~~ (3) LULAs must be equipped with an emergency communication device meeting the requirements of WAC 296-96-02330.

(4) ASME A17.1-5.2.1.7.1 Elevator machine rooms, control rooms, and machinery spaces containing an elevator driving machine not located in the hoistway shall have clear headroom of not less than two thousand one hundred thirty millimeters (eighty-four inches).

(5) All maintenance, examination, and safety tests must be in accordance with ASME A17.1-8.6 and WAC 296-96-23605(3).

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

WAC 296-96-02600 What is required for physically handicapped lifts? ~~((1) All inclined stairway chairlifts and~~

~~inclined and vertical wheelchair lifts installed in buildings where the conveyance is not visible at all times must be equipped with a standard electric switch Chicago style lock and #2252 key.~~

~~(2) All inclined stairway chairlifts and inclined and vertical wheelchair lifts installed in residences licensed as group homes must be equipped with a standard electric key switch Chicago style lock and #2252 key.~~

~~(3) All inclined stairway chairlifts and inclined and vertical wheelchair lifts installed in schools, day care centers, churches and other facilities which typically accommodate or provide services for children must also be equipped with a standard electric key switch Chicago style lock and #2252 key.~~

~~(4) Where these conveyances are installed outdoors, they must be equipped with either a standard electric key switch Chicago style lock and #2252 key or a timing device. The timing device must not allow the conveyance to run outside of normal business hours.~~

~~(5) In locations where the conveyance is not visible at all times, the conveyance must be equipped with a means of two-way communication that is capable of communicating with and signaling to a person or service that can respond appropriately at all times.~~

EXEMPTION: ~~Inclined stairway chairlifts and inclined and vertical wheelchair lifts in private residences are not required to be equipped with key switches.~~

~~((6)) (1) Beginning July 1, 2004, vertical ((wheelchair)) platform lifts in commercial installations must be equipped with low energy power-operated doors or gates complying with ANSI/BHMA A156.19. Doors and gates shall remain open for twenty seconds minimum. End doors shall be thirty-two inches minimum clear width. Side doors shall be forty-two inches minimum clear width.~~

EXCEPTION: ~~Lifts having doors or gates on opposite sides shall be permitted to have manual doors and gates.~~

~~((7)) (2) For purposes of ((this section)) two-way communication, "not visible at all times" includes, but is not limited to, conveyances located in stairwells, auditoriums, and other areas which are not generally in the normal path of travel during the hours that the building is occupied.~~

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

WAC 296-96-02605 ((Are)) Private residence inclined stairway chairlifts ((required to be permanently wired?)). (1) Private residence inclined stairway chairlifts are not required to be permanently wired into a structure. These conveyances may be equipped with a cord and plug. The plug must be directly inserted into a wall receptacle that is protected by a fuse or a circuit breaker at its source and is capable of supporting the additional load on the circuit. The source must be identified either at the receptacle or at the feeder panel. The cord must be secured in a manner that will not create any tripping hazards.

(2) ASME A18.1-7.10.1 Operation of the lift from the top and bottom landings and from the platform shall be con-

trolled by control switches at all stations and by means of the continuous pressure type. Operation of the lift from the intermediate landings shall be controlled by "up" and "down" control switches and by means of the continuous pressure type. Controls shall be one thousand two hundred millimeters (forty-eight inches) maximum and nine hundred fourteen millimeters (thirty-six inches) minimum above the platform floor or facility floor or ground level. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

(3) A free passage width of not less than seventeen inches shall be provided. If the chair can be folded when not in use the distance can be measured from the folded chair. When in use there must be a minimum of two inches between any body part and the nearest obstruction.

NEW SECTION

WAC 296-96-02620 Private residence vertical platform lifts. (1) ASME A18.1-5.10.1 Operation of the lift from the top and bottom landings and from the platform shall be controlled by control switches at all stations and by means of the continuous pressure type. Operation of the lift from the intermediate landings shall be controlled by "up" and "down" control switches and by means of the continuous pressure type. Controls shall be one thousand two hundred millimeters (forty-eight inches) maximum and nine hundred fourteen millimeters (thirty-six inches) minimum above the platform floor or facility floor or ground level. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

(2) NEC 20.51(A) Disconnecting means and controls. Cord and plug connection will be allowed under the following conditions:

(a) The main power source must be from a battery system that is receiving its charge from a cord and plug connected AC battery charger connected to an individual branch circuit;

(b) The circuit supplying the battery charger must be protected by a ground fault circuit protector (GFCI breaker);

(c) The receptacle used to connect to the battery charger must have a cover that meets the requirements of the National Electric Code (NEC) 406.8(b);

(d) The cord must be:

(i) Hard service rated;

(ii) Listed by an electrical testing laboratory approved by the department of labor and industries electrical program;

(iii) In compliance with the requirements of the NEC 400; and

(iv) Properly secured at least every twenty inches, without presenting a tripping hazard, and be limited to twelve feet in length from the battery charger.

(e) A sign must be posted at both the AC and DC source of power disconnecting means that states "warning - parts of the control panel are not de-energized by this switch"; and

(f) The DC source of power must have a disconnect located on the exterior and within site of the lift, be lockable, identified by the available voltage, and labeled per NEC 110.22.

NEW SECTION

WAC 296-96-02625 Private residence incline platform lifts. ASME A18.1-6.10.1 Operation of the lift from the top and bottom landings and from the platform shall be controlled by control switches at all stations and by means of the continuous pressure type. Operation of the lift from the intermediate landings shall be controlled by "up" and "down" control switches and by means of continuous pressure type. Controls shall be one thousand two hundred millimeters (forty-eight inches) maximum and nine hundred fourteen millimeters (thirty-six inches) minimum above the platform floor, facility floor, or ground level. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

NEW SECTION

WAC 296-96-02630 Commercial vertical and incline platform lifts. (1) ASME A18.1-2.10.1 and ASME A18.1-3.10.1 Operation of the lift from the top and bottom landing(s) and from the platform shall be controlled by control switches at all stations and by means of the continuous pressure type. Operation of the lift from the intermediate landing(s) shall be controlled by "up" and "down" control switches and by means of the continuous pressure type. Controls shall be one thousand two hundred millimeters (forty-eight inches) maximum and nine hundred fourteen millimeters (thirty-six inches) minimum above the platform floor, facility floor, or ground level. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

(2) ASME A18.1-4.1.1 Incline commercial platform lifts in new and existing buildings must have a clear passage width of not less than twenty inches. If the platform can be folded when not in use, the distance shall be measured from the folded position to the nearest obstruction.

NEW SECTION

WAC 296-96-02640 Incline commercial stairway chair lifts. (1) ASME A18.1-2.10.1 and ASME A18.1-3.10.1 Operation of the lift from the top and bottom landing(s) and from the platform shall be controlled by control switches at all stations and by means of the continuous pressure type. Operation of the lift from the intermediate landing(s) shall be controlled by "up" and "down" control switches and by means of the continuous pressure type. Controls shall be one thousand two hundred millimeters (forty-eight inches) maximum and nine hundred fourteen millimeters (thirty-six inches) minimum above the platform floor, facility floor, or ground level. Operating devices shall be designed so that both the "up" and "down" circuits cannot be operated at the same time.

(2) ASME A18.1-4.1.1 Incline commercial stairway chair lifts in new and existing buildings must have a clear passage width of not less than twenty inches. If the seat can be folded when not in use, the distance shall be measured from the folded position to the nearest obstruction.

**PART C1 - MINIMUM STANDARDS FOR ((ALL))
NEW AND ALTERED MATERIAL LIFTS**NEW SECTION

WAC 296-96-05009 What are the requirements for existing material lifts? Material lifts must comply with the rules adopted by the department that were in effect at the time the conveyance was permitted, regardless of whether the rule(s) has been repealed, unless any new rule specifically states that it applies to all conveyances regardless of when the conveyance was permitted. Copies of previous rules adopted by the department are available upon request.

If the department determines that a material lift was installed without a permit and/or without an inspection, the conveyance will be required to comply with the current rules adopted by the department.

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

WAC 296-96-05070 What car enclosure requirements apply to lifts? (1) Lift cars must have their sides enclosed with solid panels or openwork that will reject a ((2)) two-inch diameter ball. On the car sides where there is no gate (door), the enclosure must extend to a height of at least ((48)) forty-eight inches from the floor or to a height necessary to enclose the materials that are being moved, whichever is greater. On the car side next to the counterweight runway, the enclosure must extend vertically to the car top or underside of the car crosshead and horizontally to at least ((6)) six inches on each side of the runway.

(2) Material lifts in unenclosed hoistways must have a car gate that is constructed of the same material as the car enclosure.

(3) The gate, if required or supplied, must be the same height as the sidewalls of the car enclosure and must be provided with a latching device and electrical contact to prevent the operation of the motor and brake if open more than two inches.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05080 How much running clearance is permitted between a car sill and a hoistway? Running clearance between a car sill and a hoistway enclosure must not exceed ((2)) two inches. If the lift is supplied with a car door or gate, the running clearance is measured from the car sill to the hoistway sill.

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

WAC 296-96-05140 What requirements apply to car safeties? Car safeties must be used on all material lifts that are suspended by wire ropes or chains. They must be able to stop and sustain a car carrying ((125)) one hundred twenty-five percent of its rated load. This shall be demonstrated during the acceptance inspection and test procedure with an

overspeed or gravity drop test, minimum two safeties at a time. On lifts driven by rack and pinion machines:

(1) Car safeties must be able to stop and sustain a car carrying one hundred twenty-five percent of its rated load.

(2) Car safeties will consist of a freely rotating safety pinion, an overspeed governor and a safety device which may be mounted on the car.

~~((2))~~ (3) The rotating pinion driving an overspeed governor will travel on a stationary rack which is vertically mounted in the hoistway.

~~((3))~~ (4) The governor will actuate the safety device when the downward speed of the car reaches the tripping speed and will bring the car to a gradual stop.

~~((4) Car safeties must be able to stop and sustain a car carrying one hundred twenty-five percent of its rated load.)~~

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05240 What are the minimum maintenance requirements for lifts? All owners, or designated owner representatives, of material lifts described in this chapter are responsible for the maintenance of their lifts and parts. Minimum maintenance requirements are:

(1) All lifts described in this chapter and their parts must be maintained in a safe condition. Maintenance, examinations, and safety tests are to be performed and documented to the applicable sections of WAC 296-96-23601 through 296-96-23610; and

(2) All devices and safeguards that are required by this chapter must be maintained in good working order.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-07035 What are the minimum maintenance requirements for inclined private residence elevators? Owners of inclined private residence elevator are responsible for the following:

(1) Maintaining elevators and mechanical parts in a safe condition; and

(2) Ensuring that all devices and safeguards required by these regulations are maintained in good working order.

The department recommends maintenance, examinations, and safety tests be performed and documented to the applicable sections of WAC 296-96-23601 through 296-96-23610.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-08035 What are the minimum maintenance requirements for inclined private residence elevators for transporting property? Owners of inclined private residence elevators for transporting property are responsible for ensuring that:

(1) Elevators and their parts are maintained in a safe condition; ~~(and)~~

(2) All devices and safeguards required by these regulations are maintained in good working order; and

(3) The department recommends maintenance, examinations, and safety tests be performed and documented to the applicable sections of WAC 296-96-23601 through 296-96-23610.

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

WAC 296-96-09001 What regulations apply to personnel hoists? All personnel hoist installations, maintenance, repair and tests must comply with the American National Standard Institute ANSI A10.4-~~((2004))~~ 2007 edition ~~((or the latest published edition adopted by ANSI.))~~ Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

EXCEPTION: Lifts and hoists for persons and material that are erected temporarily for use during construction and maintenance work and are designed in one of the following ways:

(1) Powered platforms used for and temporarily constructed in conjunction with exterior work on building facades or to erect scaffolding, not intended to move personnel or material from one landing to another. Not intended to move personnel or materials into or out of a building or structure; and

(2) Portable self-propelled lifts used by workers.

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

WAC 296-96-10001 What regulations apply to material hoists? All material hoist installations, maintenance, repair, and tests must comply with the American National Standard Institute ANSI A10.5-1992 edition ~~((or the latest published edition adopted by ANSI.))~~ Safety Requirements for Material Hoists.

EXCEPTION: Lifts and hoists for material that are erected temporarily for use during construction work only and are designed in one of the following ways:

(1) Powered platforms used for and temporarily constructed in conjunction with exterior work on building facades or to erect scaffolding, not intended to move material from one landing to another; and

(2) Portable lifts for material only.

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

WAC 296-96-11001 What regulations apply to belt manlifts? WAC 296-96-11016 through 296-96-11080 apply to all existing belt manlifts.

Belt manlifts installed between July 1, 2004, and January 1, 2008, must meet the requirements in ASME A90.1-1997.

Belt manlifts installed between January 1, 2008, and December 31, 2013, must meet the requirements in ASME A90.1-2009.

After the effective date of these rules all belt manlift installations and alterations must meet ASME A90.1-~~((2003))~~ 2009.

All belt manlifts must be maintained, inspected and tested to conform to section 8 and appendix II of ASME A90.1-~~((2003))~~ 2009.

Maintenance inspection report shall be kept in a secure location within the building the belt manlift serves.

NEW SECTION

WAC 296-96-13136 What are the minimum maintenance requirements for electric manlifts? Owners of electric manlifts are responsible for ensuring that:

- (1) Elevators and their parts are maintained in a safe condition;
- (2) All devices and safeguards required by these regulations are maintained in good working order; and
- (3) Maintenance, examinations, and safety tests be performed and documented to the applicable sections of WAC 296-96-23601 through 296-96-23610.

NEW SECTION

WAC 296-96-14011 What are the minimum maintenance requirements for hand powered manlifts? Owners of hand powered manlifts are responsible for ensuring that:

- (1) Elevators and their parts are maintained in safe condition;
- (2) All devices and safeguards required by these regulations are maintained in good working order; and
- (3) Maintenance, examinations and safety tests are performed and documented to the applicable sections of WAC 296-96-23601 through 296-96-23610.

NEW SECTION

WAC 296-96-16011 What are the minimum maintenance requirements for casket lifts? Owners of casket lifts are responsible for ensuring that:

- (1) The lift and their parts are maintained in a safe condition; and
- (2) All devices and safeguards required by these regulations are maintained in good working order.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-16210 What specific requirements apply to hydraulic ((elevators)) casket lifts? (1) All hydraulic elevators must be a plunger type with the plunger securely attached to the car platform.

(2) Plungers composed of more than one section must have the joints designed and constructed to carry in tension the weight of all plunger sections below the joints.

(3) Plungers must be provided with solid metal stops to prevent the plunger from traveling beyond the limits of the cylinder. Stops must be designed and constructed so as to stop the plunger from maximum speed in the "up" direction under full pressure without damage to the hydraulic system.

(4) Any leaking hydraulic oil must be collected.

NEW SECTION

WAC 296-96-18011 What are the minimum maintenance requirements for boat launch elevators? Owners of boat launch elevators are responsible for ensuring that:

(1) Elevators and their parts are maintained in a safe condition; and

(2) All devices and safeguards required by these regulations are maintained in good working order.

NEW SECTION

WAC 296-96-20010 What are the minimum maintenance requirements for mechanized parking garage equipment? Owners of mechanized parking garage equipment are responsible for ensuring that:

- (1) Elevators and parts are maintained in a safe condition; and
- (2) All devices and safeguards required by these regulations are maintained in good working order.

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

WAC 296-96-23100 Are keys required to be on-site? Yes.

(1) The keys to the machine room and the keys that are necessary to operate the elevator must be located in a locked key retainer box in the elevator lobby; or located by machine room doors at no more than six feet above the floor, provided access to the key box doesn't require passage through locked doors. The key retainer box must be:

- (a) Readily accessible to authorized personnel;
- (b) Clearly labeled "Elevator"; and
- (c) Equipped with a 1-inch cylinder cam lock key #39504.

Further:

Keys for access to elevator machine rooms and for operating elevator equipment must be tagged and kept in the key box.

The key box must contain all keys necessary for inspections of the elevator.

Mechanical hoistway access devices must be kept in the key box or machine room.

(2) The department may approve existing retainer boxes provided they are:

- (a) Readily accessible to authorized personnel;
- (b) Clearly labeled "Elevator"; and
- (c) The lock must be either a 1-inch cylinder cam lock key #39504 or a combination lock. The combination for the lock must be on record with the department.

Deviations from this section due to security concerns must be approved by the department via a variance request.

Note: The cities of Seattle and Spokane may designate their own options for keys and lock box arrangement via their rule processes.

(3) ASME A17.1-2.27.8 Local fire or building code authorities may specify the requirements for a uniform keyed lock box and its location to contain the necessary keys (this will be in addition to the requirements listed in subsection (1) or (2) of this section). Where required, a lock box, including its lock and other components, shall conform to the requirements of UL 1037 (see Part 9). These keys shall be kept on the premises in a location readily accessible to firefighters

and emergency personnel, but not where they are available to the public.

(4) ASME A17.1 Part 8 contains general requirements for new and existing equipment. Except reference ASME A17.1-2.27.8 shall not apply to phase one and two key switches installation on existing elevators installed prior to the adoption of this code unless required by the local code official.

~~((Subpart I
Hoistways and Related Construction for Electric
and Hydraulic Elevators))~~

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

WAC 296-96-23101 ~~What ((is the scope of Subpart I)) are the conveyance number requirements?~~ ~~((1) Subpart I, Hoistways and Related Construction for Electric and Hydraulic Elevators, is the minimum standard for all existing hydraulic and electric elevators. It applies to other equipment only as referenced in the applicable part.~~

(2) ~~This subpart does not apply to elevators located in grain terminals, residential elevators, or special purpose elevators.)~~ Conveyance numbers shall be permanently painted or etched to the controller or if space does not allow, the disconnect switch. The numbers shall be legible and at a minimum of one-half inch in height or as directed by the authority having jurisdiction.

**Subpart I
Hoistways and Related Construction for Electric
and Hydraulic Elevators**

NEW SECTION

WAC 296-96-23105 **What is the scope of Subpart I?** (1) Subpart I, Hoistways and Related Construction for Electric and Hydraulic Elevators, is the minimum standard for all existing hydraulic and electric elevators. It applies to other equipment only as referenced in the applicable part.

(2) This subpart does not apply to elevators located in grain terminals, residential elevators, or special purpose elevators.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23216 **What requirements apply to the lining materials used on passenger car enclosures?** Materials used for passenger car linings must meet the following specifications:

(1) Carpeting without padding may be used for interior finishes provided that it has a Class I rating, a flame spread of 25 or less which must include all assembly components except the adhesive. The adhesive must be a slow-burning type.

(2) Slow-burning combustible materials, other than carpet, may be used for interior finishes provided the materials have a Class II rating or better (flame spread of 75 or less),

which must include all assembly components other than the adhesive. Materials must be firmly bonded flat to the enclosure and must not be padded. Fabric with spray-type fireproofing must not be installed in elevators.

(a) Equivalent ratings in watts per centimeter squared as derived in the radiant panel test are also acceptable.

(b) .45 watts/cm squared or higher is equivalent to Class I or better.

(c) .22 watts/cm squared or higher is equivalent to Class II or better.

(d) In the radiant test, the higher the number the better the flame resistance.

(e) In the Class I and II system, the lower the number, the better the flame resistance.

(f) Smoke density of materials must be less than 450 when tested in accordance with UBC Standard No. 42.-1.

(3) Certification that the materials and assembly meet these requirements must be submitted to the building official.

Note: These specifications do not apply to new or alteration permits (see ASME code for requirements).

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23408 **How much clearance is required between skirt panels and step treads?** The clearance on each side of the steps between the step tread and the adjacent skirt panel must be no more than 3/16 inch, unless otherwise stated in ASME A17.1-8.6.8.

**Subpart VI
Alterations, Repairs (~~and~~), Maintenance, and Testing**

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

WAC 296-96-23600 **What is the scope of Part VI, Alterations, Repairs and Maintenance?** Subpart VI, Alterations, Repairs and Maintenance, applies to periodic inspections, tests, alterations, ~~((and))~~ preventive maintenance, and routine examinations. The applicable code references are: ASME A17.1-Part 8, ASME A18.1-Part 10, ASME A90.1-Part 8, and appendix 2, ANSI A10.4-Part 26 & 27, ANSI A10.5-Part 4, and other requirements in this chapter.

NEW SECTION

WAC 296-96-23601 **ASME A17.1-8.6.1.2.1 General maintenance requirements for conveyances regulated by ASME A17.1 Part 8.** (1) ASME A17.1-8.6.1.2.1(4) All persons authorized per chapter 70.87 RCW and this chapter to perform maintenance shall have detailed, code required written procedures including, but not limited to, check out, inspection, testing, maintenance, and examination, which shall be in the mechanic's possession and available upon request to the department's personnel.

(2) ASME A17.1-8.6.1.2.1 (4)(c) The maintenance records required by ASME A17.1-8.6.1.4 shall be kept at a central location either in the machine/control room, space or

within the building where the conveyance exists. Other on-site locations as permitted by the department.

(3) ASME A17.1-8.6.1.2.1(d) The Maintenance Control program shall be accessible to the elevator owner, the owner's representative, inspector, and elevator service personnel and document compliance with 8.6, applicable sections of 8.11, and this chapter.

(4) Devices that remotely interact with conveyances covered by this chapter can create a hazard when used to effect a change in its controls. Therefore, any conveyance found operating with a device that can directly effect a change in its controls from a remote location is prohibited unless it is operated under the direct on-site supervision of a person who meets the definition of "licensed elevator mechanic."

Note: Remote operation controls, operated by building personnel located within the building, may be installed for security purposes upon approval of installation or alteration permit. Table N-2, monitoring is for information only and shall not be a substitute for on-site inspections or examinations.

NEW SECTION

WAC 296-96-23602 ASME A17.1-8.6.1.4 Maintenance records. (1) ASME A17.1-8.6.1.4.1 Maintenance records shall document compliance with ASME A17.1-8.6 and the applicable parts of ASME A17.1-8.11 (see WAC 296-96-23605) and include records on the activities listed in ASME A17.1-8.6.1.4.1 (a) through (e). In addition, all maintenance, examinations, and safety tests shall be documented with interval(s). Each task shall be defined by code reference number and month(s) the task is to be performed. A signature by the authorized mechanic shall demonstrate each completed task (initials are acceptable with a legible signature page). The layout for the records shall be similar to the sample supplied by the department on the elevator program web site.

(2) ASME A17.1-8.6.1.4.2 Record availability:

(a) Records shall be available in hard copy, maintained, and kept current, upon completion of the task(s);

(b) The maintenance records shall be in the machine room or other on-site location and immediately available to the elevator owner(s) and representative and conspicuously posted for the inspector and elevator personnel;

(c) Retention shall be for a period of six years; and

(d) The records must be available for an additional year for each category five test extended beyond twelve months.

(3) The owner or representative is responsible for installing and maintaining updated records in the machine room. The outdated log and records shall remain conspicuously posted in the machine room per the schedule in subsection (2) of this section. The records are the property of the owner and shall be made available to all elevator personnel.

NEW SECTION

WAC 296-96-23603 ASME A17.1-8.6.1.6.3(a) Wiring diagrams. Up-to-date wiring diagrams detailing all circuits including, but not limited to, electrical protective devices (see ASME A17.1-2.26.2) and critical operating circuits (see ASME A17.1-2.26.3) shall be available in the machinery

space, machine room, control space, or control room as appropriate to the installation. Wiring diagrams shall not be removed from the machinery space, machine room, control space, or control room.

NEW SECTION

WAC 296-96-23604 ASME A17.1-8.6.1.7 Periodic tests. (1) The frequency of periodic tests shall be established by the department as required by ASME A17.1-8.11.1.3.

(a) Category one tests shall be performed twelve months from the previous category one tests.

(b) Category three tests shall be performed thirty-six months from the previous category three tests.

(c) Category five tests shall be performed sixty months from the previous category five tests.

(2) The tests shall be performed no later than thirty days past their due date. The owner or agent must seek written permission from the department to deviate from the schedule.

A civil penalty of five hundred dollars per month may be applied for noncompliance.

(3) ASME A17.1-8.6.1.7 The authority having jurisdiction may require that periodic tests or examination(s) be witnessed by an inspector employed by the authority having jurisdiction.

(4) Tag placement and use shall be in accordance with ASME A17.1-8.6.1.7.2 periodic test tags and the retention shall be equivalent to the maintenance control program records.

NEW SECTION

WAC 296-96-23605 ASME A17.1-8.6.4 Maintenance, examination and testing of elevators. (1) The maintenance, examination, and testing of electric elevators shall conform to ASME A17.1-8.6.1 through 8.6.4 and the applicable sections of 8.11.2 as amended below.

(a) ASME A17.1-8.11.2.1 Periodic examination requirements for electrical elevators. Service providers shall include the following when identifying components or systems, or both, that shall be examined if installed.

(b) ASME A17.1-8.11.2.1.1 Inside car:

(i) Door reopening device;

(ii) Stop switches;

(iii) Operating control devices*;

(iv) Car floor and landing sill**;

(v) Car lighting**;

(vi) Car emergency signal;

(vii) Car door or gate;

(viii) Door closing force;

(ix) Power closing of doors or gates;

(x) Power opening of doors or gates;

(xi) Car enclosure*;

(xii) Emergency exit;

(xiii) Ventilation*;

(xiv) Rated load, platform area, and data plate*;

(xv) Restricted opening of car or hoistway doors;

(xvi) Car ride*;

(xvii) Door monitoring systems; and

(xviii) Stopping accuracy*.

(c) ASME A17.1-8.11.2.1.2 Machine room/control room:

- (i) Equipment exposure to weather;
- (ii) Means of access**;
- (iii) Headroom**;
- (iv) Means necessary for tests;
- (v) Inspection and test panel;
- (vi) Lighting and receptacles**;
- (vii) Enclosure of machine room/control room**;
- (viii) Ventilation;
- (ix) Pipes, wiring, and ducts**;
- (x) Guarding of equipment;
- (xi) Numbering of elevators, machines, and disconnect

switches;

- (xii) Maintenance path and maintenance clearance**;
- (xiii) Stop switch;
- (xiv) Disconnecting means and control;
- (xv) Controller wiring, fuses, grounding, etc.;
- (xvi) Machinery supports and fastenings;
- (xvii) Drive machine brake;
- (xviii) Traction drive machines;
- (xix) Gears, bearings, and flexible connections;
- (xx) Winding drum machine;
- (xxi) Belt or chain-drive machine;
- (xxii) Absorption of regenerated power;
- (xxiii) Traction sheaves;
- (xxiv) Secondary and deflector sheaves;
- (xxv) Rope fastenings;
- (xxvi) Operating devices;
- (xxvii) Code data plate**;
- (xxviii) AC drives from a DC source;
- (xxix) Slack rope devices;
- (xxx) Wiring diagrams;
- (xxxi) Rope retainers or restraints for seismic risk zones;

and

- (xxxii) Seismic and displacement switches.
- (d) ASME A17.1-8.11.2.1.3 Top-of-car:
 - (i) Top-of-car stop switch;
 - (ii) Car top light and outlet;
 - (iii) Top-of-car operating device working platforms;
 - (iv) Top-of-car clearance and refuge space**;
 - (v) Top counterweight clearance;
 - (vi) Car, overhead, and deflector sheaves;
 - (vii) Crosshead data plate**;
 - (viii) Top emergency exit;
 - (ix) Floor and emergency identification numbering**;
 - (x) Hoistway construction**;
 - (xi) Hoistway smoke control**;
 - (xii) Pipes, wiring, and ducts**;
 - (xiii) Windows, projections, recesses, and setbacks**;
 - (xiv) Hoistway clearance;
 - (xv) Multiple hoistways**;
 - (xvi) Traveling cables and junction boxes;
 - (xvii) Door and gate equipment;
 - (xviii) Car frame and stiles;
 - (xix) Guide rails fastening and equipment;
 - (xx) Governor rope;
 - (xxi) Governor releasing carrier;
 - (xxii) Fastening and hitch plate;
 - (xxiii) Suspension means;

- (xxiv) Compensation means;
- (xxv) Machinery space/control space;
- (xxvi) Working areas on the car top;
 - (A) Means to prevent unexpected movement.
 - (B) Unexpected car movement device.
 - (C) Operating instructions for unexpected car movement device.
 - (D) Operating instructions for egress and reentry procedure;
- (xxvii) Equipment exposure to weather;
- (xxviii) Machinery supports and fastenings;
- (xxix) Guarding of exposed auxiliary equipment;
- (xxx) Anchoring of beams and supports in seismic risk zone 2 or greater;
- (xxxi) Rope retainers and snag guards in seismic risk zone 2 or greater;
- (xxxii) Position restraints in seismic risk zone 2 or greater;
- (xxxiii) Car and counterweight guide rails system in seismic risk zone 2 or greater;
- (xxxiv) For seismic risk zones 2 or greater, horizontal clearance for car and counterweight, snag-point clearance and rail fastening;
- (xxxv) Seismic risk zone 2 or greater rope retainers/restraints and snag guards;
- (xxxvi) Seismic risk zone 2 or greater rope retainer and snag guard for compensating ropes or chains and compensating tension sheave fastening; and
- (xxxvii) Sheaves with nonmetallic groove surfaces.
- (e) ASME A17.1-8.11.2.1.4 Outside hoistway:
 - (i) Car platform guard;
 - (ii) Hoistway doors;
 - (iii) Vision panels*;
 - (iv) Hoistway door locking devices;
 - (v) Access to hoistway;
 - (vi) Sequence operation;
 - (vii) Hoistway enclosure;
 - (viii) Elevator parking devices;
 - (ix) Emergency and access hoistway openings;
 - (x) Separate counterweight hoistway;
 - (xi) Means necessary for tests;
 - (xii) Inspection and test panel (ASME A17.1-2.7.6.5), inspection operation (ASME A17.1-2.26.1.4.1), and inspection operation with open door circuits; and
 - (xiii) Equipment exposure to weather.
- (f) ASME A17.1-8.11.2.1.5 Pit:
 - (i) Pit access, lighting, stop switch and condition;
 - (ii) Bottom clearance and runby;
 - (iii) Traveling cables;
 - (iv) Compensating chains, ropes, and sheaves;
 - (v) Car frame and platform;
 - (vi) Machinery space/control space;
 - (vii) Working areas in the pit;
 - (A) Means to prevent unexpected movement.
 - (B) Unexpected car movement device.
 - (C) Operating instructions for unexpected car movement device.
 - (D) Operating instructions for egress and reentry procedure;
 - (viii) Equipment exposure to weather;

- (ix) Machinery supports and fastenings;
- (x) Guarding of exposed auxiliary equipment; and
- (xi) Pit inspection operation.
- (g) ASME A17.1-8.11.2.1.7 Working platform:
 - (i) Working platforms; operating instructions;
 - (ii) Retractable stops; retractable stop electrical device;
- and
- (iii) Inspection operation.

Note: (*) May be combined with other items on the log.
 (**) A visual component that must be reported to the owner.

(2) The maintenance, examination, and testing of hydraulic elevators shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3 and the applicable requirements of ASME A17.1-8.6.4, ASME A17.1-8.6.5, and ASME A17.1-8.11.3, as amended below.

(a) Periodic examination requirements for hydraulic elevators. Service providers shall include the following when identifying components or systems, or both, that shall be examined if installed.

- (b) ASME A17.1-8.11.3.1.1 Inside the car:
 - (i) Door reopening device;
 - (ii) Stop switches;
 - (iii) Operating control devices*;
 - (iv) Sill and car floor**;
 - (v) Car lighting and receptacles**;
 - (vi) Car emergency signal;
 - (vii) Car door or gate;
 - (viii) Door closing force;
 - (ix) Power closing of doors or gates;
 - (x) Power opening of doors or gates; car enclosure*;
 - (xi) Emergency exit;
 - (xii) Ventilation*;
 - (xiii) Signs and operating device symbols;
 - (xiv) Rated load, platform area, and data plate;
 - (xv) Restricted opening of car or hoistway doors;
 - (xvi) Car ride*;
 - (xvii) Door monitoring system; and
 - (xviii) Stopping accuracy*.
- (c) ASME A17.1-8.11.3.1.2 Machine room/control room:
 - (i) Equipment exposure to weather;
 - (ii) Means of access**;
 - (iii) Headroom**;
 - (iv) Means necessary for tests;
 - (v) Inspection and test panel;
 - (vi) Lighting and receptacles**;
 - (vii) Enclosure of machine room/spaces and control room/spaces**;
 - (viii) Ventilation and heating;
 - (ix) Pipes, wiring, and ducts**;
 - (x) Numbering of elevators, machines, and disconnect switches;
 - (xi) Maintenance path and maintenance clearance**;
 - (xii) Stop switch;
 - (xiii) Disconnecting means and control;
 - (xiv) Controller wiring, fuses, grounding, etc.;
 - (xv) Hydraulic power unit;
 - (xvi) Tanks**;
 - (xvii) Recycling operation; and

- (xviii) Wiring diagrams.
- (d) ASME A17.1-8.11.2.1.3 Top of car:
 - (i) Top-of-car stop switch;
 - (ii) Car top light and outlet;
 - (iii) Top-of-car operating device and working platforms;
 - (iv) Top-of-car clearance and refuge space**;
 - (v) Top emergency exit;
 - (vi) Floor and emergency identification numbering**;
 - (vii) Hoistway construction*;
 - (viii) Hoistway smoke control**;
 - (ix) Pipes, wiring, and ducts**;
 - (x) Windows, projections, recesses, and setback**;
 - (xi) Hoistway clearances**;
 - (xii) Multiple hoistways**;
 - (xiii) Traveling cables and junction boxes;
 - (xiv) Door and gate equipment;
 - (xv) Car frame and stiles;
 - (xvi) Guide rails fastening and equipment;
 - (xvii) Governor rope;
 - (xviii) Wire rope fastening and hitch plate;
 - (xix) Suspension rope;
 - (xx) Slack rope device;
 - (xxi) Traveling sheave;
 - (xxii) Crosshead data plate**;
 - (xxiii) Equipment exposure to weather;
 - (xxiv) Machinery supports and fastenings; and
 - (xxv) Guarding of equipment.
- (e) ASME A17.1-8.11.3.1.4 Outside hoistway:
 - (i) Car platform guard;
 - (ii) Hoistway doors;
 - (iii) Vision panels*;
 - (iv) Hoistway door locking devices;
 - (v) Access to hoistway;
 - (vi) Power closing of hoistway doors;
 - (vii) Sequence operation;
 - (viii) Hoistway enclosure*;
 - (ix) Elevator parking devices;
 - (x) Emergency doors in blind hoistways;
 - (xi) Inspection and test panel (ASME A17.1-3.7.1 and ASME A17.1-2.7.6.5), inspection operation (ASME A17.1-2.26.1.4.1), and inspection operation with open door circuits (ASME A17.1-2.26.1.5); and
 - (xii) Equipment exposure to weather.
- (f) ASME A17.1-8.11.3.1.5 Pit:
 - (i) Pit access, lighting, stop switch, and condition;
 - (ii) Bottom clearance, runby, and minimum refuge space**;
 - (iii) Plunger and cylinder;
 - (iv) Traveling cables;
 - (v) Car frame and platform;
 - (vi) Supply piping;
 - (vii) Governor rope tension device;
 - (viii) Equipment exposure to weather;
 - (ix) Machinery supports and fastenings;
 - (x) Guarding of exposed auxiliary equipment;
 - (xi) Pit inspection operation; and
 - (xii) Seismic overspeed valve and pipe support.

Note: (*) May be combined with other items on the log.
 (**) A visual component that must be reported to the owner.

(g) If it is determined the hydraulic cylinders system is not being maintained per ASME A17.1-8.6.5.7 and ASME A17.1-8.6.5.14, cylinders installed below ground shall conform to ASME A17.1-3.18.3.4 or to ASME A17.1-8.6.5.8(a) or ASME A17.1-8.6.5.8(b).

(h) The relief-valve adjustment shall be examined to ensure that the seal is intact. If the relief-valve seal is not intact, checks shall be conducted in accordance with ASME A17.1-8.6.5.14.1 and the state hydraulic overpressure form shall be used to document compliance. The form shall be left on-site and located in the machine room in a conspicuous location.

(3) The maintenance and examination of dumbwaiter, rack-and-pinion, screw-column, hand, incline, limited use limited application, private residence*, power sidewalk, rooftop, special purpose, and shipboard and construction elevators shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3 and the applicable requirements of ASME A17.1-8.6 and ASME A17.1-8.11 as amended in this chapter.

Note: (*) Chapter 70.87 RCW exempts private resident elevators from periodic inspections, but these maintenance guidelines provide the proper outline for the level of service that should be provided.

(4) The maintenance of material lifts without automatic transfer devices, hand pull and electric manlift, residential incline elevators shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3 and the applicable requirements of ASME A17.1-8.6 and ASME A17.1-8.11, as amended in this chapter*.

Maintenance, examination and test requirements shall only apply to the corresponding installation requirements in chapter 296-96 WAC.

Note: (*) Chapter 70.87 RCW exempts private resident elevators from periodic inspections, but these maintenance guidelines provide the proper outline for the level of service that should be provided.

(5) Periodic examination requirements for conveyances outlined in WAC 296-96-23605 (3) and (4). Service providers shall include the following when identifying components or systems, or both, that shall be examined if installed.

(a) ASME A17.1-8.11.5.1 Sidewalk elevator, WAC 296-96-23605 (1) or (2).

(b) ASME A17.1-8.11.5.2 Private resident elevators, WAC 296-96-23605 (1) or (2)*.

(c) ASME A17.1-8.11.5.3 Hand elevators, WAC 296-96-23605(1).

(d) ASME A17.1-8.11.5.4 Dumbwaiters, WAC 296-96-23605 (1) or (2).

(e) ASME A17.1-8.11.5.5 Material lifts and dumbwaiters with automatic transfer devices, WAC 296-96-23605 (1) or (2).

(f) ASME A17.1-8.11.5.6 Special purpose personnel elevators, WAC 296-96-23605 (1) or (2).

(g) ASME A17.1-8.11.5.7 Inclined elevators, WAC 296-96-23605 (1)(a) through (2) or (3).

(h) ASME A17.1-8.11.5.8 Shipboard elevators, WAC 296-96-23605 (1) or (2).

(i) ASME A17.1-8.11.5.9 Screw-column elevators, WAC 296-96-23605 (1) or (2).

(j) ASME A17.1-8.11.5.10 Rooftop elevators, WAC 296-96-23605 (1) or (2).

(k) ASME A17.1-8.11.5.11 Rack-and-pinion elevators, WAC 296-96-23605 (1) and (2).

(l) ASME A17.1-8.11.5.12 Limited-use/limited-application elevators, WAC 296-96-23605 (1) or (2).

(m) ASME A17.1-8.11.5.13 Elevators used for construction, WAC 296-96-23605 (1) or (2).

(n) These conveyances shall be subject to the corresponding ASME A17.1-8.11 examination requirements as applicable (see ASME A17.1 for sections references). The applicable items above shall be documented on the required records.

Note: Chapter 70.87 RCW exempts these elevators from periodic inspections, but these examination guidelines provide the proper outline for the level of service that should be provided.

(6) The maintenance and examination of escalators shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3 and ASME A17.1-8.6.8 and the applicable sections of ASME A17.1-8.11.4. The maintenance and examination of moving walks shall conform to ASME A17.1-8.6.1 through ASME A17.1-8.6.3, ASME A17.1-8.6.9 and the applicable sections of ASME A17.1-8.11.4, as amended below.

(a) Periodic examination requirements for escalators and moving walks: Service providers shall include the following when identifying components or systems, or both, that shall be examined if installed.

(b) ASME A17.1-8.11.4.1 Escalators and moving walks:

(i) General fire protection;

(ii) Geometry;

(iii) Entrance and egress;

(iv) Lighting;

(v) Caution signs;

(vi) Combplate;

(vii) Deck barricade guard and antislid devices*;

(viii) Steps and treadway;

(ix) Operating devices;

(x) Skirt obstruction devices;

(xi) Handrail entry device;

(xii) Egress restriction device;

(xiii) Balustrades;

(xiv) Ceiling intersection guards*;

(xv) Skirt panels;

(xvi) Outdoor protection*;

(xvii) Additional stop switch(es);

(xviii) Controller and wiring; and

(xix) Code data plate**, other: Annual clean down WAC

296-96-23610(7).

Note: (*) May be combined with other items on the log.

(**) A visual component that must be reported to the owner.

NEW SECTION

WAC 296-96-23606 ASME A17.1-8.11 Covers periodic inspections, examinations, and tests of existing ASME A17.1 installations. (1) ASME A17.1-8.11.1.1.1:

(a) Annual inspections shall be made by an inspector employed by the department having jurisdiction;

(b) The inspector shall submit a signed written report to the department containing the following information:

(i) Date of inspection; and

(ii) Code deficiencies noted during the inspection and a statement as to the corrective action to be taken, if any.

(2) Periodic or routine examinations shall be made by a person authorized by the department.

(a) Persons authorized are licensed mechanics and other authorized persons under RCW 70.87.270.

(b) The authorized mechanic shall submit a signature on the maintenance control record containing the following information:

(i) Date of examination(s);

(ii) ASME A17.1-8.11 components or systems that have been examined and performed according to this chapter;

(iii) Code deficiencies noted during the examination and a statement on the repair or replacement log as to corrective action taken, if any.

(3) ASME A17.1-8.11.1.4 Installation placed out-of-service.

(a) Maintenance, examinations, and safety tests shall not be required when an installation is placed "in red tag status." All code required maintenance, examinations, and safety tests must be up to date, prior to removal of the red tag.

(b) A conveyance in red tag status for two years or more shall be subject to witnessing by the inspector for the category tests due and may include ASME A17.1-8.11 items, before being placed back in service.

(c) Annual operating certificate, maintenance, examinations, inspections, and tests shall not be required when an installation is placed in "decommissioned status."

AMENDATORY SECTION (Amending WSR 08-23-085, filed 11/18/08, effective 12/19/08)

WAC 296-96-23610 What requirements apply to routine examinations and periodic (~~inspections and~~) or category 01, 03, and 05 safety tests? The owner (~~or the owner's agent~~) must ensure that her/his conveyances are (~~inspected~~) routinely examined and annually safety tested (~~on a periodic annual basis~~) by a person qualified to perform such services. All conveyances must be tested to the applicable code(s) by an elevator mechanic licensed in the appropriate category for the conveyance being tested. (~~See appendix N in ASME A17.1.~~)

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

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

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

(1) ASME A17.1-8.11.1.1 and ASME A17.1-8.11.1.2 Periodic and routine examinations and tests.

(a) Periodic tests as required in ASME A17.1-8.6 may be witnessed by an inspector employed by the authority having jurisdiction. The department authorizes mechanics licensed under this chapter to perform examinations and testing.

(b) For category 1 and 3 tests the authorized mechanic shall perform and submit a signed written report on the maintenance control log containing the code referenced devices tested and found compliant containing, but not limited to, the following information:

(i) Date of inspection;

(ii) Type of test(s) performed;

(iii) Detailed results of the test(s) including, but not limited to: Speed, governor trip speed, safety slide distance, relief valve setting, escalator/moving walk brake torque setting, etc.;

(iv) Code deficiencies noted during the test; and

(v) Statement as to any corrective action taken.

(c) For the category 5 test, the authorized mechanic shall complete a signed written report provided by the department containing, but not limited to, the information in (b)(i) through (v) and leave the report in a conspicuous location with the MCP logs.

The authorized mechanic shall sign on the space provided on the maintenance control log the code referenced devices tested and found compliant with the information addressed in (b)(i) through (v).

(2) ASME A17.1-8.11.1.3 Periodic and routine examination frequency. The frequency of periodic examinations shall be established by the authority having jurisdiction. Intervals for periodic and routine examinations in ASME A17.1-8.11:

(a) A minimum of once per year and more often as age, usage, environmental condition, and design quality dictate; and

(b) A conveyance periodic examination is considered out of compliance if more than thirty days past the interval. Inspectors will make a report to owners of noncompliance.

~~((2))~~ (3) Required for firefighters' service portion of the log. It is the owner's responsibility to test firefighters' service operation of Phase I and Phase II key switches quarterly and annually perform the smoke detector test.

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

~~((3))~~ (4) For five-year and category 5 testing:

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

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

(c) For tests administered under this subsection: ~~((4))~~ A safety tag with the date and company conducting the test must be permanently attached to the ~~(governor, safeties, and the rupture valves with a wire and seal)~~ controller.

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

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

~~((i))~~ (5) Documentation must be ~~((submitted to the department))~~ retained in the machine room for the inspectors review and supplied on the form approved ~~((state form))~~ by the department.

~~((d))~~ (6) Qualified ~~((people))~~ personnel will conduct the test. A qualified person is either:

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

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

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

(7) Escalators shall be tested according to ASME A17.1 adopted and this chapter and completely cleaned annually. Upon completion of this work, the appropriate form indicating that the work ~~((was done))~~, including the skirt step index graph, has been completed and is in compliance. The documents must be ((submitted to)) left with the maintenance logs for the department inspector's review.

~~((4))~~ (8) All other conveyances requiring annual testing must have tags indicating the date and the name of the company and person who performed the test. When the required location for mounting the tag is not readily accessible, the tag may be mounted on the main line disconnect.

NEW SECTION

WAC 296-96-23621 ASME A17.1-8.7.1.7 Repairs and replacement. Repairs and replacements shall conform to ASME A17.1-8.6.2 and ASME A17.1-8.6.3. Repairs and replacements carried out as part of an alteration shall conform to the applicable ASME A17.1 or other adopted standards and requirements of this chapter.

NEW SECTION

WAC 296-96-23701 Periodic examinations and safety tests. (1) For five year and category 5 testing, in accordance with WAC 296-96-23610(4), a full-load safety test must be performed with weights on all accessibility equipment.

(2) ASME A18.1-10.1.2 The owner must ensure that the accessibility lifts are routinely examined and tested according to section 10.2 and periodically tested to 10.3. All conveyances must be tested to the applicable code(s) by an elevator mechanic licensed in the appropriate category for the lift being tested. An inspector employed by the department may witness the examinations or test.

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

WAC 296-96-23710 What requirements apply to lifts for the physically handicapped? On installations prior to 7/1/2004: Inclined and vertical chairlifts and inclined and vertical wheelchair lifts installed only for use by persons with disabilities in locations other than in or at a private residence must be equipped with a standard electric switch Chicago

lock with key #2252. Owners are responsible for properly securing their lift during hours of nonuse.

EXCEPTION: See WAC 296-96-02370 for key alterations. If code clearances meant for wing walls are installed, the #2252 key requirement is not in effect (see ASME A18.1).

This requirement is in addition to ASME A18.1, and the current Washington state rules and regulations on barrier-free design located in ANSI A117.1 in effect via the State Building Code (IBC).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-96-02565 What are the requirements for top of car lighting for freight and passenger elevators?

WSR 13-24-068

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed November 27, 2013, 10:02 a.m., effective December 29, 2013]

Effective Date of Rule: December 29, 2013.

Purpose: To clarify that, although the statute no longer mandates coverage of corporate officers, employing units may voluntarily elect to cover them; a rule provides procedures for doing so. The rules also clarify the circumstances under which covered corporate officers are considered "unemployed" and potentially eligible for unemployment benefits.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-310-150, 192-310-160, 192-310-170, and 192-310-180; and amending WAC 192-300-090, 192-300-170 and 192-310-190.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 13-21-118 on October 22, 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 4.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 4.

Date Adopted: November 27, 2013.

Nan Thomas
Deputy Commissioner

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

WAC 192-300-090 ~~When does an employer become inactive ((or reactivated)) for purposes of unemployment insurance ((and how does this affect coverage of corporate officers))?~~ (1) An employer that has no employees or covered corporate officers for eight consecutive quarters ((shall)) is automatically ((be)) considered ((to be)) an inactive employer at the end of the eighth consecutive quarter.

(2) An active employer may change to inactive status if the employer notifies the department that it is no longer an active employer, has no employees at that time or for the foreseeable future, and has not elected coverage under RCW 50.24.160. The employer ((shall be)) is considered inactive ((as of)) on the ((effective)) date ((of)) the ((notice unless it is a corporation that has not exempted all its paid corporate officers. If the employer is a corporation and has not exempted all its paid corporate officers, it shall continue to be considered an active employer until the end of the calendar year. If it has no employees and has not elected coverage under RCW 50.24.160, the corporation shall no longer be considered an employer as of January 1st of the following calendar year)) employer asks the department to close the account.

((Example A: Employer A (not a corporation) notifies the department that, as of June 30th, it no longer considers itself an active employer, has no employees at that time or for the foreseeable future, and has not elected coverage for otherwise exempt workers. The department will notify Employer A that it is considered inactive and Employer A will not have to file reports for the quarter ending September 30th and beyond.

Example B: Employer Corporation B notifies the department that, as of June 30th, it no longer considers itself an active employer, has no employees at that time or for the foreseeable future, and has not elected coverage for otherwise exempt workers. If the corporation is dissolving or is no longer in business or has exempted all its paid corporate officers from coverage, the department will notify it that the corporation is considered inactive and that it will not have to file reports for the quarter ending September 30th and beyond. If the corporation is continuing as a corporation in which all personal services are performed by bona fide corporate officers and has not exempted all its paid corporate officers, the corporation shall continue to be considered an active employer until December 31st and must report quarterly and pay taxes on nonexempt corporate officers. As of the following January 1st, it will no longer be considered an employer.

(3) A corporation in which all personal services are performed only by bona fide corporate officers, that has no employees throughout a calendar year, and that has not elected coverage for corporate officers under RCW 50.24.160 shall not be covered for corporate officers for that year regardless of whether it has notified the department that it is no longer an active employer.

Example C: Employer Corporation C is an active employer with employees in year 1 and must file quarterly reports. It has not elected coverage for corporate officers, but has not exempted them either, so Employer Corporation C must cover corporate officers in year 1. Throughout year 2, Employer Corporation C no longer has any employees and all

personal services are performed by bona fide corporate officers, but fails to notify the department of the change. Employer Corporation C should submit quarterly "no payroll" reports. Because there are no employees in year 2, the corporate officers are no longer considered covered.

(4) An employer that had no employees and was not previously active in the calendar year and reactivates because it has employees or elects coverage under RCW 50.24.160 shall be considered an active employer as of the date it has employees or elects coverage. If the employer is a corporation, once it hires employees, it becomes an employer, so it must register and paid corporate officers become covered unless the corporation exempts them within thirty days. If the corporation does not exempt all of its paid corporate officers, the corporate officers that have not been exempted shall be reported and covered as of the date the employer became an active employer.

Example D: Employer D (not a corporation) had registered in a previous year with the department, but had no employees and was in inactive status as of January 1st. It hires employees for the first time that year on April 1st, notifies the department, and is restored to active status at that time. Employer D does not need to report to the department for the first quarter of the year because it was not an active employer at that time. Employer D must report and pay taxes beginning with the quarter ending June 30th.

Example E: Employer Corporation E is a corporation that had been an active employer in previous years, but had no employees and was in inactive status as of January 1st. Employer Corporation E did not previously exempt its corporate officers from coverage, nor did it elect coverage for the officers, but because it was inactive and had no employees, it does not need to report or pay taxes on the corporate officers for the first quarter of the year. Employer Corporation E hires employees for the first time that year on April 1st, notifies the department, is restored to active status at that time, and does not exempt its paid corporate officers within thirty days of April 1st. Employer Corporation E must report and pay taxes on both employees and on corporate officers beginning with the quarter ending June 30th.

(5) An employer that had been in active status during the calendar year, became inactive, and then returns to active status during the same calendar year shall be considered in active status for the entire time since it first became active in that calendar year. If the employer is a corporation that has not exempted all of its paid corporate officers, the corporate officers that have not been exempted shall be reported and covered for the entire time since the corporation first became active in that calendar year.

Example F: Employer F changed from active status to inactive status and back to active status within the same calendar year. Employer F will be treated as if it had been in active status for the entire time since it first became active that year.))

AMENDATORY SECTION (Amending WSR 07-23-127, filed 11/21/07, effective 1/1/09)

WAC 192-300-170 Requirements for election of unemployment insurance coverage. The department

applies RCW 50.04.165 and 50.24.160 to establish the election of coverage for unemployment insurance by employers where personal services are not considered employment under the law:

(1) RCW 50.24.160 allows any ~~((business))~~ employing unit to request unemployment insurance coverage for personal services that are not covered as employment:

- (a) The request must be in writing to the department;
- (b) The department must approve the request for election of coverage in writing; and
- (c) The request must be signed by someone legally authorized to bind the business.

(2) RCW 50.04.165 allows a corporation to elect to cover the personal services of all or none of its corporate officers for unemployment insurance purposes.

(a) A corporation must submit a written request for voluntary election coverage signed by a person authorized to legally bind the corporation.

(i) When establishing voluntary coverage for an existing account, the written request will be considered timely if received within thirty days before the end of the quarter in which the change is made.

(ii) When establishing voluntary coverage for a new account, the written request will be considered timely if received within thirty days from the end of the quarter the employer is requesting coverage to begin.

(b) "Corporate officer" is defined in RCW 23A.08.470.

(c) Personal services provided by corporate officers appointed under RCW 23B.08.400, other than those covered by chapters 50.44 and 50.50 RCW, are not considered services in employment unless the corporation elects coverage of all its corporate officers under RCW 50.24.160.

(d) All services performed by corporate officers are exempt until the date the election of coverage is approved.

(3) All changes in elected coverage remain in effect for at least two calendar years. The business may terminate coverage only at the end of a calendar year. To terminate coverage, the employer must send a written request to the department by January 15th.

~~((3))~~ (4) The department reserves the right to disapprove a request for coverage because:

- (a) The applicant is not liable for federal unemployment taxes (FUTA);
- (b) The occupation or industry is seasonal; or
- (c) Other reasons apply.

~~((4))~~ (5) The department reserves the right to cancel unemployment insurance coverage for a voluntary election employer because:

- (a) Of nonpayment of unemployment insurance taxes or failure to file an unemployment insurance tax and wage report;
- (b) Of misrepresentation of facts;
- (c) Coverage is not used for involuntary unemployment as outlined in RCW 50.01.010; or
- (d) Other reasons apply.

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

WAC 192-310-190 When is a corporate officer with at least ten percent ownership considered unemployed?

(1) This section applies ~~((to))~~ if your claim for benefits is based on wages from a corporation that are twenty-five percent or more of your total covered base year wages and you are an officer of that corporation who:

~~((a))~~ ~~((A corporate officer who))~~ Owns ten percent or more of the outstanding stock or shares of the corporation; or

~~((b))~~ ~~((A corporate officer who is))~~ Has a family member ~~((of another))~~ who is also a corporate officer who owns ten percent or more of the outstanding stock or shares of the corporation. For purposes of this section, a "family member" is a person related by blood or marriage or domestic partnership as parent, stepparent, grandparent, spouse or domestic partner, child, brother, sister, stepchild, adopted child, or grandchild.

~~((c))~~ ~~Percentage ownership of the corporation may be measured by the percentage owned of outstanding stock or shares of the corporation.~~

(2) At any time during the benefit year of your claim, you are a corporate officer ~~((whose claim for benefits is based on any wages with that corporation is not considered unemployed in any week during the individual's term of office;))~~ under subsection (1) of this section even if you are not paid wages ~~((are not being paid at the))~~ during that time. ~~((The corporate officer is))~~

(3) You are considered unemployed and potentially eligible for benefits ~~((if))~~ for weeks after:

(a) The corporation dissolves; or ~~((if the officer))~~

(b) You permanently resign~~((s))~~ or ~~((is))~~ are permanently removed as a corporate officer under the articles of incorporation or bylaws.

~~((3))~~ For purposes of this section, "permanently" means for a period of indefinite duration, but expected to extend at least through the claimant's benefit year end date. ~~((If at any time during the benefit year the claimant resumes his or her position as an officer with the corporation, all benefits paid during that benefit year will be considered an overpayment and the claimant will be liable for repayment.))~~

(4) You will be ineligible for benefits and liable for repayment of all benefits paid during that benefit year if you take a position as a corporate officer as defined under subsection (1) of this section at any time during your claim.

(5) For purposes of this section, the department will consider a corporation dissolved when the corporation has provided the department with at least two of the following documents:

(a) A business licensing service change form requesting closure of the corporate account;

(b) A department of revenue clearance certificate;

(c) Articles of dissolution of a Washington profit corporation filed with the secretary of state; or

(d) A court order dissolving the corporation.

(6) A corporation must provide notice to the department in a format approved by the department when the ownership percentage of a corporate officer increases to become ten percent or more or decreases to become less than ten percent.

The notice is due by the time the next quarterly tax and wage report is due from the corporation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 192-310-150 Are corporate officers covered for unemployment insurance?
- WAC 192-310-160 How may corporations exempt corporate officers from unemployment insurance coverage?
- WAC 192-310-170 How is unemployment insurance coverage of corporate officers reinstated?
- WAC 192-310-180 Are corporate officers covered for unemployment insurance when the corporation has no other employees?

WSR 13-24-071

PERMANENT RULES

WASHINGTON STATE LOTTERY

[Filed November 27, 2013, 1:54 p.m., effective December 28, 2013]

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

Purpose: Proposed changes to WAC 315-30-010. The lottery wishes to update WAC 315-30-010 to include language to add reference to the Mega Millions draw game rules and Mega Millions multistate agreement including them in the director's authority to operate this game under current applicable draw game statutes and WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 315-30-010.

Statutory Authority for Adoption: RCW 67.70.040 (1), (3).

Adopted under notice filed as WSR 13-21-101 on October 21, 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 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, 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 27, 2013.

Jana L. Jones
Legal Counsel

AMENDATORY SECTION (Amending WSR 09-19-095, filed 9/18/09, effective 10/19/09)

WAC 315-30-010 Draw games—Authorized—Director's authority. The commission hereby authorizes the director to operate draw games which meet the criteria set forth in this chapter. New draw games shall not be made available for sale without approval of the commission.

(1) The director may contract for the development and operation of draw games, and may operate said games subject to the approval of the commission.

(2) Before approving the final draw game specifications, the director shall provide the commission with a description of the proposal, and obtain approval of the proposed game concept by the commission.

(3) The director shall establish and approve the final draw game specifications, as executed in working papers or software requirement specifications, including the determination of winning tickets, after presentation and approval of any new draw game proposal to the commission for a vote of the commission.

(4) All draw game procedures and play criteria shall be made available to the public on the agency internet web site and upon request.

(5) Mega Millions draw game shall be conducted consistent with chapter 67.70 RCW and Title 315 WAC and pursuant to the requirements of the multistate agreement, Mega Millions official game rules, Mega Millions finance and operations procedures, and Mega Millions line drawing procedures in effect at the time of this rule amendment, all of which are incorporated by this rule. A copy of the multistate agreement, Mega Millions official game rules, Mega Millions finance and operations procedures, and Mega Millions line drawing procedures can be obtained from the Lottery Commission, P.O. Box 43000, Olympia, WA 98504-3000.

WSR 13-24-072

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed November 26, 2013, 2:35 p.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: WAC 246-650-010, 246-650-020 and 246-650-030, the rule updates the definitions in WAC 246-650-010; revises WAC 246-650-020 to add severe combined immunodeficiency (SCID) to the panel of required screening tests for all babies born in Washington; and repeals WAC 246-650-030, which is not needed to implement the rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-650-030; and amending WAC 246-650-010 and 246-650-020.

Statutory Authority for Adoption: RCW 70.83.020.

Adopted under notice filed as WSR 13-18-081 on September 4, 2013.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-650-030, which stated "The department shall implement screening to detect SCID as quickly as feasible." is repealed. Establishing the effective date of the rules

using the CR-103P Rule-making order is a more appropriate vehicle for establishing the effective date.

A final cost-benefit analysis is available by contacting Michael Glass, 1610 N.E. 150th Street, Shoreline, WA 98155, phone (206) 418-5470, fax (206) 418-5415, e-mail mike.glass@doh.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 2, Repealed 1.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 1.

Date Adopted: October 9, 2013.

Michelle A. Davis
Executive Director
State Board of Health

AMENDATORY SECTION (Amending WSR 08-13-073, filed 6/16/08, effective 7/17/08)

WAC 246-650-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

For the purposes of this chapter:

(1) "Amino acid disorders" means disorders of metabolism characterized by the body's inability to correctly process amino acids or the inability to detoxify the ammonia released during the breakdown of amino acids. The accumulation of amino acids or their by-products may cause severe complications including mental retardation, coma, seizures, and possibly death. For the purpose of this chapter amino acid disorders include: Argininosuccinic acidemia (ASA), citrullinemia (CIT), homocystinuria (HCY), maple syrup urine disease (MSUD), phenylketonuria (PKU), and tyrosinemia type I (TYR I).

(2) "Board" means the Washington state board of health.

(3) "Biotinidase deficiency" means a deficiency of an enzyme (biotinidase) that facilitates the body's recycling of biotin. The result is biotin deficiency, which if undetected and untreated, may result in severe neurological damage or death.

(4) "Congenital adrenal hyperplasia" means a severe disorder of adrenal steroid metabolism which may result in death of an infant during the neonatal period if undetected and untreated.

(5) "Congenital hypothyroidism" means a disorder of thyroid function during the neonatal period causing impaired mental functioning if undetected and untreated.

(6) "Cystic fibrosis" means a life-shortening disease caused by mutations in the gene encoding the cystic fibrosis

transmembrane conductance regulator (CFTR), a transmembrane protein involved in ion transport. Affected individuals suffer from chronic, progressive pulmonary disease and nutritional deficits. Early detection and enrollment in a comprehensive care system provides improved outcomes and avoids the significant nutritional and growth deficits that are evident when diagnosed later.

(7) "Department" means the Washington state department of health.

(8) "Fatty acid oxidation disorders" means disorders of metabolism characterized by the inability to efficiently use fat to make energy. When the body needs extra energy, such as during prolonged fasting or acute illness, these disorders can lead to hypoglycemia and metabolic crises resulting in serious damage affecting the brain, liver, heart, eyes, muscle, and possibly death. For the purpose of this chapter fatty acid oxidation disorders include: Carnitine uptake defect (CUD), long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCHADD), medium-chain acyl-CoA dehydrogenase deficiency (MCADD), trifunctional protein deficiency (TFP), and very long-chain acyl-CoA dehydrogenase deficiency (VLCADD).

(9) "Galactosemia" means a deficiency of enzymes that help the body convert the simple sugar galactose into glucose resulting in a buildup of galactose and galactose-1-PO₄ in the blood. If undetected and untreated, accumulated galactose-1-PO₄ may cause significant tissue and organ damage often leading to sepsis and death.

(10) "~~(Hemoglobinopathy)~~ Hemoglobinopathies" means a group of hereditary blood disorders caused by genetic alteration of hemoglobin which results in characteristic clinical and laboratory abnormalities and which leads to developmental impairment or physical disabilities.

(11) "Organic acid disorders" means disorders of metabolism characterized by the accumulation of nonamino organic acids and toxic intermediates. This may lead to metabolic crisis with ketoacidosis, hyperammonemia and hypoglycemia resulting in severe neurological and physical damage and possibly death. For the purpose of this chapter organic acid disorders include: 3-OH 3-CH₃ glutaric aciduria (HMG), beta-ketothiolase deficiency (BKT), glutaric acidemia type I (GA 1), isovaleric acidemia (IVA), methylmalonic acidemia (CblA,B), methylmalonic acidemia (*mutase deficiency*) (MUT), multiple carboxylase deficiency (MCD), and propionic acidemia (PROP).

(12) "Newborn" means an infant born in a hospital in the state of Washington prior to discharge from the hospital of birth or transfer.

(13) "Newborn screening specimen/information form" means the information form provided by the department including the filter paper portion and associated dried blood spots. A specimen/information form containing patient information is "Health care information" as defined by the Uniform Health Care Information Act, RCW 70.02.010(~~((6))~~) (7).

(14) "Significant screening test result" means a laboratory test result indicating a suspicion of abnormality and requiring further diagnostic evaluation of the involved infant for the specific disorder.

(15) "Severe combined immunodeficiency (SCID)" means a group of congenital disorders characterized by profound deficiencies in T- and B- lymphocyte function. This results in very low or absent production of the body's primary infection fighting processes that, if left untreated, results in severe recurrent, and often life-threatening infections within the first year of life.

AMENDATORY SECTION (Amending WSR 08-13-073, filed 6/16/08, effective 7/17/08)

WAC 246-650-020 Performance of screening tests.

(1) Hospitals providing birth and delivery services or neonatal care to infants shall:

(a) Inform parents or responsible parties, by providing a departmental information pamphlet or by other means, of:

(i) The purpose of screening newborns for congenital disorders~~(:)~~;

(ii) Disorders of concern as listed in WAC 246-650-020~~(2)~~~~(:)~~;

(iii) The requirement for newborn screening~~(, and)~~;

(iv) The legal right of parents or responsible parties to refuse testing because of religious tenets or practices as specified in RCW 70.83.020~~(:)~~;

(v) The specimen storage, retention and access requirements specified in WAC 246-650-050.

(b) Obtain a blood specimen for laboratory testing as specified by the department from each newborn prior to discharge from the hospital or, if not yet discharged, no later than five days of age.

(c) Use department-approved newborn screening specimen/information forms and directions for obtaining specimens.

(d) Enter all identifying and related information required on the specimen/information form following directions of the department.

(e) In the event a parent or responsible party refuses to allow newborn screening, obtain signatures from parents or responsible parties on the department specimen/information form.

(f) Forward the specimen/information form with dried blood spots or signed refusal to the Washington state public health laboratory no later than the day after collection or refusal signature.

(2) Upon receipt of specimens, the department shall:

(a) Perform appropriate screening tests for:

(i) Biotinidase deficiency;

(ii) Congenital hypothyroidism;

(iii) Congenital adrenal hyperplasia;

(iv) Galactosemia;

(v) ~~(Homocystinuria;~~

~~(vi))~~ Hemoglobinopathies;

~~((vii) Maple syrup urine disease (MSDU);~~

~~(viii) Medium chain acyl-coA dehydrogenase deficiency (MCADD);~~

~~(ix) Phenylketonuria (PKU);~~

~~(x))~~ (vi) Cystic fibrosis;

~~((xi))~~ (vii) The amino acid disorders: Argininosuccinic acidemia (ASA), citrullinemia (CIT), homocystinuria, maple syrup urine disease (MSUD), phenylketonuria (PKU), and

tyrosinemia type I (TYR 1) ((according to the schedule in WAC 246-650-030));

~~((xiii))~~ (viii) The fatty acid oxidation disorders: Carnitine uptake defect (CUD), long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCHADD), medium chain acyl-coA dehydrogenase deficiency (MCADD), trifunctional protein deficiency (TFP), and very long-chain acyl-CoA dehydrogenase deficiency (VLCADD) ~~((according to the schedule in WAC 246-650-030));~~

~~((xiii))~~ (ix) The organic acid disorders: 3-OH 3-CH3 glutaric aciduria (HMG), beta-ketothiolase deficiency (BKT), glutaric acidemia type I (GA 1), isovaleric acidemia (IVA), methylmalonic acidemia (CblA,B), methylmalonic acidemia (*mutase deficiency*) (MUT), multiple carboxylase deficiency (MCD), propionic acidemia (PROP) ~~((according to the schedule in WAC 246-650-030));~~

(x) Severe combined immunodeficiency (SCID);

(b) Report significant screening test results to the infant's attending physician or family if an attending physician cannot be identified; and

(c) Offer diagnostic and treatment resources of the department to physicians attending infants with presumptive positive screening tests within limits determined by the department.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-650-030 Implementation of screening to detect amino acid disorders, fatty acid oxidation disorders and organic acid disorders.

WSR 13-24-073

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed November 30, 2013, 9:44 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: This rule will amend the tables of classification base premium rates, experience rating plan parameters, experience modification factor calculation limitations, and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2014. Classification base rates are being amended for updated loss and payroll experience, and to result in a 2.7 percent overall increase in premium rates for 2014.

We are adding a new section describing the logger safety initiative supported by ESSB 5744 passed by the 2013 legislature and signed by the governor. The law requires the department to report to the legislature on the development and implementation of the logger safety initiative by December 31, 2013.

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-855 Experience modification, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III,

296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing industry industrial insurance accident fund, medical aid fund, supplemental pension fund and composite rate by class, 296-17-901 Risk classification hazard group table, 296-17-920 Assessment for supplemental pension fund, 296-17B-540 Determining loss incurred for each claim and 296-17B-900 Retrospective rating plans standard premium size ranges; new WAC 296-17-940 Logging safety initiative; and repealing WAC 296-17-89504 Horse racing rates.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.18.010 (retrospective rating), and 51.04.020(1) (general authority).

Adopted under notice filed as WSR 13-19-072 on September 17, 2013.

Changes Other than Editing from Proposed to Adopted Version: This adoption corrects an error in the proposed rule making in WAC 296-17-885 Table III expected loss rates and primary ratios. The values printed in the proposal for classifications 1006 Land Surveying Services NOC and 4901 Consulting Engineering Architectural Services NOC were incorrect and have been corrected.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 12, Repealed 1.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 12, Repealed 1.

Date Adopted: November 30, 2013.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\text{EXPERIENCE MODIFICATION FACTOR} = \frac{\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss}}{\text{Expected Loss}}$$

Where

$$\text{Credible Actual Primary Loss} = \text{Actual Primary Loss} \times \text{Primary Credibility}$$

$$+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility})$$

$$\text{Credible Actual Excess Loss} = \text{Actual Excess Loss} \times \text{Excess Credibility}$$

$$+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility})$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of \$20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{50,280}{(\text{Total loss} + 30,168)} \times \text{total loss}$$

For each claim, less than \$20,112 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of \$((2,460)) 2,610 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
((200)) 300	Medical Only	0	0	0
((2,500)) 3,000	Medical Only	((40)) 390	((40)) 390	0
((2,500)) 3,000	Time Loss	((2,500)) 3,000	((2,500)) 3,000	0
((25,000)) 30,000	Medical Only	((22,540)) 27,390	((21,502)) 23,927	((1,038)) 3,463
((25,000)) 30,000	Time Loss	((25,000)) 30,000	((22,785)) 25,070	((2,215)) 4,930
((400,000)) 130,000	PPD	((400,000)) 130,000	((38,627)) 40,810	((61,373)) 89,190
2,000,000	TPD Pension	((266,241)) 270,128	((45,163)) 45,229	((221,078)) 224,899

Note: The deduction, \$((2,460)) 2,610, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses. The \$2,000,000 loss is limited by the Maximum Claim Value before the reduction of \$((2,460)) 2,610 is applied.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17-875 Table I.

**Primary Losses for Selected Claim Values
Effective January 1, ((2013)) 2014**

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
20,112	20,112
29,834	25,000
44,627	30,000
69,102	35,000
100,000	38,627
117,385	40,000
200,000	43,690
((266,241)) **	((45,163))
<u>270,128</u>	<u>45,229</u>

** Maximum claim value

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17-880 Table II.

**PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2013)) 2014**

Maximum Claim Value = \$((266,241)) 270,128
Average Death Value = \$((266,241)) 270,128

Expected Losses	Primary Credibility	Excess Credibility
((0 - 8,473	12%	7%
8,474 - 9,044	13%	7%
9,045 - 9,623	14%	7%
9,624 - 10,207	15%	7%
10,208 - 10,798	16%	7%
10,799 - 11,398	17%	7%
11,399 - 12,005	18%	7%
12,006 - 12,620	19%	7%
12,621 - 13,242	20%	7%
13,243 - 13,873	21%	7%
13,874 - 14,515	22%	7%
14,516 - 15,164	23%	7%
15,165 - 15,823	24%	7%
15,824 - 16,494	25%	7%
16,495 - 17,175	26%	7%
17,176 - 17,864	27%	7%
17,865 - 18,569	28%	7%
18,570 - 19,283	29%	7%
19,284 - 20,013	30%	7%
20,014 - 20,757	31%	7%
20,758 - 21,513	32%	7%
21,514 - 22,287	33%	7%
22,288 - 23,075	34%	7%
23,076 - 23,881	35%	7%
23,882 - 24,708	36%	7%
24,709 - 25,554	37%	7%
25,555 - 26,424	38%	7%
26,425 - 27,314	39%	7%
27,315 - 28,233	40%	7%
28,234 - 29,178	41%	7%
29,179 - 30,155	42%	7%
30,156 - 31,166	43%	7%
31,167 - 32,214	44%	7%
32,215 - 33,305	45%	7%
33,306 - 34,444	46%	7%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility
34,445	- 35,637	47%	7%	715,778	- 727,657	70%	26%
35,638	- 36,896	48%	7%	727,658	- 755,190	71%	26%
36,897	- 38,231	49%	7%	755,191	- 774,275	71%	27%
38,232	- 39,656	50%	7%	774,276	- 794,859	72%	27%
39,657	- 41,193	51%	7%	794,860	- 820,892	72%	28%
41,194	- 42,877	52%	7%	820,893	- 834,785	73%	28%
42,878	- 44,754	53%	7%	834,786	- 867,511	73%	29%
44,755	- 44,945	54%	7%	867,512	- 874,972	74%	29%
44,946	- 46,918	54%	8%	874,973	- 914,128	74%	30%
46,919	- 49,560	55%	8%	914,129	- 915,425	75%	30%
49,561	- 75,005	56%	8%	915,426	- 956,143	75%	31%
75,006	- 82,671	57%	8%	956,144	- 960,747	75%	32%
82,672	- 118,083	57%	9%	960,748	- 997,130	76%	32%
118,084	- 121,623	57%	10%	997,131	- 1,007,364	76%	33%
121,624	- 153,714	58%	10%	1,007,365	- 1,038,388	77%	33%
153,715	- 168,241	58%	11%	1,038,389	- 1,053,983	77%	34%
168,242	- 189,568	59%	11%	1,053,984	- 1,079,922	78%	34%
189,569	- 214,859	59%	12%	1,079,923	- 1,100,601	78%	35%
214,860	- 225,637	60%	12%	1,100,602	- 1,121,731	79%	35%
225,638	- 261,478	60%	13%	1,121,732	- 1,147,219	79%	36%
261,479	- 261,935	61%	13%	1,147,220	- 1,163,820	80%	36%
261,936	- 298,459	61%	14%	1,163,821	- 1,193,834	80%	37%
298,460	- 308,095	61%	15%	1,193,835	- 1,206,192	81%	37%
308,096	- 335,211	62%	15%	1,206,193	- 1,240,454	81%	38%
335,212	- 354,713	62%	16%	1,240,455	- 1,248,850	82%	38%
354,714	- 372,193	63%	16%	1,248,851	- 1,287,072	82%	39%
372,194	- 401,332	63%	17%	1,287,073	- 1,291,797	83%	39%
401,333	- 409,408	64%	17%	1,291,798	- 1,333,691	83%	40%
409,409	- 446,857	64%	18%	1,333,692	- 1,335,035	84%	40%
446,858	- 447,948	64%	19%	1,335,036	- 1,378,565	84%	41%
447,949	- 484,547	65%	19%	1,378,566	- 1,380,305	84%	42%
484,548	- 494,567	65%	20%	1,380,306	- 1,422,393	85%	42%
494,568	- 522,473	66%	20%	1,422,394	- 1,426,925	85%	43%
522,474	- 541,185	66%	21%	1,426,926	- 1,466,524	86%	43%
541,186	- 560,641	67%	21%	1,466,525	- 1,473,545	86%	44%
560,642	- 587,804	67%	22%	1,473,546	- 1,510,956	87%	44%
587,805	- 599,054	68%	22%	1,510,957	- 1,520,163	87%	45%
599,055	- 634,419	68%	23%	1,520,164	- 1,555,696	88%	45%
634,420	- 637,712	69%	23%	1,555,697	- 1,566,780	88%	46%
637,713	- 676,620	69%	24%	1,566,781	- 1,600,745	89%	46%
676,621	- 681,037	69%	25%	1,600,746	- 1,613,397	89%	47%
681,038	- 715,777	70%	25%	1,613,398	- 1,646,108	90%	47%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
1,646,109	-	1,660,017	90%	48%	3,284,949	-	3,342,794	100%	80%
1,660,018	-	1,691,786	91%	48%	3,342,795	-	3,401,098	100%	81%
1,691,787	-	1,706,632	91%	49%	3,401,099	-	3,459,859	100%	82%
1,706,633	-	1,737,784	92%	49%	3,459,860	-	3,519,089	100%	83%
1,737,785	-	1,753,253	92%	50%	3,519,090	-	3,578,790	100%	84%
1,753,254	-	1,784,106	93%	50%	3,578,791	-	3,638,971	100%	85%
1,784,107	-	1,799,870	93%	51%	3,638,972	& over		100%	86%))
1,799,871	-	1,830,754	94%	51%	1	=	8,134	12%	7%
1,830,755	-	1,846,487	94%	52%	8,135	=	8,682	13%	7%
1,846,488	-	1,877,732	95%	52%	8,683	=	9,238	14%	7%
1,877,733	-	1,893,104	95%	53%	9,239	=	9,799	15%	7%
1,893,105	-	1,925,043	96%	53%	9,800	=	10,366	16%	7%
1,925,044	-	1,939,723	96%	54%	10,367	=	10,942	17%	7%
1,939,724	-	1,972,691	97%	54%	10,943	=	11,525	18%	7%
1,972,692	-	1,986,340	97%	55%	11,526	=	12,115	19%	7%
1,986,341	-	2,020,678	98%	55%	12,116	=	12,712	20%	7%
2,020,679	-	2,032,959	98%	56%	12,713	=	13,318	21%	7%
2,032,960	-	2,069,011	99%	56%	13,319	=	13,934	22%	7%
2,069,012	-	2,079,576	99%	57%	13,935	=	14,557	23%	7%
2,079,577	-	2,117,692	100%	57%	14,558	=	15,190	24%	7%
2,117,693	-	2,166,725	100%	58%	15,191	=	15,834	25%	7%
2,166,726	-	2,216,112	100%	59%	15,835	=	16,488	26%	7%
2,216,113	-	2,265,859	100%	60%	16,489	=	17,149	27%	7%
2,265,860	-	2,315,970	100%	61%	17,150	=	17,826	28%	7%
2,315,971	-	2,366,447	100%	62%	17,827	=	18,512	29%	7%
2,366,448	-	2,417,297	100%	63%	18,513	=	19,212	30%	7%
2,417,298	-	2,468,521	100%	64%	19,213	=	19,927	31%	7%
2,468,522	-	2,520,125	100%	65%	19,928	=	20,652	32%	7%
2,520,126	-	2,572,114	100%	66%	20,653	=	21,395	33%	7%
2,572,115	-	2,624,491	100%	67%	21,396	=	22,152	34%	7%
2,624,492	-	2,677,260	100%	68%	22,153	=	22,926	35%	7%
2,677,261	-	2,730,427	100%	69%	22,927	=	23,720	36%	7%
2,730,428	-	2,783,994	100%	70%	23,721	=	24,532	37%	7%
2,783,995	-	2,837,968	100%	71%	24,533	=	25,367	38%	7%
2,837,969	-	2,892,354	100%	72%	25,368	=	26,221	39%	7%
2,892,355	-	2,947,153	100%	73%	26,222	=	27,104	40%	7%
2,947,154	-	3,002,374	100%	74%	27,105	=	28,011	41%	7%
3,002,375	-	3,058,017	100%	75%	28,012	=	28,949	42%	7%
3,058,018	-	3,114,093	100%	76%	28,950	=	29,919	43%	7%
3,114,094	-	3,170,602	100%	77%	29,920	=	30,925	44%	7%
3,170,603	-	3,227,553	100%	78%	30,926	=	31,973	45%	7%
3,227,554	-	3,284,948	100%	79%	31,974	=	33,066	46%	7%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>33,067</u>	=	<u>34,211</u>	<u>47%</u>	<u>7%</u>	<u>687,147</u>	=	<u>698,551</u>	<u>70%</u>	<u>26%</u>
<u>34,212</u>	=	<u>35,420</u>	<u>48%</u>	<u>7%</u>	<u>698,552</u>	=	<u>724,982</u>	<u>71%</u>	<u>26%</u>
<u>35,421</u>	=	<u>36,702</u>	<u>49%</u>	<u>7%</u>	<u>724,983</u>	=	<u>743,304</u>	<u>71%</u>	<u>27%</u>
<u>36,703</u>	=	<u>38,070</u>	<u>50%</u>	<u>7%</u>	<u>743,305</u>	=	<u>763,065</u>	<u>72%</u>	<u>27%</u>
<u>38,071</u>	=	<u>39,545</u>	<u>51%</u>	<u>7%</u>	<u>763,066</u>	=	<u>788,056</u>	<u>72%</u>	<u>28%</u>
<u>39,546</u>	=	<u>41,162</u>	<u>52%</u>	<u>7%</u>	<u>788,057</u>	=	<u>801,394</u>	<u>73%</u>	<u>28%</u>
<u>41,163</u>	=	<u>42,964</u>	<u>53%</u>	<u>7%</u>	<u>801,395</u>	=	<u>832,811</u>	<u>73%</u>	<u>29%</u>
<u>42,965</u>	=	<u>43,147</u>	<u>54%</u>	<u>7%</u>	<u>832,812</u>	=	<u>839,973</u>	<u>74%</u>	<u>29%</u>
<u>43,148</u>	=	<u>45,041</u>	<u>54%</u>	<u>8%</u>	<u>839,974</u>	=	<u>877,563</u>	<u>74%</u>	<u>30%</u>
<u>45,042</u>	=	<u>47,578</u>	<u>55%</u>	<u>8%</u>	<u>877,564</u>	=	<u>878,808</u>	<u>75%</u>	<u>30%</u>
<u>47,579</u>	=	<u>72,005</u>	<u>56%</u>	<u>8%</u>	<u>878,809</u>	=	<u>917,897</u>	<u>75%</u>	<u>31%</u>
<u>72,006</u>	=	<u>79,364</u>	<u>57%</u>	<u>8%</u>	<u>917,898</u>	=	<u>922,317</u>	<u>75%</u>	<u>32%</u>
<u>79,365</u>	=	<u>113,360</u>	<u>57%</u>	<u>9%</u>	<u>922,318</u>	=	<u>957,245</u>	<u>76%</u>	<u>32%</u>
<u>113,361</u>	=	<u>116,758</u>	<u>57%</u>	<u>10%</u>	<u>957,246</u>	=	<u>967,069</u>	<u>76%</u>	<u>33%</u>
<u>116,759</u>	=	<u>147,565</u>	<u>58%</u>	<u>10%</u>	<u>967,070</u>	=	<u>996,852</u>	<u>77%</u>	<u>33%</u>
<u>147,566</u>	=	<u>161,511</u>	<u>58%</u>	<u>11%</u>	<u>996,853</u>	=	<u>1,011,824</u>	<u>77%</u>	<u>34%</u>
<u>161,512</u>	=	<u>181,985</u>	<u>59%</u>	<u>11%</u>	<u>1,011,825</u>	=	<u>1,036,725</u>	<u>78%</u>	<u>34%</u>
<u>181,986</u>	=	<u>206,265</u>	<u>59%</u>	<u>12%</u>	<u>1,036,726</u>	=	<u>1,056,577</u>	<u>78%</u>	<u>35%</u>
<u>206,266</u>	=	<u>216,611</u>	<u>60%</u>	<u>12%</u>	<u>1,056,578</u>	=	<u>1,076,862</u>	<u>79%</u>	<u>35%</u>
<u>216,612</u>	=	<u>251,019</u>	<u>60%</u>	<u>13%</u>	<u>1,076,863</u>	=	<u>1,101,330</u>	<u>79%</u>	<u>36%</u>
<u>251,020</u>	=	<u>251,458</u>	<u>61%</u>	<u>13%</u>	<u>1,101,331</u>	=	<u>1,117,267</u>	<u>80%</u>	<u>36%</u>
<u>251,459</u>	=	<u>286,521</u>	<u>61%</u>	<u>14%</u>	<u>1,117,268</u>	=	<u>1,146,081</u>	<u>80%</u>	<u>37%</u>
<u>286,522</u>	=	<u>295,771</u>	<u>61%</u>	<u>15%</u>	<u>1,146,082</u>	=	<u>1,157,944</u>	<u>81%</u>	<u>37%</u>
<u>295,772</u>	=	<u>321,803</u>	<u>62%</u>	<u>15%</u>	<u>1,157,945</u>	=	<u>1,190,836</u>	<u>81%</u>	<u>38%</u>
<u>321,804</u>	=	<u>340,524</u>	<u>62%</u>	<u>16%</u>	<u>1,190,837</u>	=	<u>1,198,896</u>	<u>82%</u>	<u>38%</u>
<u>340,525</u>	=	<u>357,305</u>	<u>63%</u>	<u>16%</u>	<u>1,198,897</u>	=	<u>1,235,589</u>	<u>82%</u>	<u>39%</u>
<u>357,306</u>	=	<u>385,279</u>	<u>63%</u>	<u>17%</u>	<u>1,235,590</u>	=	<u>1,240,125</u>	<u>83%</u>	<u>39%</u>
<u>385,280</u>	=	<u>393,032</u>	<u>64%</u>	<u>17%</u>	<u>1,240,126</u>	=	<u>1,280,343</u>	<u>83%</u>	<u>40%</u>
<u>393,033</u>	=	<u>428,983</u>	<u>64%</u>	<u>18%</u>	<u>1,280,344</u>	=	<u>1,281,634</u>	<u>84%</u>	<u>40%</u>
<u>428,984</u>	=	<u>430,030</u>	<u>64%</u>	<u>19%</u>	<u>1,281,635</u>	=	<u>1,323,422</u>	<u>84%</u>	<u>41%</u>
<u>430,031</u>	=	<u>465,165</u>	<u>65%</u>	<u>19%</u>	<u>1,323,423</u>	=	<u>1,325,093</u>	<u>84%</u>	<u>42%</u>
<u>465,166</u>	=	<u>474,784</u>	<u>65%</u>	<u>20%</u>	<u>1,325,094</u>	=	<u>1,365,497</u>	<u>85%</u>	<u>42%</u>
<u>474,785</u>	=	<u>501,574</u>	<u>66%</u>	<u>20%</u>	<u>1,365,498</u>	=	<u>1,369,848</u>	<u>85%</u>	<u>43%</u>
<u>501,575</u>	=	<u>519,538</u>	<u>66%</u>	<u>21%</u>	<u>1,369,849</u>	=	<u>1,407,863</u>	<u>86%</u>	<u>43%</u>
<u>519,539</u>	=	<u>538,215</u>	<u>67%</u>	<u>21%</u>	<u>1,407,864</u>	=	<u>1,414,603</u>	<u>86%</u>	<u>44%</u>
<u>538,216</u>	=	<u>564,292</u>	<u>67%</u>	<u>22%</u>	<u>1,414,604</u>	=	<u>1,450,518</u>	<u>87%</u>	<u>44%</u>
<u>564,293</u>	=	<u>575,092</u>	<u>68%</u>	<u>22%</u>	<u>1,450,519</u>	=	<u>1,459,356</u>	<u>87%</u>	<u>45%</u>
<u>575,093</u>	=	<u>609,042</u>	<u>68%</u>	<u>23%</u>	<u>1,459,357</u>	=	<u>1,493,468</u>	<u>88%</u>	<u>45%</u>
<u>609,043</u>	=	<u>612,203</u>	<u>69%</u>	<u>23%</u>	<u>1,493,469</u>	=	<u>1,504,109</u>	<u>88%</u>	<u>46%</u>
<u>612,204</u>	=	<u>649,555</u>	<u>69%</u>	<u>24%</u>	<u>1,504,110</u>	=	<u>1,536,715</u>	<u>89%</u>	<u>46%</u>
<u>649,556</u>	=	<u>653,795</u>	<u>69%</u>	<u>25%</u>	<u>1,536,716</u>	=	<u>1,548,861</u>	<u>89%</u>	<u>47%</u>
<u>653,796</u>	=	<u>687,146</u>	<u>70%</u>	<u>25%</u>	<u>1,548,862</u>	=	<u>1,580,264</u>	<u>90%</u>	<u>47%</u>

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>1,580,265</u>	<u>=</u>	<u>1,593,616</u>	<u>90%</u>	<u>48%</u>	<u>3,153,551</u>	<u>=</u>	<u>3,209,082</u>	<u>100%</u>	<u>80%</u>
<u>1,593,617</u>	<u>=</u>	<u>1,624,115</u>	<u>91%</u>	<u>48%</u>	<u>3,209,083</u>	<u>=</u>	<u>3,265,054</u>	<u>100%</u>	<u>81%</u>
<u>1,624,116</u>	<u>=</u>	<u>1,638,367</u>	<u>91%</u>	<u>49%</u>	<u>3,265,055</u>	<u>=</u>	<u>3,321,465</u>	<u>100%</u>	<u>82%</u>
<u>1,638,368</u>	<u>=</u>	<u>1,668,273</u>	<u>92%</u>	<u>49%</u>	<u>3,321,466</u>	<u>=</u>	<u>3,378,325</u>	<u>100%</u>	<u>83%</u>
<u>1,668,274</u>	<u>=</u>	<u>1,683,123</u>	<u>92%</u>	<u>50%</u>	<u>3,378,326</u>	<u>=</u>	<u>3,435,638</u>	<u>100%</u>	<u>84%</u>
<u>1,683,124</u>	<u>=</u>	<u>1,712,742</u>	<u>93%</u>	<u>50%</u>	<u>3,435,639</u>	<u>=</u>	<u>3,493,412</u>	<u>100%</u>	<u>85%</u>
<u>1,712,743</u>	<u>=</u>	<u>1,727,875</u>	<u>93%</u>	<u>51%</u>	<u>3,493,413</u>	<u>and higher</u>	<u>100%</u>	<u>86%</u>	
<u>1,727,876</u>	<u>=</u>	<u>1,757,524</u>	<u>94%</u>	<u>51%</u>					
<u>1,757,525</u>	<u>=</u>	<u>1,772,627</u>	<u>94%</u>	<u>52%</u>					
<u>1,772,628</u>	<u>=</u>	<u>1,802,623</u>	<u>95%</u>	<u>52%</u>					
<u>1,802,624</u>	<u>=</u>	<u>1,817,380</u>	<u>95%</u>	<u>53%</u>					
<u>1,817,381</u>	<u>=</u>	<u>1,848,041</u>	<u>96%</u>	<u>53%</u>					
<u>1,848,042</u>	<u>=</u>	<u>1,862,134</u>	<u>96%</u>	<u>54%</u>					
<u>1,862,135</u>	<u>=</u>	<u>1,893,783</u>	<u>97%</u>	<u>54%</u>					
<u>1,893,784</u>	<u>=</u>	<u>1,906,886</u>	<u>97%</u>	<u>55%</u>					
<u>1,906,887</u>	<u>=</u>	<u>1,939,851</u>	<u>98%</u>	<u>55%</u>					
<u>1,939,852</u>	<u>=</u>	<u>1,951,641</u>	<u>98%</u>	<u>56%</u>					
<u>1,951,642</u>	<u>=</u>	<u>1,986,251</u>	<u>99%</u>	<u>56%</u>					
<u>1,986,252</u>	<u>=</u>	<u>1,996,393</u>	<u>99%</u>	<u>57%</u>					
<u>1,996,394</u>	<u>=</u>	<u>2,032,984</u>	<u>100%</u>	<u>57%</u>					
<u>2,032,985</u>	<u>=</u>	<u>2,080,056</u>	<u>100%</u>	<u>58%</u>					
<u>2,080,057</u>	<u>=</u>	<u>2,127,467</u>	<u>100%</u>	<u>59%</u>					
<u>2,127,468</u>	<u>=</u>	<u>2,175,225</u>	<u>100%</u>	<u>60%</u>					
<u>2,175,226</u>	<u>=</u>	<u>2,223,331</u>	<u>100%</u>	<u>61%</u>					
<u>2,223,332</u>	<u>=</u>	<u>2,271,789</u>	<u>100%</u>	<u>62%</u>					
<u>2,271,790</u>	<u>=</u>	<u>2,320,605</u>	<u>100%</u>	<u>63%</u>					
<u>2,320,606</u>	<u>=</u>	<u>2,369,780</u>	<u>100%</u>	<u>64%</u>					
<u>2,369,781</u>	<u>=</u>	<u>2,419,320</u>	<u>100%</u>	<u>65%</u>					
<u>2,419,321</u>	<u>=</u>	<u>2,469,229</u>	<u>100%</u>	<u>66%</u>					
<u>2,469,230</u>	<u>=</u>	<u>2,519,511</u>	<u>100%</u>	<u>67%</u>					
<u>2,519,512</u>	<u>=</u>	<u>2,570,170</u>	<u>100%</u>	<u>68%</u>					
<u>2,570,171</u>	<u>=</u>	<u>2,621,210</u>	<u>100%</u>	<u>69%</u>					
<u>2,621,211</u>	<u>=</u>	<u>2,672,634</u>	<u>100%</u>	<u>70%</u>					
<u>2,672,635</u>	<u>=</u>	<u>2,724,449</u>	<u>100%</u>	<u>71%</u>					
<u>2,724,450</u>	<u>=</u>	<u>2,776,660</u>	<u>100%</u>	<u>72%</u>					
<u>2,776,661</u>	<u>=</u>	<u>2,829,267</u>	<u>100%</u>	<u>73%</u>					
<u>2,829,268</u>	<u>=</u>	<u>2,882,279</u>	<u>100%</u>	<u>74%</u>					
<u>2,882,280</u>	<u>=</u>	<u>2,935,696</u>	<u>100%</u>	<u>75%</u>					
<u>2,935,697</u>	<u>=</u>	<u>2,989,529</u>	<u>100%</u>	<u>76%</u>					
<u>2,989,530</u>	<u>=</u>	<u>3,043,778</u>	<u>100%</u>	<u>77%</u>					
<u>3,043,779</u>	<u>=</u>	<u>3,098,451</u>	<u>100%</u>	<u>78%</u>					
<u>3,098,452</u>	<u>=</u>	<u>3,153,550</u>	<u>100%</u>	<u>79%</u>					

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17-885 Table III.

**Expected Loss Rates and Primary Ratios
by Risk Classification and Fiscal Year
Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, ((2013)) 2014**

Class	((2009)) <u>2010</u>	((2010)) <u>2011</u>	((2011)) <u>2012</u>	Primary Ratio
((0101	1.6709	1.4606	1.1832	0.392
0103	1.9771	1.7366	1.4133	0.414
0104	1.0969	0.9583	0.7716	0.438
0105	1.6192	1.4106	1.1234	0.502
0107	1.2819	1.1160	0.8955	0.432
0108	1.0969	0.9583	0.7716	0.438
0112	0.7933	0.6939	0.5588	0.456
0201	2.4413	2.1188	1.7063	0.349
0202	3.5066	3.0617	2.4686	0.404
0210	1.1800	1.0268	0.8237	0.420
0212	1.4218	1.2367	0.9901	0.439
0214	1.5645	1.3635	1.0963	0.421
0217	1.2855	1.1212	0.9005	0.443
0219	1.3177	1.1473	0.9186	0.443
0301	0.8574	0.7530	0.6080	0.494
0302	2.4191	2.1006	1.6834	0.401
0303	1.9137	1.6685	1.3458	0.409
0306	1.1171	0.9712	0.7766	0.441
0307	0.9819	0.8540	0.6810	0.467
0308	0.6742	0.5939	0.4801	0.526
0403	2.0317	1.7655	1.4055	0.466
0502	1.4382	1.2508	1.0023	0.419
0504	1.9130	1.6879	1.3811	0.421
0507	3.5999	3.1719	2.5886	0.428
0508	1.9726	1.7135	1.3773	0.379
0509	1.7721	1.5464	1.2514	0.381

Class	((2009)) <u>2010</u>	((2010)) <u>2011</u>	((2011)) <u>2012</u>	Primary Ratio	Class	((2009)) <u>2010</u>	((2010)) <u>2011</u>	((2011)) <u>2012</u>	Primary Ratio
0510	2.1685	1.9021	1.5439	0.424	1507	0.7140	0.6236	0.4992	0.498
0511	1.7310	1.5011	1.1925	0.464	1701	0.9093	0.7970	0.6444	0.441
0512	1.6122	1.4092	1.1385	0.417	1702	1.9051	1.6575	1.3398	0.348
0513	0.9095	0.7923	0.6349	0.447	1703	1.0590	0.9131	0.7260	0.386
0514	2.0904	1.8168	1.4467	0.477	1704	0.9093	0.7970	0.6444	0.441
0516	1.7296	1.5121	1.2219	0.413	1801	0.5159	0.4559	0.3743	0.411
0517	2.5877	2.2749	1.8552	0.407	1802	0.8677	0.7579	0.6041	0.492
0518	1.5736	1.3698	1.1002	0.412	2002	0.9797	0.8616	0.6972	0.490
0519	2.0062	1.7558	1.4193	0.425	2004	0.8732	0.7663	0.6173	0.496
0521	0.6281	0.5499	0.4444	0.438	2007	0.6919	0.6096	0.4944	0.494
0601	0.6700	0.5828	0.4656	0.454	2008	0.4332	0.3813	0.3092	0.481
0602	0.7991	0.6908	0.5469	0.456	2009	0.4386	0.3864	0.3126	0.519
0603	0.9873	0.8604	0.6929	0.404	2101	0.9441	0.8303	0.6701	0.518
0604	1.3191	1.1636	0.9472	0.482	2102	0.7725	0.6754	0.5403	0.517
0606	0.6837	0.5966	0.4755	0.521	2104	0.3808	0.3388	0.2765	0.564
0607	0.8420	0.7333	0.5844	0.505	2105	0.6957	0.6082	0.4855	0.538
0608	0.3725	0.3263	0.2631	0.463	2106	0.5927	0.5210	0.4203	0.513
0701	1.9802	1.7123	1.3747	0.339	2201	0.3033	0.2676	0.2176	0.504
0803	0.6241	0.5445	0.4342	0.525	2202	0.9240	0.8074	0.6461	0.510
0901	1.5736	1.3698	1.1002	0.412	2203	0.5730	0.5040	0.4057	0.537
1002	1.0738	0.9427	0.7643	0.448	2204	0.3033	0.2676	0.2176	0.504
1003	0.9138	0.8027	0.6501	0.464	2401	0.5569	0.4815	0.3786	0.515
1004	0.6389	0.5551	0.4413	0.477	2903	0.8052	0.7073	0.5698	0.513
1005	9.5750	8.3242	6.6516	0.426	2904	0.8070	0.7081	0.5719	0.474
1007	0.4069	0.3527	0.2802	0.467	2905	0.8003	0.7030	0.5663	0.525
1101	0.9263	0.8075	0.6442	0.505	2906	0.4373	0.3862	0.3134	0.496
1102	1.6900	1.4714	1.1782	0.450	2907	0.6394	0.5607	0.4506	0.514
1103	1.4286	1.2497	1.0085	0.439	2908	1.3094	1.1513	0.9339	0.459
1104	0.7697	0.6736	0.5383	0.532	2909	0.4854	0.4267	0.3438	0.516
1105	0.9543	0.8316	0.6661	0.456	3101	0.8446	0.7391	0.5943	0.483
1106	0.3729	0.3310	0.2711	0.488	3102	0.3012	0.2646	0.2137	0.496
1108	0.7315	0.6406	0.5144	0.506	3103	0.6125	0.5378	0.4350	0.465
1109	1.7797	1.5572	1.2524	0.471	3104	0.7375	0.6454	0.5191	0.483
1301	0.6580	0.5684	0.4456	0.533	3105	0.8671	0.7629	0.6170	0.500
1303	0.2497	0.2177	0.1731	0.533	3303	0.5443	0.4751	0.3789	0.526
1304	0.0337	0.0294	0.0235	0.502	3304	0.6200	0.5476	0.4442	0.533
1305	0.5843	0.5105	0.4090	0.508	3309	0.4582	0.4026	0.3267	0.459
1401	0.2393	0.2133	0.1766	0.429	3402	0.5878	0.5158	0.4163	0.476
1404	1.1049	0.9653	0.7706	0.541	3403	0.2394	0.2104	0.1705	0.477
1405	0.9118	0.7904	0.6208	0.560	3404	0.5617	0.4922	0.3950	0.513
1407	0.6360	0.5610	0.4551	0.514	3405	0.3333	0.2926	0.2354	0.514
1501	0.7598	0.6588	0.5205	0.527	3406	0.3224	0.2824	0.2256	0.563

Class	<u>((2009))</u> <u>2010</u>	<u>((2010))</u> <u>2011</u>	<u>((2011))</u> <u>2012</u>	Primary Ratio	Class	<u>((2009))</u> <u>2010</u>	<u>((2010))</u> <u>2011</u>	<u>((2011))</u> <u>2012</u>	Primary Ratio
3407	0.9768	0.8509	0.6797	0.477	4401	0.4892	0.4341	0.3556	0.471
3408	0.2868	0.2483	0.1945	0.577	4402	1.0140	0.8856	0.7074	0.538
3409	0.1984	0.1732	0.1378	0.575	4404	0.6099	0.5385	0.4378	0.491
3410	0.2678	0.2369	0.1929	0.520	4501	0.2340	0.2057	0.1646	0.568
3411	0.6379	0.5571	0.4473	0.468	4502	0.0525	0.0463	0.0373	0.516
3412	0.7032	0.6130	0.4920	0.444	4504	0.1479	0.1296	0.1036	0.570
3414	0.7469	0.6551	0.5287	0.475	4601	0.9401	0.8231	0.6614	0.492
3415	0.9505	0.8390	0.6878	0.406	4801	3.5066	3.0617	2.4686	0.404
3501	1.2438	1.0889	0.8757	0.478	4802	0.3905	0.3457	0.2824	0.487
3503	0.3871	0.3438	0.2808	0.528	4803	0.3731	0.3311	0.2699	0.563
3506	1.0352	0.8948	0.7054	0.490	4804	0.6025	0.5313	0.4297	0.540
3509	0.4809	0.4226	0.3399	0.553	4805	0.3782	0.3335	0.2696	0.539
3510	0.4146	0.3634	0.2913	0.526	4806	0.0787	0.0698	0.0570	0.519
3511	0.6905	0.6085	0.4948	0.450	4808	0.5642	0.4986	0.4058	0.488
3512	0.4489	0.3951	0.3182	0.540	4809	0.3839	0.3403	0.2778	0.519
3513	0.6440	0.5729	0.4720	0.471	4810	0.1776	0.1576	0.1285	0.543
3602	0.1390	0.1220	0.0979	0.527	4811	0.4333	0.3838	0.3118	0.555
3603	0.5800	0.5093	0.4097	0.516	4812	0.4492	0.3956	0.3197	0.524
3604	0.8853	0.7903	0.6549	0.459	4813	0.2037	0.1802	0.1465	0.533
3605	0.6387	0.5563	0.4427	0.504	4900	0.1879	0.1644	0.1335	0.387
3701	0.3012	0.2646	0.2137	0.496	4901	0.0749	0.0653	0.0522	0.480
3702	0.5470	0.4772	0.3798	0.531	4902	0.1495	0.1303	0.1036	0.534
3708	0.7330	0.6383	0.5083	0.515	4903	0.1972	0.1716	0.1356	0.569
3802	0.2510	0.2203	0.1771	0.527	4904	0.0300	0.0264	0.0213	0.541
3808	0.4728	0.4132	0.3321	0.452	4905	0.4859	0.4310	0.3512	0.552
3901	0.1924	0.1703	0.1382	0.552	4906	0.1164	0.1013	0.0801	0.549
3902	0.5528	0.4878	0.3950	0.529	4907	0.0663	0.0584	0.0471	0.525
3903	1.3378	1.1874	0.9733	0.494	4908	0.1118	0.0992	0.0799	0.542
3905	0.1762	0.1561	0.1267	0.561	4909	0.0458	0.0415	0.0341	0.514
3906	0.5576	0.4929	0.4013	0.502	4910	0.5514	0.4843	0.3910	0.494
3909	0.4055	0.3569	0.2880	0.534	4911	0.0765	0.0672	0.0543	0.482
4002	1.4638	1.2732	1.0168	0.464	5001	9.5887	8.4028	6.8485	0.360
4101	0.4125	0.3609	0.2894	0.505	5002	0.7365	0.6404	0.5077	0.522
4103	0.6761	0.5910	0.4716	0.545	5003	2.4025	2.0829	1.6638	0.414
4107	0.1941	0.1703	0.1371	0.504	5004	0.9078	0.8040	0.6603	0.428
4108	0.2467	0.2158	0.1725	0.544	5005	0.8714	0.7622	0.6158	0.418
4109	0.2404	0.2113	0.1708	0.495	5006	1.5820	1.3830	1.1218	0.372
4201	0.8187	0.7082	0.5606	0.480	5101	1.0945	0.9517	0.7569	0.487
4301	0.8154	0.7191	0.5830	0.511	5103	1.0315	0.9076	0.7309	0.540
4302	0.8663	0.7563	0.6028	0.527	5106	1.0315	0.9076	0.7309	0.540
4304	1.1315	1.0029	0.8202	0.496	5108	1.0191	0.8952	0.7198	0.528
4305	1.3564	1.1758	0.9311	0.496	5109	0.6822	0.5915	0.4676	0.508

Class	<u>((2009))</u> <u>2010</u>	<u>((2010))</u> <u>2011</u>	<u>((2011))</u> <u>2012</u>	Primary Ratio	Class	<u>((2009))</u> <u>2010</u>	<u>((2010))</u> <u>2011</u>	<u>((2011))</u> <u>2012</u>	Primary Ratio
5201	0.4493	0.3926	0.3139	0.508	6406	0.1519	0.1338	0.1078	0.567
5204	1.2009	1.0502	0.8460	0.460	6407	0.3148	0.2766	0.2222	0.541
5206	0.4260	0.3740	0.3031	0.454	6408	0.5349	0.4672	0.3732	0.512
5207	0.1837	0.1629	0.1326	0.534	6409	0.8476	0.7395	0.5918	0.481
5208	0.9082	0.7983	0.6439	0.501	6410	0.3706	0.3245	0.2599	0.525
5209	0.8167	0.7161	0.5774	0.469	6501	0.1853	0.1626	0.1307	0.545
5300	0.1466	0.1275	0.1013	0.533	6502	0.0375	0.0330	0.0265	0.522
5301	0.0445	0.0389	0.0310	0.543	6503	0.0854	0.0742	0.0589	0.493
5302	0.0174	0.0152	0.0122	0.490	6504	0.4714	0.4168	0.3371	0.566
5305	0.0727	0.0636	0.0507	0.577	6505	0.1596	0.1414	0.1140	0.595
5306	0.0598	0.0527	0.0423	0.555	6506	0.1464	0.1286	0.1032	0.557
5307	0.8144	0.7079	0.5626	0.502	6509	0.4325	0.3821	0.3094	0.549
5308	0.1251	0.1096	0.0875	0.569	6510	0.5152	0.4504	0.3624	0.449
6103	0.1049	0.0927	0.0748	0.581	6511	0.4778	0.4205	0.3390	0.540
6104	0.4892	0.4287	0.3436	0.536	6512	0.1678	0.1474	0.1194	0.478
6105	0.4579	0.3994	0.3196	0.490	6601	0.2559	0.2253	0.1819	0.515
6107	0.1739	0.1547	0.1263	0.548	6602	0.6409	0.5655	0.4586	0.527
6108	0.5570	0.4904	0.3950	0.546	6603	0.3908	0.3434	0.2771	0.512
6109	0.1282	0.1120	0.0893	0.523	6604	0.1030	0.0904	0.0727	0.549
6110	0.7494	0.6560	0.5258	0.518	6605	0.4840	0.4230	0.3352	0.571
6120	0.3807	0.3305	0.2611	0.532	6607	0.1887	0.1662	0.1346	0.513
6121	0.4244	0.3714	0.2983	0.500	6608	0.6144	0.5319	0.4247	0.396
6201	0.3634	0.3191	0.2580	0.469	6620	4.0862	3.5191	2.7428	0.555
6202	0.8032	0.7047	0.5666	0.504	6704	0.1578	0.1387	0.1117	0.521
6203	0.1402	0.1239	0.0996	0.611	6705	1.1046	0.9736	0.7845	0.569
6204	0.1592	0.1401	0.1129	0.551	6706	0.3602	0.3209	0.2648	0.488
6205	0.2931	0.2585	0.2097	0.517	6707	6.5030	5.6892	4.4993	0.637
6206	0.2884	0.2535	0.2043	0.533	6708	9.9770	9.0973	7.7497	0.432
6207	1.6079	1.4334	1.1816	0.505	6709	0.3339	0.2942	0.2374	0.532
6208	0.3188	0.2825	0.2296	0.548	6801	0.8792	0.7586	0.5929	0.541
6209	0.3729	0.3292	0.2667	0.522	6802	0.7410	0.6476	0.5163	0.558
6301	0.1486	0.1290	0.1029	0.465	6803	0.8818	0.7716	0.6296	0.327
6303	0.0937	0.0822	0.0659	0.518	6804	0.4125	0.3627	0.2923	0.517
6304	0.4000	0.3548	0.2894	0.539	6809	6.1351	5.4152	4.3578	0.546
6305	0.1318	0.1159	0.0931	0.560	6901	0.0241	0.0237	0.0207	0.758
6306	0.3643	0.3190	0.2559	0.506	6902	1.1084	0.9660	0.7783	0.413
6308	0.0832	0.0727	0.0579	0.530	6903	7.4357	6.5965	5.5025	0.301
6309	0.2597	0.2283	0.1841	0.520	6904	0.7057	0.6050	0.4671	0.556
6402	0.3277	0.2878	0.2308	0.562	6905	0.5696	0.4916	0.3835	0.567
6403	0.2065	0.1828	0.1483	0.542	6906	0.2261	0.2138	0.1894	0.648
6404	0.3312	0.2923	0.2367	0.538	6907	1.4815	1.2972	1.0407	0.513
6405	0.6766	0.5907	0.4726	0.493	6908	0.5148	0.4514	0.3633	0.496

Class	(2009) <u>2010</u>	(2010) <u>2011</u>	(2011) <u>2012</u>	Primary Ratio	Class	(2009) <u>2010</u>	(2010) <u>2011</u>	(2011) <u>2012</u>	Primary Ratio
6909	0.1386	0.1220	0.0982	0.538	0112	0.8228	0.7178	0.5981	0.464
7100	0.0381	0.0338	0.0279	0.457	0201	2.0439	1.7909	1.5124	0.363
7101	0.0272	0.0241	0.0196	0.441	0202	3.3845	2.9623	2.4892	0.412
7102	5.1874	4.6799	3.9097	0.537	0210	1.1124	0.9708	0.8121	0.418
7103	0.8623	0.7458	0.5859	0.539	0212	1.3624	1.1864	0.9874	0.445
7104	0.0400	0.0351	0.0279	0.563	0214	1.5043	1.3140	1.0997	0.431
7105	0.0303	0.0266	0.0214	0.533	0217	1.4061	1.2284	1.0281	0.438
7106	0.3237	0.2840	0.2275	0.578	0219	1.1735	1.0211	0.8484	0.447
7107	0.2990	0.2653	0.2165	0.539	0301	0.8653	0.7559	0.6296	0.497
7108	0.2484	0.2202	0.1795	0.545	0302	2.3884	2.0831	1.7424	0.407
7109	0.1829	0.1607	0.1289	0.558	0303	1.7992	1.5755	1.3252	0.418
7110	0.3832	0.3347	0.2692	0.459	0306	1.1101	0.9641	0.7982	0.449
7111	0.5255	0.4571	0.3657	0.446	0307	0.9641	0.8382	0.6940	0.466
7112	0.8662	0.7624	0.6152	0.535	0308	0.6757	0.5893	0.4877	0.539
7113	0.4820	0.4256	0.3454	0.523	0403	1.9658	1.7033	1.4028	0.478
7114	0.7919	0.6985	0.5627	0.581	0502	1.4122	1.2292	1.0231	0.433
7115	0.6401	0.5669	0.4622	0.534	0504	1.9101	1.6848	1.4326	0.426
7116	0.7646	0.6721	0.5428	0.502	0507	3.5127	3.1001	2.6385	0.427
7117	1.4701	1.2919	1.0422	0.505	0508	1.8984	1.6572	1.3893	0.392
7118	1.7969	1.5823	1.2805	0.507	0509	1.5904	1.3957	1.1794	0.390
7119	1.7782	1.5533	1.2401	0.539	0510	2.2050	1.9357	1.6336	0.428
7120	7.3133	6.4231	5.1888	0.487	0511	1.6710	1.4495	1.1962	0.465
7121	6.8444	6.0116	4.8563	0.487	0512	1.4698	1.2839	1.0727	0.447
7122	0.5813	0.5121	0.4133	0.544	0513	0.9173	0.7998	0.6667	0.447
7200	1.7530	1.5132	1.1868	0.520	0514	1.9479	1.6904	1.3941	0.484
7201	2.0607	1.7864	1.4153	0.494	0516	1.6632	1.4562	1.2241	0.421
7202	0.0343	0.0299	0.0241	0.460	0517	2.5001	2.2034	1.8738	0.410
7203	0.1526	0.1371	0.1128	0.564	0518	1.4862	1.3001	1.0918	0.408
7204	0.0000	0.0000	0.0000	0.500	0519	1.9044	1.6647	1.3943	0.439
7205	0.0000	0.0000	0.0000	0.500	0521	0.5869	0.5134	0.4301	0.450
7301	0.5029	0.4434	0.3600	0.487	0601	0.6470	0.5622	0.4648	0.467
7302	1.1385	1.0070	0.8219	0.488	0602	0.7444	0.6449	0.5318	0.451
7307	0.5436	0.4811	0.3926	0.490	0603	0.9233	0.8067	0.6755	0.421
7308	0.4816	0.4249	0.3428	0.550	0604	1.3067	1.1437	0.9548	0.504
7309	0.3448	0.3053	0.2482	0.552	0606	0.6746	0.5838	0.4773	0.534
7400	2.0607	1.7864	1.4153	0.494))	0607	0.8160	0.7077	0.5823	0.507
0101	1.6300	1.4318	1.2118	0.394	0608	0.3601	0.3149	0.2630	0.472
0103	1.8412	1.6229	1.3794	0.408	0701	1.8594	1.6281	1.3750	0.344
0104	1.0651	0.9285	0.7739	0.445	0803	0.5878	0.5097	0.4183	0.527
0105	1.5554	1.3473	1.1053	0.515	0901	1.4862	1.3001	1.0918	0.408
0107	1.1063	0.9658	0.8063	0.439	1002	1.0020	0.8780	0.7370	0.456
0108	1.0651	0.9285	0.7739	0.445	1003	0.8789	0.7682	0.6411	0.479

Class	((2009)) <u>2010</u>	((2010)) <u>2011</u>	((2011)) <u>2012</u>	Primary Ratio	Class	((2009)) <u>2010</u>	((2010)) <u>2011</u>	((2011)) <u>2012</u>	Primary Ratio
<u>1004</u>	<u>0.5927</u>	<u>0.5132</u>	<u>0.4219</u>	<u>0.483</u>	<u>2401</u>	<u>0.5153</u>	<u>0.4445</u>	<u>0.3626</u>	<u>0.504</u>
<u>1005</u>	<u>9.1304</u>	<u>7.9285</u>	<u>6.5802</u>	<u>0.434</u>	<u>2903</u>	<u>0.7615</u>	<u>0.6665</u>	<u>0.5558</u>	<u>0.513</u>
<u>1006</u>	<u>0.0944</u>	<u>0.0814</u>	<u>0.0662</u>	<u>0.535</u>	<u>2904</u>	<u>0.7901</u>	<u>0.6891</u>	<u>0.5727</u>	<u>0.486</u>
<u>1007</u>	<u>0.3687</u>	<u>0.3199</u>	<u>0.2638</u>	<u>0.463</u>	<u>2905</u>	<u>0.7182</u>	<u>0.6269</u>	<u>0.5202</u>	<u>0.525</u>
<u>1101</u>	<u>0.8843</u>	<u>0.7644</u>	<u>0.6248</u>	<u>0.520</u>	<u>2906</u>	<u>0.4194</u>	<u>0.3688</u>	<u>0.3090</u>	<u>0.509</u>
<u>1102</u>	<u>1.6131</u>	<u>1.4019</u>	<u>1.1618</u>	<u>0.465</u>	<u>2907</u>	<u>0.5891</u>	<u>0.5136</u>	<u>0.4252</u>	<u>0.522</u>
<u>1103</u>	<u>1.4012</u>	<u>1.2201</u>	<u>1.0142</u>	<u>0.462</u>	<u>2908</u>	<u>1.2529</u>	<u>1.1008</u>	<u>0.9273</u>	<u>0.463</u>
<u>1104</u>	<u>0.7176</u>	<u>0.6231</u>	<u>0.5123</u>	<u>0.531</u>	<u>2909</u>	<u>0.4693</u>	<u>0.4089</u>	<u>0.3380</u>	<u>0.530</u>
<u>1105</u>	<u>0.9185</u>	<u>0.7998</u>	<u>0.6642</u>	<u>0.465</u>	<u>3101</u>	<u>0.8243</u>	<u>0.7190</u>	<u>0.5968</u>	<u>0.494</u>
<u>1106</u>	<u>0.3454</u>	<u>0.3053</u>	<u>0.2588</u>	<u>0.491</u>	<u>3102</u>	<u>0.2807</u>	<u>0.2456</u>	<u>0.2045</u>	<u>0.506</u>
<u>1108</u>	<u>0.6626</u>	<u>0.5784</u>	<u>0.4803</u>	<u>0.507</u>	<u>3103</u>	<u>0.5734</u>	<u>0.5017</u>	<u>0.4199</u>	<u>0.470</u>
<u>1109</u>	<u>1.6733</u>	<u>1.4554</u>	<u>1.2057</u>	<u>0.487</u>	<u>3104</u>	<u>0.7205</u>	<u>0.6284</u>	<u>0.5220</u>	<u>0.490</u>
<u>1301</u>	<u>0.6239</u>	<u>0.5336</u>	<u>0.4275</u>	<u>0.545</u>	<u>3105</u>	<u>0.8830</u>	<u>0.7697</u>	<u>0.6371</u>	<u>0.520</u>
<u>1303</u>	<u>0.2524</u>	<u>0.2175</u>	<u>0.1760</u>	<u>0.553</u>	<u>3303</u>	<u>0.5110</u>	<u>0.4425</u>	<u>0.3621</u>	<u>0.533</u>
<u>1304</u>	<u>0.0329</u>	<u>0.0285</u>	<u>0.0233</u>	<u>0.517</u>	<u>3304</u>	<u>0.5685</u>	<u>0.4987</u>	<u>0.4163</u>	<u>0.540</u>
<u>1305</u>	<u>0.5509</u>	<u>0.4794</u>	<u>0.3961</u>	<u>0.513</u>	<u>3309</u>	<u>0.4498</u>	<u>0.3943</u>	<u>0.3305</u>	<u>0.475</u>
<u>1401</u>	<u>0.2476</u>	<u>0.2158</u>	<u>0.1787</u>	<u>0.524</u>	<u>3402</u>	<u>0.5492</u>	<u>0.4800</u>	<u>0.3999</u>	<u>0.487</u>
<u>1404</u>	<u>1.0206</u>	<u>0.8846</u>	<u>0.7255</u>	<u>0.544</u>	<u>3403</u>	<u>0.2265</u>	<u>0.1987</u>	<u>0.1663</u>	<u>0.484</u>
<u>1405</u>	<u>0.9251</u>	<u>0.7904</u>	<u>0.6306</u>	<u>0.575</u>	<u>3404</u>	<u>0.5239</u>	<u>0.4548</u>	<u>0.3735</u>	<u>0.534</u>
<u>1407</u>	<u>0.6178</u>	<u>0.5389</u>	<u>0.4468</u>	<u>0.524</u>	<u>3405</u>	<u>0.3200</u>	<u>0.2782</u>	<u>0.2290</u>	<u>0.530</u>
<u>1501</u>	<u>0.7387</u>	<u>0.6360</u>	<u>0.5159</u>	<u>0.538</u>	<u>3406</u>	<u>0.3255</u>	<u>0.2813</u>	<u>0.2285</u>	<u>0.579</u>
<u>1507</u>	<u>0.6805</u>	<u>0.5911</u>	<u>0.4874</u>	<u>0.506</u>	<u>3407</u>	<u>0.8828</u>	<u>0.7659</u>	<u>0.6314</u>	<u>0.487</u>
<u>1701</u>	<u>0.8506</u>	<u>0.7428</u>	<u>0.6206</u>	<u>0.456</u>	<u>3408</u>	<u>0.2796</u>	<u>0.2388</u>	<u>0.1901</u>	<u>0.592</u>
<u>1702</u>	<u>1.7499</u>	<u>1.5372</u>	<u>1.3043</u>	<u>0.354</u>	<u>3409</u>	<u>0.1881</u>	<u>0.1623</u>	<u>0.1316</u>	<u>0.585</u>
<u>1703</u>	<u>1.0080</u>	<u>0.8755</u>	<u>0.7280</u>	<u>0.394</u>	<u>3410</u>	<u>0.2459</u>	<u>0.2151</u>	<u>0.1787</u>	<u>0.539</u>
<u>1704</u>	<u>0.8506</u>	<u>0.7428</u>	<u>0.6206</u>	<u>0.456</u>	<u>3411</u>	<u>0.5846</u>	<u>0.5090</u>	<u>0.4220</u>	<u>0.479</u>
<u>1801</u>	<u>0.4900</u>	<u>0.4340</u>	<u>0.3712</u>	<u>0.419</u>	<u>3412</u>	<u>0.6684</u>	<u>0.5829</u>	<u>0.4856</u>	<u>0.452</u>
<u>1802</u>	<u>0.8261</u>	<u>0.7171</u>	<u>0.5897</u>	<u>0.500</u>	<u>3414</u>	<u>0.7534</u>	<u>0.6582</u>	<u>0.5489</u>	<u>0.483</u>
<u>2002</u>	<u>0.9219</u>	<u>0.8062</u>	<u>0.6728</u>	<u>0.490</u>	<u>3415</u>	<u>0.8955</u>	<u>0.7919</u>	<u>0.6762</u>	<u>0.410</u>
<u>2004</u>	<u>0.8318</u>	<u>0.7243</u>	<u>0.5991</u>	<u>0.508</u>	<u>3501</u>	<u>1.1805</u>	<u>1.0280</u>	<u>0.8533</u>	<u>0.486</u>
<u>2007</u>	<u>0.6926</u>	<u>0.6075</u>	<u>0.5092</u>	<u>0.496</u>	<u>3503</u>	<u>0.3683</u>	<u>0.3238</u>	<u>0.2711</u>	<u>0.537</u>
<u>2008</u>	<u>0.4185</u>	<u>0.3667</u>	<u>0.3067</u>	<u>0.491</u>	<u>3506</u>	<u>0.9791</u>	<u>0.8437</u>	<u>0.6864</u>	<u>0.504</u>
<u>2009</u>	<u>0.4125</u>	<u>0.3601</u>	<u>0.2985</u>	<u>0.533</u>	<u>3509</u>	<u>0.4605</u>	<u>0.4002</u>	<u>0.3285</u>	<u>0.563</u>
<u>2101</u>	<u>0.8782</u>	<u>0.7672</u>	<u>0.6378</u>	<u>0.523</u>	<u>3510</u>	<u>0.3987</u>	<u>0.3467</u>	<u>0.2854</u>	<u>0.533</u>
<u>2102</u>	<u>0.7513</u>	<u>0.6514</u>	<u>0.5345</u>	<u>0.527</u>	<u>3511</u>	<u>0.6676</u>	<u>0.5866</u>	<u>0.4941</u>	<u>0.459</u>
<u>2104</u>	<u>0.3626</u>	<u>0.3186</u>	<u>0.2652</u>	<u>0.577</u>	<u>3512</u>	<u>0.4281</u>	<u>0.3729</u>	<u>0.3072</u>	<u>0.551</u>
<u>2105</u>	<u>0.6948</u>	<u>0.6005</u>	<u>0.4894</u>	<u>0.541</u>	<u>3513</u>	<u>0.6409</u>	<u>0.5662</u>	<u>0.4800</u>	<u>0.486</u>
<u>2106</u>	<u>0.5629</u>	<u>0.4926</u>	<u>0.4103</u>	<u>0.514</u>	<u>3602</u>	<u>0.1245</u>	<u>0.1086</u>	<u>0.0896</u>	<u>0.533</u>
<u>2201</u>	<u>0.3015</u>	<u>0.2635</u>	<u>0.2193</u>	<u>0.527</u>	<u>3603</u>	<u>0.5720</u>	<u>0.4987</u>	<u>0.4124</u>	<u>0.531</u>
<u>2202</u>	<u>0.8704</u>	<u>0.7543</u>	<u>0.6192</u>	<u>0.519</u>	<u>3604</u>	<u>0.8348</u>	<u>0.7430</u>	<u>0.6371</u>	<u>0.466</u>
<u>2203</u>	<u>0.5530</u>	<u>0.4815</u>	<u>0.3969</u>	<u>0.547</u>	<u>3605</u>	<u>0.6091</u>	<u>0.5271</u>	<u>0.4317</u>	<u>0.513</u>
<u>2204</u>	<u>0.3015</u>	<u>0.2635</u>	<u>0.2193</u>	<u>0.527</u>	<u>3701</u>	<u>0.2807</u>	<u>0.2456</u>	<u>0.2045</u>	<u>0.506</u>

Class	((2009)) <u>2010</u>	((2010)) <u>2011</u>	((2011)) <u>2012</u>	Primary Ratio	Class	((2009)) <u>2010</u>	((2010)) <u>2011</u>	((2011)) <u>2012</u>	Primary Ratio
<u>3702</u>	<u>0.5204</u>	<u>0.4506</u>	<u>0.3683</u>	<u>0.542</u>	<u>4816</u>	<u>0.4881</u>	<u>0.4349</u>	<u>0.3728</u>	<u>0.509</u>
<u>3708</u>	<u>0.7074</u>	<u>0.6121</u>	<u>0.5008</u>	<u>0.526</u>	<u>4900</u>	<u>0.1829</u>	<u>0.1607</u>	<u>0.1358</u>	<u>0.400</u>
<u>3802</u>	<u>0.2476</u>	<u>0.2158</u>	<u>0.1784</u>	<u>0.538</u>	<u>4901</u>	<u>0.0595</u>	<u>0.0519</u>	<u>0.0431</u>	<u>0.482</u>
<u>3808</u>	<u>0.4590</u>	<u>0.4000</u>	<u>0.3326</u>	<u>0.466</u>	<u>4902</u>	<u>0.1452</u>	<u>0.1256</u>	<u>0.1023</u>	<u>0.544</u>
<u>3901</u>	<u>0.1808</u>	<u>0.1584</u>	<u>0.1316</u>	<u>0.561</u>	<u>4903</u>	<u>0.1941</u>	<u>0.1668</u>	<u>0.1342</u>	<u>0.579</u>
<u>3902</u>	<u>0.5212</u>	<u>0.4548</u>	<u>0.3760</u>	<u>0.553</u>	<u>4904</u>	<u>0.0271</u>	<u>0.0236</u>	<u>0.0194</u>	<u>0.561</u>
<u>3903</u>	<u>1.2827</u>	<u>1.1309</u>	<u>0.9545</u>	<u>0.504</u>	<u>4905</u>	<u>0.4623</u>	<u>0.4054</u>	<u>0.3374</u>	<u>0.568</u>
<u>3905</u>	<u>0.1667</u>	<u>0.1459</u>	<u>0.1207</u>	<u>0.573</u>	<u>4906</u>	<u>0.1185</u>	<u>0.1020</u>	<u>0.0825</u>	<u>0.559</u>
<u>3906</u>	<u>0.5308</u>	<u>0.4660</u>	<u>0.3903</u>	<u>0.516</u>	<u>4907</u>	<u>0.0658</u>	<u>0.0575</u>	<u>0.0476</u>	<u>0.540</u>
<u>3909</u>	<u>0.3764</u>	<u>0.3290</u>	<u>0.2730</u>	<u>0.538</u>	<u>4908</u>	<u>0.1133</u>	<u>0.0990</u>	<u>0.0814</u>	<u>0.560</u>
<u>4002</u>	<u>0.5212</u>	<u>0.4548</u>	<u>0.3760</u>	<u>0.553</u>	<u>4909</u>	<u>0.0448</u>	<u>0.0399</u>	<u>0.0337</u>	<u>0.521</u>
<u>4101</u>	<u>0.3745</u>	<u>0.3255</u>	<u>0.2685</u>	<u>0.513</u>	<u>4910</u>	<u>0.5171</u>	<u>0.4501</u>	<u>0.3721</u>	<u>0.514</u>
<u>4103</u>	<u>0.6583</u>	<u>0.5695</u>	<u>0.4647</u>	<u>0.553</u>	<u>4911</u>	<u>0.0771</u>	<u>0.0671</u>	<u>0.0557</u>	<u>0.496</u>
<u>4107</u>	<u>0.1911</u>	<u>0.1667</u>	<u>0.1382</u>	<u>0.518</u>	<u>5001</u>	<u>9.2063</u>	<u>8.1444</u>	<u>6.9919</u>	<u>0.354</u>
<u>4108</u>	<u>0.2216</u>	<u>0.1927</u>	<u>0.1585</u>	<u>0.547</u>	<u>5002</u>	<u>0.7012</u>	<u>0.6050</u>	<u>0.4922</u>	<u>0.532</u>
<u>4109</u>	<u>0.2280</u>	<u>0.1994</u>	<u>0.1661</u>	<u>0.505</u>	<u>5003</u>	<u>2.3002</u>	<u>1.9901</u>	<u>1.6412</u>	<u>0.437</u>
<u>4201</u>	<u>0.7556</u>	<u>0.6523</u>	<u>0.5335</u>	<u>0.488</u>	<u>5004</u>	<u>0.8928</u>	<u>0.7868</u>	<u>0.6665</u>	<u>0.454</u>
<u>4301</u>	<u>0.7981</u>	<u>0.6971</u>	<u>0.5791</u>	<u>0.527</u>	<u>5005</u>	<u>0.8625</u>	<u>0.7535</u>	<u>0.6315</u>	<u>0.436</u>
<u>4302</u>	<u>0.8582</u>	<u>0.7424</u>	<u>0.6061</u>	<u>0.542</u>	<u>5006</u>	<u>1.5030</u>	<u>1.3204</u>	<u>1.1201</u>	<u>0.378</u>
<u>4304</u>	<u>1.0752</u>	<u>0.9476</u>	<u>0.7998</u>	<u>0.497</u>	<u>5101</u>	<u>1.0446</u>	<u>0.9057</u>	<u>0.7459</u>	<u>0.482</u>
<u>4305</u>	<u>1.2702</u>	<u>1.0956</u>	<u>0.8933</u>	<u>0.508</u>	<u>5103</u>	<u>0.9797</u>	<u>0.8538</u>	<u>0.7041</u>	<u>0.548</u>
<u>4401</u>	<u>0.4711</u>	<u>0.4159</u>	<u>0.3519</u>	<u>0.480</u>	<u>5106</u>	<u>0.9797</u>	<u>0.8538</u>	<u>0.7041</u>	<u>0.548</u>
<u>4402</u>	<u>0.9215</u>	<u>0.7985</u>	<u>0.6542</u>	<u>0.543</u>	<u>5108</u>	<u>0.9545</u>	<u>0.8323</u>	<u>0.6883</u>	<u>0.533</u>
<u>4404</u>	<u>0.5815</u>	<u>0.5104</u>	<u>0.4278</u>	<u>0.496</u>	<u>5109</u>	<u>0.6675</u>	<u>0.5741</u>	<u>0.4657</u>	<u>0.516</u>
<u>4501</u>	<u>0.2277</u>	<u>0.1974</u>	<u>0.1611</u>	<u>0.577</u>	<u>5201</u>	<u>0.4263</u>	<u>0.3700</u>	<u>0.3042</u>	<u>0.517</u>
<u>4502</u>	<u>0.0529</u>	<u>0.0461</u>	<u>0.0381</u>	<u>0.532</u>	<u>5204</u>	<u>1.1495</u>	<u>1.0042</u>	<u>0.8389</u>	<u>0.460</u>
<u>4504</u>	<u>0.1429</u>	<u>0.1240</u>	<u>0.1011</u>	<u>0.580</u>	<u>5206</u>	<u>0.4152</u>	<u>0.3632</u>	<u>0.3035</u>	<u>0.470</u>
<u>4601</u>	<u>0.8930</u>	<u>0.7770</u>	<u>0.6434</u>	<u>0.499</u>	<u>5207</u>	<u>0.1744</u>	<u>0.1532</u>	<u>0.1279</u>	<u>0.544</u>
<u>4801</u>	<u>3.3845</u>	<u>2.9623</u>	<u>2.4892</u>	<u>0.412</u>	<u>5208</u>	<u>0.8716</u>	<u>0.7593</u>	<u>0.6283</u>	<u>0.513</u>
<u>4802</u>	<u>0.3676</u>	<u>0.3230</u>	<u>0.2709</u>	<u>0.511</u>	<u>5209</u>	<u>0.7904</u>	<u>0.6900</u>	<u>0.5744</u>	<u>0.477</u>
<u>4803</u>	<u>0.3600</u>	<u>0.3152</u>	<u>0.2614</u>	<u>0.582</u>	<u>5300</u>	<u>0.1451</u>	<u>0.1251</u>	<u>0.1015</u>	<u>0.555</u>
<u>4804</u>	<u>0.5853</u>	<u>0.5109</u>	<u>0.4227</u>	<u>0.554</u>	<u>5301</u>	<u>0.0402</u>	<u>0.0349</u>	<u>0.0286</u>	<u>0.549</u>
<u>4805</u>	<u>0.3868</u>	<u>0.3372</u>	<u>0.2786</u>	<u>0.546</u>	<u>5302</u>	<u>0.0159</u>	<u>0.0139</u>	<u>0.0114</u>	<u>0.502</u>
<u>4806</u>	<u>0.0783</u>	<u>0.0690</u>	<u>0.0578</u>	<u>0.539</u>	<u>5305</u>	<u>0.0655</u>	<u>0.0567</u>	<u>0.0462</u>	<u>0.583</u>
<u>4808</u>	<u>0.5279</u>	<u>0.4640</u>	<u>0.3902</u>	<u>0.492</u>	<u>5306</u>	<u>0.0552</u>	<u>0.0481</u>	<u>0.0395</u>	<u>0.566</u>
<u>4809</u>	<u>0.3731</u>	<u>0.3278</u>	<u>0.2742</u>	<u>0.536</u>	<u>5307</u>	<u>0.8131</u>	<u>0.7029</u>	<u>0.5754</u>	<u>0.506</u>
<u>4810</u>	<u>0.1764</u>	<u>0.1549</u>	<u>0.1293</u>	<u>0.560</u>	<u>5308</u>	<u>0.1171</u>	<u>0.1013</u>	<u>0.0825</u>	<u>0.575</u>
<u>4811</u>	<u>0.4145</u>	<u>0.3628</u>	<u>0.3010</u>	<u>0.565</u>	<u>6103</u>	<u>0.1042</u>	<u>0.0907</u>	<u>0.0742</u>	<u>0.595</u>
<u>4812</u>	<u>0.4352</u>	<u>0.3804</u>	<u>0.3155</u>	<u>0.537</u>	<u>6104</u>	<u>0.4884</u>	<u>0.4238</u>	<u>0.3477</u>	<u>0.542</u>
<u>4813</u>	<u>0.1988</u>	<u>0.1744</u>	<u>0.1456</u>	<u>0.542</u>	<u>6105</u>	<u>0.4421</u>	<u>0.3839</u>	<u>0.3163</u>	<u>0.502</u>
<u>4814</u>	<u>0.1410</u>	<u>0.1246</u>	<u>0.1051</u>	<u>0.555</u>	<u>6107</u>	<u>0.1626</u>	<u>0.1434</u>	<u>0.1198</u>	<u>0.560</u>
<u>4815</u>	<u>0.3308</u>	<u>0.2921</u>	<u>0.2456</u>	<u>0.577</u>	<u>6108</u>	<u>0.4966</u>	<u>0.4335</u>	<u>0.3581</u>	<u>0.557</u>

Class	(2009) <u>2010</u>	(2010) <u>2011</u>	(2011) <u>2012</u>	Primary Ratio	Class	(2009) <u>2010</u>	(2010) <u>2011</u>	(2011) <u>2012</u>	Primary Ratio
6109	0.1192	0.1032	0.0843	0.536	6604	0.0991	0.0862	0.0708	0.559
6110	0.6945	0.6032	0.4963	0.532	6605	0.4294	0.3702	0.2995	0.571
6120	0.3655	0.3141	0.2538	0.546	6607	0.1766	0.1546	0.1289	0.517
6121	0.3981	0.3470	0.2876	0.503	6608	0.6118	0.5316	0.4416	0.414
6201	0.3489	0.3053	0.2549	0.481	6620	3.8112	3.2507	2.5890	0.564
6202	0.7749	0.6751	0.5588	0.511	6704	0.1486	0.1296	0.1073	0.533
6203	0.1322	0.1153	0.0945	0.620	6705	1.0416	0.9069	0.7451	0.582
6204	0.1593	0.1387	0.1141	0.564	6706	0.3466	0.3072	0.2615	0.498
6205	0.2667	0.2335	0.1945	0.526	6707	6.6547	5.7073	4.5437	0.647
6206	0.2671	0.2332	0.1931	0.537	6708	9.7272	8.8162	7.7756	0.442
6207	1.5246	1.3476	1.1420	0.509	6709	0.3042	0.2662	0.2214	0.534
6208	0.3066	0.2686	0.2232	0.561	6801	0.8595	0.7355	0.5888	0.553
6209	0.3343	0.2932	0.2447	0.521	6802	0.6993	0.6055	0.4936	0.571
6301	0.1430	0.1238	0.1018	0.480	6803	0.7953	0.7028	0.6023	0.335
6303	0.0853	0.0742	0.0613	0.524	6804	0.3735	0.3274	0.2729	0.520
6304	0.3566	0.3133	0.2618	0.546	6809	6.0542	5.2755	4.3339	0.562
6305	0.1273	0.1106	0.0906	0.576	6901	0.0246	0.0232	0.0203	0.756
6306	0.3642	0.3169	0.2615	0.513	6902	1.0305	0.9012	0.7566	0.418
6308	0.0760	0.0658	0.0541	0.532	6903	7.1519	6.4089	5.6176	0.311
6309	0.2367	0.2068	0.1715	0.527	6904	0.7155	0.6087	0.4834	0.551
6402	0.3059	0.2664	0.2190	0.565	6905	0.5910	0.5031	0.3984	0.582
6403	0.1961	0.1717	0.1427	0.552	6906	0.2380	0.2210	0.1977	0.658
6404	0.3222	0.2812	0.2325	0.556	6907	1.3592	1.1822	0.9758	0.524
6405	0.6218	0.5396	0.4439	0.507	6908	0.4725	0.4129	0.3438	0.502
6406	0.1428	0.1243	0.1020	0.579	6909	0.1372	0.1196	0.0985	0.547
6407	0.2824	0.2462	0.2031	0.548	7100	0.0367	0.0326	0.0277	0.466
6408	0.5161	0.4492	0.3712	0.514	7101	0.0266	0.0235	0.0198	0.448
6409	0.7854	0.6839	0.5668	0.487	7102	4.9959	4.4570	3.8132	0.547
6410	0.3613	0.3136	0.2576	0.533	7103	0.8151	0.7000	0.5657	0.537
6501	0.1734	0.1503	0.1230	0.558	7104	0.0380	0.0329	0.0268	0.569
6502	0.0369	0.0322	0.0268	0.532	7105	0.0271	0.0237	0.0195	0.531
6503	0.0814	0.0705	0.0578	0.505	7106	0.3215	0.2785	0.2270	0.592
6504	0.4311	0.3768	0.3113	0.573	7107	0.2903	0.2549	0.2129	0.550
6505	0.1611	0.1405	0.1151	0.608	7108	0.2255	0.1979	0.1653	0.547
6506	0.1419	0.1233	0.1010	0.569	7109	0.1713	0.1488	0.1219	0.566
6509	0.3985	0.3490	0.2896	0.558	7110	0.3586	0.3129	0.2610	0.461
6510	0.4734	0.4132	0.3451	0.451	7111	0.4916	0.4281	0.3565	0.441
6511	0.4639	0.4041	0.3336	0.548	7112	0.8536	0.7439	0.6141	0.549
6512	0.1483	0.1300	0.1089	0.482	7113	0.4613	0.4038	0.3363	0.535
6601	0.2476	0.2158	0.1787	0.524	7114	0.7814	0.6797	0.5575	0.587
6602	0.6297	0.5510	0.4585	0.537	7115	0.5837	0.5128	0.4290	0.540
6603	0.3571	0.3119	0.2592	0.517	7116	0.7282	0.6362	0.5296	0.508

Class	(2009) <u>2010</u>	(2010) <u>2011</u>	(2011) <u>2012</u>	Primary Ratio	Expected Loss Range	Maximum Experience Modification
7117	1.3172	1.1518	0.9575	0.516	11,313 - 12,298	0.86
7118	1.6973	1.4874	1.2434	0.508	12,299 - 13,330	0.85
7119	1.7134	1.4800	1.2066	0.546	13,331 - 14,239	0.84
7120	6.9938	6.1112	5.0906	0.496	14,240 - 15,161	0.83
7121	6.5478	5.7217	4.7661	0.496	15,162 - 16,121	0.82
7122	0.5161	0.4509	0.3738	0.544	16,122 - 17,120	0.81
7200	1.7596	1.5100	1.2209	0.522	17,121 - 18,158	0.80
7201	2.0650	1.7774	1.4452	0.513	18,159 - 19,235	0.79
7202	0.0329	0.0288	0.0240	0.465	19,236 - 20,356	0.78
7203	0.1459	0.1294	0.1089	0.575	20,357 - 21,513	0.77
7204	0.0000	0.0000	0.0000	0.500	21,514 - 22,714	0.76
7205	0.0000	0.0000	0.0000	0.500	22,715 - 23,953	0.75
7301	0.4978	0.4360	0.3634	0.513	23,954 - 25,236	0.74
7302	1.0741	0.9435	0.7929	0.494	25,237 - 26,559	0.73
7307	0.5159	0.4534	0.3814	0.500	26,560 - 27,928	0.72
7308	0.4422	0.3859	0.3189	0.559	27,929 - 29,335	0.71
7309	0.3352	0.2932	0.2430	0.565	29,336 - 30,789	0.70
7400	2.0650	1.7774	1.4452	0.513	30,790 - 32,284	0.69

Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed

Class	(2009) <u>2010</u>	(2010) <u>2011</u>	(2011) <u>2012</u>	Primary Ratio	Expected Loss Range	Maximum Experience Modification
					32,285 - 33,821	0.68
					33,822 - 35,404	0.67
					35,405 - 37,027	0.66
					37,028 - 38,697	0.65
((0540	0.0265	0.0233	0.0187	0.433	38,698 - 41,298	0.64
0541	0.0129	0.0113	0.0091	0.414	41,299 - 44,836	0.63
0550	0.0264	0.0230	0.0187	0.399	44,837 - 48,925	0.62
0551	0.0157	0.0136	0.0109	0.392))	48,926 - 56,877	0.61
0540	0.0283	0.0248	0.0209	0.426	56,878 - & Over	0.60))
0541	0.0132	0.0116	0.0097	0.421	1 = 7,365	0.90
0550	0.0278	0.0244	0.0206	0.420	7,366 = 8,994	0.89
0551	0.0151	0.0133	0.0112	0.407	8,995 = 9,963	0.88
					9,964 = 10,859	0.87
					10,860 = 11,806	0.86
					11,807 = 12,797	0.85
					12,798 = 13,669	0.84
					13,670 = 14,555	0.83
					14,556 = 15,476	0.82
					15,477 = 16,435	0.81
					16,436 = 17,432	0.80
					17,433 = 18,466	0.79
					18,467 = 19,542	0.78
					19,543 = 20,652	0.77
					20,653 = 21,805	0.76

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17-890 Table IV.

Maximum experience modifications for firms with no compensable accidents: Effective January 1, ~~(2013)~~ 2014

Expected Loss Range	Maximum Experience Modification
((0 - 7,672	0.90
7,673 - 9,369	0.89
9,370 - 10,378	0.88
10,379 - 11,312	0.87

Expected Loss Range	Maximum Experience Modification	Risk Classification	Hazard Group
<u>21,806</u> = <u>22,995</u>	<u>0.75</u>	502	8
<u>22,996</u> = <u>24,227</u>	<u>0.74</u>	504	9
<u>24,228</u> = <u>25,497</u>	<u>0.73</u>	507	8
<u>25,498</u> = <u>26,811</u>	<u>0.72</u>	508	9
<u>26,812</u> = <u>28,162</u>	<u>0.71</u>	509	9
<u>28,163</u> = <u>29,557</u>	<u>0.70</u>	510	7
<u>29,558</u> = <u>30,993</u>	<u>0.69</u>	511	7
<u>30,994</u> = <u>32,468</u>	<u>0.68</u>	512	9
<u>32,469</u> = <u>33,988</u>	<u>0.67</u>	513	6
<u>33,989</u> = <u>35,546</u>	<u>0.66</u>	514	7
<u>35,547</u> = <u>37,149</u>	<u>0.65</u>	516	8
<u>37,150</u> = <u>39,646</u>	<u>0.64</u>	517	9
<u>39,647</u> = <u>43,043</u>	<u>0.63</u>	518	9
<u>43,044</u> = <u>46,968</u>	<u>0.62</u>	519	9
<u>46,969</u> = <u>54,602</u>	<u>0.61</u>	521	7
<u>54,603</u> and higher	<u>0.60</u>	540	8
		541	9
		550	9
		551	9
		601	7
		602	7
		603	9
		604	7
		606	4
		607	6
		608	7
		701	9
		803	5
		901	8
		1002	8
		1003	7
		1004	6
		1005	8
		1006	(6) 5
		1007	7
		1101	5
		1102	8
		1103	8
		1104	3
		1105	7
		1106	5
		1108	5
		1109	6

AMENDATORY SECTION (Amending WSR 13-10-080, filed 5/1/13, effective 7/1/13)

WAC 296-17-901 Risk classification hazard group table. Effective November 19, 2010.

Risk Classification	Hazard Group
101	9
103	8
104	8
105	5
107	9
108	8
112	7
201	9
202	9
210	8
212	9
214	8
217	7
219	7
301	4
302	9
303	9
306	8
307	7
308	3
403	6

Risk Classification	Hazard Group	Risk Classification	Hazard Group
1301	2	3303	3
1303	3	3304	3
1304	5	3309	6
1305	4	3402	6
1401	9	3403	6
1404	3	3404	5
1405	1	3405	3
1407	4	3406	1
1501	5	3407	6
1507	5	3408	1
1701	7	3409	1
1702	9	3410	2
1703	9	3411	6
1704	7	3412	8
1801	9	3414	6
1802	5	3415	9
2002	6	3501	6
2004	4	3503	3
2007	6	3506	7
2008	6	3509	1
2009	3	3510	2
2101	5	3511	6
2102	3	3512	3
2104	2	3513	8
2105	2	3602	4
2106	4	3603	4
2201	6	3604	7
2202	5	3605	5
2203	2	3701	5
2204	6	3702	3
2401	1	3708	5
2903	4	3802	3
2904	6	3808	7
2905	3	3901	1
2906	4	3902	4
2907	3	3903	6
2908	7	3905	1
2909	4	3906	4
3101	6	3909	3
3102	6	4002	7
3103	6	4101	5
3104	6	4103	2
3105	5	4107	6

Risk Classification	Hazard Group	Risk Classification	Hazard Group
4108	3	5101	4
4109	6	5103	3
4201	6	5106	2
4301	4	5108	3
4302	4	5109	6
4304	6	5201	4
4305	5	5204	8
4401	6	5206	6
4402	2	5207	2
4404	5	5208	4
4501	1	5209	6
4502	5	5300	2
4504	1	5301	3
4601	5	5302	5
4802	7	5305	1
4803	2	5306	1
4804	2	5307	4
4805	2	5308	1
4806	5	6103	1
4808	6	6104	2
4809	3	6105	6
4810	3	6107	1
4811	3	6108	1
4812	2	6109	4
4813	3	6110	5
4900	9	6120	5
4901	6	6121	5
4902	3	6201	7
4903	1	6202	6
4904	3	6203	1
4905	2	6204	2
4906	2	6205	4
4907	4	6206	3
4908	2	6207	6
4909	3	6208	2
4910	6	6209	3
4911	6	6301	8
5001	9	6303	5
5002	3	6304	1
5003	9	6305	1
5004	8	6306	4
5005	9	6308	2
5006	9	6309	3

Risk Classification	Hazard Group	Base Rates Effective January 1, ((2013)) 2014		
		Accident Fund	Stay at Work	Medical Aid Fund
<u>6625</u>				
<u>6626</u>				
<u>6627</u>				
6618	0511	2.3957	0.0531	0.8983
7204	0512	2.2743	0.0504	0.8712
7205	0513	1.2434	0.0275	0.4905
	0514	2.7645	0.0612	1.1382
	0516	2.4353	0.0540	0.9330
	0517	3.4633	0.0765	1.4857
	0518	2.3260	0.0517	0.7983
	0519	2.7303	0.0604	1.1198
	0521	0.8335	0.0184	0.3552
	0601	0.9317	0.0206	0.3622
	0602	1.1507	0.0256	0.3819
	0603	1.4680	0.0326	0.4980
	0604	1.5115	0.0331	0.8807
	0606	0.7953	0.0175	0.4260
	0607	1.0208	0.0225	0.4840
	0608	0.4780	0.0105	0.2288
	0701	3.4398	0.0770	0.7428
	0803	0.7238	0.0159	0.3855
	0901	2.3260	0.0517	0.7983
	1002	1.3782	0.0304	0.6488
	1003	1.1253	0.0247	0.5731
	1004	0.8381	0.0185	0.3485
	1005	13.3656	0.2965	4.8837
	1006	0.0970	0.0021	0.0445
	1007	0.5638	0.0125	0.2066
	1101	1.1185	0.0246	0.5476
	1102	2.2770	0.0504	0.8926
	1103	1.8916	0.0418	0.8024
	1104	0.8531	0.0187	0.5089
	1105	1.2801	0.0283	0.5214
	1106	0.4049	0.0088	0.2780
	1108	0.8625	0.0189	0.4641
	1109	2.1887	0.0482	1.0581
	1301	0.8129	0.0180	0.3556
	1303	0.2901	0.0064	0.1581
	1304	0.0413	0.0009	0.0202
	1305	0.6926	0.0152	0.3542
	1401	0.2750	0.0060	0.1766
	1404	1.1914	0.0261	0.6895
	1405	1.0249	0.0225	0.5500
	0510	2.9031	0.0642	1.2429

AMENDATORY SECTION (Amending WSR 13-10-080, filed 5/1/13, effective 7/1/13)

WAC 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry. Industrial insurance accident fund, stay at work and medical aid fund base rates by class of industry shall be as set forth below.

Class	Base Rates Effective January 1, ((2013)) 2014		
	Accident Fund	Stay at Work	Medical Aid Fund
((0101	2.4521	0.0544	0.8672
0103	2.6794	0.0592	1.1423
0104	1.4858	0.0329	0.6091
0105	1.9690	0.0434	0.9560
0107	1.8473	0.0410	0.6658
0108	1.4858	0.0329	0.6091
0112	1.0337	0.0228	0.4616
0201	4.0605	0.0907	1.0336
0202	5.0794	0.1126	1.8737
0210	1.6933	0.0376	0.5936
0212	1.9761	0.0438	0.7294
0214	2.2407	0.0497	0.8127
0217	1.7454	0.0386	0.6949
0219	1.8077	0.0400	0.6968
0301	0.9934	0.0218	0.5550
0302	3.6601	0.0815	1.1392
0303	2.7861	0.0619	0.9609
0306	1.5788	0.0350	0.5780
0307	1.3218	0.0292	0.5398
0308	0.6992	0.0152	0.4697
0403	2.7006	0.0598	1.0958
0502	2.0864	0.0463	0.7219
0504	2.4230	0.0533	1.1955
0507	4.5735	0.1007	2.2194
0508	3.1055	0.0692	0.8958
0509	2.7067	0.0602	0.8784
0510	2.9031	0.0642	1.2429

Base Rates Effective January 1, (2013) 2014				Base Rates Effective January 1, (2013) 2014			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
1407	0.6643	0.0145	0.4439	3403	0.2970	0.0065	0.1538
1501	0.9245	0.0204	0.4241	3404	0.6549	0.0144	0.3690
1507	0.8642	0.0190	0.4307	3405	0.3833	0.0084	0.2281
1701	1.1763	0.0260	0.5330	3406	0.3337	0.0073	0.2219
1702	3.1012	0.0692	0.8394	3407	1.2606	0.0278	0.5470
1703	1.7348	0.0388	0.4136	3408	0.3102	0.0068	0.1724
1704	1.1763	0.0260	0.5330	3409	0.2003	0.0044	0.1293
1801	0.6773	0.0149	0.3276	3410	0.2728	0.0059	0.1950
1802	1.1150	0.0245	0.5657	3411	0.8249	0.0182	0.3686
2002	1.1335	0.0248	0.6412	3412	0.9685	0.0214	0.3814
2004	1.0274	0.0225	0.5725	3414	0.9173	0.0202	0.4644
2007	0.7879	0.0172	0.4681	3415	1.2609	0.0278	0.5903
2008	0.5148	0.0113	0.2863	3501	1.5004	0.0330	0.7564
2009	0.4719	0.0103	0.3097	3503	0.3760	0.0081	0.3036
2101	1.0118	0.0221	0.6393	3506	1.4096	0.0312	0.5345
2102	0.8862	0.0194	0.4882	3509	0.4917	0.0107	0.3347
2104	0.3390	0.0073	0.3202	3510	0.4659	0.0102	0.2789
2105	0.7810	0.0171	0.4580	3511	0.8664	0.0190	0.4544
2106	0.6615	0.0145	0.4066	3512	0.4810	0.0105	0.3283
2201	0.3285	0.0072	0.2061	3513	0.6992	0.0152	0.4776
2202	1.0855	0.0239	0.5671	3602	0.1559	0.0034	0.0947
2203	0.6037	0.0131	0.4068	3603	0.6534	0.0143	0.3942
2204	0.3285	0.0072	0.2061	3604	0.9929	0.0216	0.6886
2401	0.7058	0.0156	0.3005	3605	0.7860	0.0173	0.3781
2903	0.8998	0.0197	0.5404	3701	0.3638	0.0080	0.2020
2904	0.9947	0.0219	0.5054	3702	0.6261	0.0137	0.3455
2905	0.8652	0.0189	0.5371	3708	0.8849	0.0195	0.4348
2906	0.5070	0.0111	0.3180	3802	0.2778	0.0061	0.1716
2907	0.7312	0.0160	0.4213	3808	0.6351	0.0140	0.2744
2908	1.6124	0.0355	0.8226	3901	0.1860	0.0040	0.1496
2909	0.5415	0.0118	0.3339	3902	0.5808	0.0126	0.4031
3101	1.0553	0.0232	0.5163	3903	1.4019	0.0305	0.9902
3102	0.3638	0.0080	0.2020	3905	0.1657	0.0036	0.1405
3103	0.7431	0.0163	0.3774	3906	0.5958	0.0130	0.3978
3104	0.9171	0.0202	0.4514	3909	0.4312	0.0094	0.2886
3105	1.0010	0.0219	0.5872	4002	1.9643	0.0435	0.7829
3303	0.6232	0.0137	0.3421	4101	0.4891	0.0107	0.2593
3304	0.6318	0.0137	0.4528	4103	0.7331	0.0160	0.4412
3309	0.5745	0.0126	0.2852	4107	0.2271	0.0050	0.1273
3402	0.7259	0.0160	0.3758	4108	0.2651	0.0058	0.1598

Base Rates Effective January 1, (2013) 2014				Base Rates Effective January 1, (2013) 2014			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
4109	0.2818	0.0062	0.1596	5005	1.1812	0.0261	0.4763
4201	1.1239	0.0249	0.4075	5006	2.3416	0.0520	0.7925
4301	0.8649	0.0188	0.5681	5101	1.4077	0.0311	0.6131
4302	0.9936	0.0218	0.5499	5103	1.0949	0.0238	0.7413
4304	1.1888	0.0258	0.8256	5106	1.0949	0.0238	0.7413
4305	1.7574	0.0389	0.7249	5108	1.1334	0.0248	0.7066
4401	0.5558	0.0121	0.3632	5109	0.8679	0.0192	0.3809
4402	1.1152	0.0244	0.6306	5201	0.5499	0.0121	0.2825
4404	0.6912	0.0151	0.4303	5204	1.5391	0.0340	0.6890
4501	0.2389	0.0052	0.1741	5206	0.5550	0.0122	0.2626
4502	0.0580	0.0013	0.0369	5207	0.1834	0.0040	0.1434
4504	0.1528	0.0033	0.1082	5208	1.0405	0.0228	0.6152
4601	1.1025	0.0242	0.5798	5209	1.0261	0.0226	0.5134
4802	0.4275	0.0093	0.2821	5300	0.1707	0.0038	0.0896
4803	0.3283	0.0070	0.2961	5301	0.0498	0.0011	0.0296
4804	0.6222	0.0135	0.4387	5302	0.0217	0.0005	0.0110
4805	0.3836	0.0083	0.2743	5305	0.0745	0.0016	0.0504
4806	0.0812	0.0018	0.0587	5306	0.0625	0.0014	0.0446
4808	0.6253	0.0136	0.3998	5307	1.0113	0.0223	0.4561
4809	0.3903	0.0085	0.2898	5308	0.1306	0.0028	0.0896
4810	0.1708	0.0037	0.1405	6103	0.0976	0.0021	0.0835
4811	0.4127	0.0089	0.3387	6104	0.5314	0.0116	0.3263
4812	0.4929	0.0107	0.3199	6105	0.5759	0.0127	0.2671
4813	0.2036	0.0044	0.1518	6107	0.1740	0.0037	0.1513
4900	0.2798	0.0062	0.1004	6108	0.5734	0.0125	0.4054
4901	0.0970	0.0021	0.0445	6109	0.1519	0.0033	0.0813
4902	0.1733	0.0038	0.0927	6110	0.8459	0.0185	0.4813
4903	0.2183	0.0048	0.1293	6120	0.4528	0.0100	0.2245
4904	0.0321	0.0007	0.0216	6121	0.5110	0.0112	0.2600
4905	0.4431	0.0095	0.3763	6201	0.4640	0.0102	0.2315
4906	0.1327	0.0029	0.0726	6202	0.9320	0.0204	0.5342
4907	0.0729	0.0016	0.0484	6203	0.1224	0.0026	0.1164
4908	0.1171	0.0025	0.1004	6204	0.1641	0.0036	0.1155
4909	0.0496	0.0010	0.0561	6205	0.3159	0.0069	0.2061
4910	0.6420	0.0141	0.3581	6206	0.3115	0.0068	0.2002
4911	0.0912	0.0020	0.0497	6207	1.5595	0.0337	1.2587
5001	14.2821	0.3172	4.9189	6208	0.3017	0.0065	0.2515
5002	0.8855	0.0195	0.4383	6209	0.3984	0.0087	0.2744
5003	3.5579	0.0792	1.1030	6301	0.2032	0.0045	0.0782
5004	1.1090	0.0243	0.6096	6303	0.1074	0.0024	0.0614

Base Rates Effective January 1, ((2013)) 2014				Base Rates Effective January 1, ((2013)) 2014			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6304	0.3904	0.0084	0.3128	6803	1.4287	0.0318	0.4212
6305	0.1324	0.0029	0.0958	6804	0.4717	0.0103	0.2904
6306	0.4339	0.0095	0.2345	6809	6.4856	0.1405	4.9240
6308	0.0955	0.0021	0.0531	6901	0.0000	0.0000	0.0660
6309	0.2859	0.0062	0.1782	6902	1.5931	0.0354	0.5527
6402	0.3363	0.0073	0.2339	6903	11.3132	0.2508	4.2662
6403	0.2007	0.0043	0.1592	6904	0.8761	0.0194	0.3551
6404	0.3352	0.0073	0.2412	6905	0.6698	0.0148	0.3244
6405	0.8424	0.0186	0.4046	6906	0.0000	0.0000	0.3244
6406	0.1486	0.0032	0.1143	6907	1.6832	0.0369	0.9362
6407	0.3394	0.0074	0.2217	6908	0.6082	0.0133	0.3311
6408	0.6453	0.0142	0.3347	6909	0.1499	0.0033	0.1009
6409	1.0812	0.0239	0.4915	7100	0.0442	0.0010	0.0270
6410	0.4269	0.0094	0.2441	7101	0.0347	0.0008	0.0184
6501	0.1945	0.0042	0.1261	7102	4.0666	0.0858	4.8031
6502	0.0422	0.0009	0.0263	7103	1.0239	0.0226	0.4723
6503	0.1137	0.0025	0.0476	7104	0.0422	0.0009	0.0279
6504	0.4536	0.0098	0.3737	7105	0.0333	0.0007	0.0210
6505	0.1447	0.0031	0.1381	7106	0.3079	0.0067	0.2269
6506	0.1519	0.0033	0.1040	7107	0.2901	0.0063	0.2355
6509	0.4253	0.0092	0.3297	7108	0.2335	0.0050	0.1904
6510	0.6737	0.0149	0.2928	7109	0.1859	0.0040	0.1285
6511	0.4844	0.0105	0.3347	7110	0.4966	0.0110	0.2159
6512	0.1963	0.0043	0.1060	7111	0.7247	0.0161	0.2755
6601	0.2750	0.0060	0.1766	7112	0.9217	0.0201	0.6107
6602	0.6545	0.0142	0.4540	7113	0.4995	0.0109	0.3477
6603	0.4433	0.0097	0.2623	7114	0.7211	0.0155	0.6031
6604	0.1073	0.0023	0.0736	7115	0.6305	0.0137	0.4754
6605	0.5161	0.0112	0.3468	7116	0.8409	0.0184	0.5029
6607	0.2010	0.0044	0.1308	7117	1.7056	0.0373	0.9913
6608	0.9685	0.0216	0.2680	7118	1.9595	0.0428	1.2244
6620	4.9459	0.1092	2.1603	7119	1.9361	0.0424	1.1135
6704	0.1750	0.0038	0.1081	7120	8.6413	0.1896	4.7038
6705	1.0472	0.0226	0.8269	7121	8.0855	0.1774	4.4099
6706	0.3749	0.0081	0.2726	7122	0.5889	0.0128	0.4189
6707	5.7200	0.1231	4.9261	7200	2.1784	0.0482	0.9040
6708	9.2814	0.1975	9.6979	7201	2.6166	0.0579	1.0803
6709	0.3464	0.0075	0.2409	7202	0.0456	0.0010	0.0198
6801	1.1170	0.0247	0.4887	7203	0.1357	0.0029	0.1504
6802	0.7898	0.0173	0.4896	7204	0.0000	0.0000	0.0000

Base Rates Effective January 1, (2013) 2014				Base Rates Effective January 1, (2013) 2014			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
7205	0.0000	0.0000	0.0000	0518	2.3252	0.0474	0.8569
7301	0.5894	0.0129	0.3450	0519	2.7010	0.0547	1.2122
7302	1.2427	0.0271	0.7998	0521	0.8098	0.0164	0.3855
7307	0.5780	0.0126	0.3837	0601	0.9362	0.0190	0.4024
7308	0.4811	0.0104	0.3633	0602	1.1364	0.0232	0.4097
7309	0.3242	0.0070	0.2638	0603	1.4098	0.0287	0.5388
7400	2.6166	0.0579	1.0803))	0604	1.5514	0.0310	0.9982
0101	2.5160	0.0512	0.9653	0606	0.8128	0.0163	0.4906
0103	2.6537	0.0537	1.2190	0607	1.0441	0.0211	0.5483
0104	1.5406	0.0313	0.6588	0608	0.4790	0.0097	0.2573
0105	1.9466	0.0391	1.0944	0701	3.3517	0.0689	0.8033
0107	1.6638	0.0338	0.6732	0803	0.7215	0.0145	0.4245
0108	1.5406	0.0313	0.6588	0901	2.3252	0.0474	0.8569
0112	1.1221	0.0227	0.5474	1002	1.3484	0.0272	0.6925
0201	3.4771	0.0712	1.0282	1003	1.1278	0.0227	0.6311
0202	5.1068	0.1038	2.1108	1004	0.8163	0.0165	0.3779
0210	1.6836	0.0343	0.6491	1005	13.3280	0.2709	5.4060
0212	1.9705	0.0400	0.8217	1006	0.1211	0.0024	0.0681
0214	2.2228	0.0452	0.9140	1007	0.5445	0.0111	0.2145
0217	2.0189	0.0410	0.8814	1101	1.1219	0.0226	0.5984
0219	1.7000	0.0345	0.7103	1102	2.2314	0.0452	1.0086
0301	1.0633	0.0213	0.6428	1103	1.9275	0.0390	0.8963
0302	3.7635	0.0768	1.2981	1104	0.8477	0.0169	0.5522
0303	2.7078	0.0551	1.0562	1105	1.2791	0.0259	0.5944
0306	1.6610	0.0338	0.6444	1106	0.3924	0.0078	0.2991
0307	1.3739	0.0279	0.6074	1108	0.8223	0.0165	0.4960
0308	0.7346	0.0146	0.5447	1109	2.1338	0.0430	1.1538
0403	2.7136	0.0550	1.2414	1301	0.8131	0.0164	0.3885
0502	2.1155	0.0431	0.8228	1303	0.3063	0.0061	0.1824
0504	2.5371	0.0511	1.3703	1304	0.0419	0.0008	0.0226
0507	4.6451	0.0935	2.5360	1305	0.6850	0.0138	0.3925
0508	3.0958	0.0633	0.9843	1401	0.2814	0.0056	0.1946
0509	2.5238	0.0515	0.9018	1404	1.1580	0.0232	0.7470
0510	3.1006	0.0628	1.4513	1405	1.0982	0.0221	0.6374
0511	2.4281	0.0493	1.0119	1407	0.6936	0.0138	0.4849
0512	2.1104	0.0428	0.9271	1501	0.9353	0.0189	0.4866
0513	1.3242	0.0269	0.5702	1507	0.8614	0.0173	0.4777
0514	2.6781	0.0542	1.2503	1701	1.1500	0.0232	0.5702
0516	2.4545	0.0499	1.0260	1702	2.9554	0.0605	0.8915
0517	3.5093	0.0710	1.6603	1703	1.7179	0.0353	0.4576

Base Rates Effective January 1, (2013) 2014				Base Rates Effective January 1, (2013) 2014			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>1704</u>	<u>1.1500</u>	<u>0.0232</u>	<u>0.5702</u>	<u>3409</u>	<u>0.1988</u>	<u>0.0040</u>	<u>0.1434</u>
<u>1801</u>	<u>0.6669</u>	<u>0.0134</u>	<u>0.3608</u>	<u>3410</u>	<u>0.2609</u>	<u>0.0052</u>	<u>0.2046</u>
<u>1802</u>	<u>1.1100</u>	<u>0.0223</u>	<u>0.6158</u>	<u>3411</u>	<u>0.7872</u>	<u>0.0159</u>	<u>0.3922</u>
<u>2002</u>	<u>1.1457</u>	<u>0.0230</u>	<u>0.6835</u>	<u>3412</u>	<u>0.9529</u>	<u>0.0193</u>	<u>0.4240</u>
<u>2004</u>	<u>1.0350</u>	<u>0.0208</u>	<u>0.6224</u>	<u>3414</u>	<u>0.9630</u>	<u>0.0194</u>	<u>0.5448</u>
<u>2007</u>	<u>0.8196</u>	<u>0.0164</u>	<u>0.5402</u>	<u>3415</u>	<u>1.2417</u>	<u>0.0251</u>	<u>0.6348</u>
<u>2008</u>	<u>0.5205</u>	<u>0.0104</u>	<u>0.3181</u>	<u>3501</u>	<u>1.4921</u>	<u>0.0300</u>	<u>0.8325</u>
<u>2009</u>	<u>0.4622</u>	<u>0.0092</u>	<u>0.3358</u>	<u>3503</u>	<u>0.3778</u>	<u>0.0074</u>	<u>0.3345</u>
<u>2101</u>	<u>0.9819</u>	<u>0.0195</u>	<u>0.6996</u>	<u>3506</u>	<u>1.3798</u>	<u>0.0280</u>	<u>0.6016</u>
<u>2102</u>	<u>0.9035</u>	<u>0.0181</u>	<u>0.5491</u>	<u>3509</u>	<u>0.4967</u>	<u>0.0099</u>	<u>0.3690</u>
<u>2104</u>	<u>0.3347</u>	<u>0.0065</u>	<u>0.3539</u>	<u>3510</u>	<u>0.4674</u>	<u>0.0093</u>	<u>0.3122</u>
<u>2105</u>	<u>0.8410</u>	<u>0.0169</u>	<u>0.5045</u>	<u>3511</u>	<u>0.8729</u>	<u>0.0175</u>	<u>0.5023</u>
<u>2106</u>	<u>0.6622</u>	<u>0.0132</u>	<u>0.4523</u>	<u>3512</u>	<u>0.4800</u>	<u>0.0095</u>	<u>0.3566</u>
<u>2201</u>	<u>0.3370</u>	<u>0.0067</u>	<u>0.2356</u>	<u>3513</u>	<u>0.7272</u>	<u>0.0144</u>	<u>0.5412</u>
<u>2202</u>	<u>1.0871</u>	<u>0.0219</u>	<u>0.6089</u>	<u>3602</u>	<u>0.1454</u>	<u>0.0029</u>	<u>0.0991</u>
<u>2203</u>	<u>0.6118</u>	<u>0.0122</u>	<u>0.4524</u>	<u>3603</u>	<u>0.6609</u>	<u>0.0132</u>	<u>0.4586</u>
<u>2204</u>	<u>0.3370</u>	<u>0.0067</u>	<u>0.2356</u>	<u>3604</u>	<u>0.9778</u>	<u>0.0194</u>	<u>0.7411</u>
<u>2401</u>	<u>0.6956</u>	<u>0.0141</u>	<u>0.3265</u>	<u>3605</u>	<u>0.7853</u>	<u>0.0158</u>	<u>0.4186</u>
<u>2903</u>	<u>0.8876</u>	<u>0.0177</u>	<u>0.6086</u>	<u>3701</u>	<u>0.3517</u>	<u>0.0070</u>	<u>0.2195</u>
<u>2904</u>	<u>1.0262</u>	<u>0.0207</u>	<u>0.5561</u>	<u>3702</u>	<u>0.6186</u>	<u>0.0124</u>	<u>0.3910</u>
<u>2905</u>	<u>0.8222</u>	<u>0.0164</u>	<u>0.5611</u>	<u>3708</u>	<u>0.8950</u>	<u>0.0180</u>	<u>0.4915</u>
<u>2906</u>	<u>0.5028</u>	<u>0.0100</u>	<u>0.3652</u>	<u>3802</u>	<u>0.2828</u>	<u>0.0056</u>	<u>0.1985</u>
<u>2907</u>	<u>0.7015</u>	<u>0.0140</u>	<u>0.4514</u>	<u>3808</u>	<u>0.6388</u>	<u>0.0129</u>	<u>0.3060</u>
<u>2908</u>	<u>1.6050</u>	<u>0.0322</u>	<u>0.9257</u>	<u>3901</u>	<u>0.1827</u>	<u>0.0036</u>	<u>0.1630</u>
<u>2909</u>	<u>0.5464</u>	<u>0.0109</u>	<u>0.3732</u>	<u>3902</u>	<u>0.5603</u>	<u>0.0111</u>	<u>0.4399</u>
<u>3101</u>	<u>1.0672</u>	<u>0.0215</u>	<u>0.5903</u>	<u>3903</u>	<u>1.4053</u>	<u>0.0278</u>	<u>1.0962</u>
<u>3102</u>	<u>0.3517</u>	<u>0.0070</u>	<u>0.2195</u>	<u>3905</u>	<u>0.1645</u>	<u>0.0032</u>	<u>0.1526</u>
<u>3103</u>	<u>0.7289</u>	<u>0.0147</u>	<u>0.4103</u>	<u>3906</u>	<u>0.5854</u>	<u>0.0116</u>	<u>0.4437</u>
<u>3104</u>	<u>0.9393</u>	<u>0.0189</u>	<u>0.5083</u>	<u>3909</u>	<u>0.4201</u>	<u>0.0083</u>	<u>0.3124</u>
<u>3105</u>	<u>1.0613</u>	<u>0.0212</u>	<u>0.6762</u>	<u>4002</u>	<u>0.5603</u>	<u>0.0111</u>	<u>0.4399</u>
<u>3303</u>	<u>0.6164</u>	<u>0.0124</u>	<u>0.3735</u>	<u>4101</u>	<u>0.4673</u>	<u>0.0094</u>	<u>0.2728</u>
<u>3304</u>	<u>0.6002</u>	<u>0.0119</u>	<u>0.4902</u>	<u>4103</u>	<u>0.7569</u>	<u>0.0151</u>	<u>0.4933</u>
<u>3309</u>	<u>0.5822</u>	<u>0.0117</u>	<u>0.3264</u>	<u>4107</u>	<u>0.2301</u>	<u>0.0046</u>	<u>0.1473</u>
<u>3402</u>	<u>0.7060</u>	<u>0.0142</u>	<u>0.4063</u>	<u>4108</u>	<u>0.2491</u>	<u>0.0050</u>	<u>0.1707</u>
<u>3403</u>	<u>0.2940</u>	<u>0.0059</u>	<u>0.1668</u>	<u>4109</u>	<u>0.2789</u>	<u>0.0056</u>	<u>0.1759</u>
<u>3404</u>	<u>0.6308</u>	<u>0.0126</u>	<u>0.3981</u>	<u>4201</u>	<u>1.0875</u>	<u>0.0221</u>	<u>0.4357</u>
<u>3405</u>	<u>0.3859</u>	<u>0.0077</u>	<u>0.2490</u>	<u>4301</u>	<u>0.8846</u>	<u>0.0176</u>	<u>0.6407</u>
<u>3406</u>	<u>0.3530</u>	<u>0.0070</u>	<u>0.2569</u>	<u>4302</u>	<u>1.0199</u>	<u>0.0204</u>	<u>0.6382</u>
<u>3407</u>	<u>1.1910</u>	<u>0.0241</u>	<u>0.5743</u>	<u>4304</u>	<u>1.1942</u>	<u>0.0237</u>	<u>0.9105</u>
<u>3408</u>	<u>0.3157</u>	<u>0.0063</u>	<u>0.1983</u>	<u>4305</u>	<u>1.7172</u>	<u>0.0348</u>	<u>0.7899</u>

Base Rates Effective January 1, (2013) 2014				Base Rates Effective January 1, (2013) 2014			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
4401	0.5574	0.0111	0.4007	5109	0.9009	0.0182	0.4222
4402	1.0729	0.0215	0.6672	5201	0.5477	0.0110	0.3078
4404	0.6934	0.0138	0.4712	5204	1.5637	0.0316	0.7566
4501	0.2442	0.0048	0.1892	5206	0.5589	0.0113	0.2920
4502	0.0613	0.0012	0.0421	5207	0.1818	0.0036	0.1583
4504	0.1539	0.0030	0.1217	5208	1.0571	0.0212	0.6662
4601	1.1005	0.0221	0.6385	5209	1.0494	0.0211	0.5637
4802	0.4103	0.0081	0.3122	5300	0.1726	0.0035	0.1046
4803	0.3295	0.0064	0.3319	5301	0.0469	0.0009	0.0316
4804	0.6267	0.0124	0.4881	5302	0.0207	0.0004	0.0116
4805	0.4199	0.0083	0.3176	5305	0.0700	0.0014	0.0537
4806	0.0825	0.0016	0.0698	5306	0.0604	0.0012	0.0476
4808	0.6149	0.0122	0.4342	5307	1.0722	0.0217	0.5232
4809	0.3918	0.0077	0.3287	5308	0.1305	0.0026	0.0943
4810	0.1735	0.0034	0.1636	6103	0.1023	0.0020	0.0944
4811	0.4159	0.0082	0.3709	6104	0.5688	0.0114	0.3721
4812	0.4957	0.0099	0.3623	6105	0.5781	0.0117	0.3006
4813	0.2069	0.0041	0.1743	6107	0.1687	0.0033	0.1648
4900	0.2835	0.0058	0.1105	6108	0.5333	0.0105	0.4264
4901	0.0812	0.0016	0.0413	6109	0.1477	0.0030	0.0875
4902	0.1764	0.0035	0.1046	6110	0.8120	0.0162	0.5247
4903	0.2258	0.0045	0.1452	6120	0.4555	0.0092	0.2484
4904	0.0301	0.0006	0.0225	6121	0.5056	0.0102	0.2819
4905	0.4349	0.0085	0.4195	6201	0.4613	0.0093	0.2542
4906	0.1421	0.0029	0.0850	6202	0.9436	0.0189	0.5905
4907	0.0745	0.0015	0.0543	6203	0.1194	0.0023	0.1302
4908	0.1224	0.0024	0.1153	6204	0.1714	0.0034	0.1327
4909	0.0502	0.0010	0.0609	6205	0.3009	0.0060	0.2176
4910	0.6268	0.0126	0.3855	6206	0.3032	0.0060	0.2169
4911	0.0971	0.0020	0.0562	6207	1.5734	0.0310	1.3563
5001	14.1627	0.2880	5.6421	6208	0.3017	0.0059	0.2813
5002	0.8845	0.0178	0.4848	6209	0.3792	0.0075	0.2876
5003	3.5476	0.0725	1.1903	6301	0.2039	0.0041	0.0867
5004	1.1179	0.0224	0.6835	6303	0.1026	0.0021	0.0650
5005	1.1930	0.0241	0.5578	6304	0.3691	0.0073	0.3253
5006	2.3140	0.0471	0.8722	6305	0.1328	0.0026	0.1071
5101	1.4358	0.0291	0.6756	6306	0.4539	0.0091	0.2685
5103	1.0976	0.0218	0.8128	6308	0.0930	0.0019	0.0558
5106	1.0976	0.0218	0.8128	6309	0.2739	0.0055	0.1895
5108	1.1114	0.0222	0.7586	6402	0.3285	0.0065	0.2576

Base Rates Effective January 1, (2013) 2014				Base Rates Effective January 1, (2013) 2014			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6403	0.1999	0.0039	0.1744	6904	0.9478	0.0192	0.4243
6404	0.3368	0.0067	0.2728	6905	0.7348	0.0148	0.3845
6405	0.8067	0.0163	0.4299	6906	0.0000	0.0000	0.3845
6406	0.1455	0.0029	0.1249	6907	1.6013	0.0320	1.0158
6407	0.3177	0.0063	0.2328	6908	0.5802	0.0116	0.3583
6408	0.6481	0.0130	0.3821	6909	0.1563	0.0031	0.1133
6409	1.0402	0.0210	0.5375	7100	0.0446	0.0009	0.0299
6410	0.4375	0.0088	0.2696	7101	0.0356	0.0007	0.0203
6501	0.1921	0.0038	0.1342	7102	4.1060	0.0784	5.3172
6502	0.0423	0.0008	0.0305	7103	1.0344	0.0209	0.5231
6503	0.1123	0.0023	0.0524	7104	0.0420	0.0008	0.0302
6504	0.4364	0.0086	0.3942	7105	0.0318	0.0006	0.0213
6505	0.1517	0.0030	0.1570	7106	0.3189	0.0063	0.2633
6506	0.1542	0.0031	0.1165	7107	0.2947	0.0058	0.2641
6509	0.4089	0.0080	0.3582	7108	0.2253	0.0044	0.1987
6510	0.6555	0.0133	0.3087	7109	0.1843	0.0037	0.1385
6511	0.4952	0.0098	0.3764	7110	0.4910	0.0099	0.2336
6512	0.1823	0.0037	0.1092	7111	0.7209	0.0146	0.2959
6601	0.2814	0.0056	0.1946	7112	0.9462	0.0188	0.6905
6602	0.6671	0.0132	0.5235	7113	0.4988	0.0099	0.3889
6603	0.4257	0.0085	0.2775	7114	0.7568	0.0149	0.6845
6604	0.1080	0.0021	0.0820	7115	0.6045	0.0119	0.5018
6605	0.4900	0.0098	0.3447	7116	0.8402	0.0168	0.5598
6607	0.1978	0.0039	0.1427	7117	1.5862	0.0317	1.0506
6608	0.9967	0.0204	0.3099	7118	1.9574	0.0390	1.3524
6620	4.8693	0.0985	2.3591	7119	1.9981	0.0401	1.2182
6704	0.1717	0.0034	0.1189	7120	8.6409	0.1733	5.2071
6705	1.0291	0.0202	0.9075	7121	8.0849	0.1621	4.8937
6706	0.3753	0.0074	0.3039	7122	0.5576	0.0110	0.4325
6707	6.2118	0.1220	5.6365	7200	2.3056	0.0467	1.0691
6708	9.3895	0.1812	10.7590	7201	2.7191	0.0551	1.2646
6709	0.3303	0.0065	0.2604	7202	0.0454	0.0009	0.0226
6801	1.1332	0.0229	0.5535	7203	0.1350	0.0026	0.1666
6802	0.7739	0.0154	0.5505	7204	0.0000	0.0000	0.0000
6803	1.3385	0.0274	0.4338	7205	0.0000	0.0000	0.0000
6804	0.4405	0.0088	0.3136	7301	0.5946	0.0119	0.3970
6809	6.6659	0.1314	5.6394	7302	1.2396	0.0247	0.8614
6901	0.0000	0.0000	0.0715	7307	0.5697	0.0113	0.4225
6902	1.5510	0.0316	0.5937	7308	0.4624	0.0091	0.3893
6903	11.2069	0.2276	4.6804	7309	0.3321	0.0065	0.2948

**Base Rates Effective
January 1, (~~2013~~) 2014**

Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>7400</u>	<u>2.7191</u>	<u>0.0551</u>	<u>1.2646</u>

**Base Rates Effective
January 1, (~~2013~~) 2014**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund
((0540	0.0361	0.0008	0.0147	0.0007
0541	0.0188	0.0004	0.0065	0.0007
0550	0.0377	0.0008	0.0138	0.0007
0554	0.0236	0.0005	0.0075	0.0007))
<u>0540</u>	<u>0.0410</u>	<u>0.0008</u>	<u>0.0180</u>	<u>0.0007</u>
<u>0541</u>	<u>0.0198</u>	<u>0.0004</u>	<u>0.0078</u>	<u>0.0007</u>
<u>0550</u>	<u>0.0406</u>	<u>0.0008</u>	<u>0.0170</u>	<u>0.0007</u>
<u>0551</u>	<u>0.0232</u>	<u>0.0005</u>	<u>0.0086</u>	<u>0.0007</u>

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

AMENDATORY SECTION (Amending WSR 12-24-067, filed 12/4/12, effective 1/4/13)

WAC 296-17-89507 Horse racing rates. Horse racing industry industrial insurance accident fund, stay at work fund, medical aid fund, supplemental pension fund and composite rate by class.

Base Rates Effective January (~~(4, 2013)~~) 1, 2014

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund	Composite Rate
((6618*	80.000	2.0000	67.0000	1.0000	150.00
6625**	80.5000	1.8800	56.5900	0.1600	139.1300
6626***	0.6800	0.0200	0.6000	0.0100	1.3100
6627****	9.0200	0.2600	7.8200	0.0900	17.1900))
<u>6618*</u>	<u>80</u>	<u>2</u>	<u>67</u>	<u>1</u>	<u>150</u>
<u>6625**</u>	<u>78.26</u>	<u>1.72</u>	<u>63.86</u>	<u>0.16</u>	<u>144.00</u>
<u>6626***</u>	<u>0.7200</u>	<u>0.0123</u>	<u>0.6605</u>	<u>0.0072</u>	<u>1.40</u>
<u>6627****</u>	<u>9.4300</u>	<u>0.1840</u>	<u>8.6720</u>	<u>0.0940</u>	<u>18.38</u>

*This rate is calculated on a percentage of ownership in a horse or horses.

**This rate is calculated per month.

***This rate is calculated per horse per day.

****This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of (~~(46.4)~~) 45.5 mils (~~((\$0.0464))~~) (\$0.0455) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July, and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-229. All such moneys shall be deposited in the supplemental pension fund.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-89504 Horse racing industry industrial insurance, accident fund, medical aid fund, stay at work and supplemental pension by class.

NEW SECTION

WAC 296-17-940 Logger safety initiative. The logger safety initiative is a loss control initiative as authorized by WAC 296-17-900. The goal of the logger safety initiative is to reduce the frequency and severity of injuries in the logging industry. The department and industry participants, including private land owners, timber industry employers, and the department of natural resources, have formed a logger safety task force to develop and implement the logger safety initiative. The logger safety initiative will establish sector-wide

standards for worker training and supervision; establish a certification process for individual company safety programs; and review the progress of logging operations through mandatory performance-based audits. Logging employers with workers involved in manual logging who participate in the logger safety initiative may be eligible for a premium discount as determined by the department.

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17B-540 Determining loss incurred for each claim. (1) Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use ~~((two hundred eighty-five thousand))~~ two hundred seventy-eight thousand six hundred dollars as the claim's initial incurred loss for the claim, with ~~((two hundred fifty-seven thousand one hundred))~~ two hundred forty-nine thousand one hundred dollars for the accident fund incurred loss and ~~((twenty-seven thousand nine hundred))~~ twenty-nine thousand five hundred dollars for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

AMENDATORY SECTION (Amending WSR 12-24-048, filed 11/30/12, effective 1/1/13)

WAC 296-17B-900 Retrospective rating plans standard premium size ranges.

RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES

Effective January 1, ~~(2013)~~ 2014

Size Group Number	Standard Premium Range	
	From:	To:
(1)	5,690	6,649
2	6,650	7,529
3	7,530	8,469
4	8,470	9,489
5	9,490	10,579

Size Group Number	Standard Premium Range	
	From:	To:
6	10,580	11,739
7	11,740	12,979
8	12,980	14,299
9	14,300	15,699
10	15,700	17,169
11	17,170	18,749
12	18,750	20,419
13	20,420	22,189
14	22,190	24,069
15	24,070	26,049
16	26,050	28,159
17	28,160	30,379
18	30,380	32,739
19	32,740	35,229
20	35,230	37,869
21	37,870	40,679
22	40,680	43,669
23	43,670	46,829
24	46,830	50,199
25	50,200	53,769
26	53,770	57,569
27	57,570	61,619
28	61,620	65,929
29	65,930	70,519
30	70,520	75,419
31	75,420	80,669
32	80,670	86,289
33	86,290	92,309
34	92,310	98,769
35	98,770	105,699
36	105,700	113,199
37	113,200	121,399
38	121,400	129,999
39	130,000	139,499
40	139,500	149,599
41	149,600	160,499
42	160,500	172,199
43	172,200	184,799
44	184,800	198,599
45	198,600	213,399
46	213,400	229,499
47	229,500	247,099

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
48	247,100	- 266,299	16	27,010	- 29,199
49	266,300	- 287,399	17	29,200	- 31,499
50	287,400	- 310,399	18	31,500	- 33,949
51	310,400	- 335,899	19	33,950	- 36,529
52	335,900	- 364,299	20	36,530	- 39,269
53	364,300	- 395,899	21	39,270	- 42,189
54	395,900	- 431,099	22	42,190	- 45,289
55	431,100	- 470,799	23	45,290	- 48,559
56	470,800	- 515,899	24	48,560	- 52,059
57	515,900	- 566,899	25	52,060	- 55,759
58	566,900	- 625,699	26	55,760	- 59,699
59	625,700	- 693,499	27	59,700	- 63,899
60	693,500	- 772,599	28	63,900	- 68,369
61	772,600	- 865,699	29	68,370	- 73,129
62	865,700	- 976,799	30	73,130	- 78,209
63	976,800	- 1,110,999	31	78,210	- 83,659
64	1,111,000	- 1,275,999	32	83,660	- 89,479
65	1,276,000	- 1,481,999	33	89,480	- 95,729
66	1,482,000	- 1,748,999	34	95,730	- 102,399
67	1,749,000	- 2,100,999	35	102,400	- 109,599
68	2,101,000	- 2,591,999	36	109,600	- 117,399
69	2,592,000	- 3,315,999	37	117,400	- 125,899
70	3,316,000	- 4,510,999	38	125,900	- 134,799
71	4,511,000	- 6,759,999	39	134,800	- 144,699
72	6,760,000	- 12,369,999	40	144,700	- 155,099
73	12,370,000	- 31,659,999	41	155,100	- 166,399
74	31,660,000	- and over))	42	166,400	- 178,599
1	5,900	- 6,899	43	178,600	- 191,599
2	6,900	- 7,809	44	191,600	- 205,999
3	7,810	- 8,779	45	206,000	- 221,299
4	8,780	- 9,839	46	221,300	- 237,999
5	9,840	- 10,969	47	238,000	- 256,199
6	10,970	- 12,169	48	256,200	- 276,199
7	12,170	- 13,459	49	276,200	- 297,999
8	13,460	- 14,829	50	298,000	- 321,899
9	14,830	- 16,279	51	321,900	- 348,299
10	16,280	- 17,809	52	348,300	- 377,799
11	17,810	- 19,439	53	377,800	- 410,599
12	19,440	- 21,179	54	410,600	- 447,099
13	21,180	- 23,009	55	447,100	- 488,199
14	23,010	- 24,959	56	488,200	- 534,999
15	24,960	- 27,009	57	535,000	- 587,899

Size Group Number	Standard Premium Range	
	From:	To:
<u>58</u>	<u>587,900</u>	<u>648,899</u>
<u>59</u>	<u>648,900</u>	<u>719,199</u>
<u>60</u>	<u>719,200</u>	<u>801,199</u>
<u>61</u>	<u>801,200</u>	<u>897,699</u>
<u>62</u>	<u>897,700</u>	<u>1,012,999</u>
<u>63</u>	<u>1,013,000</u>	<u>1,151,999</u>
<u>64</u>	<u>1,152,000</u>	<u>1,322,999</u>
<u>65</u>	<u>1,323,000</u>	<u>1,536,999</u>
<u>66</u>	<u>1,537,000</u>	<u>1,813,999</u>
<u>67</u>	<u>1,814,000</u>	<u>2,178,999</u>
<u>68</u>	<u>2,179,000</u>	<u>2,687,999</u>
<u>69</u>	<u>2,688,000</u>	<u>3,438,999</u>
<u>70</u>	<u>3,439,000</u>	<u>4,677,999</u>
<u>71</u>	<u>4,678,000</u>	<u>7,009,999</u>
<u>72</u>	<u>7,010,000</u>	<u>12,829,999</u>
<u>73</u>	<u>12,830,000</u>	<u>32,829,999</u>
<u>74</u>	<u>32,830,000</u>	<u>and over</u>

A final cost-benefit analysis is available by contacting Joanne T. McCaughan, P.O. Box 41449, Olympia, WA 98504, phone (360) 407-9279, fax (360) 586-5366, e-mail joanne.mccaughan@des.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 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 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-0605 Electrical equipment, wiring and hazards.

605.11 Solar photovoltaic power systems. (~~This section is not adopted.~~) Installation, modification, or alteration of solar photovoltaic power systems shall comply with this section. Due to the emerging technologies in the solar photovoltaic industry, it is understood fire code officials may need to amend prescriptive requirements of this section to meet the requirements for firefighter access and product installations. Section 104.9 **Alternative materials and methods** of this code shall be considered when approving the installation of solar photovoltaic power systems. Solar photovoltaic power systems shall be installed in accordance with Sections 605.11.1 through 605.11.4, the *International Building Code* and *NFPA 70*.

EXCEPTION: Detached, nonhabitable Group U structures shall not be subject to the requirements of Sections 605.11.2 through 605.11.3.3.3.

605.11.1.2 Marking content. The marking shall contain the words "PHOTOVOLTAIC POWER SOURCE."

605.11.2 Locations of DC conductors. Conduit, wiring systems, and raceways for photovoltaic circuits shall be located as close as possible to the ridge or hip or valley and from the hip or valley as directly as possible to an outside wall to reduce trip hazards and maximize ventilation opportunities. Conduit runs between sub arrays and to DC combiner boxes shall be installed in a manner that minimizes the total amount of conduit on the roof by taking the shortest path from the array to the DC combiner box. The DC combiner boxes shall be located such that conduit runs are minimized in the pathways between arrays. DC wiring shall be installed in metallic

WSR 13-24-076

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed December 2, 2013, 11:24 a.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: Adopts changes to the Washington State Fire Code, chapter 51-54A WAC, Section 605.11. Solar photovoltaic power systems. Previously, this section of the 2012 ICC Fire Code was not adopted by Washington state. This section is amended to specify regulations related to the installation, marking and location of solar photovoltaic power systems.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54A-0605.

Statutory Authority for Adoption: Chapter 19.27A RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 13-15-164 on July 23, 2013.

Changes Other than Editing from Proposed to Adopted Version: Only amended sections of the code are filed herein as state amendments; all other portions of Section 605.11 remain as published in the 2012 ICC International Fire Code.

Section 605.11.3 Access and pathways, is clarified to include both exceptions; one had been left out due to a filing error. Section 605.11.3.2 Residential systems for one- and two-family dwellings, was amended to modify exception #5. This exception now applies to roofs where the solar array does not exceed thirty-three percent of the roof as measured in plan view, where the solar array is limited to one thousand square feet or less, and where there is an unobstructed pathway maintained along each side of any horizontal ridge.

conduit or raceways when located within enclosed spaces in a building.

605.11.3 Access and pathways. Roof access, pathways, and spacing requirements shall be provided in accordance with Sections 605.11.3.1 through 605.11.3.3.3.

EXCEPTIONS: 1. Residential structures shall be designed so that each photovoltaic array is no greater than 150 feet (45.720 mm) by 150 feet (45.720 mm) in either axis.
2. Panels/modules shall be located up to the roof ridge where an alternative ventilation method approved by the fire code official has determined vertical ventilation techniques will not be employed.

605.11.3.2 Residential systems for one- and two-family dwellings. Access to residential systems for one- and two-family dwellings shall be provided in accordance with Sections 605.11.3.2.1 through 605.11.3.2.4.

EXCEPTIONS: 1. Residential dwellings with an approved automatic fire sprinkler system installed.
2. Residential dwellings with approved mechanical or passive ventilation systems.
3. Where the fire code official determines that the slope of the roof is too steep for emergency access.
4. Where the fire code official determines that vertical ventilation tactics will not be utilized.
5. These requirements shall not apply to roofs where the total combined area of the solar array does not exceed thirty-three percent as measured in plan view of the total roof area of the structure, where the solar array will measure 1,000 sq. ft. or less in area, and where a minimum eighteen inches unobstructed pathway shall be maintained along each side of any horizontal ridge.

605.11.3.2.3 Residential buildings with roof hips and valleys. Panels/modules installed on residential buildings with roof hips and valleys shall be located no closer than 18 inches (457 mm) to a hip or a valley where panels/modules are to be placed on both sides of a hip or valley. Where panels are to be located on only one side of a hip or valley, the panels shall be permitted to be placed directly adjacent to the hip or valley.

EXCEPTION: These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

605.11.3.2.4 Residential building smoke ventilation. Panels/modules installed on residential buildings shall be located no higher than 18 inches (457 mm) below the ridge in order to allow for fire department rooftop operations.

605.11.4 Ground-mounted photovoltaic arrays. Ground-mounted photovoltaic arrays shall comply with Sections 605.11 through 605.11.2 and this section. Setback requirements shall not apply to ground-mounted, free-standing photovoltaic arrays.

WSR 13-24-092

PERMANENT RULES

TRANSPORTATION IMPROVEMENT BOARD

[Filed December 3, 2013, 11:07 a.m., effective January 3, 2014]

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

Purpose: General housekeeping to provide consistency and maintain accuracy.

Citation of Existing Rules Affected by this Order: Amending WAC 479-14-421.

Statutory Authority for Adoption: Chapter 47.26 RCW.

Adopted under notice filed as WSR 13-20-106 on October 1, 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 0, Repealed 0.

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

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

Date Adopted: December 3, 2013.

Stevan Gorcester
Executive Director

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

WAC 479-14-421 What projects are eligible for sidewalk program funding. Minimum project requirements for each subprogram are as follows:

(1) Urban sidewalk program project eligibility:

(a) Must be on or related to a functionally classified route; and

(b) Primary purpose of the project is transportation and not recreation.

(2) Small city sidewalk program project eligibility:

(a) The project must be located on or related to a street within the TIB designated arterial system; and

(b) Primary purpose of the project is transportation and not recreation.

For both of the subprograms, TIB does not participate in the cost for right of way acquisitions.

((For the urban sidewalk program, TIB does not provide funding increases.))

WSR 13-24-097

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed December 3, 2013, 12:30 p.m., effective February 1, 2014]

Effective Date of Rule: February 1, 2014.

Purpose: WAC 246-809-990, 246-824-990 and 246-840-990, rules were amended to add retired active license fees for specified licensed mental health professions, dispensing opticians, registered nurses and licensed practical nurses (LPNs); add a \$16 annual fee for LPNs to access the University of

Washington online health resources library (HEAL-WA); reduce initial and renewal license fees for LPNs; and remove obsolete wording in WAC 246-824-990.

Citation of Existing Rules Affected by this Order: Amending WAC 246-809-990, 246-824-990, and 246-840-990.

Statutory Authority for Adoption: For WAC 246-809-990 is RCW 18.130.250, 18.225.170; for WAC 246-824-990 is RCW 18.130.250; and for WAC 246-840-990 is chapter 4, Laws of 2013 2nd sp. sess., section 219, chapter 249, Laws of 2013, and RCW 18.130.250.

Other Authority: For WAC 246-809-990 and 246-824-990 is RCW 43.70.110 and 43.70.250; and for WAC 246-840-990 is RCW 43.70.250.

Adopted under notice filed as WSR 13-19-082 on September 17, 2013.

Changes Other than Editing from Proposed to Adopted Version: In WAC 246-809-990, retired active fees for advanced social worker associates and independent clinical social worker associates were removed; they were not included in SSB 6328. Without changing the effect of the rules, fee categories in WAC 246-809-990 and 246-824-990 were reordered, and WAC 246-840-990(1) was revised to clarify when LPN HEAL-WA fees are due.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

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

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

Date Adopted: November 27, 2013.

John Wiesman, DrPH, MPH
Secretary

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

WAC 246-809-990 Licensed counselor, and associate—Fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) Associate licenses are valid for one year and must be renewed every year on the date of issuance. The associate license may be renewed no more than four times.

Title	Fee
(3) The following nonrefundable fees will be charged for licensed marriage and family therapist:	
Application	\$150.00

Title	Fee
Initial license	75.00
Renewal	140.00
<u>Renewal retired active</u>	<u>70.00</u>
Late renewal penalty	70.00
<u>Late renewal retired active</u>	<u>35.00</u>
Expired license reissuance	85.00
Duplicate license	10.00
Certification of license	10.00
UW online access fee (HEAL-WA)	16.00
(4) The following nonrefundable fees will be charged for licensed mental health counselor:	
Application	140.00
Initial license	125.00
Renewal	138.00
<u>Renewal retired active</u>	<u>70.00</u>
Late renewal penalty	60.00
<u>Late renewal retired active</u>	<u>35.00</u>
Expired license reissuance	65.00
Duplicate license	10.00
Certification of license	10.00
UW online access fee (HEAL-WA)	16.00
(5) The following nonrefundable fees will be charged for licensed advanced social worker and licensed independent clinical social worker:	
Application	125.00
Initial license	125.00
Renewal	126.00
<u>Renewal retired active</u>	<u>65.00</u>
Late renewal penalty	63.00
<u>Late renewal retired active</u>	<u>30.00</u>
Expired license reissuance	72.50
Duplicate license	10.00
Certification of license	10.00
UW online access fee (HEAL-WA)	16.00
(6) The following nonrefundable fees will be charged for licensed marriage and family therapy associates:	
Application	50.00
Renewal	40.00
Late renewal penalty	40.00
Expired license reissuance	40.00
Duplicate license	15.00
Certification of license	15.00

Title	Fee
(7) The following nonrefundable fees will be charged for licensed mental health counselor associates:	
Application	50.00
Renewal	40.00
Late renewal penalty	40.00
Expired license reissuance	40.00
Duplicate license	15.00
Certification of license	15.00
(8) The following nonrefundable fees will be charged for licensed advanced social worker associates and licensed independent clinical social worker associates:	
Application	50.00
Renewal	40.00
Late renewal penalty	40.00
Expired license reissuance	40.00
Duplicate license	15.00
Certification of license	15.00

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-824-990 Dispensing optician fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Optician:	
Full examination (or reexamination)	\$200.00
Reexamination—Practical only	50.00
Reexamination—Written (basic) only	25.00
Reexamination—Written (contact lens) only	25.00
Renewal	125.00
<u>Renewal retired active</u>	<u>50.00</u>
Late renewal penalty	75.00
<u>Late renewal retired active</u>	<u>25.00</u>
Expired license reissuance	62.50

Title of Fee	Fee
Duplicate license	15.00
Certification of license	15.00
Apprentice registration	75.00
Endorsement application	100.00
Inactive license	35.00

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

WAC 246-840-990 Fees and renewal cycle. (1) Applicants for a practical nurse license must pay the application fee, the LPN UW online access fee (HEAL-WA)*, and the nursing center surcharge fee when applying for a license. Licenses for practical nurse must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. Practical nurses must pay the renewal fee, the HEAL-WA fee, and the nursing center surcharge fee when renewing licenses.

(2) Applicants for a registered nurse license must pay the application fee, the RN UW online access fee (HEAL-WA), and the nursing center surcharge fee when applying for a license. Licenses for registered nurse must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. Registered nurses must pay the renewal fee, the HEAL-WA fee, and the nursing center surcharge fee when renewing licenses.

(3) Licenses for advanced registered nurse must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(4) Registrations for nursing technicians must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The renewal must be accompanied by an attestation as described in RCW 18.79.370. This attestation will include the nursing technician's anticipated graduation date. If the anticipated graduation date is within one year, the registration will expire thirty days after the anticipated graduation date. The expiration date may be extended to sixty days after graduation if the nursing technician can show good cause as defined in WAC 246-840-010(15).

(5) The following nonrefundable fees shall be charged by the health professions quality assurance division of the department of health. Persons who hold an RN and an LPN license shall be charged separate fees for each license. Persons who are licensed as an advanced registered nurse practitioner in more than one specialty will be charged a fee for each specialty:

RN/LPN fees:	Title of Fee	Fee
	RN application (initial or endorsement)	\$67.00
	LPN application (initial or endorsement)	((87.00))
		<u>67.00</u>
	RN license renewal	76.00
	<u>RN renewal retired active</u>	<u>45.00</u>

Title of Fee	Fee
<u>RN late renewal retired active</u>	23.00
LPN license renewal	((91.00)) 75.00
<u>LPN renewal retired active</u>	45.00
<u>LPN late renewal retired active</u>	23.00
<u>LPN HEAL-WA* surcharge - Initial license and renewal</u>	16.00
Late renewal penalty	50.00
Expired license reissuance	70.00
Inactive renewal	40.00
Expired inactive license reissuance	40.00
Inactive late renewal penalty	30.00
Duplicate license	20.00
Verification of licensure/education (written)	25.00
Nursing center surcharge	5.00
<u>RN ((UW online access fee (-))HEAL-WA((+)))* surcharge - Initial license and renewal</u>	16.00

Advanced registered nurse fees:

Title of Fee	Fee
ARNP application with or without prescriptive authority (per specialty)	\$92.00
ARNP renewal with or without prescriptive authority (per specialty)	96.00
ARNP late renewal penalty (per specialty)	50.00
ARNP duplicate license (per specialty)	20.00
ARNP written verification of license (per specialty)	25.00

Nurse technologist fees:

Title of Fee	Fee
Application fee registration	\$92.00
Renewal of registration	91.00
Duplicate registration	15.00
Registration late renewal penalty	50.00

* HEAL-WA is the University of Washington health sciences online library.
(See RCW 43.70.110.)

WSR 13-24-099
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 3, 2013, 12:48 p.m., effective January 6, 2014]

Effective Date of Rule: January 6, 2014.

Purpose: This rule making updated a broken web link to the Manual on Uniform Traffic Control Devices (MUTCD) that is hosted on the Washington state department of transportation's (WSDOT) web site.

WAC 296-155-305 Signaling and flaggers.

- Updated two broken HTML links for MUTCD. Rule users will be directed to the WSDOT's web site and instructed to search for MUTCD to avoid a broken link in the future. The language now reads, "For the current version of the MUTCD, see the department of transportation's web site at <http://www.wsdot.wa.gov/> and type MUTCD into the search box."

This rule making fixed a broken link that did not get rule users to the intended location.

Citation of Existing Rules Affected by this Order: Amending chapter 296-155 WAC, Safety standards for construction.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Other Authority: 29 C.F.R. 1926.201.

Adopted under notice filed as WSR 13-18-064 on September 3, 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 1, 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: December 3, 2013.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-155-305 Signaling and flaggers.

Definition:

Flagger means a person who provides temporary traffic control.

For the purposes of this chapter, *MUTCD* means the Federal Highway Administration's Manual on Uniform Traffic Control as currently modified and adopted by the Washington state department of transportation.

Link: For the current version of the MUTCD, see the department of transportation's web site at [http://www.wsdot.wa.gov/\(\(biz/trafficoperations/muted.htm\)\)](http://www.wsdot.wa.gov/((biz/trafficoperations/muted.htm))) and type MUTCD into the search box.

(1) General requirements for signaling and flaggers.

(a) Employers must first apply the requirements in this section. Then you must set up and use temporary traffic controls according to the guidelines and recommendations in Part VI of the MUTCD.

(b) Job site workers with specific traffic control responsibilities must be trained in traffic control techniques, device usage, and placement.

Note:

- You may purchase copies of the MUTCD by writing:

U.S. Government Printing Office
Superintendent of Documents
Mail Stop: SSOP,
Washington D.C. 20402-9328

• ((You may)) To view and print a copy of the MUTCD ((at the following web site)) go to <http://www.wsdot.wa.gov/biz/trafficoperations/muted.htm> and type MUTCD into the search box.

(2) When to use flaggers.

(a) Flaggers are to be used only when other reasonable traffic control methods will not adequately control traffic in the work zone.

(b) If signs, signals, and barricades do not provide necessary protection from traffic at work zones and construction sites on or adjacent to a highway or street, then you must use flaggers or other appropriate traffic controls.

(3) Flagger signaling.

(a) Flagger signaling must be with sign paddles approved by WSDOT and conform to guidelines and recommendations of MUTCD.

(b) Sign paddles must comply with the requirements of the MUTCD.

(c) When flagging is done during periods of darkness, sign paddles must be retroreflective or illuminated in the same manner as signs.

(d) During emergency situations, red flags, meeting the specifications of the MUTCD, may be used to draw a driver's attention to particularly hazardous conditions. In non-emergency situations, a red flag may be held in a flagger's free hand to supplement the use of a sign paddle.

(4) Adequate warning of approaching vehicles. Employers must:

- Position work zone flaggers so they are not exposed to traffic or equipment approaching them from behind.
 - If this is not possible, then the employer, responsible contractor, and/or project owner must develop and use a method to ensure that flaggers have adequate visual warning of traffic and equipment approaching from behind.

Note: • The following are some optional examples of methods that may be used to adequately warn or protect flaggers:

- Mount a mirror on the flagger's hard hat.
- Use an observer.
- Use "jersey" barriers.

• The department recognizes the importance of adequately trained flaggers and supports industry efforts to improve the quality of flagger training. However, training alone is not sufficient to comply with the statutory requirement of revising flagger safety standards to improve options

available that ensure flagger safety and that flaggers have adequate visual warning of objects approaching from behind them.

(5) High-visibility garments for flaggers.

(a) While flagging during daylight hours, a flagger must at least wear, as an outer garment:

- A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999, American National Standard for High-Visibility Safety Apparel.
 - Consisting of at least 775 square inches of background material that are fluorescent yellow-green, fluorescent orange-red or fluorescent red in color;

AND

– 201 square inches of retroreflective material that encircles the torso and is placed to provide 360 degrees visibility around the flagger.

- A high visibility hard hat that is white, yellow, yellow-green, orange or red in color.

Note: A high-visibility garment meets Class 2 specifications if the garment:

- Meets the requirements above;

OR

- Has an ANSI "Class 2" label.

Definition:

For the purpose of this rule, **hours of darkness** means one-half hour before sunset to one-half hour after sunrise.

(b) While flagging during hours of darkness, a flagger must at least wear, as an outer garment:

- A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999.
 - Consisting of at least 775 square inches of background material that are fluorescent yellow-green, fluorescent orange-red or fluorescent red in color;

AND

– 201 square inches of retroreflective material that encircles the torso and is placed to provide 360 degrees visibility around the flagger.

- White coveralls, or other coveralls or trousers that have retroreflective banding on the legs designed according to ANSI/ISEA 107-1999 standards.

• When snow or fog limit visibility, pants, coveralls, or rain gear, meeting these additional requirements must be worn:

- In a highly visible color;
- With retroreflective banding on the legs;
- Designed according to ANSI/ISEA 107-1999.
- A high-visibility hard hat:

– Marked with at least 12 square inches of retroreflective material applied to provide 360 degrees of visibility.

Note: ANSI/ISEA 107-1999 is available by:

- Purchasing copies of ANSI/ISEA 107-1999 by writing:

– American National Standards Institute
11 West 42nd Street
New York, NY 10036

OR

– Contacting the ANSI web site at <http://web.ansi.org/>.

OR

- Reading a copy of ANSI/ISEA 107-1999 at any Washington state library.

(6) Flagger training. Employers must make sure that:

(a) Each flagger has in their possession:

- A valid Washington traffic control flagger card; or
- A valid flagger card from a state such as:
 - Oregon;
 - Idaho;
 - Montana;

OR

– Other states having a flagger training reciprocity agreement with Washington.

(b) The flagger card shows the following:

- Verification that the flagger training required is completed;
- Date the flagger received their flagger training;
- Name of the instructor providing the flagger training;
- Name of the state that issued the flagger card;
- The card's expiration date, not to exceed three years from the date of issuance;

AND

- The flagger's picture or a statement that says "valid with photo ID."

(c) Flagger training is based upon the MUTCD.

Exemption: Personnel that have not completed a flagger-training course may be assigned duties as flaggers only during emergencies. Emergency assignments are temporary and last only until a certified flagger can be put into the position.

Definition:

For the purpose of this rule, **emergency** means an unforeseen occurrence endangering life, limb, or property.

(7) Flagger orientation and traffic control plan.

(a) The employer, responsible contractor or project owner must conduct an orientation that familiarizes the flagger with the job site. This requirement applies each time the flagger is assigned to a new project or when job site conditions change significantly.

The orientation must include, but is not limited to:

- The flagger's role and location on the job site;
- Motor vehicle and equipment in operation at the site;

- Job site traffic patterns;
- Communications and signals to be used between flaggers and equipment operators;
- On-foot escape route;

AND

- Other hazards specific to the job site.

(b) If flaggers are used on a job that will last more than one day, then the employer, responsible contractor and/or project owner must keep on-site, a current site specific traffic control plan. The purpose of this plan is to help move traffic through or around the construction zone in a way that protects the safety of the traveling public, pedestrians and workers.

The plan must include, but is not limited to, the following items when they are appropriate:

- Sign use and placement;
- Application and removal of pavement markings;
- Construction;
- Scheduling;
- Methods and devices for delineation and channelization;
- Placement and maintenance of devices;
- Placement of flaggers;
- Roadway lighting;
- Traffic regulations;

AND

- Surveillance and inspection.

(8) Advance warning signs.

(a) Employers must provide the following on all flagging operations:

- A three sign advance warning sequence on all roadways with a speed limit below 45 mph.
- A four sign advance warning sequence on all roadways with a 45 mph or higher speed limit.

(b) Warning signs must reflect the actual condition of the work zone. When not in use, warning signs must either be taken down or covered.

(c) Employers must make sure to follow Table 1 for spacing of advance warning sign placement.

Table 1. Advanced Warning Sign Spacing

Road Type	Speed	Distances Between Advance Warning Signs*			
		A**	B**	C**	D**
Freeways & Expressways	70 55	1,500 ft.+/- or per the MUTCD.	1,500 ft.+/- or per the MUTCD.	1,500 ft.+/- or per the MUTCD.	1,500 ft.+/- or per the MUTCD.
Rural Highways	65 60	800 ft.+/-	800 ft.+/-	800 ft.+/-	800 ft.+/-
Rural Roads	55 45	500 ft.+/-	500 ft.+/-	500 ft.+/-	500 ft.+/-
Rural Roads and Urban Arterials	40 35	350 ft.+/-	350 ft.+/-	350 ft.+/-	N/A
Rural Roads, Urban Streets, Residential Business Districts	30 25	200 ft.***	200 ft.***	200 ft.***	N/A

Road Type	Speed	Distances Between Advance Warning Signs*			
		A**	B**	C**	D**
Urban Streets	25 or less	100 ft.***	100 ft.***	100 ft.***	N/A

* All spacing may be adjusted to accommodate interchange ramps, at-grade intersections, and driveways.

** This refers to the distance between advance warning signs. See Figure 1, Typical Lane Closure on Two-Lane Road. This situation is typical for roadways with speed limits less than 45 mph.

*** This spacing may be reduced in urban areas to fit roadway conditions.

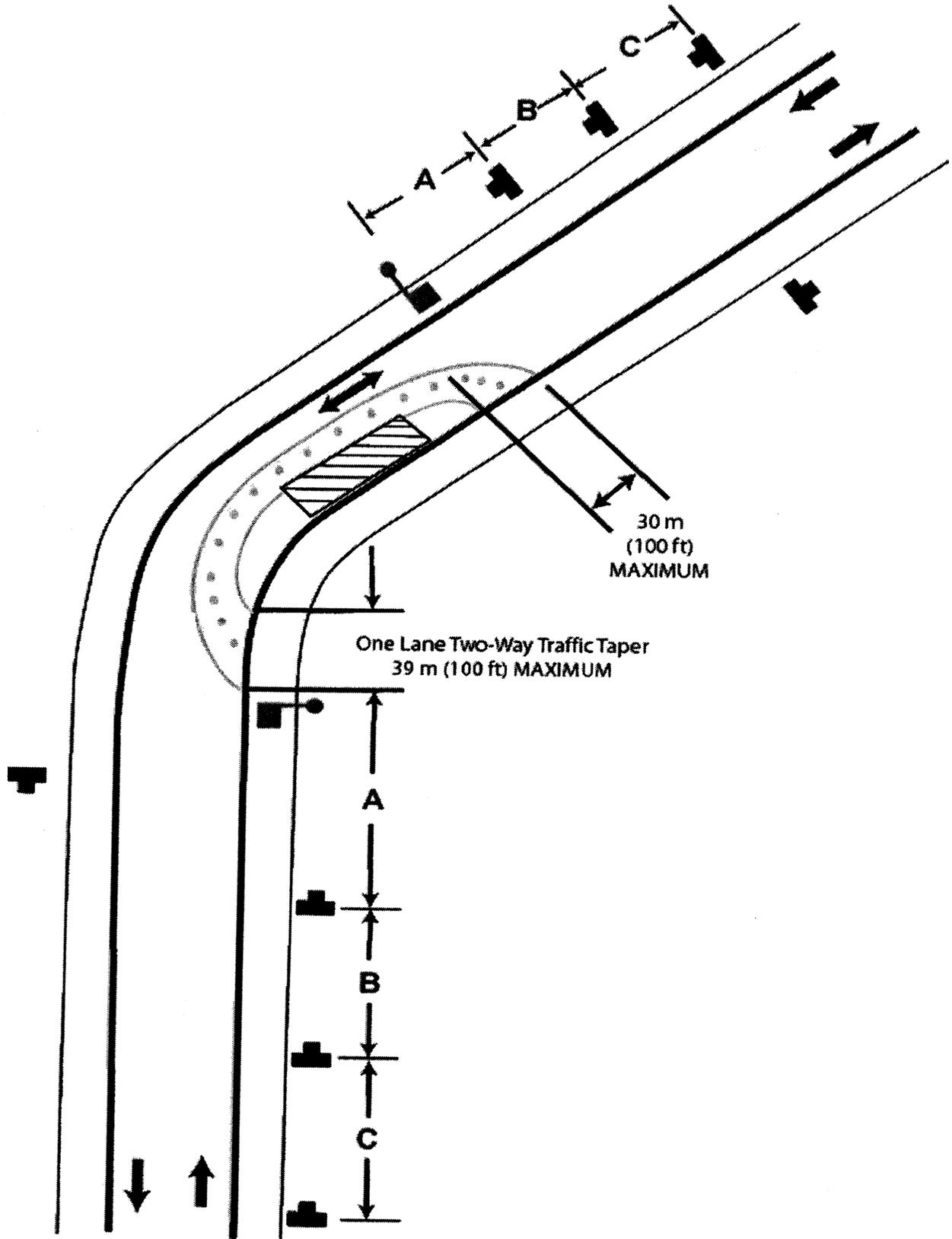
Exemption: In a mobile flagging operation, as defined by the MUTCD when the flagger is moving with the operation, the "flagger ahead (symbol or text)" sign must be:

- Within 1,500 feet of the flagger;

AND

- The flagger station must be seen from the sign.

If terrain does not allow a motorist to see the flagger from the "flagger ahead" sign, the distance between the flagger and the sign must be shortened to allow visual contact, but in no case can the distance be less than the distance specified in Table 1, Advanced Warning Sign Spacing.



(9) Providing a safe job site for flaggers. Employers, responsible contractors and/or project owners must make sure that:

(a) Flagger stations are located far enough in advance of the work space so that the approaching road users will have sufficient distance to stop before entering the work space. Follow Table 2 for the distance of the flagger workstation in advance of the work space.

Table 2. Distance of Flagger Station in Advance of the Work Space

Speed* (mph)	Distance (ft)**
20	35
25	55
30	85
35	120
40	170
45	220
50	280
55	335
60	415
65	485

* Posted speed, off-peak 85th-percentile speed prior to work starting or the anticipated operating speed.
 ** This spacing may be reduced to fit roadway and worksite conditions. Distances greater than those listed in the table are acceptable.

(b) Flaggers stand either on the shoulder adjacent to the road user being controlled or in the closed lane prior to stopping road users. A flagger must only stand in the lane being used by moving road users after road users have stopped.

Definition:

Road user means a vehicle operator, bicyclist, or pedestrian within a public roadway, including workers in temporary traffic control zones.

(c) Flagger workstations are illuminated during hours of darkness by floodlights that do not create glare that poses a hazard for drivers.

Note: To identify potential glare, observe the lighted area from various directions and angles on the main roadway after initial floodlight setup.

Exemption: Emergency situations are exempt from these illumination requirements. For the purpose of this rule, *emergency* means an unforeseen occurrence endangering life, limb, or property.

(d) Flaggers are not assigned other duties while engaged in flagging activities.

(e) Flaggers do not use devices that may distract the flagger's vision, hearing, or attention.

- Examples of these devices include cell phones, pagers, radios, and headphones.
- Devices such as two-way radios used for communications between flaggers to direct traffic or ensure flagger safety are acceptable.

(f) Flaggers receive a rest period of at least ten minutes, on the employer's time, for each four hours of working time.

- Rest periods must be scheduled as near as possible to the midpoint of the work period.
- A flagger must not be allowed to work more than three hours without a rest period.

Exemption: Scheduled rest periods are not required where the nature of the work allows a flagger to take intermittent rest periods equivalent to ten minutes for each four hours worked.

**WSR 13-24-108
 PERMANENT RULES**

EMPLOYMENT SECURITY DEPARTMENT

[Filed December 3, 2013, 2:43 p.m., effective January 3, 2014]

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

Purpose: The rules implement statutory changes providing that employers are not eligible for relief of benefit charges to their unemployment insurance account if the employer or employer's agent has established a pattern of failing to respond timely or adequately to a written request for information from the department.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 13-20-124 on October 1, 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) 902-9011, 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 4, 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 4, Amended 0, Repealed 0.

Date Adopted: December 3, 2013.

Nan Thomas
 Deputy Commissioner

NEW SECTION

WAC 192-320-081 What constitutes an "event" for the purpose of determining if there is a pattern of failing to respond timely or adequately?—RCW 50.29.021(6). (1) An event occurs if a benefit overpayment is created and the employer or the employer's agent significantly contributed to

the overpayment by failing to respond timely or adequately without good cause to the department's written request for information relating to a claim.

(2) When deciding if an event has occurred, there must be a decision made by the department resulting in a benefit overpayment.

(3) An event may occur even if the employer is not in the base year of the claim.

(4) The department must examine past events which contributed to benefit overpayments when deciding if a pattern exists.

NEW SECTION

WAC 192-320-082 How will the department determine good cause exists for failing to respond timely or adequately?—RCW 50.29.021(6). (1) The department may find that good cause exists in certain situations when the employer fails to respond due to an unforeseen event outside of the employer's or employer's agent's control, such as:

(a) The death or serious illness of the employer;

(b) Destruction of the employer's place of business or business records not caused by, or at the direction of, the employer or the employer's agent;

(c) Fraud or theft against the employer.

(2) The employer is responsible to provide all pertinent facts and evidence or documentation for the department to determine good cause.

NEW SECTION

WAC 192-320-083 What is a written request for information?—RCW 50.29.021(6). For the purposes of this chapter, a written request for information relating to a claim is a paper or electronic transmission by the department requesting information from an employer or an employer's agent.

NEW SECTION

WAC 192-320-084 What is an employer's agent?—RCW 50.29.021(6). For the purposes of this chapter, the employer's agent is the employer's designated representative responsible for providing information to the department.

WSR 13-24-111

PERMANENT RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2013-16—Filed December 4, 2013, 7:40 a.m., effective January 4, 2014]

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

Purpose: This new rule implements RCW 48.83.090 and 48.83.170 enacted during the 2013 legislative session.

Statutory Authority for Adoption: RCW 48.02.060 and 48.83.170(3).

Adopted under notice filed as WSR 13-19-088 on September 18, 2013.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-83-325 (3), (4), and (5) "business" was added.

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 0, Amended 0, Repealed 0.

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

Date Adopted: December 4, 2013.

December 4, 2013

Mike Kreidler

Insurance Commissioner

NEW SECTION

WAC 284-83-325 Prompt payment of clean claims.

(1) The purpose of this section is to effectuate RCW 48.83.090 and 48.83.170 by establishing prompt payment requirements for long-term care insurance.

(2) For purposes of this section, the following definitions apply:

(a) "Claim" means a request for payment of benefits under an in-force policy, regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met.

(b) "Clean claim" means a claim that has no defect or impropriety, including any lack of required substantiating documentation, such as satisfactory evidence of expenses incurred, or particular circumstance requiring special treatment that prevents timely payment from being made on the claim.

(3) Within thirty business days after receipt of a claim for benefits under a long-term care insurance policy or certificate, an insurer must pay such a claim if it is a clean claim, or send a written notice acknowledging the date of receipt of the claim and one of the following:

(a) The insurer is declining to pay all or part of the claim and the specific reason(s) for the denial; or

(b) That additional information is necessary to determine if all or any part of the claim is payable and the specific additional information that is necessary.

(4) Within thirty business days after receipt of all the requested additional information, an insurer must pay a claim for benefits under a long-term care insurance policy or certificate if it is a clean claim, or send a written notice that the insurer is declining to pay all or part of the claim, and the specific reason or reasons for denial.

(5) If an insurer fails to comply with subsection (3) or (4) of this section, such insurer must pay interest at the rate of

one percent per month on the amount of the claim that should have been paid but that remains unpaid for forty-five business days after the receipt of the claim with respect to subsection (3) of this section or all requested additional information with respect to subsection (4) of this section. The interest payable pursuant to this subsection must be included in any late reimbursement without requiring the person who filed the original claim to make any additional claim for such interest.

(6) The provisions of this section do not apply where the insurer has a reasonable basis supported by specific information that such claim was fraudulently submitted.

WSR 13-24-118

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed December 4, 2013, 9:32 a.m., effective January 4, 2014]

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

Purpose: Amending chapter 172-06 WAC, Organization and operation, this revision is needed to update university contact information and better reflect current practices.

Citation of Existing Rules Affected by this Order: Amending WAC 172-06-010.

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

Adopted under notice filed as WSR 13-19-094 on September 18, 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 1, Repealed 0.

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

Date Adopted: December 3, 2013.

Trent Lutey
University Policy Administrator

AMENDATORY SECTION (Amending WSR 92-09-099, filed 4/20/92, effective 5/21/92)

WAC 172-06-010 Organization and operation. (1) Organization. Eastern Washington University is established in Title 28B RCW as a public institution of higher education. The institution is governed by a board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) Operation. The administrative office is located at 214 Showalter Hall, (~~Mailstop 130;~~) Cheney, WA 99004-2496. The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except state legal holidays. Educational operations are also located at the (~~EWU Spokane Center, West 705 First, MS-1, Spokane, WA 99204~~) Riverpoint Campus, 668 N. Riverpoint Blvd., Spokane, WA 99202-1677.

(3) Information. Additional and detailed information concerning the university's educational offerings (~~may be obtained from the general or graduate catalogues, copies of which are available for in-house viewing in the EWU Admissions Office, Cheney, WA; or from the EWU Bookstore, Cheney, WA 99004-2496~~) is available through the university's web site at www.ewu.edu.

WSR 13-24-119

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed December 4, 2013, 9:35 a.m., effective January 4, 2014]

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

Purpose: Repealing chapter 172-116 WAC, Traffic and parking regulations, and adopting chapter 172-100 WAC, Traffic and parking rules, to revise rules related to traffic and parking on the campus of Eastern Washington University. These rules constitute a significant revision that is more easily implemented by repealing the existing chapter and adopting a new chapter. These rule changes are needed to better facilitate campus safety and access for pedestrians and vehicular traffic and to more accurately reflect current organizational operations and practices.

Citation of Existing Rules Affected by this Order: Repealing chapter 172-116 WAC.

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

Adopted under notice filed as WSR 13-19-093 on September 18, 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 15, Amended 0, Repealed 34.

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 15, Amended 0, Repealed 34; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 3, 2013.

Trent Lutey
University Policy Administrator

Chapter 172-100 WAC
TRAFFIC AND PARKING RULES

NEW SECTION

WAC 172-100-010 Purpose. These rules govern pedestrian, bicycle, and motor vehicle traffic and parking at Eastern Washington University (EWU). The purpose of these rules is to facilitate campus safety and access. Specifically, these rules are intended to:

- (1) Control parking on campus and in off-campus parking lots that are owned or leased by the university;
- (2) Assure access at all times for emergency equipment;
- (3) Expedite EWU business, protect state property, and provide maximum safety and convenience;
- (4) Provide funds to obtain and maintain suitable campus parking and traffic facilities;
- (5) Regulate motor vehicles and minimize traffic disturbances on campus; and
- (6) Protect pedestrians and bicyclists.

NEW SECTION

WAC 172-100-020 Applicability. (1) All rules in this chapter and all motor vehicle and traffic laws of the state of Washington apply on campus.

- (2) The traffic code of the city of Cheney applies on city streets located on campus.
- (3) The traffic and parking rules are effective at all times.
- (4) It is the responsibility of all individuals who operate bicycles or motor vehicles on campus to read and fully understand these rules. A lack of knowledge of these rules will not constitute a defense for violation of these rules nor will it limit a violator's responsibility for any citations.

NEW SECTION

WAC 172-100-030 Liability of university. The university assumes no liability for bicycles or motor vehicles or their contents when such bicycles or motor vehicles are on campus. The university offers parking permits to those desiring to park on campus. A parking permit licenses the holder (licensee) to park one motor vehicle in the lot designated on the permit. The university is not responsible for fire, theft, damage, or loss of vehicle or any article left in such vehicle. A parking permit is a license to park and no bailment is created.

NEW SECTION

WAC 172-100-040 Authorities. (1) The board of trustees of EWU is granted statutory authority under RCW 28B.10.560 to establish rules to govern pedestrian and vehicular traffic and parking on the campus of the university.

(2) The officers of the EWU police department are fully commissioned peace officers of the state of Washington and have police powers as are vested in sheriffs and peace officers generally under the laws of the state of Washington.

(3) Designated employees of EWU parking services have authority to enforce traffic and parking rules on the

campuses and property of Eastern Washington University. All actions and decisions of parking services personnel in the enforcement of traffic and parking rules are subject to administrative review and approval.

NEW SECTION**WAC 172-100-100 General traffic and vehicle rules.**

(1) Bicycle riders and motor vehicle operators shall operate such equipment in a careful and prudent manner at all times and must comply with posted speed limits.

(2) Bicycle riders and motor vehicle operators shall obey all regulatory signs and comply with directions given by parking services personnel and public safety officers and their designees.

(3) Bicycle riders and motor vehicle operators shall yield the right of way to pedestrians. This includes, but is not limited to, yielding to pedestrians crossing streets, roadways, and parking areas within the campus. Riders and drivers shall also yield to pedestrians at intersections, clearly marked crosswalks, or city streets on campus.

(4) Vehicles on university property must be kept in operating condition, except those in a garage, research facility, or automotive shop. Vehicle repairs or maintenance are prohibited on campus unless preauthorized by parking services.

(5) Bicycles may be operated any place where motor vehicles are permitted. Bicycles may also be operated on university walkways, so long as the bicycle is operated in a safe manner and does not interfere with pedestrian traffic or other campus activities.

NEW SECTION**WAC 172-100-110 Special rules and restrictions.**

During emergencies, special events, or extenuating circumstances, the university police department may impose additional traffic and parking rules or modify existing rules.

NEW SECTION**WAC 172-100-120 Parking rules.** (1) Emergency

access areas: Parking is prohibited in:

- (a) Emergency access areas;
- (b) Fire lanes;
- (c) Within fifteen feet of a fire hydrant.

(2) No parking/restricted parking areas: Parking is prohibited in any area that is not specifically designated for parking, unless explicitly authorized by parking services or university police. No parking and restricted parking areas include, but are not limited to:

- (a) Yellow curb areas;
- (b) Bus zones;
- (c) Driveways;
- (d) Sidewalks; and
- (e) Any grassy area.

(3) Loading zones: Parking is permitted in loading zones according to the restrictions and time limits posted for the zone. If no restrictions are posted, users shall:

- (a) Display a department permit issued under WAC 172-100-230; or
- (b) Obtain and display a permit from parking services.

(4) Service drives/areas: Driving or parking in a service drive without displaying a department or service permit is prohibited.

(5) Visitor spaces: Campus visitors may park in any visitor parking space on campus subject to any posted restrictions.

(6) Reserved spaces: Parking in a reserved parking space, without proper authorization, is prohibited.

(7) Permit-required lots: Except as provided herein, parking is prohibited in any campus parking lot that requires a parking permit unless the vehicle displays a valid parking permit for that lot. To be considered valid, parking permits must be issued by the university's parking services office, be current, and be properly displayed.

(a) All permit-required lots have designated days and times during which a permit is required.

(b) Motorcycles parked in a permit-required lot in any space other than a designated motorcycle free-parking area must display a valid parking permit.

(8) Disabled parking spaces: Any vehicle that is parked in a disabled parking space in a university owned or leased parking lot must display a valid, state-issued disabled parking permit, license plate, or year tab. The vehicle must also display a valid EWU disabled parking permit if parking in a permit-required parking lot during the designated days and times that a permit is required for parking.

(9) Metered parking: A person who parks a vehicle in a metered parking space must pay for time used during posted times of operation.

(10) Vehicle size limits: Vehicles longer than twenty feet, campers, trailers, buses, and pickup trucks with a camper may not be parked on university property without prior authorization from parking services.

(11) Bicycles: Bicycles must be parked in bicycle racks.

(12) Parking space violation: Vehicles may only occupy one parking space or stall as designated within a parking area.

(13) Disabled, and inoperative vehicles: A disabled or inoperative vehicle may not be parked on the university campus for more than twenty-four hours without prior authorization from parking services.

NEW SECTION

WAC 172-100-130 Citations and fines. Any violation of these rules is subject to citation. Each offense may result in a separate citation.

(1) Payment: Citation fines must be paid to EWU parking services and may be paid in person, by mail, or by phone.

(2) Amounts:

(a) Citations: When a citation is issued, fines are determined in accordance with a fine schedule. The fine schedule is approved by the vice-president for business and finance.

(b) Adjustments: When mitigating circumstances exist, authorized parking services personnel may reduce or dismiss fines.

(3) Appeals: Citations may be appealed by submitting a written appeal to parking services within fourteen calendar days of the date the citation was issued. Appeals must be submitted to parking services in person or by mail. If a timely appeal is not filed, the citation becomes final. Appeals will be

reviewed by a board consisting of voting members from the following groups: Associated students, classified staff, faculty, and administrative exempt staff. A parking services representative will act as a consultant to the board and vote only to break a tie. The board may uphold or dismiss the citation. If the board upholds the citation, it may reduce the fine amount. In no event may the board impose a fine exceeding the amount set forth in the fine schedule. Within five calendar days following the board's review, parking services shall notify the appellant, by mail or by e-mail, of the board's determination. The board will meet every two weeks, with additional meetings as necessary. Additional appeal rights are governed by RCW 28B.10.560.

(4) Nonpayment: Unpaid fines are subject to collection through the university's established collection methods.

(5) Disposition of fees and fines: Proceeds from fees and fines collected under this chapter are to be deposited in the university's parking fund and applied to the costs of operating, maintaining, and patrolling the campus parking lots and administering these rules.

NEW SECTION

WAC 172-100-140 Impoundment of vehicles and bicycles. (1) The vice-president for business and finance or designee may order the impoundment and storage of any vehicle:

(a) That is parked, in violation of these rules:

(i) In an emergency access area, no parking area, or restricted parking area;

(ii) In a loading zone or service drive or area;

(iii) In a parking space designated for another person or vehicle; or

(iv) In a disabled parking space;

(b) That is disabled or inoperative; or

(c) That is parked on university property and has more than four unpaid citations, after the university has made reasonable attempts to contact the owner.

(2) The owner of an impounded vehicle is responsible for all impoundment and storage costs and may not recover the vehicle until arrangements have been made with parking services. The university and its employees or representatives are not liable for loss or damage of any kind resulting from impoundment or storage.

(3) Bicycles may be impounded for violations of the above parking rules. The university is authorized to break any bicycle lock to facilitate impoundment. The university and parking services are not responsible for any damage resulting from the impoundment of a bicycle, including removal of a lock.

NEW SECTION

WAC 172-100-200 Parking permits—Issuance and responsibility. (1) Parking permits may be obtained through parking services. Permits are issued upon payment of established fees, subject to availability. Permits may not be transferred, assigned, or sold.

(2) Prorated refunds: Refunds of parking permit fees will be issued according to parking office guidelines.

(3) The university reserves the right to refuse parking privileges to anyone who has:

- (a) Had a permit revoked;
- (b) Falsified a parking application or registration;
- (c) Counterfeited or altered an area designator or permit;
- (d) Failed to pay outstanding traffic or parking citations;
- (e) Possessed or used a lost, altered, or stolen parking permit;
- (f) Been given notice against trespass from campus;
- (g) Failed to comply with parking services directions; or
- (h) Damaged university property while driving or parking on campus.

(4) Responsibility: The person to whom a parking permit is issued is responsible for all violations of these rules involving the vehicle for which the permit was issued regardless of whether the person was operating the vehicle at the time of the violation.

(5) Lost or stolen permits: If a permit is lost or stolen, the permit holder must report the loss to parking services. A replacement permit will be provided to the individual. A fee may be charged for a lost permit.

NEW SECTION

WAC 172-100-210 Parking permits—Limitations on use. Parking permits entitle users to park in specific campus parking lots during specific dates and times.

(1) All campus parking lots that require a parking permit have designated times during which a permit is required.

(2) Parking permits do not entitle permit holders to any parking right or privilege beyond the dates and times specifically designated for the campus parking lot(s) for which they hold a permit.

(3) During special events, parking services personnel may modify existing parking rules for any campus parking lot. Special event parking modifications include, but are not limited to:

- (a) Designating a lot as free parking;
- (b) Designating a lot as paid parking and charging users a fee for parking, including those holding a regular permit for the lot; or
- (c) Closing a parking lot.

NEW SECTION

WAC 172-100-220 Parking permits for permit-required lots. (1) Standard permits: Standard permits consist of a decal denoting the assigned parking lot and the academic year or term for which the permit is valid. Priority for issuance of standard permits will be given to university employees and students.

(2) EWU disabled parking permits: These permits are issued to university employees and students who are authorized to park in disabled parking areas and possess a current, state issued, disabled parking placard, license plate, and/or year tab.

(3) Retiree permits: Individuals who have retired from EWU are entitled to a retiree parking permit at no cost. Retiree permits entitle the retiree to park in university parking lots, where space is available, subject to the following:

(a) Retiree permits may not be used to park in residence hall lots.

(b) Retiree permits do not entitle the retiree to free parking during special events.

(c) Retiree permits may only be used by the retiree.

(d) Retiree permits may not be used by a retiree who is employed by the university.

(e) If a retiree permit is used in violation of the above conditions, the university may revoke the retiree's permit.

(4) Special ('S') permits: The 'S' permit may be issued to university employees whose duties require frequent visits or deliveries to other campus locations. The permit allows employees to park their vehicles in undesignated lots for official campus duties. Issuance and use of 'S' permits is subject to the following:

(a) Requests: University employees may request an 'S' permit through parking services. Requests for an 'S' permit must describe the employee's duties that justify the 'S' permit, including detailed information regarding the frequency and nature of the employee's intra-campus business activities and why a departmental permit is inadequate to support those activities. Requests must be endorsed by the president or appropriate vice-president. The vice-president for business and finance, or designee, is the approval authority for 'S' permits.

(b) Issuance. The parking services office shall provide an 'S' permit to an employee who has been authorized by their department's vice-president to obtain an 'S' permit and has purchased a core lot permit and paid the additional 'S' permit fee.

(c) Use: 'S' permits may only be used for the purpose of conducting official university business. 'S' permits may be used to park in any campus parking lot, loading zone, or service area, on a space-available basis, limited to the time needed to conduct university business. They may not be used for personal use or convenience.

(d) Restrictions: 'S' permits do not authorize parking in disabled parking spaces unless the person is authorized to park in disabled parking spaces under these rules. 'S' permits are not valid at meters, fire lanes, safety zones, yellow curbs or zones, designated "no parking" areas, or other areas not designated for parking.

(e) Availability: The vice-president for business and finance may limit the number of 'S' permits that are available for issuance throughout the university, and/or to departments or units.

(5) Guest permits: Campus guests and persons doing business with the university may be issued a guest permit allowing them to park in designated lots on campus, subject to the following:

(a) Guest permits are valid for the dates and locations specified at the time of issuance.

(b) A fee may be charged for a guest permit.

(c) A guest permit will not be issued to persons intending to make personal solicitations from or personal sales to university employees or students.

(d) Guest permits do not authorize parking in spaces that are reserved.

(e) Guests may park in disabled parking spaces so long as their vehicle displays the guest permit along with a current,

state-issued disabled parking placard, license plate, and/or year tab.

(6) Duplicate permits and car pool permits:

(a) Permit holders may purchase duplicate decals for additional vehicles.

(b) Duplicate permits may also be purchased for each vehicle in a car pool, up to a maximum of five permits per pool.

(c) A fee is charged for each duplicate permit.

(d) Duplicate and car pool permits must be purchased and signed for by the purchaser of the original permit.

(e) Only one vehicle bearing the duplicate permit number may park in the designated parking lot at a time. Violation of this section will subject each vehicle involved to a fine.

NEW SECTION

WAC 172-100-230 Parking permits for loading zones and service drives. (1) Department permits: These permits are issued to departments or units to facilitate the movement of equipment and materials by allowing for limited parking in parking lots, service drives, and loading/unloading zones. Department permits may not be used by persons for their own benefit or convenience. They may only be used for official university business. A regular permit is not required when a person uses a department permit.

(a) Issuance and control. Department permits are issued on an annual basis for temporary, short-term use, and must be returned to the department after use. Permit use must be monitored and controlled by a designated person.

(b) Restrictions. Department permits are not valid at meters, reserved spaces, disabled parking spaces, fire lanes, safety zones, yellow curbs or zones, "no parking" areas, or other areas not designated for parking. Departments are assigned a primary lot and are limited to thirty minutes parking in the primary lot.

(c) Loss. If a department permit is lost, the department it is issued to must file a report with parking services. Parking services will determine if a fee is assessed for the lost permit.

(2) Service permits: Service permits are issued to service providers, contractors, repairmen, and vendors to support their access requirements. Parking services shall specify terms of use when a service permit is issued.

NEW SECTION

WAC 172-100-240 Parking permits—Recall, suspension or revocation. Parking permits are the property of the university and may be recalled, revoked, or suspended.

(1) Recall: Parking permits may be recalled when the purpose for which the permit was issued changes or no longer exists.

(2) Suspension/revocation: Parking permits may be revoked or suspended in response to the following violations:

(a) Use of a permit on an unregistered vehicle or by an unauthorized individual. The vehicle and/or permit holder may also be cited.

(b) Falsification of a parking permit application.

(c) Continued violations of parking rules; or

(d) Counterfeiting or altering of parking permits. The offender may also be cited.

(3) Appeals: Suspension or revocation of a parking permit under this section may be appealed within fourteen calendar days of issuance. Appeals must be submitted in writing to parking services in person or by mail.

NEW SECTION

WAC 172-100-250 Severability. If any provision of this chapter or its application to any person or circumstances is determined to be invalid, the remainder of the chapter and its application to other persons or circumstances is unaffected.

WSR 13-24-120

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed December 4, 2013, 9:36 a.m., effective January 4, 2014]

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

Purpose: Amending chapter 172-118 WAC, Restrictions and regulations for recreational equipment, the proposed revisions narrow the focus of the existing chapter to recreational equipment that is of primary concern, i.e., skateboards, roller skates, inline skates, skate shoes, scooters and similar equipment. The proposed revision restricts the use of such equipment on the university campus in order to reduce physical damage and unnecessary wear to campus property.

Citation of Existing Rules Affected by this Order: Repealing WAC 172-118-030, 172-118-050 and 172-118-080; and amending WAC 172-118-010, 172-118-020, 172-118-040, and 172-118-090.

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

Adopted under notice filed as WSR 13-19-091 on September 18, 2013.

Changes Other than Editing from Proposed to Adopted Version: Change WAC chapter title from "RESTRICTIONS AND REGULATIONS FOR RECREATIONAL EQUIPMENT" to "RECREATIONAL EQUIPMENT."

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 3.

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 4, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 3, 2013.

Trent Lutey
University Policy Administrator

Chapter 172-118 WAC
((RESTRICTIONS AND REGULATIONS FOR))
RECREATIONAL EQUIPMENT

AMENDATORY SECTION (Amending WSR 92-22-028, filed 10/26/92, effective 11/26/92)

WAC 172-118-010 Purpose. ((The primary objectives of the rules and regulations set forth in this chapter are:

(1) To provide safety, traffic, and parking controls for the use of skateboards, roller skates, bicycles, motoreycles, and motor scooters upon all state lands devoted to the educational, recreational, research, and living activities of Eastern Washington University; and

(2) To protect, from physical damage and unnecessary wear, wooden and concrete benches, brick and paved walkways, stairs, steps, loading ramps, plazas, and ramps for the disabled, caused by the use of recreational equipment as included in subsection (1) of this section. Equipment for the disabled and equipment owned and operated by the university are exempt from this chapter.) These rules govern the use of recreational equipment on Eastern Washington University's campus. The purpose of this chapter is to protect campus property from physical damage and unnecessary wear and to facilitate safety and access.

AMENDATORY SECTION (Amending WSR 92-22-028, filed 10/26/92, effective 11/26/92)

WAC 172-118-020 Definitions. For the purposes of this chapter ((the following definitions apply:

(1) A bicycle is any vehicle with three or less wheels and containing a saddle seat, and which is not motor driven.

(2) A motorecycle or motor scooter is any vehicle with three or less wheels and containing a saddle seat, and which is motor driven.

(3) A skateboard is a toy consisting of an oblong or rectangular board, made of wood, plastic, metal, or components thereof, with a pair of small wheels at each end, ridden as down an incline, usually in a standing position. It may be motorized.

(4) Roller skates are shoes with a set of wheels attached for skating over a flat surface, or a metal frame with wheels attached that can be fitted to the sole of the shoe. For the purposes of this chapter, roller blades are considered roller skates.

(5) A scooter is a foot-operated vehicle consisting of a narrow board mounted between two wheels, tandem with an upright steering handle attached to the front wheel.

Subsections (1) through (5) of this section are considered recreational equipment), recreational equipment includes, but is not limited to, skateboards, longboards, roller skates, inline skates, skate shoes, foot scooters, and similar equipment.

AMENDATORY SECTION (Amending WSR 92-22-028, filed 10/26/92, effective 11/26/92)

WAC 172-118-040 Use of recreational equipment. (((1) No recreational equipment may be operated on side-

walks, walkways, lawns, or other property on the Eastern Washington University campus, except as provided in this chapter.

(2) Bicycles, motoreycles, and motor scooters may be operated any place where automobiles or other motor vehicles are permitted.

(3) Bicycles may be operated on university walkways in the mall area and the area surrounding Showalter Hall and between Science Hall and Parking Lot #3: Provided, That the bicycle is operated in a safe manner and in compliance with these regulations.

(4) Bicycle locks may be broken to facilitate impounding of a bicycle or other recreational equipment without liability to Eastern Washington University or its authorized personnel.) Recreational equipment may only be used on asphalt or concrete campus walkways and sidewalks, and only in a way that does not interfere with pedestrian traffic or other campus activities.

(1) Recreational equipment is prohibited on grass, benches, stairways, steps, sculpture, art work, hand rails, inside buildings, plazas, walls, barriers, brick walkways, and any other campus property other than paved walkways and sidewalks.

(2) Speeds in excess of five miles per hour are prohibited.

(3) Performing stunts or tricks is prohibited.

(4) Any use of recreational equipment that may cause property damage and/or endanger the user or others is prohibited.

(5) Recreational equipment users shall yield the right of way to pedestrians at all times.

AMENDATORY SECTION (Amending WSR 92-22-028, filed 10/26/92, effective 11/26/92)

WAC 172-118-090 Enforcement. (1) ((Enforcement of this chapter is the responsibility of the president, or the executive vice president, or their designees.) Any student who violates these regulations may be asked to refrain from using recreational equipment on campus. Any student who refuses to comply with such a request and/or repeatedly violates these regulations will be subject to disciplinary action under the student conduct code, chapter 172-121 WAC.

(2) A user of recreational equipment, other than an Eastern Washington University (EWU) student, who ((refuses to abide by)) violates these regulations ((will)) may be asked to leave the campus. ((Refusal to obey will subject the person to being cited for)) A person who fails to comply with a request to leave campus may be charged with criminal trespass under the provisions of chapter 9A.52 RCW.

(((3) If the user is a student, the student will be asked to refrain from using the equipment on campus. If the student refuses, a proceeding may be initiated under the Student conduct code, chapter 172-120 WAC.))

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 172-118-030 Applicable rules and regulations.

WAC 172-118-050 Parking regulations.

WAC 172-118-080 Registration of bicycles.

WSR 13-24-122

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed December 4, 2013, 10:26 a.m., effective September 1, 2014]

Effective Date of Rule: September 1, 2014.

Purpose: Chapter 172-130 WAC, Undergraduate housing requirement, these rules create an on-campus housing requirement for first-year students at Eastern Washington University (EWU). These rules are needed to establish a more integrated learning environment and experience for first-year students in order to improve the academic success and retention of those students.

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

Adopted under notice filed as WSR 13-19-095 on September 18, 2013.

Changes Other than Editing from Proposed to Adopted Version: In WAC 172-130-030, the address for the EWU department of housing and residential life was updated.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 3, 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: December 3, 2013.

Trent Lutey
University Policy Administrator

Chapter 172-130 WAC

UNDERGRADUATE HOUSING REQUIREMENT

NEW SECTION

WAC 172-130-010 Students required to reside in university residence halls. All full-time, single, first-year students of Eastern Washington University who are under twenty-one years of age are required to live in university residence hall facilities throughout their first year at the university.

NEW SECTION

WAC 172-130-020 Exceptions. Students may request an exception to WAC 172-130-010. Requests must clearly describe the basis for the request and include supporting documentation as appropriate. The approval authority is the chief housing officer or designee. Exceptions will be considered for the following reasons:

(1) Students who will continuously reside with a parent and/or legal guardian throughout the quarter for which the exception is sought.

(2) Students who have primary legal custody of a child.

(3) Students employed off campus and whose housing is part of their overall compensation received. To qualify, employment must be for an established place of business or for an established family unit when a landlord/employer requires the student to reside where the work is performed and a substantial portion of the rent and/or room and board is reduced as a part of the overall compensation for the work performed.

(4) Students with a documented medical issue that is incompatible with living in a university residence hall. The director of disability support services will evaluate documentation and make a recommendation regarding this exception.

(5) Students for whom living in a university residence hall would cause undue financial hardship.

(6) Students who will reach the age of twenty-one during their first year at the university.

(7) Students who have attended an institution of higher education as a full-time student for at least two regular semesters or three regular quarters. Enrollments during summer terms or while simultaneously completing high school requirements, e.g., Running Start or similar programs, do not count as previous attendance under this exception.

(8) Students who have unique situations, not otherwise covered in this section, that could make living in a residence hall unduly burdensome.

NEW SECTION

WAC 172-130-030 Process. Applications for permission to reside off campus are available from the Eastern Washington University Department of Housing and Residential Life, 1027 Cedar St., Cheney, WA 99004. Applications are reviewed and a determination is made whether an exception will be granted. Persons applying for such exception will be informed of the decision in writing. Requests for reconsideration of the decision may be submitted to the dean of students within ten working days of the date the student receives notice that their request has been denied. The dean of students, or designee, will evaluate the appeal and approve or deny the appeal. The decision by the dean of students is final; no further appeals are available.

WSR 13-24-123**PERMANENT RULES****EASTERN WASHINGTON UNIVERSITY**

[Filed December 4, 2013, 10:26 a.m., effective January 4, 2014]

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

Purpose: Chapter 172-121 WAC, Eastern Washington University student conduct code, these revisions are needed to improve conduct review proceedings, better comply with changes to state and federal laws, and improve clarity throughout. This update modifies student disciplinary council composition; identifies the university's role as complainant in some cases; clarifies the standard of proof for conduct code proceedings; adds degree revocation to the list of possible sanctions; adds provisions to better comply with Title IX and the Violence Against Women Act; and modifies language throughout the chapter to improve readability.

Citation of Existing Rules Affected by this Order: Repealing WAC 172-121-090; and amending WAC 172-121-010, 172-121-020, 172-121-030, 172-121-040, 172-121-050, 172-121-060, 172-121-070, 172-121-080, 172-121-100, 172-121-110, 172-121-120, 172-121-130, 172-121-140, 172-121-200, and 172-121-210.

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

Adopted under notice filed as WSR 13-19-101 on September 18, 2013.

Changes Other than Editing from Proposed to Adopted Version: Change WAC chapter title from "EASTERN WASHINGTON UNIVERSITY STUDENT CONDUCT CODE" to "STUDENT CONDUCT CODE."

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 9, Repealed 0; Federal Rules or Standards: New 1, 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 2, Amended 15, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 2, Amended 15, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 3, 2013.

Trent Lutey
University Policy Administrator

Chapter 172-121 WAC**~~((EASTERN WASHINGTON UNIVERSITY))~~
STUDENT CONDUCT CODE**

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-010 Introduction. Eastern Washington University is an academic community dedicated to providing

instruction in higher education, advancing knowledge through scholarship and research, and providing related services to the community.

As a public institution of higher education, the university has a special responsibility to create and maintain an academic environment that promotes freedom of inquiry and expression while protecting the rights, opportunities and welfare of students, faculty, staff and guests. To achieve this, the university establishes rules, regulations, procedures, policies, and standards of conduct.

Through the student conduct code as well as other university policies and directives, the university sets forth specific behavioral and academic expectations for students and student organizations. It is the responsibility of each student to clearly understand and comply with those expectations. The responsibility for enforcement of the student conduct code rests with the university president.

The board of trustees of Eastern Washington University, acting under the authority granted by RCW 28B.35.120, has established the following regulations for student conduct and discipline.

These provisions are not intended to protect any person or class of persons from injury or harm.

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-020 Definitions. For purposes of the student conduct code, chapter 172-121 WAC, the definitions in this section apply.

"Accused" refers to any student or student organization that is accused of violating the ~~((standards of conduct for))~~ student~~(s)~~ conduct code under this chapter.

"Appeal authority" refers to the conduct review official presiding over an appeal under WAC 172-121-130.

"Appellant" refers to any accused or complainant who appeals the decisions or sanctions of a hearing authority under WAC 172-121-130.

"Business days" refers to the days and hours the university is open for business. Business days are Monday through Friday, from 8:00 a.m. to 5:00 p.m., excluding holidays as set forth in the university holiday schedule.

"Complainant" means any person who files a complaint alleging that a student or student organization violated the standards of conduct for students. Complainant also refers to the university when the university files the complaint.

"Council" or "the council" refers to the student disciplinary council as described in WAC 172-121-070.

"Council hearing" refers to a conduct review hearing before the student disciplinary council.

"Dean of students" refers to the dean of students or a designee of the dean of students.

"Director of ~~((OSRR))~~ SRR" refers to the director of ~~((the office of))~~ student rights and responsibilities, or designated representative.

"Harassment" encompasses harassment, sexual harassment, gender-based harassment, and stalking for the purposes of WAC 172-121-030 through 172-121-140. These terms are further defined in WAC 172-121-200.

"Hearing authority" refers to the university official ~~((holding a conduct review hearing. The conduct review officer is the hearing authority for a summary hearing while the))~~ or student disciplinary council ~~((is the hearing authority for a council))~~ who holds a conduct review hearing.

~~("Local or surrounding communities" refers to communities having an existing relationship with Eastern Washington University (EWU) including, but not limited to, satellite campus communities and surrounding Spokane County communities.))~~

"Off-campus" refers to any location or facility that is not owned, leased, rented, or operated by Eastern Washington University.

~~("Officer" or "the officer" refers to the conduct review officer as described in WAC 172-121-070.))~~

"Policies" or "university policy" refers to the written regulations of the university, including the standards of conduct for students, residence life handbook, university policies, and graduate/undergraduate catalogs and handbooks.

"Recognized student organizations" refers to clubs, organizations, societies or similarly organized groups recognized by the university or the associated students of Eastern Washington University (ASEWU).

"Session council" refers to the student disciplinary council members selected for a specific hearing or appeal.

"Sexual misconduct" encompasses domestic violence, dating violence, and acts of sexual violence for the purposes of WAC 172-121-030 through 172-121-140. These terms are further defined in WAC 172-121-200.

"Student" includes all ~~((persons taking courses through the university, both full and part time, pursuing undergraduate, graduate or professional studies. Nonmatriculated, international students attending language institutes or foreign study programs through the university, and persons, who have been notified of acceptance for admission at EWU, are also considered students. Any person who engaged in conduct in violation of the student conduct code during a period in which they had student status as previously described in this subsection, remain subject to action under this conduct code even if the person has graduated, withdrawn, or has not officially enrolled for a particular term at the university))~~ of the following:

(a) Any applicant who becomes enrolled, for violations of the code committed as part of the application process or committed following the applicant's submission of the application until the time of official enrollment;

(b) Any person currently enrolled at the university;

(c) Nonmatriculated, international students attending institutes or foreign study programs through the university; and

(d) Any person who was previously enrolled at the university for violations of the code committed while enrolled. A person who engaged in conduct in violation of the student conduct code while a student remains subject to action under this code even if the person has graduated, withdrawn, or is not currently enrolled for any reason.

"Summary hearing" refers to a conduct review hearing before the conduct review officer.

"University" means Eastern Washington University.

"University official" includes any person employed or contracted by the university, performing assigned administrative or professional responsibilities.

"University premises" means buildings and/or property (including adjacent streets and sidewalks) which are owned, leased ~~((or used)),~~ rented or operated by the university, to include all satellite campuses affiliated with the university.

"University president" refers to the university president or a designee of the university president.

"Vice-president for student affairs" refers to the vice-president for student affairs or ~~((a designee of the vice president for student affairs))~~ their designated representative.

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-030 Rights of students. ~~((+))~~ Any student or student organization ~~((accused of or))~~ charged with any violation of the student conduct code ~~((has))~~ and the victim in the case of an allegation of harassment or sexual misconduct, have the following rights ~~((in conduct review proceedings))~~:

~~((a))~~ (1) The right to a fair and impartial conduct review ~~((hearing before the conduct review officer or the student disciplinary council))~~ process;

~~((b))~~ (2) The right to prior written notice to attend a preliminary conference ~~((as described in WAC 172-121-110))~~ or hearing;

~~((c))~~ (3) The right to remain silent during any conduct review ~~((proceeding))~~ hearing;

~~((d))~~ The right to prior written notice to attend a council hearing as described in WAC 172-121-120 if the matter is not resolved through a summary hearing process;

~~((e))~~ The right to waive his/her right to prior notice about a council hearing and to request that the case be heard in a summary hearing immediately following the preliminary conference;

~~((f))~~ (4) The right to know who ~~((is bringing the accusation(s)))~~ filed the complaint against them as described in WAC 172-121-110 ~~((and 172-121-120 (2)(b)))~~;

~~((g))~~ (5) The right to speak on ~~((his/her))~~ their own behalf in all proceedings;

~~((h))~~ (6) The right to hear all information and view all material presented against him or her;

(7) The right to call witnesses as described in WAC 172-121-120;

(8) The right to submit questions to be asked of witnesses as described in WAC 172-121-120;

(9) The right to consult an advisor as described in WAC 172-121-090;

~~((i))~~ (10) The right to appeal as provided in WAC 172-121-130; and

~~((j))~~ (11) The right to be subjected to university disciplinary action only one time for the same ~~((incident))~~ conduct.

~~((2))~~ Any student or student organization appearing before a council hearing has the following additional rights:

~~((a))~~ The accused has the right to hear all information and view all material to be presented against them;

~~(b) The accused and complainant have the right to present witnesses as described in WAC 172-121-120;~~

~~(c) The accused and complainant have the right to submit questions to be asked of witnesses as described in WAC 172-121-120.)~~

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-040 Jurisdiction. Eastern Washington University shall have jurisdiction over student behavior which occurs on university premises. The university may also exercise jurisdiction over student conduct which occurs at off-campus locations if the behavior adversely affects the university and/or the pursuit of its objectives and the university determines that a significant university interest is affected. The university has sole discretion in determining what conduct adversely impacts the university and/or the pursuit of its objectives.

~~((Similarly,))~~ The student conduct code shall apply to conduct without regard to a student's academic status at the time the conduct took place. This includes all periods from the time of application for admission through the actual awarding of a degree, including times between academic periods or outside of normal business hours.

~~((The student conduct code shall also apply to former students if the accused was in a student status as defined in WAC 172-121-020 when the misconduct took place. This is true even if the alleged misconduct is discovered after the student was awarded a degree or if the student withdrew from school while a disciplinary matter was pending.~~

~~These provisions are not intended to protect any person or class of persons from injury or harm, or to deny students their legally and/or constitutionally protected rights.))~~

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-050 External authorities. Many offenses under this code are also violations of federal, state or local laws. A student or student organization may face criminal and civil prosecution as well as university disciplinary action for violation of these laws.

The university reserves the right to ~~((initiate action for offenses that have an impact on the educational or administrative functions or the general well-being of the university and its surrounding communities))~~ take action under this code for any offenses over which it has jurisdiction. Proceedings under this code may be carried out prior to, simultaneously with, or following civil or criminal proceedings in the courts. University proceedings under the student conduct code are not subject to challenge, delay, or dismissal based solely on ~~((the disposition of any))~~ criminal charges ~~((related to the same incident)).~~

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-060 Notification of criminal arrest. A student is responsible for notifying the university of any off-campus arrest.

When ~~((the office of))~~ student rights and responsibilities ~~((OSRR))~~ (SRR) is informed of the arrest of a student, the university may send a letter to the student requiring that he or she make an appointment for an interview with the ~~((OSRR))~~ SRR. During this interview, the director of ~~((OSRR))~~ SRR shall discuss with the student:

- (1) The facts involved in the student's arrest;
- (2) The student's obligation to keep the university informed of the progress of ~~((the))~~ any criminal charge(s); and
- (3) The student's obligation to advise the university of the final disposition of ~~((the))~~ any criminal charge(s).

The university will cooperate ~~((fully))~~ with law enforcement and other agencies administering a corrective or rehabilitative program for the student. ~~((The university reserves the right to initiate concurrent disciplinary action.))~~

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-070 Conduct review officials. (1) The director of ~~((OSRR))~~ SRR shall:

- (a) Serve as the primary point of contact for all matters relating to student conduct code violations and proceedings;
- (b) Manage the proceedings as described in this chapter;
- (c) Maintain all records of conduct review proceedings as described in WAC 172-121-080;

(d) Ensure complaints of harassment or sexual misconduct involving students are promptly investigated and resolved as required by federal and state laws.

(2) Conduct review officer: The university president shall designate one or more conduct review officers. The director of OSRR may be designated as a conduct review officer. The conduct review officer(s) shall:

- (a) ~~((Perform))~~ Preside over conduct review proceedings under this chapter; and
- (b) Review off-campus incidents of alleged misconduct and make determinations as to whether the conduct involved adversely affects the university community and/or the pursuit of its objectives.

(3) Student disciplinary council: The student disciplinary council hears cases of student conduct code violations as described in WAC 172-121-120. The council also serves as an appeal authority under WAC 172-121-130.

(a) Council pool: For each academic year, a pool of council members ~~((is))~~ shall be established ~~((based on availability))~~. Appointment of council pool members and their terms of service are as follows:

- (i) Faculty: Three faculty members shall be selected by the faculty senate for three-year terms;
- (ii) Staff: Three university staff members shall be appointed by the university president for three-year terms;
- (iii) Students: Six students shall be appointed by the president of the ASEWU for one-year terms. Student appointments shall be made with the advice and consent of the associated students' legislature, as described in the constitution of the ASEWU. Students holding a position with any of the associated student courts, or who are in any way affiliated with any judicial, quasi-judicial, or advocacy position

with the courts of the ASEWU, may not be appointed to the council pool;

~~(iv) ((Nonvoting chair: Two nonvoting chairs shall be elected for a one-year term by members of the council pool. Reelection of chairs is permissible))~~ Community members: One or more members of the local community may be appointed by the university president. Community members serve until either the community member or the university president elects to sever the appointment, up to a maximum appointment period of three years. Community members shall be considered school officials while acting in their capacities as community members on the student disciplinary council and shall sign statements indicating they will comply with the confidentiality requirements of the Family Education Rights and Privacy Act;

(v) Council chair: The director of SRR, or designee, shall serve as chair of council proceedings but will not have the right to vote;

~~((+))~~ (vi) Vacancies: Council pool vacancies shall be filled as needed by the designated appointing authority.

(b) Session council: When a student disciplinary council is needed for a hearing or an appeal, council members shall be selected from the council pool as follows:

(i) Composition: A session council ~~((shall include, at a minimum;))~~ will typically consist of one nonvoting chair, two student members, and two faculty or staff members. The faculty/staff members may be both faculty, both staff, or one faculty and one staff member. The number of council members may vary, so long as quorum requirements are met. A community member may also serve on a session council, at the discretion of the director of SRR;

(ii) Selection: The director of ~~((OSRR))~~ SRR shall select available members from the council pool to serve as the session council~~((As much as possible, council members should be selected based on their availability;~~

~~(iii) If a nonvoting chair is unavailable, the director of OSRR shall select another member of the council pool to serve as chair));~~

~~((iv))~~ (iii) Quorum: ((Four)) A quorum consists of three voting members ((constitute a quorum;

~~(v) Members of the student disciplinary council shall not participate in any case in which they are a defendant, complainant or witness; in which they have a direct or personal interest or bias; or in which they have acted previously in an advisory or adjudicatory capacity;~~

~~(vi) A council member's eligibility to participate in a case may be challenged by parties to the case or by other council members. When such a challenge is made, the session council shall make a decision on the challenge and respond as needed and appropriate; and~~

~~(vii) In the event members of the session council are disqualified or disqualify themselves from a case, a temporary (for that case only) replacement will be appointed by the director of OSRR)) which must include at least one student and one faculty/staff member.~~

NEW SECTION

WAC 172-121-075 Conflicts of interest. (1) Individuals who play a role in receiving, investigating, and otherwise

processing complaints shall not have any conflict of interest in the process. In the event such a conflict arises in the process, the person shall disclose such interest to the parties. Parties to the complaint who believe a university official involved in the process has a conflict of interest may report such concerns to the director of SRR or the dean of students. The director or dean shall determine whether a conflict of interest exists and take appropriate action.

(2) Challenges to council membership. Members of the student disciplinary council shall not participate in any case in which they are the accused, the complainant, a victim, or a witness; in which they have a personal interest or bias; or in which they have acted previously in an investigatory, advisory, or adjudicatory capacity.

(a) If a member has such a conflict, the person shall recuse themselves from further involvement in the case. In the event such a conflict arises after the council has been selected or during a proceeding, the member shall disclose the conflict to the parties.

(b) A member's eligibility to participate in a case may be challenged by parties to the case or by other council members at any time. When such a challenge is made, the session council shall make a decision on the challenge.

(c) If a member is disqualified or disqualifies themselves from a case, the director of SRR will appoint a replacement.

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-080 Administration and records. (1) Student conduct code.

(a) Interpretation: Any questions regarding the interpretation or application of this student conduct code are referred to the vice-president for student affairs for final determination.

(b) Review: This student conduct code shall be reviewed every three years under the direction of the vice-president for student affairs.

(2) Records of conduct review proceedings.

(a) Records of conduct review proceedings under this chapter shall be prepared by the conduct review official(s) involved and maintained by the director of ~~((OSRR))~~ SRR. As much as possible, records should include:

(i) A summary of the proceedings during a preliminary conference;

(ii) ~~((A written record of the statements made during a conduct review hearing;))~~ An audio recording of conduct review hearings;

(iii) All letters, statements, memoranda, decisions, orders, notices, and other documents related to conduct review proceedings; and

(iv) Any images, articles, recordings, or other materials presented as evidence in a conduct review proceeding.

(b) The director of ~~((OSRR))~~ SRR shall keep records of conduct review proceedings for seven years.

(c) Records of conduct review proceedings are the property of the university and are confidential to the extent provided in applicable law.

(d) Prior to the final disposition of a case, the accused may review the records relative to their case. The accused

shall request to review the case records by contacting the conduct review officer. The conduct review officer shall make every reasonable effort to support the accused's request.

(3) Student disciplinary records.

(a) Student disciplinary records are confidential and shall be treated consistently with the requirements of the Family Educational Rights and Privacy Act (FERPA) and applicable law. Disciplinary records shall be maintained in accordance with the university's records retention schedule.

(b) Release of student disciplinary records. The university ~~((may))~~ shall not communicate a student's disciplinary record to any person or agency outside the university without the prior written consent of the student, except as required or permitted by law. Exceptions include, but are not limited to:

(i) The student's parents or legal guardians may review these records as permitted by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(ii) Release to another educational institution, upon request, where the student seeks or intends to enroll, as allowed by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(iii) ~~((The university may inform the complainant of the outcome of any disciplinary proceeding involving a crime of violence as defined by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).))~~

(iv) ~~The university will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of Title 18, United States Code), or a nonforeible sex offense, the report on the results of any disciplinary proceeding conducted by the university against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this subsection (3)(b)(iv). Such disclosure will be subject to the provisions of 20 U.S.C. 1094-.) In response to a judicial order or a lawfully issued subpoena.~~

(iv) The university shall release information related to disciplinary records to complainants, victims, or other persons as required by Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other state and federal laws.

(v) Disciplinary records will be made available to hearing councils and university personnel as needed for legitimate educational purposes.

(vi) A student may authorize release of ~~((his or her))~~ their own disciplinary record to a third party in compliance with FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99) by providing a written consent to ~~((the office of))~~ student rights and responsibilities.

(vii) Any student may review his/her own disciplinary records by contacting ~~((the office of))~~ student rights and responsibilities.

(viii) A student may obtain a copy of ~~((his or her))~~ their disciplinary record by making a written request to ~~((the office of))~~ student rights and responsibilities. ~~((The office of))~~ Student rights and responsibilities may charge the student a reasonable amount to cover copying expenses.

(ix) The university may disclose to a student's parents a violation of any federal, state, or local law, or of any university policy or rules regarding use or possession of alcohol or a controlled substance so long as the student is under the age of twenty-one at the time of the disclosure to the parent.

(c) When disciplinary records are released, personally identifiable information may be redacted to protect the privacy of others as permitted by ~~((applicable))~~ law.

(4) Holds:

(a) Types of holds. Holds placed on a student's academic records may prevent admission, registration, graduation, or other academic activities. Holds may also restrict access to transcripts, grades, or other academic records.

(b) Discretionary holds: The conduct review officer may place a hold on a student's academic records in either of the following situations:

(i) Pending the student's satisfactory completion of any sanctions imposed by a conduct review hearing; or

(ii) If the student fails to respond to any properly delivered notice from the conduct review officer.

(c) Required holds: The conduct review officer shall place a hold on a student's academic record if the student is accused of violating the conduct code and has withdrawn from the university, or if the student withdraws from the university after a complaint is filed against the student. This hold shall remain in place until the allegation or complaint is resolved.

~~((i) In such cases, the student shall be notified that disciplinary action may be initiated when the student reenters or applies for readmission.~~

~~((ii) Holds of this type may not be implemented in cases where the university proceeds with a conduct review hearing or other disciplinary action under this chapter.))~~

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-100 Complaints. (1) Filing of complaints.

(a) Any ~~((student, faculty member, staff member, or other member of the university community))~~ person may file a complaint against a student or student organization for ~~((any))~~ violation of the student conduct code.

(b) A person wishing to file a complaint under the student conduct code must submit the complaint, in writing, to one of the following:

(i) ~~((The office of))~~ Student rights and responsibilities; or

(ii) The office of the dean of students ~~((; or~~

~~((iii) Another designated university office or official)).~~

(c) ~~((In instances of alleged))~~ Filing a complaint under the student conduct code does not prohibit or limit a person's right to file complaints or charges with other civil and/or criminal authorities for violations of local, county, state, or federal law ~~((; nothing in this student conduct code will prohibit or limit the rights of persons to go directly to the civil and/or criminal authorities and file charges)).~~

(d) All student conduct code complaints will be forwarded to the director of ~~((OSRR))~~ SRR for further review and action.

(e) In cases where the university is acting as the complainant, the director of SRR shall initiate the complaint.

(2) Complaint review. ((The)) Upon receipt of a complaint, the director of ((OSRR will)) SRR shall review the complaint to determine ((if there is sufficient information to hear the matter. During this review, the director of OSRR will also evaluate the circumstances to determine if any interim restriction action is warranted)) whether it includes allegations of harassment, sexual misconduct, and/or criminal conduct that will require special processing under subsection (3) of this section and whether appropriate law enforcement or other authorities should be notified.

(3) Special rules for complaints of harassment and/or sexual misconduct. Except where specifically stated, this section applies to all allegations the university receives of harassment and/or sexual misconduct. This section shall apply regardless of where the alleged acts occurred.

(a) Report to Title IX coordinator. The director of SRR shall report all complaints which may constitute any form of harassment and/or sexual misconduct to the university Title IX coordinator within two business days.

(b) Prompt resolution. The university shall investigate any complaint alleging harassment and/or sexual misconduct when it is legally required to do so to determine if the university will pursue the incident under this student conduct code and/or refer the incident to other departments or agencies for further criminal, civil, or disciplinary action. All allegations of harassment and/or sexual misconduct shall be promptly investigated and resolved. In the absence of extenuating circumstances, the university will seek to have the allegations resolved within sixty days from the date it is notified of the allegation.

(c) Confidentiality. To facilitate the investigative process and protect the privacy of those involved, all information will be maintained in a confidential manner to the fullest extent permissible by law. During an investigation, complaint information will be disseminated on a need-to-know basis. If the complainant or victim wishes to remain anonymous, the university will take all reasonable steps to investigate the allegation without disclosing the name of the complainant to the extent allowed by state and federal law. If the complainant or victim wishes to remain anonymous, the university shall inform them that its ability to investigate and respond to the allegation will be limited. The university cannot ensure confidentiality, as its legal obligations under federal or state law may require investigation of the allegation and possible disclosure of the complainant's name. Reports of crimes to the campus community shall not include the names of the complainants or victims. Files subject to public disclosure will be released to the extent required by law.

(d) Right to file a criminal report. Once the university is notified of an allegation of sexual harassment, gender-based harassment, stalking, or any form of sexual misconduct, it will notify the potential victim of their right to file a criminal complaint with campus or local law enforcement. If the victim in such circumstances wishes to report the conduct to local law enforcement, the university will assist them in doing so. The university will also notify the victim that he or she is not required to file a report with local law enforcement. The university will report allegations of harassment or sexual

misconduct to law enforcement or other authorities consistent with federal, state, and local law.

(4) Interim measures. During the complaint review, the director of SRR will evaluate the circumstances and recommend to the dean of students if any interim restriction action against the accused is warranted or if any interim measures to assist or protect the complainant and/or victim during the conduct code process are needed. In cases of alleged harassment and/or sexual misconduct, the director of SRR shall, in conjunction with the dean of students and other appropriate university officials, take immediate steps to protect the complainant and/or victim from further harassment prior to completion of the investigation/resolution of the complaint. Appropriate steps may include separating the accused harasser and the complainant/victim, providing counseling for the complainant/victim and/or harasser, and/or taking disciplinary action against the accused.

((3)) (5) Inform complainant. As part of the complaint review process, the director of ((OSRR will contact the complainant and explain to him/her:

((a)) SRR will follow up with the complainant as described below.

(a) For cases other than harassment and/or sexual misconduct, the director of SRR will contact the complainant and provide them with the following information:

(i) The ((complainant)) complainant's rights under the student conduct code;

((b)) (ii) The allegations which the complainant has against the accused; ((and

((c)) (iii) The potential conduct code violations related to the allegations; and

(iv) How to report any subsequent problems or retaliation, including intimidation, threats, coercion, or discrimination.

(b) In all cases alleging harassment or sexual misconduct, the director of SRR will provide the complainant with written notification that will include, at a minimum:

(i) The student's rights and options, including options to avoid contact with the respondent, available resources to assist the student regarding academic, living, transportation and working situations, and possible protective measures they can take;

(ii) Procedures to follow to preserve evidence of the alleged incident;

(iii) Who will receive a report of the allegation;

(iv) Their right to file or not file a criminal complaint as detailed above;

(v) A list of resources for obtaining protective, no contact, restraining, or similar orders, if applicable;

(vi) The procedures the university will follow when determining if discipline is appropriate;

(vii) Steps the university will take to ensure confidentiality and the limits this may place on the university's ability to investigate and respond, as set forth above; and

(viii) Information regarding the university's policy against retaliation, steps the university will take to prevent and respond to any retaliation, and how the student should report retaliation or new incidents.

~~((4))~~ (6) Following the complaint review, the director of ~~((OSRR))~~ SRR will either dismiss the matter or arrange a preliminary conference ~~((with the accused)).~~

(a) Dismiss the matter. If the director of ~~((OSRR))~~ SRR believes that there is insufficient justification or insufficient evidence to pursue conduct review proceedings against the accused, he/she may dismiss the matter. In such cases, the director of ~~((OSRR))~~ SRR will prepare a written record of the dismissal. The director of ~~((OSRR))~~ SRR will also notify the complainant of their decision, if such notification is appropriate and feasible. The dismissal letter, along with the original complaint and any other related documents, will be maintained as described in WAC 172-121-080. In cases of harassment and/or sexual misconduct, the complainant/victim may request a review of the dismissal by the dean of students.

(b) Preliminary conference. If the director of OSRR does not dismiss the matter he/she will arrange a preliminary conference as described in WAC 172-121-110.

~~((5) Records. The dismissal letter, along with the original complaint and any other related documents, shall be maintained as described in WAC 172-121-080.))~~

NEW SECTION

WAC 172-121-105 Conduct review proceedings. (1)

General provisions:

(a) All conduct review proceedings are brief adjudicative proceedings in accordance with WAC 172-108-010(3) and shall be conducted in an informal manner.

(b) Nonjudicial proceedings: Formal rules of process, procedure, and/or technical rules, such as are applied in criminal or civil courts, do not apply in student conduct code proceedings.

(2) Notification for student organizations: When a charge is directed towards a student organization, the conduct review officer will communicate all matters relative to conduct review proceedings with the president of the organization or their designee.

(3) Advisors: The complainant, victim, and the accused may be assisted by one advisor of their choice, subject to the following provisions:

(a) Any fees or expenses associated with the services of an advisor are the responsibility of the complainant, victim, or the accused that employed the advisor;

(b) The advisor may be an attorney;

(c) The complainant and the accused are responsible for presenting their own case and, therefore, advisors may not speak or participate directly in any conduct review proceeding. The complainant and/or the accused may; however, speak quietly with their advisor during such proceedings; and

(d) If an attorney is used as an advisor, the person using the attorney shall inform the conduct review officer or the council of their intent to do so at least two business days prior to any conduct review proceeding.

(4) Evidence: The accused, and, in cases of harassment and/or sexual misconduct, the complainant/victim may request to view material related to their case prior to a scheduled hearing by contacting the conduct review officer. To facilitate this process, the party should contact the conduct review officer as early as possible prior to the scheduled hear-

ing. The conduct review officer shall make a reasonable effort to support the request to the extent allowable by state and federal law.

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-110 Preliminary conference. (1) Scheduling. If, after reviewing a complaint, the director of ~~((OSRR))~~ SRR decides to initiate conduct review proceedings, the director ~~((of OSRR))~~ shall, within ten business days of receiving the initial complaint, appoint a conduct review officer (CRO) to the case and notify the accused ~~((according to the following provisions)).~~ In cases alleging harassment and/or sexual misconduct, the CRO assigned must have completed training on issues relating to harassment and sexual misconduct, including Title IX requirements. Notification of the accused must:

(a) ~~((Notification shall))~~ Be made in writing;

(b) Include a written list of charges against the accused ~~((shall be included with the notification));~~ and

(c) ~~((Notification shall))~~ Include the name of the conduct review officer assigned to the case and the deadline for the accused to contact the CRO in order to schedule a preliminary conference. Whenever possible, the deadline for the accused to contact the CRO will be within five business days of the date the director of SRR sent notification to the accused.

(2) Failure to respond: If the accused fails to comply with the notification requirements, the director of ~~((OSRR))~~ SRR shall schedule the preliminary conference and notify the accused. The notification shall be in writing and shall include a date, time, and location of the preliminary conference.

(3) Follow up with complainant/victim. In all cases alleging harassment and/or sexual misconduct, the CRO shall notify the complainant(s) of the date, time, and location of the preliminary conference and of their right to attend the conference. The CRO shall also follow up with the complainant(s)/victim(s) to determine whether any retaliation or new incidents of harassment have occurred. If the complainant/victim has experienced any type of retaliatory behavior, the university shall take immediate steps to protect the complainant/victim from further harassment or retaliation.

(4) Appearance. Except for cases alleging harassment and/or sexual misconduct, only the accused and the accused's advisor may ~~((attend))~~ appear at the preliminary conference. ~~((The accused may be assisted by an advisor during the preliminary conference. The complainant, complainant's advisor, and witnesses may not))~~ In cases alleging harassment and/or sexual misconduct, the accused and the complainant/victim, along with their advisors, if they choose to have an advisor, may appear at the preliminary conference.

~~((4))~~ (5) Failure to appear. In cases where proper notice has been given but the accused fails to attend the preliminary conference, the CRO may:

(a) Proceed with a hearing and decide the case based on the information available; or

(b) Place a hold on the accused's academic records as described in WAC 172-121-080.

~~((5))~~ (6) Proceedings. During the preliminary conference, the conduct review officer will:

- (a) Review the written list of charges with the accused;
- (b) Inform the accused who is bringing the ~~((accusation(s)))~~ complaint against them;
- (c) Provide the accused with a copy of the student conduct code and any other relevant university policies;
- (d) Explain the accused's rights under the student code;
- (e) Explain the conduct review procedures;
- (f) Explain the accused's and complainant's rights and responsibilities in the conduct review process; and
- (g) Explain possible penalties under the student conduct code.

~~((6))~~ (7) After the preliminary conference, the conduct review officer will take one of the following actions:

- (a) Conduct a summary hearing with the accused as described in WAC 172-121-120;
- (b) Schedule a summary hearing with the accused as described in WAC 172-121-120; or
- (c) Refer the case to the student disciplinary council for a council hearing under WAC 172-121-120.

~~((7) Records. Records of the preliminary conference shall be maintained as described in WAC 172-121-130.)~~

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-120 Hearings. The provisions of subsections (1) through (8) of this section apply to both summary hearings and to council hearings.

(1) General provisions.

(a) Hearing authority: The hearing authority exercises control over hearing proceedings. All procedural questions are subject to the final decision of the hearing authority.

(b) Closed hearings: All conduct review hearings will be closed. Admission of any person to a conduct review hearing shall be at the discretion of the hearing authority.

(c) Consolidation of hearings: In the event that one or more students are charged with the same misconduct arising from the same occurrence, the hearing authority may conduct separate hearings for each student or consolidate the hearings as practical, as long as consolidation does not impinge on the rights of any student.

(2) Appearance.

(a) Failure to appear: In cases where proper notice has been given but the accused fails to attend a conduct review hearing, the hearing authority shall decide the case based on the information available, without the accused's input.

(b) Complainant's appearance: The complainant will be provided options for reasonable alternative arrangements if they do not wish to be present in the same room as the accused student during the hearing. The complainant may appear at the conduct review hearing in person, through telephone conference, or through any other practical means of communication, so long as the complainant's identity can be reasonably established.

(c) Advisors: The complainant and the accused may be assisted by an advisor during conduct review hearings as described in WAC 172-121-090.

(d) Disruption of proceedings: Any person, including the accused, who disrupts a hearing, may be excluded from the proceedings.

(e) Telephonic appearance. In the interest of fairness and expedience, the hearing authority may permit any person to appear by telephone, audio tape, written statement, or other means, as ~~((determined))~~ appropriate.

(3) Evidence.

(a) Evidence: Pertinent records, exhibits and written statements may be accepted as information for consideration by the hearing authority. However, hearing authorities are not bound by the rules of evidence observed by courts ~~((and))~~. The hearing authority may exclude incompetent, irrelevant, immaterial or unduly repetitious material.

(b) The accused ~~((has))~~, and, in cases of sexual harassment or sexual misconduct, the complainant and/or victim, have the right to view all material ~~((admitted into evidence by the hearing authority)) presented during the course of the hearing.~~

~~((i) If the accused wishes to view such material prior to the scheduled hearing, he/she shall contact the CRO. The CRO shall make a reasonable effort to support the request of the accused. To facilitate this process, the accused should contact the CRO as early as possible prior to the scheduled hearing.~~

~~((ii) In every case, the accused may examine any material presented against him/her during the course of the hearing.)~~

(4) ~~((Reasonable cause))~~ Standard of proof. The hearing authority shall ~~((consider information presented at the hearing in determining whether there is reasonable cause to believe that))~~ determine whether the accused violated the student conduct code, as charged ~~((In determining whether such reasonable cause exists, the hearing authority shall decide)), based on a preponderance of the evidence. A preponderance means, based on the evidence admitted, whether it is more ~~((likely))~~ probable than not that the accused violated the student conduct code ~~((by engaging in the conduct for which he or she is charged than that he or she did not)).~~~~

(5) Sanctions. In determining what sanctions shall be imposed, the hearing authority may consider the ~~((information))~~ evidence presented at the hearing as well as any information ~~((available from past conduct and academic performance))~~ contained in the student's disciplinary and academic records. If a student fails to appear for a hearing, then the hearing authority shall review the evidence provided and may consider information available from ~~((past conduct and academic performance))~~ the student's disciplinary and academic records in determining what sanction should be imposed. ~~((The hearing authority cannot impose a sanction based solely on the failure to answer the charges or appear at the hearing.))~~

(6) Witnesses.

(a) The complainant, ~~((the))~~ victim, accused and ~~((the))~~ hearing authority may present witnesses at council review hearings. ~~((Witnesses may not appear during summary hearings unless the CRO specifically allows it.))~~

(b) The ~~((complainant and the accused shall provide the name and reasonable contact information for each proposed witness to the office of student rights and responsibilities at least two business days before the scheduled hearing. For~~

~~each proposed witness requested, the complainant and the accused must also provide a brief statement regarding what relevant information the witness may have)) party who wishes to call a witness is responsible for ensuring that the witness is available and present at the time of the hearing.~~

~~(c) The ((office of student rights and responsibilities shall attempt to contact each proposed witness and request their attendance at the scheduled hearing. The office of student rights and responsibilities is not obligated to contact proposed witnesses who appear to have no relevant first hand information)) hearing authority may exclude witnesses from the hearing room when they are not testifying. The hearing authority is not required to take the testimony of all witnesses called by the parties if such testimony may be inappropriate, irrelevant, immaterial, or unduly repetitious.~~

~~(d) ((The accused has)) All parties have the right to hear ((or view)) all ((information)) testimony provided by witnesses during the hearing.~~

(7) Questioning:

(a) The complainant and the accused may submit questions to be asked of each other or of any witnesses. Questions shall be submitted, in writing, to the hearing authority. The hearing authority may ask such questions, but is not required to do so. The hearing authority may reject any question which it considers inappropriate, irrelevant, immaterial or unduly repetitious. The hearing authority has complete discretion in determining what questions will be asked during the hearing.

(b) During a conduct review hearing, only the hearing authority may pose questions to persons appearing before them.

(c) The hearing authority may ask their own questions of any witness called before them.

~~(8) ((Risk management.))~~ The hearing authority may accommodate concerns for personal safety, well-being, or fears of confrontation of any person appearing at the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means, as determined appropriate.

(9) Summary hearing procedures.

(a) The ~~((CRO))~~ conduct review officer may hold a summary hearing with the accused only if all of the following conditions are met:

(i) The accused waives his/her right to prior notice about a conduct review hearing;

(ii) The accused requests that the case be heard in a summary hearing with the ~~((CRO))~~ conduct review officer; and

(iii) The ~~((CRO))~~ conduct review officer agrees to conduct the summary hearing. The ~~((CRO))~~ conduct review officer is not obligated to conduct a summary hearing, but may instead refer the case to the student disciplinary council for a council hearing.

~~(b) Sexual misconduct cases. Allegations of sexual misconduct may not be resolved through a summary hearing but must be referred for a council hearing, unless the case has been otherwise resolved.~~

~~(c) Scheduling ((and notification. The)).~~ A summary hearing may take place immediately following the preliminary conference or it may be scheduled for a later date or time, except that, in cases of harassment, a summary hearing cannot take place without first notifying the complainant/vic-

~~tim of the hearing. If the summary hearing will be held at a later date or time, the conduct review officer shall schedule the hearing and notify the accused and, in the case of harassment, the complainant/victim of the date, time, and place of the hearing. The conduct review officer may coordinate with the parties to facilitate scheduling, but is not required to do so.~~

~~((i) If the summary hearing will be held at a later date or time, the CRO shall schedule the hearing in the presence of the accused so that the accused is informed of the date, time, and place of the hearing.~~

~~((ii)) (d) If the ((CRO is not able to schedule the hearing in the presence of the accused, the accused shall contact the CRO at a later time, as specified by the CRO, to be informed of the date, time, and location of the summary hearing. If the)) accused fails to ((contact the CRO, the CRO shall)) appear at the summary hearing, the conduct review officer may conduct the summary hearing without the accused present or refer the case to the student disciplinary council for a council hearing under WAC 172-121-110. The ((CRO)) conduct review officer may also place a hold on the accused's academic records under WAC 172-121-080.~~

~~((e)) (e) Deliberation((:)).~~ After the hearing, the conduct review officer shall decide whether ~~((there is reasonable cause to establish))~~ the accused violated the student conduct code based on a preponderance of the evidence.

(i) If the ~~((CRO))~~ conduct review officer determines that there is not sufficient information to establish ~~((reasonable cause))~~ a violation by a preponderance of evidence, the ~~((CRO))~~ conduct review officer shall ~~((terminate))~~ dismiss the complaint.

(ii) If the ~~((CRO))~~ conduct review officer determines that ~~((there is reasonable cause to establish))~~ the accused violated the student conduct code, the ~~((CRO))~~ conduct review officer shall impose any number of sanctions as described in WAC 172-121-210.

~~(f) Notification. The conduct review officer shall notify the accused, in writing, of the summary hearing outcome and the right to appeal. In the case of sexual harassment, gender-based harassment, or stalking, the victim shall be provided with written notice of: (i) The university's determination as to whether such harassment occurred; (ii) the victim's right to appeal; (iii) any change to the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)). Information regarding the discipline of the accused will not be released unless:~~

~~(A) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or~~

~~(B) The misconduct involves a crime of violence or a sexual assault, including rape, dating violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).~~

(10) Council hearing procedures.

(a) Scheduling and notification. If the conduct review officer has decided to refer the case to the student disciplinary council for a council hearing, the director of ~~((OSRR))~~ SRR shall schedule the hearing and notify the council, accused, and the ~~((council))~~ complainant/victim of the date, time, and location of the hearing in writing. The council must receive at least seventy-two hours' notice as to the time and place of the

hearing. The ~~((CRO))~~ conduct review officer may coordinate with the ~~((accused))~~ parties to facilitate scheduling, but is not required to do so. ~~((The CRO shall notify the accused of the preliminary conference. Notification will be in writing and will include the date, time and location of the hearing.))~~

(b) Deliberations and sanctions. ~~((After))~~ Following the hearing, the council shall meet in closed session and, within seven days, determine by majority vote whether ~~((reasonable cause exists to indicate that))~~, by a preponderance of the evidence, the accused violated the student conduct code. If the council ~~((decides that))~~ determines the accused ~~((did violate))~~ violated the student conduct code, the council shall then decide what sanctions shall be imposed. Sanctions shall be decided by majority vote and in closed session.

(c) Notification. ~~((The council's decision must be made within seven business days of the hearing conclusion.))~~ The council chair shall forward the council decision to the director of ~~((OSRR))~~ SRR. The director of ~~((OSRR))~~ SRR shall notify the accused of the ~~((council))~~ council's decision and ~~((sanctions (if any)))~~ of the right to appeal. In the case of sexual harassment, gender-based harassment, stalking, or any act of sexual misconduct, the victim shall be provided with written notice of: (i) The university's determination as to whether such harassment/sexual misconduct occurred; (ii) the victim's right to appeal; (iii) any change to the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)). Information regarding the discipline of the accused will not be released unless:

(A) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or

(B) The misconduct involves a crime of violence or a sexual assault, including rape, dating violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).

~~((11) Records. Records of the conduct review hearing shall be maintained as described in WAC 172-121-080.))~~

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-130 Appeals. (1) Basis: Appeals may be filed by ~~((either))~~ the accused or the complainant. In cases of harassment and/or sexual misconduct, the victim may also file an appeal. Appeals may be filed for one or more of the following reasons:

(a) To determine whether the hearing was conducted according to established procedures. A hearing may have deviated from established procedures if:

(i) The hearing was not conducted fairly in light of the charges and information presented;

(ii) The complainant was not given a reasonable opportunity to prepare and to present information as provided by the student conduct code;

(iii) The accused was not given a reasonable opportunity to prepare and to present a response as provided by the student conduct code.

(b) The hearing authority misinterpreted the student conduct code.

(c) To determine whether the decision reached by the hearing authority was based on the information presented and

that that information was sufficient to reasonably establish that a violation of the conduct code did or did not occur based on a preponderance of the evidence.

~~((e))~~ (d) To determine whether the sanction(s) imposed were reasonable and appropriate for the associated conduct code violation(s).

~~((d))~~ (e) To consider ~~((new))~~ newly discovered, material information ~~((or other relevant facts not previously presented because such information and/or facts were))~~ which was not known to the appellant and could not reasonably have been discovered and presented by the appellant at the original hearing. It is the party's obligation to present all evidence at the time of the original hearing. ((In such cases, if the information was reasonably available at the time of the original hearing but the appellant did not make a good faith effort to discover the information, there is no basis for appeal. It is important for the parties to make a good faith effort to gather all relevant facts before the hearing.)) The university is not obligated to ~~((hold))~~ grant an appeal and conduct a new hearing when ~~((the))~~ parties ~~((did))~~ do not take reasonable efforts to prepare their cases for the ~~((initial))~~ original hearing.

(2) Filing: Appeals may be filed following a conduct review hearing, ~~((if the accused or the complainant believes there is basis to support an appeal, they may file such an appeal.))~~ subject to the following provisions:

(a) The appeal must be submitted to the director of ~~((the office of))~~ student rights and responsibilities within five business days of receipt of the decision;

(b) The appeal shall be in writing and shall include:

(i) The appellant's name;

(ii) The nature of the decision and sanctions reached by the hearing official;

(iii) The basis, as described in subsection (1) of this section, for the appeal; and

(iv) What remedy the appellant is seeking.

(3) Appeal authorities:

(a) For summary hearings heard by the conduct review officer, ~~((the appeal authority is))~~ appeals are determined by the student disciplinary council.

(b) For ~~((council hearings heard by the))~~ student disciplinary council ~~((, the appeal authority is))~~ hearings, appeals are determined by the dean of students.

(4) Forwarding of appeals: The director of ~~((the office of student rights and responsibilities))~~ SRR shall ~~((, within five business days of receipt of an appeal,))~~ forward the appeal to the appropriate appeal authority. The submitted appeal will include, at a minimum, the appellant's written appeal and the written report of the case. The director of ~~((OSRR))~~ SRR may also forward any other written records related to the case.

(5) Review of appeals:

(a) Before rendering a decision, the appeal authority may request additional information or explanation from any of the parties to the proceedings.

(b) Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the conduct review hearing and supporting documents.

(c) In making its decision, the appeal authority will only consider the written record before it, the appellant's notice of

appeal and other information and/or explanation it has requested from the parties to the proceedings.

(6) Decisions: After reviewing the appeal, the appeal authority may affirm, reverse, or remand the decision(s) of the hearing authority.

(7) Remanded cases: In cases where the appeal authority remands the decision or sanction(s) of the hearing authority, the case will be returned to the hearing authority for reconsideration or other action as specified by the appeal authority. Following such reconsideration, the hearing authority will return the case to the appeal authority for further review/action. The appeal authority will then complete the appeal process or remand the case again. No appeal may, however, be remanded more than two times. After a case has been remanded twice, the appeal authority must affirm or reverse the decision and affirm, reverse, or modify the sanctions.

(8) Sanctions: The appeal authority may affirm, reverse, remand, or modify the sanctions assigned to the accused. When determining sanctions, the appeal authority may consider the complete record of the accused's prior conduct and academic performance in addition to all other information associated with the case.

(9) Notification: Once the appeal authority has made a final decision to affirm or reverse and/or to modify the sanctions assigned, the appeal authority shall forward the decision to the director of SRR. The director of SRR shall notify, in writing, the accused, and, in cases of harassment or sexual misconduct, the complainant and victim, of the outcome of the appeal.

~~(10) Further proceedings. ((After an appeal authority has completed an appeal action,)) The appeal authority's decision is final and no further appeals may be made under ((this chapter)) the student conduct code.~~

~~((10)) (11) Appeals standards:~~

(a) Appeal authorities must weigh all pertinent information presented to them in determining whether ~~((reasonable))~~ sufficient evidence exists to support reversal or modification of decisions or sanctions.

(b) For appeals based on a deviation from established procedures, such deviations will not be a basis for sustaining an appeal unless the alleged deviation ~~((resulted in a material change in))~~ materially changed the outcome of the case or the sanctions imposed.

~~((11) Records: Records of appeal proceedings shall be maintained as described in WAC 172-121-080.))~~

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-140 Interim restriction. ~~((Ordinarily, the disciplinary authority of the university will be invoked only after all related review, hearing, and appeal procedures have been completed. However,))~~ In situations where there is cause to believe that a student or a student organization endangers the health, safety, or welfare of themselves, the university community, or property of the university community, the dean of students may take immediate action(s) against the student or student organization without prior notice or hearing.

Simultaneous with such action(s), the dean of students will refer the charges to the conduct review officer, who will process such charges in accordance with the provisions of this student conduct code.

Interim restriction is subject to the following:

(1) Interim restriction actions may only be imposed in the following situations:

(a) When a student or student organization poses an immediate threat to:

(i) The health, safety or welfare of any part of the university community or public at large;

(ii) The student's own physical safety and well-being; or

(iii) Any property of the university community;

(b) When it is believed that the student's or student organization's continued attendance or presence may cause disorder, substantially interfere with or impede the lawful activities of others, or imperil the physical or mental health and safety of members of the university community; or

(c) ~~((In all cases where))~~ When a student is undergoing criminal proceedings for any felony charge.

(2) During the interim restriction period, a student may be restricted by any or all of the following means:

(a) Denial of access, including but not limited to: Assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the university or restriction of access to campus;

(c) Mandatory medical/psychological assessment of the student's capability to remain in the university.

(3) The dean of students will determine what restriction(s) will be ~~((ordered))~~ placed on a student.

(4) All interim restrictions that involve any type of restriction from any university premises will be accomplished by giving a notice against trespass. The notice against trespass may be given by any manner specified in WAC 172-122-200.

(5) The dean of students will prepare a brief memorandum for record containing the reasons for the interim restriction. The dean of students will forward copies of the memorandum for record by personal delivery or by U.S. mail to the restricted student, ~~((the office of))~~ student rights and responsibilities, and all other persons or offices bound by it. At a minimum, the memorandum will state:

(a) The alleged act(s) or behavior(s) of the student or student organization which prompted the interim restriction;

(b) How those alleged act(s) or behavior(s) constitute a violation of the student conduct code; and

(c) How the circumstances of the case necessitated the interim restriction action(s).

(6) In all such cases, the student or student organization may appeal the interim restriction to the vice-president for student affairs. The challenge must be submitted, in writing, within ten business days after the interim restriction action is taken, unless the student requests an extension. Requests for extension will only be granted to review the following issues:

(a) The reliability of the information concerning the student's behavior; and

(b) Whether the student's continued presence or prior or present behavior warrants interim restriction for the causes listed in subsection (1) of this section.

(7) As a result of the challenge, the vice-president for student affairs will schedule a meeting with the accused. The vice-president for student affairs may have the dean of students or any other person deemed relevant attend the meeting. The accused may have an advisor present at the meeting so long as the name of that person is provided to the director of ((OSRR)) SRR at least two business days prior to the scheduled meeting.

(8) During the appeal meeting, the vice-president for student affairs will review available materials and statements. After the meeting, the vice-president for student affairs may ((either)) uphold, modify, or terminate the interim restriction action.

(9) The interim restriction does not replace the regular hearing process, which will proceed consistent with this chapter.

(10) ~~((Records. Records of interim restriction proceedings shall be maintained as described in WAC 172-121-080.))~~ Duration. An interim restriction will remain in effect until terminated, in writing, by the student disciplinary council or the vice-president for student affairs.

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-200 Violations. The following are defined as offenses which are subject to disciplinary action by the university.

(1) Acts of academic dishonesty. University policy regarding academic dishonesty is governed by the university academic integrity policy. However, repeated violations, as described in the academic integrity policy, are subject to action under the student conduct code. Academic dishonesty includes, but is not limited to, any of the following activities:

(a) Plagiarism: Representing the work of another as one's own work;

(b) Preparing work for another that is to be used as that person's own work;

(c) Cheating by any method or means;

(d) Knowingly and willfully falsifying or manufacturing scientific or educational data and representing the same to be the result of scientific or scholarly experiment or research; or

(e) Knowingly furnishing false information to a university official relative to academic matters.

(2) Acts of social misconduct.

(a) ~~((Violence/threats/abuse/endangerment.))~~

~~((i) Abuse or harm of others. Conduct which causes physical abuse, harm, threats, intimidation, coercion, detention, and/or other conduct which threatens or endangers the health or safety of any person.~~

~~((ii) Reckless endangerment. Engaging in conduct that creates an unreasonable risk of harm to another person or property.))~~ Abuse. Physical abuse, verbal abuse, and/or other conduct which threatens or endangers the health or safety of any person.

(b) Bullying. Bullying is behavior that is:

(i) Intentional;

(ii) Targeted at an individual or group;

(iii) Repeated;

(iv) Objectively hostile or offensive; and

(v) Creates an intimidating and/or threatening environment which produces a risk of psychological and/or physical harm.

(c) Domestic violence and dating violence.

(i) Domestic violence means:

(A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;

(B) Sexual assault of one family or household member by another; or

(C) Stalking of one family or household member by another family or household member.

(ii) Dating violence is a type of domestic violence, except the acts specified above are committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. In determining whether such a relationship exists, the following factors are considered:

(A) The length of time the relationship has existed;

(B) The nature of the relationship; and

(C) The frequency of interaction between the parties involved in the relationship.

(d) Harassment, gender-based harassment, and sexual harassment.

(i) Harassment is conduct by any means that is sufficiently severe, pervasive, or persistent, and objectively offensive so as to threaten an individual or limit the individual's ability to work, study, participate in, or benefit from the university's programs or activities.

(ii) Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or nonconformity with gender stereotypes. Gender-based harassment violates this code and Title IX when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

(iii) Sexual harassment is unwelcome conduct of a sexual nature and may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment violates this code and Title IX when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

In determining whether any of the above-listed types of harassment are severe, pervasive, or persistent, the university shall consider all relevant circumstances from both an objective and subjective perspective, including the type of harassment (verbal or physical); the frequency and severity of the conduct; the age, sex, and relationship of the individuals involved; the degree to which the conduct affected the victim; the setting and context in which the harassment occurred; whether other incidents have occurred at the university; and other relevant factors.

(e) Retaliation. Any actual or threatened retaliation or any act of intimidation intended to prevent or otherwise obstruct the reporting of a violation of this code is prohibited

and is a separate violation of this code. Any actual or threatened retaliation or act of intimidation directed towards a person who participates in an investigation or disciplinary process under this code is prohibited and is a separate violation of this code.

(f) Sexual misconduct. (~~Sexual misconduct is any sexual activity with another person that is unwanted and nonconsensual. Sexual misconduct includes, but is not limited to:~~

(i) Unwanted verbal (including telephone), written (including electronic media), pictorial or physical conduct of a sexual nature which a reasonable person would consider to be harassing, intimidating, hostile, offensive and/or which adversely affects the learning or living environment of the campus;

(ii) Unwanted, forceful, sexual contact. The use of force may include, but is not limited to use of body weight, pushing or hitting, coercion, threats, or intimidation;

(iii) The use of force (body weight, hitting or pushing, use of a weapon, threats to kidnap or kill, for example) to overcome earnest resistance to engaging in sexual intercourse. Earnest resistance may be verbal, physical or both;

(iv) Sexual intercourse which occurs without consent whether force is used or not. Consent requires actual words or conduct demonstrating freely given agreement to the sexual activity. Sexual activity is nonconsensual when the victim is incapable of consent by reason of mental incapacity, drug/alcohol intoxication, illness, unconsciousness or physical helplessness. Silence and passivity do not constitute consent;

(v) Voyeurism. Voyeurism occurs when an individual, for the purpose of arousing or gratifying his/her sexual desire, knowingly views, photographs, or films another person, without that person's knowledge or consent, while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy;

(vi) Charges of sexual harassment may be adjudicated under the university sexual harassment policy in addition to any processing under this student conduct code.

(e) Harassment. Harassment of any sort is prohibited. Conduct (physical, verbal, graphic, written, or electronic) that is sufficiently severe, pervasive, or persistent to have the purpose or effect of unreasonably interfering with an individual's ability to work, study, or participate in his/her regular life or university activities. Examples of harassment include, but are not limited to the following:

- (i) Cyberstalking;
- (ii) Unwanted telephone calls;
- (iii) Unwanted text messaging; and/or
- (iv) Unwanted conversation.

(d)) Sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion, are types of sexual misconduct. Sexual violence is sexual intercourse or sexual contact with a person without his or her consent or when the person is incapable of giving consent. Consent means actual words or conduct indicating freely given agreement to the sexual act. Consent cannot be inferred from silence, passivity, or lack of active resistance. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. Sexual activity is nonconsensual when the victim is incapable of consent by reason of mental incapacity, drug/alcohol use, illness, unconscious-

ness, or physical condition. Sexual misconduct also includes, but is not limited to, indecent liberties, indecent exposure, sexual exhibitionism, sex-based cyber-harassment, prostitution or the solicitation of a prostitute, peeping or other voyeurism, or going beyond the boundaries of consent, such as by allowing others to view consensual sex or the nonconsensual recording of sexual activity.

(g) Stalking. (~~(Any repeated)~~ Stalking is engaging in a course of conduct directed (specifically at another) at a specific person that ((causes that)) would cause a reasonable person to:

(i) Fear for ((his/her)) their health and/or safety(~~.-Such behaviors and activities may include, but are not limited to the following:~~

(i) ~~Noneconsensual communication or contact, including face-to-face, telephone calls, voice messages, electronic mail, instant messaging, written letters, unwanted gifts, etc.;~~

(ii) ~~Harassment, either by the individual or through a third party;~~

(iii) ~~Use of threatening or obscene gestures;~~

(iv) ~~Pursuing or following;~~

(v) ~~Surveillance or other types of observation;~~

(vi) ~~Use of electronic devices or software to track or obtain private information;~~

(vii) ~~Trespassing;~~

(viii) ~~Vandalism; and~~

(ix) ~~Noneconsensual touching)) or the health/safety of others; or~~

(ii) Suffer substantial emotional distress.

((e)) (h) Unauthorized use of electronic or other devices: Making an audio or video ((record)) recording of any person while on university premises without ((his or her)) the person's prior knowledge((;)) or without ((his or her)) their effective consent, when such a recording is of a private conversation or of images taken of a person(s) at a time and place where ((she or he)) the person would reasonably expect privacy and where such ((images)) recordings are likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom, but does not include taking pictures of persons in areas which are considered by the reasonable person to be open to public view.

(3) Property violations. Theft ((from, or)) of, damage to, or misuse of ((university)) another person's or entity's property ((or the property of any person on or off campus are subject to university disciplinary action)).

(4) Weapons. No individual shall have on ((his/her)) their person, in ((his/her)) their vehicle or otherwise in ((his/her)) their possession any ((gun, pistol, or firearm or explosives, dangerous chemicals or other dangerous weapons or instruments on the university campus or other university premises)) weapon, explosive, dangerous chemical or other dangerous instrument except as ((follows:)) described in (a) through (c) of this subsection. Examples of weapons under this section include, but are not limited to: Shotguns, rifles, pistols, air guns, BB guns, pellet guns, longbows, hunting bows, throwing weapons, stun guns, electroshock weapons, and any item that can be used as an object of intimidation and/or threat, such as replica or look-a-like weapons.

(a) Authorized law enforcement officers are permitted to carry arms while on duty and engaged in their regular duties;

(b) Activities requiring use of the prohibited items may be conducted on approval of the activity by the board of trustees;

(c) Persons are permitted to have firearms in their possession directly en route to or from campus firearm storage facilities where such possession is incidental to approved on or off campus possession or use of such firearms(~~(-~~

~~(d) Examples of weapons under this section include, but are not limited to: Shotguns, rifles, pistols, air guns, BB guns, pellet guns, longbows, hunting bows, throwing weapons, any item that can be used as an object of intimidation and/or threat, replica or look-a-like weapons, etc)).~~

~~(5) ((Disobedience. Disobedience, interference, resistance, or failure to comply with direction of an identified university official or other authority acting in the line of duty, including:)) Failure to comply.~~

(a) Failure to comply with lawful and/or reasonable directions of university officials or law enforcement officers acting in performance of their duties on campus or affecting conduct on campus;

(b) Failure to identify oneself to university officials in their course of duty, refusal or failure to appear before university officials or disciplinary bodies when directed to do so(~~(-, or the violation of sanctions imposed after such proceedings))~~);

(c) Failure to attend any medical treatment or evaluation program when directed to do so by the dean of students(~~(-, the self-harm prevention team,))~~) or other authorized university official.

(6) Trespassing/unauthorized use of keys.

~~(a) Trespass. ((The unauthorized entry into or onto, or the unauthorized remaining in any building or facility or on any property.))~~ Entering or remaining on university property without authorization.

~~(b) Unauthorized use of keys ((and unauthorized entry)).~~ Unauthorized possession, duplication, or use of ((keys to university premises or unauthorized entry to or use of university premises)) university keys or access cards.

(7) Deception, forgery, fraud, unauthorized representation.

(a) Knowingly furnishing false information to the university.

(b) Forgery, alteration, or misuse of university documents, records, or instruments of identification. This includes situations of identity theft where a person knowingly uses or transfers another person's identification for any purpose.

(c) Forgery or issuing a bad check with intent to defraud.

(d) Unauthorized representation. The unauthorized use of the name of the university or the names of members or organizations in the university community.

(8) Safety.

(a) Intentionally activating a false fire alarm.

(b) Making a bomb threat.

(c) Tampering with fire extinguishers, alarms, or safety equipment.

(d) Tampering with elevator controls and/or equipment.

(e) Failure to evacuate during a fire, fire drill, or false alarm.

(9) Alcohol, drugs, and controlled substances.

(a) Alcohol and substance violations. Use, possession, distribution, or sale of alcoholic beverages (except as permitted by university policy and state law) is prohibited. Under no circumstances may individuals under the age of twenty-one use, possess, distribute, manufacture or sell alcoholic beverages. Public intoxication is ~~((also))~~ prohibited.

~~(b) ((Illegal))~~ Drugs and paraphernalia.

(i) Use, possession, distribution, manufacture, or sale of marijuana, drug paraphernalia and/or illegal drugs, ((including marijuana,)) narcotics or ((other)) controlled substances, is prohibited ((except as authorized by federal or state law)).

(ii) Being under the influence of marijuana or an illegal substance, while on property owned or operated by the university, is prohibited. Being under the influence of a controlled substance, except when legally prescribed by a licensed medical practitioner, is also prohibited while on property owned or operated by the university((-, except when legally prescribed by a licensed medical practitioner)).

(10) Hazing. Any ~~((action required of or imposed on current or potential members of an organization or group which, regardless of location of the incident or consent of the participant(s)))~~ act which, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization:

(a) ((Produces or is reasonably likely to produce bodily harm or danger, mental or physical discomfort, embarrassment, harassment, fright, humiliation or ridicule)) Endangers the mental or physical health or safety of any student or other person;

(b) Destroys or removes public or private property; or

~~((b))~~ (c) Compels an individual to participate in any activity which is illegal((-, perverse or publicly indecent)) or contrary to university rules, regulations or policies((-, or which is known by the compelling person(s) to be contrary to the individual's moral or religious beliefs)).

The express or implied consent of any participant is not a defense. A person who is apathetic or acquiesces in the presence of hazing violates this rule.

(11) Disruptive conduct/obstruction.

~~(a) Disruptive conduct. Conduct which ((disrupts or obstructs teaching, research, administration, disciplinary proceedings, freedom of movement or other lawful activities))~~ unreasonably interferes with any person's ability to work or study, or obstructs university operations or campus activities.

(b) Disorderly conduct. Conduct that is disorderly, lewd, indecent or a breach of peace.

(c) Obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored or university-supervised events.

(d) Demonstration. Participation in a campus demonstration which violates ~~((the))~~ university regulations ~~((governing campus assembly and peaceful demonstration)).~~

(12) Violations of other laws, regulations and policies.

(a) Violation of a local, county, state, or federal law.

(b) Violation of other university policies ~~((or)),~~ regulations, or handbook provisions.

(13) Assisting/attempts. Soliciting, aiding, abetting, concealing, or attempting conduct in violation of this code.

~~((Conduct involving being an accessory to any person who violates this code.))~~

(14) Acts against the administration of this code.

(a) Initiation of a complaint or charge knowing that the charge was false or with reckless disregard of its truth.

(b) Interference with or attempt to interfere with the enforcement of this code, including but not limited to, intimidation or bribery of hearing participants, acceptance of bribes, dishonesty, or disruption of proceedings and hearings held under this code.

(c) Knowing violation of the terms of any disciplinary sanction or attached conditions imposed in accordance with this code.

(15) Other ~~((provisions))~~ responsibilities:

(a) ~~((Responsibility for))~~ Guests. A student, student group or student organization is responsible for the conduct of guests on or in university property and at functions sponsored by the university or sponsored by any recognized university organization.

(b) Students studying abroad. Students who participate in any university sponsored or sanctioned foreign country study program shall observe the following rules and regulations:

(i) The laws of the host country;

(ii) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying; ~~((and))~~

(iii) Any other agreements related to the student's study program in the foreign country; and

(iv) The student conduct code.

~~((e))~~ (16) Student organization and/or group offenses. Clubs, organizations, societies or similarly organized groups in or recognized by the university and/or ASEWU are subject to the same standards as are individuals in the university community. The commission of any of the offenses in this section by such groups or the knowing failure of any organized group to exercise preventive measures relative to violations of the code by their members shall constitute a group offense.

AMENDATORY SECTION (Amending WSR 09-12-001, filed 5/20/09, effective 6/20/09)

WAC 172-121-210 Sanctions. If any student or student organization is found to have committed any of the offenses described in WAC 172-121-200, one or more of the following sanctions may be imposed against the student or student organization. Failure to comply with any imposed sanction may result in additional sanctions.

(1) Individual student sanctions:

(a) Admonition: An oral statement to a student that he/she has violated university rules and regulations.

(b) Warning: A notice to the student or student organization that they have violated the standards for student conduct and that any repeated or continuing violation of the same standard, within a specified period of time, may result in more severe disciplinary action. A warning may be verbal or written.

(c) Censure: A written reprimand for violation of specified regulations. A censure will also state that more severe

disciplinary sanctions may be imposed if the student or student organization is found in violation of any regulation within a stated period of time

(d) Disciplinary probation: A formal action which places one or more conditions, for a specified period of time, on the student's continued attendance. Disciplinary probation sanctions will be executed in writing and will specify the probationary conditions and the period of the probation. A disciplinary probation notice will also inform the student that any further misconduct will automatically involve consideration of suspension. Probationary conditions may include, but are not limited to:

(i) Restricting the student's university-related privileges;

(ii) Limiting the student's participation in extra-curricular activities; and/or

(iii) Enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups.

(e) Restitution: Reimbursement to the university or others for damage, destruction, or other loss of property suffered as a result of theft or negligence. Restitution also includes reimbursement for medical expenses incurred due to conduct code violations. Restitution may take the form of appropriate service or other compensation. Failure to fulfill restitution requirements will result in cancellation of the student's registration and will prevent the student from future registration until restitution conditions are satisfied.

(f) Fines: The university conduct review officer and the student disciplinary council may assess monetary fines up to a maximum of four hundred dollars against individual students for violation of university rules or regulations or for failure to comply with university standards of conduct. Failure to promptly pay such fines will prevent the student from future registration. Failure to pay may also result in additional sanctions.

(g) Discretionary sanctions: Work assignments, service to the university community or other related discretionary assignments for a specified period of time as directed by the hearing authority.

(h) Loss of financial aid: In accordance with RCW 28B.30.125, a person who participates in the hazing of another forfeits entitlement to state-funded grants, scholarships or awards for a specified period of time.

(i) Assessment: Referral for drug/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

~~((j))~~ ~~((Deferred suspension: Notice of suspension from the university with the provision that the student may remain enrolled contingent on meeting a specified condition or conditions. Not meeting the specified condition(s) will immediately invoke the suspension for the period of time and under the conditions originally imposed.~~

~~((k))~~ Suspension: Exclusion from classes and other privileges or activities for a specified period of time. Suspensions will be executed through a written order of suspension and will state all restrictions imposed by the suspension, as well as the suspension period and what conditions of readmission, if any, are ordered. Suspension is subject to the processes out-

lined in this chapter except any suspension must also be approved by the dean of students and the vice-president for student affairs before such sanction is imposed.

~~((4) Dismissal)~~ (k) Expulsion: Permanent separation of the student from the university with no promise (implied or otherwise) that the student may return at any future time. The student will also be barred from university premises. ~~((Dis-missal))~~ Expulsion actions will be accomplished by issuing both an order of ~~((dismissal))~~ expulsion and a notice against trespass. The notice against trespass may be given by any manner specified in chapter 9A.52 RCW. Expulsion is subject to the processes outlined in this chapter except any expulsion must also be approved by the dean of students and the vice-president of student affairs before such sanction is imposed.

~~((m))~~ (l) Loss of institutional, financial aid funds: Formal withholding of all or a part of institutional funds currently being received by the student or promised for future disbursement to the student for a specified period of time.

(m) Revocation of degree: A degree awarded by the university may be revoked for fraud, misrepresentation, or other violation of law or university standards. Revocation of a degree is subject to processes outlined in this chapter except that revocation of a degree must also be approved by the university president.

(2) Student organizations and/or group sanctions: Any of the above sanctions may be imposed in addition to those listed below:

(a) Probation: Formal action placing conditions on the group's continued recognition by or permission to function at the university. The probationary conditions will apply for a specified period of time. Violation of the conditions of probation or additional violations while under probation may result in more severe sanctions;

(b) Social probation: Prohibition of the group from sponsoring any organized social activity, party or function, or from obtaining a permission for the use of alcoholic beverages at social functions for a specified period of time;

(c) ~~((Charter))~~ Restriction: The temporary withdrawal of university or ASEWU recognition for a group, club, society or other organization. ~~((It may be recommended by the appropriate disciplinary body, but may only be imposed by the university president))~~ Restriction is subject to the processes outlined in this chapter except any restriction must also be approved by the dean of students and the vice-president of student affairs before such sanction is imposed;

(d) ~~((Charter))~~ Revocation: The permanent withdrawal of university or ASEWU recognition for a group, club, society or other organization. ~~((It may be recommended by the appropriate judicial body, but can only be imposed by the university president))~~ Revocation is subject to the processes outlined in this chapter except any revocation must also be approved by the dean of students and the vice-president of student affairs before such sanction is imposed;

(e) Additional sanctions: In addition to or separately from the above, any one or a combination of the following may be concurrently imposed on the group:

- (i) Exclusion from intramural competition as a group;
- (ii) Denial of use of university facilities for meetings, events, etc.;

- (ii) Restitution; and/or
- (iv) Fines.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 172-121-090 Conduct review proceedings.