

WSR 15-16-001
PERMANENT RULES
OLYMPIC COLLEGE

[Filed July 22, 2015, 1:58 p.m., effective August 22, 2015]

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

Purpose: This policy is an update to an existing policy regarding the college's responsibility to prevent discrimination and harassment throughout the college community. This policy meets federal and state laws as follows: Title VI of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Sections 504 and 508 of the Rehabilitation Act of 1973, the Americans Reauthorization Act and Washington state's law against discrimination, chapter 49.60 RCW and their implementing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 132C-285-010 and 132C-285-020.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 15-11-030 on May 13, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 14, Amended 0, Repealed 2; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 14, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, Amended 0, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: July 14, 2015.

Laurie Harmon
Rules Coordinator

NEW SECTION

WAC 132C-285-100 Introduction. Olympic College recognizes its responsibility for investigation, resolution, implementation of corrective measures, and monitoring of the educational environment and workplace to stop, remediate, and prevent discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, honorably discharged veteran or military status, or use of a trained guide dog or service animal, as required by Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Sections 504 and 508 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and ADA Amendment Act, the Age Discrimination Act of 1975, the Violence Against Women Reauthorization Act and Washington state law against discrimination, chapter 49.60 RCW and their implementing regulations.

NEW SECTION

WAC 132C-285-110 Policy. Olympic College prohibits its discrimination against and harassment of members of the protected classes named in the introduction to this policy. Any individual found to be in violation of these policies will be subject to disciplinary action up to and including dismissal from the college or from employment.

NEW SECTION

WAC 132C-285-120 Reporting procedure. Any employee, student, applicant, or visitor who believes that he or she has been the subject of discrimination or harassment should report the incident or incidents to the college's Title IX/EEO coordinator. If the complaint is against that coordinator, the complainant should report the matter to the president's office for referral to an alternate designee.

The Title IX/EEO coordinator or designee:

- (1) Will accept all complaints and referrals from college employees, applicants, students, and visitors;
- (2) Will make determinations regarding how to handle requests by complainants for confidentiality;
- (3) Will keep accurate records of all complaints and referrals for the required time period;
- (4) May conduct investigations or delegate and oversee investigations conducted by a designee;
- (5) May impose interim remedial measures to protect parties during investigations of discrimination or harassment;
- (6) Will issue written findings and recommendations upon completion of an investigation;
- (7) May recommend specific corrective measures to stop, remediate, and prevent the recurrence of inappropriate conduct;

The college encourages the timely reporting of any incidents of discrimination or harassment. Complaints may be submitted in writing or orally. For complainants who wish to submit a written complaint, an electronic formal complaint form is available on the web page for the Title IX/EEO coordinator. Hardcopies of the complaint form are available at the office of the Title IX/EEO coordinator and the office of the president.

NEW SECTION

WAC 132C-285-130 Definitions. (1) **Complainant:** Employee(s), applicant(s), student(s), or visitor(s) of Olympic College who alleges that she or he has been subjected to discrimination or harassment due to his or her membership in a protected class.

(2) **Complaint:** A description of facts that allege violation of the college's policy against discrimination or harassment.

(3) **Consent:** Knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person cannot consent if he or she is

unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(4) **Discrimination:** Unfavorable treatment of a person based on that person's membership or perceived membership in a protected class. Harassment is a form of discrimination.

(5) **Harassment:** A form of discrimination consisting of physical or verbal conduct that denigrates or shows hostility toward an individual because of their membership in a protected class or their perceived membership in a protected class. Harassment occurs when the conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs (and/or student housing). Petty slights, annoyances, offensive utterances, and isolated incidents (unless extremely serious) typically do not qualify as harassment. Examples of conduct that could rise to the level of discriminatory harassment include, but are not limited to, the following:

(a) Epithets, "jokes," ridicule, mockery or other offensive or derogatory conduct focused upon an individual's membership in a protected class.

(b) Verbal or physical threats of violence or physical contact directed towards an individual based upon their membership in a protected class.

(c) Making, posting, e-mailing, texting, or otherwise circulating demeaning or offensive pictures, cartoons, graffiti, notes or other materials that relate to race, ethnic origin, gender or any other protected class.

(6) **Protected class:** Persons who are protected under state or federal civil rights laws, including laws that prohibit discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, honorably discharged veteran or military status, or use of a trained guide dog or service animal.

(7) **Resolution:** The means by which the complaint is finally addressed. This may be accomplished through informal or formal processes, including counseling, mediation, or the formal imposition of discipline sanction.

(8) **Respondent:** Person or persons who are members of the campus community who allegedly discriminated against or harassed another person or persons.

(9) **Sexual harassment:** A form of discrimination consisting of unwelcome, gender-based verbal, written, electronic and/or physical conduct. Sexual harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's gender. There are two types of sexual harassment.

(a) **Hostile environment sexual harassment** occurs when the conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of altering the

terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs (and/or student housing).

(b) **Quid pro quo sexual harassment** occurs when an individual in a position of real or perceived authority, conditions the receipt of a benefit upon granting of sexual favors.

• Examples of conduct that may qualify as sexual harassment include:

- Persistent comments or questions of a sexual nature;

- A supervisor who gives an employee a raise in exchange for submitting to sexual advances;

- An instructor who promises a student a better grade in exchange for sexual favors;

- Sexually explicit statements, questions, jokes, or anecdotes;

- Unwelcome touching, patting, hugging, kissing, or brushing against an individual's body;

- Remarks of a sexual nature about an individual's clothing, body, or speculations about previous sexual experiences;

- Persistent, unwanted attempts to change a professional relationship to an amorous relationship;

- Direct or indirect propositions for sexual activity;

- Unwelcome letters, e-mails, texts, telephone calls, or other communications referring to or depicting sexual activities.

(10) **Sexual violence** is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(a) **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) **Nonconsensual sexual contact** is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) **Domestic violence** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

(d) **Dating violence** means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(e) **Stalking** means intentional and repeated harassment or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such intent.

NEW SECTION

WAC 132C-285-140 Who may file a complaint. Any employee, applicant, student or visitor of the college may file a complaint. Complaints may be submitted in writing or verbally. The college encourages the timely reporting of any incidents of discrimination or harassment. For complainants who wish to submit a written complaint, an electronic formal complaint form is available online. Hardcopies of the complaint form are available at the office of the Title IX/EEO coordinator and the office of the president. Any person submitting a discrimination complaint shall be provided with a written copy of this policy.

NEW SECTION

WAC 132C-285-150 Confidentiality and right to privacy. Olympic College will seek to protect the privacy of the complainant to the fullest extent possible, consistent with the legal obligation to investigate, take appropriate remedial and/or disciplinary action, and comply with the federal and state law, as well as Olympic College policies and procedures. Although Olympic College will attempt to honor complainants' requests for confidentiality, it cannot guarantee complete confidentiality. Determinations regarding how to handle requests for confidentiality will be made by the Title IX/EEO coordinator.

Confidentiality requests and sexual violence complaints. The Title IX/EEO coordinator will inform and obtain consent from the complainant before commencing an investigation into a sexual violence complaint. If a sexual violence complainant asks that his or her name not be revealed to the respondent or that the college not investigate the allegation, the Title IX/EEO coordinator will inform the complainant that maintaining confidentiality may limit the college's ability to fully respond to the allegations and that retaliation by the respondent and/or others is prohibited. If the complainant still insists that his or her name not be disclosed or that the college not investigate, the Title IX/EEO coordinator will determine whether the college can honor the request and at the same time maintain a safe and nondiscriminatory environment for all members of the college community, including the complainant. Factors to be weighed during this determination may include, but are not limited to:

- The seriousness of the alleged sexual violence;
- The age of the complainant;
- Whether the sexual violence was perpetrated with a weapon;
- Whether the respondent has a history of committing acts of sexual violence or violence or has been the subject of other sexual violence complaints;
- Whether the respondent threatened to commit additional acts of sexual violence against the complainant or others; and
- Whether relevant evidence can be obtained through other means (e.g., security cameras, other witnesses, physical evidence).

If the college is unable to honor a complainant's request for confidentiality, the Title IX/EEO coordinator will notify the complainant of the decision and ensure that complainant's

identity is disclosed only to the extent reasonably necessary to effectively conduct and complete the investigation.

If the college decides not to conduct an investigation or take disciplinary action because of a request for confidentiality, the Title IX/EEO coordinator will evaluate whether other measures are available to limit the effects of the harassment and prevent its recurrence and implement such measures if reasonably feasible.

NEW SECTION

WAC 132C-285-160 Investigation procedure. Upon receiving a discrimination or harassment complaint, the college shall commence an impartial investigation. The Title IX/EEO coordinator shall be responsible for overseeing all investigations. Investigations may be conducted by the Title IX/EEO coordinator or his or her designee. If the investigation is assigned to someone other than the Title IX/EEO coordinator, the Title IX/EEO coordinator shall inform the complainant and respondent(s) of the appointment of an investigator.

(1) **Interim measures.** The Title IX/EEO coordinator may impose interim measures to protect the complainant and/or respondent pending the conclusion of the investigation. Interim measures may include, but are not limited to, imposition of no contact orders, rescheduling classes, temporary work reassignments, referrals for counseling or medical assistance, and imposition of summary discipline on the respondent consistent with the college's student conduct code or the college's employment policies and collective bargaining agreements.

(2) **Investigation.** Complaints shall be thoroughly and impartially investigated. The investigation shall include, but is not limited to, interviewing the complainant and the respondent, relevant witnesses, and reviewing relevant documents. The investigation shall be concluded within a reasonable time, normally sixty days barring exigent circumstances. At the conclusion of the investigation the investigator shall set forth his or her findings and recommendations in writing. If the investigator is a designee, the investigator shall send a copy of the findings and recommendations to the Title IX/EEO coordinator. The Title IX/EEO coordinator shall consider the findings and recommendations and determine, based on a preponderance of the evidence, whether a violation of the discrimination and harassment policy occurred, and if so, what steps will be taken to resolve the complaint, remedy the effects on any victim(s), and prevent its recurrence. Possible remedial steps may include, but are not limited to, referral for voluntary training/counseling, development of a remediation plan, limited contact orders, and referral and recommendation for formal disciplinary action. Referrals for disciplinary action will be consistent with the student conduct code or college employment policies and collective bargaining agreements.

(3) **Written notice of decision.** The Title IX/EEO coordinator will provide each party and the appropriate student services administrator or appointing authority with written notice of the investigative findings and of actions taken or recommended to resolve the complaint, subject to the following limitations. The complainant shall be informed in writing

of the findings and of actions taken or recommended to resolve the complaint, if any, only to the extent that such findings, actions or recommendations directly relate to the complainant, such as a finding that the complaint is or is not meritorious or a recommendation that the accused not contact the complainant. The complainant may be notified generally that the matter has been referred for disciplinary action. The respondent shall be informed in writing of the findings and of actions taken or recommended to resolve the complaint and shall be notified of referrals for disciplinary action. Both the complainant and the respondent are entitled to review any final findings, conclusions, and recommendations, subject to any FERPA confidentiality requirements.

(4) **Informal dispute resolution.** Informal dispute resolution processes, like mediation, may be used to resolve complaints, when appropriate. Informal dispute resolution shall not be used to resolve sexual discrimination complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(5) **Final decision/reconsideration.** Either the complainant or the respondent may seek reconsideration of the decision by the Title IX/EEO coordinator. Requests for reconsideration shall be submitted in writing to the Title IX/EEO coordinator within seven days of receiving the decision. Requests must specify which portion of the decision should be reconsidered and the basis for reconsideration. If no request for reconsideration is received within seven days, the decision becomes final. If a request for reconsideration is received, the Title IX/EEO coordinator shall respond within fifteen business days. The Title IX/EEO coordinator shall either deny the request or, if the Title IX/EEO coordinator determines that the request for reconsideration has merit, issue an amended decision. Any amended decision is final and no further reconsideration is available.

NEW SECTION

WAC 132C-285-170 Publication of antidiscrimination policies and procedures. The policies and procedures regarding complaints of discrimination and harassment shall be published and distributed as determined by the president or president's designee. Any person who believes he or she has been subjected to discrimination in violation of college policy will be provided a copy of this policy. Specific individual contact names and electronic links will be updated, as needed.

NEW SECTION

WAC 132C-285-180 Limits to authority. Nothing in this procedure shall prevent the college president or designee from taking immediate disciplinary action in accordance with Olympic College policies and procedures, and federal, state, and municipal laws and regulations.

NEW SECTION

WAC 132C-285-190 Nonretaliation, intimidation and coercion. Retaliation by, for or against any participant (including complainant, respondent, witness, Title IX/EEO coordinator, or investigator) is expressly prohibited. Retaliatory action of any kind taken against individuals as a result of seeking redress under the applicable procedures or serving as a witness in a subsequent investigation or any resulting disciplinary proceedings is prohibited and is conduct subject to discipline. Any person who thinks he/she has been the victim of retaliation should contact the Title IX/EEO coordinator immediately.

NEW SECTION

WAC 132C-285-200 Criminal complaints. Discriminatory or harassing conduct may also be, or occur in conjunction with, criminal conduct. Criminal complaints may be filed with the following law enforcement authorities:

- (1) Kitsap County sheriff's department;
- (2) Bremerton police department;
- (3) Poulsbo police department;
- (4) Mason County sheriff's department;
- (5) Shelton police department; and/or
- (6) Washington state patrol office.

The college will proceed with an investigation of harassment and discrimination complaints regardless of whether the underlying conduct is subject to civil or criminal prosecution.

NEW SECTION

WAC 132C-285-210 Other discrimination complaint options. Discrimination complaints may also be filed with the following federal and state agencies:

- (1) **Washington State Human Rights Commission**
<http://www.hum.wa.gov/index.html>
- (2) **U.S. Dept. of Education Office for Civil Rights**
<http://www2.ed.gov/about/offices/list/ocr/index.html>
- (3) **Equal Employment Opportunity Commission**
<http://www.eeoc.gov/>

NEW SECTION

WAC 132C-285-220 Complaint form.

**Discrimination/Harassment
Complaint Form***

This form is designed to assist you with filing a discrimination and/or harassment complaint. Please write clearly and focus on the alleged discriminatory and/or harassing conduct. The complaint should include as much information regarding the incident giving rise to the complaint as possible, including the location, date and time of the alleged incident(s); the name of the individual or group whom the complaint is against, if known; the name of any witnesses of which you are aware, if known; a description of the incident(s); and the remedy sought.

.....
Name filing the complaint Date

Signature

Date

You may use the back side of this sheet if needed.

* Please return this form to the Title IX/EEO coordinator.

NEW SECTION

WAC 132C-285-230 Adjudicative proceedings. Matters subject to brief adjudication. The provisions of RCW 34.05.482 through 34.05.494, (brief adjudication) are hereby adopted. Brief adjudicative proceedings shall be used in all matters related to:

- (1) Appeals from residency determinations under RCW 28B.15.013;
- (2) Appeals of student suspensions for a time period less than eleven academic days;
- (3) Challenges to contents of educational records;
- (4) Appeals of library charges;
- (5) Federal financial aid appeals;
- (6) Appeals of student debt collection decisions;
- (7) Appeals of employee debt collection not related to payroll;
- (8) Appeals of trespass orders; and
- (9) Appeals pursuant to any other formal policy adopted by the college which specifically provides for a brief adjudicative procedure.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132C-285-010 Grievance procedure.

WAC 132C-285-020 Adjudicative proceedings.

**WSR 15-16-015
PERMANENT RULES
COUNTY ROAD**

ADMINISTRATION BOARD

[Filed July 24, 2015, 10:43 a.m., effective August 24, 2015]

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

Purpose: The county road administration board (CRABoard) may in its discretion determine that for the public safety, health or general welfare, the CRABoard may grant an additional extension in some cases for rural arterial program projects if deemed necessary.

Citation of Existing Rules Affected by this Order: Amending WAC 136-167-040.

Statutory Authority for Adoption: Chapter 36.78 RCW.

Adopted under notice filed as WSR 15-12-019 on May 22, 2015.

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

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

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

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

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

Date Adopted: July 16, 2015.

Jay P. Weber
Executive Director

AMENDATORY SECTION (Amending WSR 11-05-005, filed 2/3/11, effective 3/6/11)

WAC 136-167-040 Lapsing of RATA allocation for approved projects. To encourage timely development and construction of approved projects, all projects for which RATA funds have been allocated must meet certain project development milestones. Failure to meet the milestones will result in action by the county road administration board to withdraw RATA funds from the project.

(1) For the purposes of this section, a project will be subject to lapsing and withdrawal of its RATA allocation if:

(a) The project has not begun the preliminary engineering within one year of project approval by the county road administration board; or

(b) The project has not begun construction within six years of the date of project approval by the county road administration board.

(2) A project shall be considered in preliminary engineering if RATA funds have been expended or evidence that non-RATA funds have been expended for preliminary engineering as provided for in RCW 36.75.050. A project shall be considered in construction if:

(a) The construction contract for the work has been advertised for bids as provided for in RCW 36.77.020;

(b) A contract has been awarded under the provisions of the small works roster contract award process; or

(c) If done by county forces, the work has commenced.

(3) If an approved project does not meet a required project development milestone, the county road administration board will, at its next regular meeting, withdraw RATA funds from the project.

(4) At any time up to ten days before such meeting, the county may, in writing, request an extension of the lapse date. The county road administration board may grant such an extension if it finds that the delay in project development was for reasons that were both unanticipated and beyond the control of the county, and subject to the following:

(a) A project extension will be granted one time only and will be no more than two years in length; and

(b) The county can demonstrate that the project was actively pursued for completion within the original CRAB/county contract terms and can be completed within a two year extension; and

John Wiesman, DrPH, MPH
Secretary

(c) The request for an extension is based on unforeseeable circumstances that the county could not have anticipated at the time the project was submitted for RATA funding; and

(d) An approved time extension will not be grounds for the county to request an increase in the RATA funding of the project; and

(e) The executive director will determine a new lapse date, and all of the requirements listed above under subsections (1) and (2) of this section will apply except that further extensions will not be granted.

(5) The CRABoard may in its discretion determine that for the public safety, health or general welfare, an additional extension is necessary. If such a determination is made, the CRABoard may grant an additional extension and set the duration thereof.

(6) The CRABoard may at any time place a moratorium on lapsing of projects that are delayed due to CRAB initiated rescheduling and establish a new lapsing date to fit the CRABoard's programming needs. For those projects given a lapsing moratorium, section four shall be held in abeyance until the new lapsing date.

WSR 15-16-020
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed July 24, 2015, 1:50 p.m., effective August 24, 2015]

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

Purpose: WAC 246-828-990, changing the name of the hearing instrument fitter/dispenser profession to hearing aid specialist to be consistent with EHB 2108 (chapter 189, Laws of 2014).

Citation of Existing Rules Affected by this Order: Amending WAC 246-828-990.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.280.

Other Authority: EHB 2108 (chapter 189, Laws of 2014).

Adopted under notice filed as WSR 15-09-109 on April 22 [20], 2015.

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: July 24, 2015.

AMENDATORY SECTION (Amending WSR 13-21-077, filed 10/17/13, effective 1/1/14)

WAC 246-828-990 Hearing (~~instrument fitter/dispenser~~) aid specialist, audiologist, speech language pathologist, and speech language pathology assistant fees and renewal cycle. (1) Credentials must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) Practitioners must pay the following nonrefundable fees:

Audiologist or Speech Language Pathologist

Fee Type:	Fee
Interim permit	
Application	\$165.00
Permit	140.00
Initial license	
Application	165.00
License	140.00
HEAL-WA* surcharge	16.00
Renewal	110.00
HEAL-WA* surcharge	16.00
Inactive license	60.00
Late renewal penalty	90.00
Expired license reissuance	140.00
Expired inactive license reissuance	90.00
Certification of license	30.00
Duplicate license	30.00

* Surcharge applies to speech language pathologists only. HEAL-WA is the health resources for Washington online library. See RCW 43.70.110.

Hearing (~~Instrument Fitter/Dispenser~~) Aid Specialist

Fee Type:	Fee
License application	\$165.00
Initial license	140.00
Renewal	110.00
Inactive license	56.00
Late renewal penalty	90.00
Expired license reissuance	136.00
Expired inactive license reissuance	86.00
Certification of license	30.00
Duplicate license	30.00

Speech Language Pathology Assistant

Fee Type:	Fee
Application	\$125.00
Renewal	70.00
Inactive credential	50.00
Late renewal penalty	50.00
Expired credential reissuance	50.00
Expired inactive credential reissuance	50.00
Certification of credential	15.00
Duplicate credential	15.00

WSR 15-16-022
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed July 24, 2015, 2:47 p.m., effective August 24, 2015]

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

Purpose: The department is amending WAC 388-408-0040, 388-474-0012 and 388-460-0010, to update information and change references from division of developmental disabilities (DDD) to developmental disabilities administration (DDA), the new name for this division of the department of social and health services as of 2013.

Citation of Existing Rules Affected by this Order: Amending WAC 388-408-0040, 388-474-0012, and 388-460-0010.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, and 74.08A.120.

Adopted under notice filed as WSR 15-11-065 on May 19, 2015.

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.

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

Date Adopted: July 22, 2015.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-21-119, filed 10/17/14, effective 11/17/14)

WAC 388-408-0040 How does living in an institution affect my eligibility for Basic Food? (1) For Basic Food, an "institution" means a place where people live that provides residents more than half of three meals daily as a part of their normal services.

(2) Most residents of institutions are not eligible for Basic Food.

(3) If you live in one of the following institutions, you may be eligible for Basic Food even if the institution provides the majority of your meals:

- (a) Federally subsidized housing for the elderly;
- (b) Qualified drug and alcohol treatment centers when an employee of the treatment center is the authorized representative as described under WAC 388-460-0010;
- (c) Qualified (~~(DDD)~~) developmental disabilities administration (DDA) group homes for persons with disabilities;

(d) A shelter for battered women and children when the resident left the home that included the abuser; or

(e) Nonprofit shelters for the homeless.

(4) A qualified (~~(DDD)~~) DDA group home is a nonprofit residential facility that:

(a) Houses sixteen or fewer persons with disabilities as defined under WAC 388-400-0040(~~(6)~~) (9); and

(b) Is certified by (~~the division of developmental disabilities (DDD)~~) DDA.

(5) A qualified drug and alcohol treatment center is a residential facility that:

(a) Is authorized as a retailer by the U.S. Department of Agriculture, Food and Nutrition Service or operated by a private nonprofit organization; and

(b) Meets the division of behavioral health and recovery (DBHR) chemical dependency residential licensing and certification rules in WAC 388-877B-0200.

(6) The qualified drug and alcohol treatment center described in subsection (5) in this section must be:

(a) Receiving funds under part B of Title XIX of the Public Health Service Act;

(b) Eligible to receive funds under part B of Title XIX of the Public Health Service Act, but does not receive these funds; or

(c) Operating to further the purposes of part B of the Public Health Service Act to provide treatment and rehabilitation of drug addicts or alcoholics.

(7) Elderly or disabled individuals and their spouses may use Basic Food benefits to buy meals from the following meal providers if FNS has approved them to accept Basic Food benefits:

- (a) Communal dining facility; or
- (b) Nonprofit meal delivery service.

(8) If you are homeless, you may use your Basic Food benefits to buy prepared meals from nonprofit organizations the department has certified as meal providers for the homeless.

AMENDATORY SECTION (Amending WSR 03-22-038, filed 10/28/03, effective 12/1/03)

WAC 388-460-0010 Do I have an authorized representative for Basic Food if I live in a treatment center or group home? (1) If you live in a qualified ~~((DDD))~~ developmental disabilities administration (DDA) group home under WAC 388-408-0040, you may choose to apply for Basic Food benefits:

- (a) On your own behalf;
- (b) Through an authorized representative of your choice;

or

(c) Through the ~~((DDD))~~ DDA group home acting as your authorized representative.

(2) If you live in a qualified drug and alcohol treatment center under WAC 388-408-0040, you **must** have an employee of the facility as your authorized representative for Basic Food.

(3) The person acting as authorized representative for residents in a qualified drug and alcohol treatment facility or qualified ~~((DDD))~~ DDA group home must:

- (a) Be aware of the resident's circumstances;
- (b) Notify the department of any changes in income, resources or circumstances within ten days of the change;
- (c) Use the resident's Basic Food benefits for meals served to the resident; and
- (d) Keep enough benefits in the facility's account to transfer one-half of a client's monthly allotment to the client's own account. If the client leaves the facility on or before the fifteenth of the month, the facility must return one half of the client's Basic Food allotment for that month.

(4) When a facility assigns an employee as the authorized representative for residents, the facility accepts responsibility for:

- (a) Any misrepresentation or intentional program violation; and
- (b) Liability for Basic Food benefits held at the facility on behalf of the resident.

AMENDATORY SECTION (Amending WSR 05-07-031, filed 3/9/05, effective 4/9/05)

WAC 388-474-0012 What is a state supplemental payment and who can get it? (1) The state supplemental payment (SSP) is a state-funded cash assistance program for certain clients who the Social Security Administration determines are eligible for supplemental security income (SSI).

(2) You can get an SSP if:

- (a) You are a grandfathered SSI recipient under WAC 388-474-0001;
- (b) You are an individual with an ineligible spouse under WAC 388-474-0001;
- (c) You receive SSI because you are age sixty-five or older under WAC 388-474-0001;
- (d) You receive SSI because you are blind under WAC 388-474-0001;

(e) You are determined eligible for SSP by the ~~((division~~ of) developmental disabilities administration; or

(f) You are eligible for and receive SSI as a foster child receiving specific services through children's administration behavior rehabilitation services (BRS) for part or all of a

month, and not eligible for foster care reimbursement under Title IV-E of the Social Security Act.

WSR 15-16-033
PERMANENT RULES
ENERGY FACILITY SITE
EVALUATION COUNCIL

[Filed July 27, 2015, 12:27 p.m., effective August 27, 2015]

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

Purpose: The energy facility site evaluation council's (EFSEC) purpose for this rule making is to: (1) Assure consistency with department of ecology rules (RCW 70.94.422); (2) to assure consistency and compliance with federal rules; and (3) to provide clarifying language in the existing rule. Many of these revisions also support EFSEC's future update of its state implementation plan (SIP) to be submitted to the United States Environmental Protection Agency in 2016.

Citation of Existing Rules Affected by this Order: Amending chapter 463-78 WAC, General and operating regulations for air pollution sources.

Statutory Authority for Adoption: RCW 80.50.040.

Other Authority: RCW 70.94.422.

Adopted under notice filed as WSR 15-10-106 on May 6, 2015.

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 6, Repealed 0.

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

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

Date Adopted: July 23, 2015.

Stephen Posner
EFSEC Manager

AMENDATORY SECTION (Amending WSR 11-13-048, filed 6/9/11, effective 7/10/11)

WAC 463-78-005 Adoption by reference. (1) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-400 WAC, ~~((in effect on November 1, 2008, by reference. WAC 173-400-110(8) and 173-400-730(4) are not adopted by reference))~~ as it existed on December 29, 2012, with the exceptions that (a) WAC 173-400-111 (5)(a) (last six words), (6), (9), and WAC 173-400-720 is adopted by reference except the date in WAC 173-400-720 (4)(a)(vi) is May 1, 2015, and WAC 173-400-730(4) and 173-400-750(2) second sentence are not adopted by ref-

erence, and (b) the terms "ecology," "authority," "director," and "permitting authority" in WAC 173-400-030 shall mean "the energy facility site evaluation council" unless a different meaning is plainly required by the context.

WAC 173-400-030: Definitions.
 ((WAC 173-400-035: ~~Portable and temporary sources.~~)
WAC 173-400-036: Relocation of portable sources.
 WAC 173-400-040: General standards for maximum emissions.
 WAC 173-400-050: Emission standards for combustion and incineration units.
 WAC 173-400-060: Emission standards for general process units.
WAC 173-400-070 (5) and (7) only: Emission standards for certain source categories.
 WAC 173-400-075: Emission standards for sources emitting hazardous air pollutants.
 WAC 173-400-081: Startup and shutdown.
 WAC 173-400-091: Voluntary limits on emissions.
 WAC 173-400-105: Records, monitoring, and reporting.
 WAC 173-400-107: Excess emissions.
 WAC 173-400-110: New source review (NSR) for sources and portable sources.
WAC 173-400-111: Processing notice of construction applications for sources, stationary sources and portable sources.
 WAC 173-400-112: Requirements for new sources in nonattainment areas.
 WAC 173-400-113: Requirements for new sources in attainment or unclassifiable areas.
 WAC 173-400-114: Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.
WAC 173-400-116: Increment protection.
 WAC 173-400-117: Special protection requirements for federal Class I areas.
 WAC 173-400-120: Bubble rules.
 WAC 173-400-131: Issuance of emission reduction credits.
 WAC 173-400-136: Use of emission reduction credits.
 ((WAC 173-400-151: ~~Retrofit requirements for visibility protection.~~)
 WAC 173-400-161: Compliance schedules.
 WAC 173-400-171: Public involvement.
 WAC 173-400-175: Public information.
 WAC 173-400-180: Variance.

WAC 173-400-190: Requirements for nonattainment areas.
 WAC 173-400-200: Creditable stack height and dispersion techniques.
 WAC 173-400-205: Adjustment for atmospheric conditions.
 WAC 173-400-700: Review of major stationary sources of air pollution.
 WAC 173-400-710: Definitions.
 WAC 173-400-720: Prevention of significant deterioration (PSD).
 WAC 173-400-730: Prevention of significant deterioration application processing procedures.
 WAC 173-400-740: PSD permitting public involvement requirements.
 WAC 173-400-750: Revisions to PSD permits.
WAC 173-400-800: Major stationary source and major modification in a nonattainment area.
WAC 173-400-810: Major stationary source and major modification definitions.
WAC 173-400-820: Determining if a new stationary source or modification to a stationary source is subject to these requirements.
WAC 173-400-830: Permitting requirements.
WAC 173-400-840: Emission offset requirements.
WAC 173-400-850: Actual emissions plantwide applicability limitation (PAL).
WAC 173-400-860: Public involvement procedures.

(2) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-401 WAC, ((in effect on March 1, 2005, by reference)) as it existed on September 10, 2011, with the exception that (a) WAC 173-401-620 (2)(a)(i) is not adopted by reference, and (b) the terms "ecology," "authority," "director," and "permitting authority" shall mean "the energy facility site evaluation council" unless a different meaning is plainly required by the context.

WAC 173-401-100: Program overview.
 WAC 173-401-200: Definitions.
 WAC 173-401-300: Applicability.
 WAC 173-401-500: Permit applications.
 WAC 173-401-510: Permit application form.
 WAC 173-401-520: Certification.
 WAC 173-401-530: Insignificant emission units.
 WAC 173-401-531: Thresholds for hazardous air pollutants.

WAC 173-401-532:	Categorically exempt insignificant emission units.	Part I - GENERAL PROVISIONS
WAC 173-401-533:	Units and activities defined as insignificant on the basis of size or production rate.	WAC 173-406-106: Standard requirements.
WAC 173-401-600:	Permit content.	Part II - DESIGNATED REPRESENTATIVE
WAC 173-401-605:	Emission standards and limitations.	WAC 173-406-200: Designated representative.
WAC 173-401-610:	Permit duration.	WAC 173-406-201: Submissions.
WAC 173-401-615:	Monitoring and related record-keeping and reporting requirements.	WAC 173-406-202: Objections.
WAC 173-401-620:	Standard terms and conditions. ((Except (2)(i).))	Part III - APPLICATIONS
WAC 173-401-625:	Federally enforceable requirements.	WAC 173-406-300: Acid rain permit applications.
WAC 173-401-630:	Compliance requirements.	WAC 173-406-301: Requirement to apply.
WAC 173-401-635:	Temporary sources.	WAC 173-406-302: Information requirements for acid rain permit applications.
WAC 173-401-640:	Permit shield.	WAC 173-406-303: Permit application shield and binding effect of permit application.
WAC 173-401-645:	Emergency provision.	Part IV - COMPLIANCE PLAN
WAC 173-401-650:	Operational flexibility.	WAC 173-406-400: Acid rain compliance plan and compliance options.
WAC 173-401-700:	Action on application.	WAC 173-406-401: General.
WAC 173-401-705:	Requirement for a permit.	WAC 173-406-402: Repowering extensions.
WAC 173-401-710:	Permit renewal, revocation and expiration.	Part V - PERMIT CONTENTS
WAC 173-401-720:	Administrative permit amendments.	WAC 173-406-500: Acid rain permit.
WAC 173-401-722:	Changes not requiring permit revisions.	WAC 173-406-501: Contents.
WAC 173-401-725:	Permit modifications.	WAC 173-406-502: Permit shield.
WAC 173-401-730:	Reopening for cause.	Part VI - PERMIT ISSUANCE
WAC 173-401-750:	General permits.	WAC 173-406-600: Acid rain permit issuance procedures.
WAC 173-401-800:	Public involvement.	WAC 173-406-601: General.
WAC 173-401-810:	EPA Review.	WAC 173-406-602: Completeness.
WAC 173-401-820:	Review by affected states.	WAC 173-406-603: Statement of basis.
		WAC 173-406-604: Issuance of acid rain permits.
		Part VII - PERMIT REVISIONS
		WAC 173-406-700: Permit revisions.
		WAC 173-406-701: General.
		WAC 173-406-702: Permit modifications.
		WAC 173-406-703: Fast-track modifications.
		WAC 173-406-704: Administrative permit amendment.
		WAC 173-406-705: Automatic permit amendment.
		WAC 173-406-706: Permit reopenings.
		Part VIII - COMPLIANCE CERTIFICATION
		WAC 173-406-800: Compliance certification.
		WAC 173-406-801: Annual compliance certification report.

(3) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-406 WAC, ~~((in effect))~~ as it existed on March 1, 2005~~((, by reference))~~.

Part I - GENERAL PROVISIONS

WAC 173-406-100:	Acid rain program general provisions.
WAC 173-406-101:	Definitions.
WAC 173-406-102:	Measurements, abbreviations, and acronyms.
WAC 173-406-103:	Applicability.
WAC 173-406-104:	New units exemption.
WAC 173-406-105:	Retired units exemption.

Part VIII - COMPLIANCE CERTIFICATION

WAC 173-406-802: Units with repowering extension plans.

Part IX - NITROGEN OXIDES

WAC 173-406-900: Nitrogen oxides emission reduction program.

Part X - SULFUR DIOXIDE OPT-IN

WAC 173-406-950: Sulfur dioxide opt-ins.

(4) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-460 WAC, (~~in effect~~) as it existed on March 1, 2005(~~by reference~~).

WAC 173-460-010: Purpose.
 WAC 173-460-020: Definitions.
 WAC 173-460-030: Requirements, applicability and exemptions.
 WAC 173-460-040: New source review.
 WAC 173-460-050: Requirement to quantify emissions.
 WAC 173-460-060: Control technology requirements.
 WAC 173-460-070: Ambient impact requirement.
 WAC 173-460-080: Demonstrating ambient impact compliance.
 WAC 173-460-090: Second tier analysis.
 WAC 173-460-100: Request for risk management decision.
 WAC 173-460-110: Acceptable source impact levels.
 WAC 173-460-120: Scientific review and amendment of acceptable source impact levels and lists.
 WAC 173-460-130: Fees.
 WAC 173-460-140: Remedies.
 WAC 173-460-150: Class A toxic air pollutants: Known, probable and potential human carcinogens and acceptable source impact levels.
 WAC 173-460-160: Class B toxic air pollutants and acceptable source impact levels.

(5) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-441 WAC, (~~in effect~~) as it existed on January 1, 2011(~~by reference~~).

WAC 173-441-010: Scope.
 WAC 173-441-020: Definitions.
 WAC 173-441-030: Applicability.
 WAC 173-441-040: Greenhouse gases.

WAC 173-441-050: General monitoring, reporting, recordkeeping and verification requirements.
 WAC 173-441-060: Authorization and responsibilities of the designated representative.
 WAC 173-441-070: Report submittal.
 WAC 173-441-080: Standardized methods and conversion factors incorporated by reference.
 WAC 173-441-090: Compliance and enforcement.
 WAC 173-441-100: Addresses.
 WAC 173-441-110: Fees.
 WAC 173-441-120: Calculation methods incorporated by reference from 40 C.F.R. Part 98 for facilities.
 WAC 173-441-140: Petitioning ecology to use an alternative calculation method to calculate greenhouse gas emissions.
 WAC 173-441-150: Confidentiality.
 WAC 173-441-160: Ecology to share information with local air authorities and with the energy facility site evaluation council.
 WAC 173-441-170: Severability.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-78-010 Purpose. The energy facility site evaluation council, under the authority vested in it by chapters 80.50 and 70.94 RCW (~~and 40 C.F.R. Part 52~~), is charged with responsibilities for the conduct of a statewide program of air pollution prevention and control for energy facilities. This regulation provides the basic framework for carrying out the council's responsibilities for such a program through the establishment of standards for maximum permissible emissions, the implementation of registration and notice requirements, provision for monitoring and reporting, and the identification of regulatory actions which may be taken to enforce standards. This chapter is designed to operate within the statutory framework for the distribution of responsibilities between state, regional and local units of government in dealing with problems of air pollution.

AMENDATORY SECTION (Amending WSR 06-06-037, filed 2/23/06, effective 3/26/06)

WAC 463-78-030 Additional definitions. (1) "Council" means the energy facility site evaluation council.

(2) In addition to the definitions contained in WAC 173-400-030, 173-400-710, 173-400-810, 173-401-200, 173-406-101, "ecology," "authority," "director," and "permitting authority" shall be synonymous with the energy facility site

evaluation council unless a different meaning is plainly required by context.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-78-095 Permit issuance. (1) Permit(s) issued for air emissions in accordance with chapter ~~(s 173-400, 173-401, 173-406, and 173-460)~~ 463-78 WAC shall become an attachment(s) to a site certification agreement.

(2) For new energy facilities the permit(s) shall be conditioned upon compliance with all provisions of the federally approved state implementation plan which apply to energy facilities and effective upon the governor's approval and execution of the site certification agreement.

(3) Except as provided in subsection (4) of this section, for certified energy facilities, any change in terms or conditions, extension, revision or reissuance of permit(s) issued for air emissions in accordance with chapter 463-78 WAC, shall be governed by applicable law and regulation and shall not require modification of the site certification agreement, or governor approval.

(4) Permit(s) for air emissions revised or issued in conjunction with a request for amendment of a site certification agreement that requires governor approval under WAC 463-66-080, shall be conditioned upon compliance with all provisions of the federally approved state implementation plan which apply to energy facilities and effective upon the signed approval of the governor of Washington state.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-78-105 Fees and costs. ~~((1) Holders of air operating permits issued to major energy facilities in accordance with RCW 70.04.422 shall be assessed annual fees, by the council, to recover the costs associated with program development, monitoring, compliance, and administration of the air operating permit program.~~

~~(2) All fees recovered under the air operating permit program shall be deposited in the state air operating permit account.~~

~~(3) The council shall determine and assess fees for air operating permits based on the following:~~

~~(a) Sources which are located in counties having a local air authority shall be assessed fees based upon the fee structure set by that local air authority.~~

~~(b) Sources which are located in counties not having a local air authority, or are cogeneration facilities which provide steam and/or electricity to primary industries such as aluminum or pulp and paper mills, shall be assessed fees based upon the fee structure set by the department of ecology.~~

~~(c) Radioactive emissions sources shall be assessed fees consistent with the department of health fee structure.~~

~~(d) Department of ecology air operating permit program administration costs shall be charged to all sources under council jurisdiction.~~

~~(e) The council shall recover its actual costs for program administration as provided in WAC 463-58-050.)~~ Each holder of an air operating permit shall pay costs as are actually and necessarily incurred by the council, in accordance

with RCW 80.50.071, for program development, monitoring, compliance, and administration of the air operating permit program.

AMENDATORY SECTION (Amending WSR 06-06-037, filed 2/23/06, effective 3/26/06)

WAC 463-78-115 Standards of performance for new stationary sources. (1) Title 40, Code of Federal Regulations, Part 60 (standards of performance for new stationary sources), in effect on July 1, ~~((2004))~~ 2014, as applicable to new stationary sources subject to chapter 80.50 RCW is by this reference adopted and incorporated herein with the exception listed in subsection (2) of this section. For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the council. The following list is provided for informational purposes only:

- Subpart A General Provisions, except C.F.R. 60.5 and 60.6
- Subpart D Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 350 megawatts
- Subpart Da Electric utility steam generating units for which construction commenced after September 18, 1978, which have greater than 73 megawatts but not greater than 350 megawatts
- Subpart J Petroleum refineries which produce less than 25,000 barrels per day of refined products
- Subpart Ja Standards of performance for petroleum refineries for which construction, reconstruction, or modification commenced after May 14, 2007
- Subpart K Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40, 000 gallons
- Subpart Ka Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons
- Subpart Kb Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984
- Subpart Y Standards for Performance for Coal Preparation Plants
- Subpart GG Stationary gas turbines

<u>Subpart VV</u>	<u>Standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry for which construction, reconstruction, or modification commenced after January 5, 1981, and on or before November 7, 2006</u>
<u>Subpart VVa</u>	<u>Standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry for which construction, reconstruction, or modification commenced after November 7, 2006</u>
Subpart XX	Bulk gasoline terminals
Subpart GGG	Petroleum refineries - compressors and fugitive emission sources
Subpart KKK	Equipment leaks of VOC from onshore natural gas processing plants
Subpart LLL	Onshore natural gas processing; SO ₂ emissions
Subpart NNN	VOC emissions from SOCOMI distillation operations
Subpart QQQ	VOC emissions from petroleum refinery wastewater emissions
<u>Subpart RRR</u>	<u>Standards of performance for volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes</u>
<u>Subpart IIII</u>	<u>Standards of performance for stationary compression ignition internal combustion engines</u>
<u>Subpart JJJJ</u>	<u>Standards of performance for stationary spark ignition internal combustion engines</u>
<u>Subpart KKKK</u>	<u>Standards of performance for stationary combustion turbines</u>
Appendix A	Test Methods
Appendix B	Performance Specifications
Appendix C	Determination of Emission Rate Change
Appendix D	Required Emission Inventory Information
Appendix F	Quality Assurance Procedures

(2) The following sections of 40 C.F.R. Part 60 are not adopted by reference:

(a) Sections 60.5 (Determination of Construction or Modification) and 60.6 (Review of Plans);

(b) 40 C.F.R. Part 60, subpart B (Adoption and Submittal of State Plans for Designated Facilities), and subparts C, Cb, Cc, Cd, Ce, BBBB, and DDDD (emission guidelines); and

(c) 40 C.F.R. Part 60, Appendix G, Provisions for an Alternative method of Demonstrating Compliance with 40

C.F.R. 60.43 for the Newton Power Station of Central Illinois Public Service Company.

WSR 15-16-041
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed July 28, 2015, 2:25 p.m., effective August 28, 2015]

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

Purpose: WAC 388-15-069 was recently amended in January 2015. During that review process the word "founded" was inadvertently left out. This change clarifies that children's administration staff will make an additional attempt via personal service when the child protective services "founded" findings letter is returned and the department is actively working with that person. The January 2015 amendment as currently written has a significant fiscal impact on the agency and therefore requires an immediate modification. Other minor editing changes are being made for consistency within the rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-069.

Statutory Authority for Adoption: RCW 26.44.100.

Other Authority: P.L. 93-247, P.L. 111-320.

Adopted under notice filed as WSR 15-05-019 on February 9, 2015.

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: July 28, 2015.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-099, filed 12/17/14, effective 1/17/15)

WAC 388-15-069 How does CPS notify the alleged perpetrator of the finding? (1) CPS notifies the alleged perpetrator of the finding by sending the CPS finding notice via certified mail, return receipt requested, to the last known address. CPS must make a reasonable, good faith effort to determine the last known address or location of the alleged perpetrator.

(2) When CA is actively working with the ((subject)) alleged perpetrator and the certified mail sent pursuant to subsection (1) of this section is returned, CA will attempt to personally serve the CPS founded findings letter to the ((subject)) alleged perpetrator.

WSR 15-16-043
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed July 28, 2015, 3:50 p.m., effective August 28, 2015]

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

Purpose: WAC 388-148-0465 was replaced with WAC 388-148-1615 (foster care) and 388-145-1815 (group care) when children's administration division of licensed resources revised all of their WAC in January 2015. Therefore, WAC 388-148-0465 needs to be repealed to eliminate duplication.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-148-0465.

Statutory Authority for Adoption: RCW 74.15.030.

Adopted under notice filed as WSR 15-08-048 on March 26, 2015.

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 1.

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

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

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

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

Date Adopted: July 28, 2015.

Katherine I. Vasquez
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-148-0465 What requirements must I follow when disciplining children?

WSR 15-16-049
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed July 29, 2015, 11:02 a.m., effective August 29, 2015]

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

Purpose: This rule making is the result of a petition for rule making submitted by a stakeholder requesting the board allow mixers to be used in samples provided at the distillery premises to customer[s].

Citation of Existing Rules Affected by this Order: Amending WAC 314-28-030 and 314-28-050.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.145.

Adopted under notice filed as WSR 15-11-105 on May 20, 2015.

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 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: July 29, 2015.

Jane Rushford
Chairman

AMENDATORY SECTION (Amending WSR 14-20-047, filed 9/24/14, effective 10/25/14)

WAC 314-28-030 What does a distillery allow? (1) A distillery license allows the licensee to:

(a) Sell spirits of their own production directly to a licensed spirits distributor in the state of Washington and to a licensed spirits retailer in the state of Washington;

(b) Sell spirits of its own production for consumption off the premises. A distiller selling spirits under this subsection must comply with the applicable laws and rules relating to retailers;

(c) Provide free or for a charge one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery.

(i) Samples may be altered with mixers, ice, and/or water ((only)).

(ii) The maximum total per person per day is two ounces.

(iii) Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit.

(d) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers'

licenses, including licenses issued under RCW 66.24.520, or for export.

(2) Contract production is when one distillery, referred to as the "contractor," produces distilled spirits for and sells contract distilled spirits to holders of a distillery license, or manufacturers' license including licenses issued under RCW 66.24.520, referred to as "contractee," and for export from the state. This distilled spirit is referred to as the "product."

(a) The contractee is the product owner. The contractee may handle the product under its license as the Revised Code of Washington and the Washington Administrative Code allow.

(b) The contractor is required to physically transport all contracted product to the contractee. The contractor is not allowed to distribute or retail the product.

(3) The contractor must submit a copy of the contract to the board prior to production. Any changes in the contract must also be submitted to the board prior to subsequent production. The board may require additional information.

(4) The contractor and contractee are required to obtain any federal approvals.

AMENDATORY SECTION (Amending WSR 14-20-047, filed 9/24/14, effective 10/25/14)

WAC 314-28-050 What does a craft distillery license allow? (1) A craft distillery license allows a licensee to:

(a) Produce one hundred fifty thousand proof gallons or less of spirits per calendar year. A "proof gallon" is one liquid gallon of spirits that is fifty percent alcohol at sixty degrees Fahrenheit;

(b) Sell spirits of its own production directly to a customer for off-premises consumption, provided that the sale occurs when the customer is physically present on the licensed premises. A craft distiller may not sell liquor products of someone else's production;

(c) Sell spirits of its own production to a licensed spirits distributor;

(d) Sell spirits of its own production to a licensed spirits retailer in the state of Washington;

(e) Sell to out-of-state entities;

(f) Provide, free or for a charge, samples of spirits of its own production to persons on the distillery premises.

(i) Each sample must be one-half ounce or less, with no more than two ounces of samples provided per person per day.

(ii) Samples may be altered with mixers, ice, and/or water (~~only~~).

(iii) Anyone involved in the serving of such samples must have a valid Class 12 alcohol server permit.

(iv) Samples must be in compliance with RCW 66.28.040;

(g) Provide samples of spirits of its own production to retailers. Samples must be unaltered, and in compliance with RCW 66.28.040, 66.24.310 and WAC 314-64-08001. Samples are considered sales and are subject to taxes;

(h) Contract produce spirits for holders of a distiller or manufacturer license.

(2) A craft distillery licensee may add a spirits, beer, and wine restaurant license at the craft distillery premises. The

licensee must complete an application and submit the application and applicable fees to the board for processing.

WSR 15-16-077
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 31, 2015, 12:02 p.m., effective August 31, 2015]

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

Purpose: The purpose of this revision to increase the processing fee by \$6.00 to provide more adequate support to the increasing demand and activity realized by the professional certification office.

The anticipated impact of customer service activity is greater than the staffing originally projected to adequately respond to Washington state educators, school districts administrator personnel, and the general public.

The current staffing and operational funding support inhibits our ability to timely meet the needs of our constituents. This amendment of increasing the processing fee is a step to assist in meeting the pressing service needs of our constituents.

Citation of Existing Rules Affected by this Order: Amending WAC 392-194-002.

Statutory Authority for Adoption: RCW 28A.410.062.

Adopted under notice filed as WSR 15-13-119 on June 16, 2015.

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

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

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

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

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

Date Adopted: July 31, 2015.

Randy Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 12-03-065, filed 1/12/12, effective 2/12/12)

WAC 392-194-002 Fee for processing initial educator certificate applications and subsequent actions. Effective October 1, 2011, the superintendent of public instruction will charge a nonrefundable fee of (~~thirty-three~~) thirty-nine dollars for processing any certificate application or requests for administrative action which results in the issuance,

renewal or reissuance of a permit or certificate pursuant to RCW 28A.410.010, 28A.410.025, 28A.410.210, and chapters 181-85 and 181-77 WAC; for issuance of a letter authorizing internship/student teaching pursuant to WAC 181-78A-130; and any subsequent action upon any certificate or permit referred to within this chapter. Educator certificates governed under this chapter include:

(1) Teacher. The teacher certificate, including teacher exchange permits as provided in WAC 181-79A-140, authorizes service as a classroom teacher.

(2) Career and technical. The career and technical education certificate authorizes service in career and technical education programs in accordance with the provisions of chapter 181-77 WAC.

(3) First people's language/culture. The first peoples' language, culture, and oral tribal traditions teacher certificate authorizes service as defined under WAC 181-78A-700(8).

(4) Administrator.

(5) Educational staff associate. The educational staff associate certificate authorizes service in the roles of school speech pathologists or audiologists, school counselors, school nurses, school occupational therapists, school physical therapists, school psychologists, and school social workers: Provided, That nothing within chapter 181-79A WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations promulgated by the appropriate licensure board or agency.

(6) Limited certificates. The following limited certificates are issued to individuals under specific circumstances set forth in WAC 181-79A-231:

- (a) Conditional certificate.
- (b) Substitute certificate.
- (c) Emergency certificate.
- (d) Emergency substitute certificate.
- (e) Nonimmigrant alien exchange teacher.
- (f) Intern substitute teacher certificate.
- (g) Transitional certificate.
- (h) Provisional alternative administrative certificate.

WSR 15-16-084

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed July 31, 2015, 3:25 p.m., effective August 31, 2015]

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

Purpose: Based on current medical evidence, the agency is establishing coverage for gender reassignment surgery and removing gender reassignment surgery from the agency's noncovered health care services list.

Citation of Existing Rules Affected by this Order: Amending WAC 182-501-0070 and 182-531-0200.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-08-100 on April 1, 2015.

Changes Other than Editing from Proposed to Adopted Version: **Note: Strikeouts and underlines indicate language deleted or added since the proposal.**

(1)(a) The medicaid agency covers the following ~~medically necessary~~ services, consistent with the services program rules identified described as covered in Title 182 WAC, to treat gender dysphoria:

(iii)(E) Hospitalization; ~~and~~

(F) Physician services; ~~and-~~

(G) Hospitalizations and physician services required to treat postoperative complications of procedures performed under component four.

(b) The agency's gender dysphoria treatment program has four ~~stages~~ components. Prior authorization is required for services provided in stage component four only. Any medicaid provider can refer a client to stage component one. These components are not intended to be sequential and may run concurrently to meet the client's medical needs. The ~~stages~~ components are as follows:

(i) Stage Component one - ...;

(ii) Stage Component two - ...;

(iii) Stage Component three - Presurgical requirements for prior authorization for component four; and

(iv) Stage Component four - Gender reassignment surgery.

~~(d) The agency evaluates requests for nonecovered services as an exception to rule under the provisions of WAC 182-501-0160.~~

(de) The agency evaluates requests for clients under age twenty-one according to ~~If gender dysphoria treatment is requested or prescribed for clients age twenty one and younger under~~ the early and periodic screening, diagnosis, and treatment (EPSDT) program described in chapter 182-534 WAC, ~~the agency evaluates it as a covered service under the EPSDT program's requirement~~ Under the EPSDT program, that the a service is may be covered if it is medically necessary, safe, effective, and not experimental.

~~(ef) The agency covers ...~~

(f) Any out-of-state care, including a presurgical consultation, must be approved as an out-of-state service under WAC 182-501-0182.

(2)(b)(i) Possess knowledge about current community, advocacy, and public policy issues relevant to transgender people and their families (knowledge about sexuality, sexual health concerns, and the assessment and treatment of sexual disorders is preferred);

(iii) Agree to provide services consistent with this section. The agency's forms are available online at <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>

(c) Diagnosis in stage component one must be made or conferred by ...

(d) Mental health professionals who provide stage component two mental health treatment described in subsection (4)~~(de)~~ of ...:

(ii) Sign ~~an~~ the agency's form (HCA 18-493) attesting that they:

(e)(i) Be a board-certified or board qualified: ...

(iii) Sign the agency's form (HCA 18-492) aAttesting to ...

(f)(i)(A) A licensed, board certified, or board qualified:

(ii) Sign ~~an~~ the agency's form (HCA 18-494) attesting to

(3) **Stage Component one - Initial assessment and diagnosis of gender dysphoria.** The purpose of stage component one is to assess and diagnose the client, and refer the client to other qualified providers as needed for additional medically necessary services.

(d) Refer the client to qualified providers for the stage component two services described in subsection (4) of this section; and

(e) Assist and support the client in navigating stage component two and stage component three requirements, and provide services consistent with WPATH guidelines and WAC 182-531-1675.

(4) **Stage Component two - Mental health and medical treatment.**

(a) Clients enrolled with an agency managed care organization (MCO) plan are subject to the respective plan's policies and procedures for coverage of these services.

(b) Mental health and medical treatment are covered ~~only~~ after a health professional who meets the qualifications in subsection (2)(c) of this section has diagnosed, or confirmed the diagnosis of, gender dysphoria as defined by the DSM-5 criteria.

~~(c)~~ Medical treatment in stage component two is ~~limited to~~ covers androgen suppression ...

~~(d)~~ The agency covers mental health treatment for the client and ~~his or her~~ the client's ...

(5) **Stage Component three - Presurgical requirements.**

(a) To proceed to stage component four gender reassignment surgery, the client must:

(i) Be age eighteen or older, unless allowed under EPSDT as described in subsection (1)(d) of this section;

(ii) Be competent to give consent for treatment and have this competency documented in clinical records; and

(c) The client must have received continuous ~~hormonal~~ hormone therapy as required by the treatment plan to meet treatment objectives. For exceptions, see subsection ~~(5)(f)(vi)~~ (6)(b) of this section.

(d) The client must have lived in a gender role congruent with the client's gender identity immediately preceding surgery as required by the treatment plan to meet treatment objectives. For exceptions, see subsection ~~(5)(f)(vi)~~ (6)(b) of this section.

(f) A member of the treatment team must write a ~~comprehensive~~ referral letter and submit it to the agency along with the prior authorization request for surgery. The contents of the ~~comprehensive~~ referral letter or its attachments must include:

~~(vi) An explanation that the criteria for surgery described in subsection (5)(a) through (d) of this section have been met. If the criteria are not met, the letter must describe the clinical decision-making process so that medical necessity can be established;~~

~~(vii) A statement about the client's adherence to the medical and mental health treatment plan, including keeping scheduled appointments;~~

~~(viii) A description of the outcome of the client's ~~hormonal~~ hormone therapy;~~

~~(viii) A copy of the client's signed informed consent according to the requirements under WAC 182-531-1550, or written acknowledgement of acknowledging the permanent impact on their male and female reproductive capacity if WAC 182-531-1550 is not applicable;~~

~~(ix) A statement that ...;~~

~~(x) A description of ...;~~

(A) List all planned surgical procedures, including any listed below in subsection (6)(e) of this section, with clinical justification planned; and

~~(xi) Signatures from the following treatment team members:~~

(A) The two mental health professionals for genital surgery and one mental health professional for chest surgery who completed the responsibilities described in subsections ~~(4)(d)~~ and ~~(5)(a)(iii)~~ of this section;

(6) **Stage Component four - Gender reassignment surgery.**

(a) The agency requires prior authorization for stage component four. Subsection (5) of this section lists the documentation that is required to be submitted with the authorization requests. Surgeries are not required to be completed at the same time. Surgeries may be performed in progressive stages.

(b) If the client fails to complete all of the requirements in subsection (5) of this section, the agency will not authorize gender reassignment surgery unless the clinical decision-making process is provided in the ~~comprehensive~~ referral letter and attachments described in subsection (5)(f) of this section.

(ii) The medical provider who managed the medical care in stage component two and stage component three; and

(d) The agency covers the following ~~surgical~~ procedures in stage component four with prior authorization:

~~(i) Abdominoplasty;~~

~~(ii) Blepharoplasty;~~

~~(iii) Breast reconstruction (male to female);~~

~~(iv) Bilateral mastectomy with or without chest reconstruction;~~

~~(v) Cliteroplasty;~~

~~(vi) Colovaginoplasty;~~

~~(vii) Colpectomy;~~

~~(viii) Genital surgery;~~

~~(ix) Genital electrolysis as required as part of the genital surgery;~~

~~(x) Hysterectomy;~~

~~(xi) Labiaplasty;~~

~~(xii) Laryngoplasty;~~

~~(xiii) Metoidioplasty;~~

~~(xiv) Orchiectomy;~~

~~(xv) Penectomy;~~

~~(xvi) Phalloplasty;~~

~~(xvii) Placement of testicular prosthesis;~~

~~(xviii) Rhinoplasty;~~

~~(xix) Salpingo-oophorectomy;~~

~~(xx) Scrotoplasty;~~

~~(xxi) Urethroplasty;~~

~~(xxii) Vaginectomy; and~~

~~(xxiii) Vaginoplasty.~~

(e) For the purposes of this section, the agency will review on a case-by-case basis and may pay for the following noncovered services under exception to rule: does not cover the following surgical procedures in stage four:

~~(i) Abdominoplasty;~~
~~(ii) Blepharoplasty;~~
~~(iii) Breast augmentation;~~
(i) Cosmetic procedures and services:
~~(ivA) Brow lift;~~
~~(vB) Calf implants;~~
~~(viC) Cheek/malar implants;~~
~~(viiD) Chin/nose implants;~~
~~(viiiE) Collagen injections;~~
~~(ixF) Drugs for hair loss or growth;~~
~~(xG) Facial or trunk electrolysis, except for the limited electrolysis described in subsection (6)(d)(vix) of this section;~~

~~(xiH) Facial feminization;~~
~~(xiiI) Face lift;~~
~~(xiiiJ) Forehead lift;~~
~~(xivK) Hair transplantation;~~
~~(xvL) Jaw shortening;~~
~~(xvi) Laryngoplasty;~~
~~(xviiM) Lip reduction;~~
~~(xviiiN) Liposuction;~~
~~(xixO) Mastopexy;~~
~~(xxP) Neck tightening;~~
~~(xxiQ) Pectoral implants;~~
~~(xxiiR) Reduction thyroid chondroplasty;~~
~~(xxiiiS) Removal of redundant skin;~~
~~(xxiv) Rhinoplasty;~~
~~(xxvT) Suction-assisted lipoplasty of the waist; and~~
~~(xxviU) Trachea shave;~~
~~(xxvii) Voice modification surgery; and~~
~~(xxviii) Voice therapy.~~

(f) The agency evaluates a request for any noncovered service listed in subsection (6)(e) of this section as an exception to rule under the provisions of WAC 182-501-0160. The justification included in the surgical plan for any of the procedures listed in subsection (6)(e) of this section may be recognized by the agency as meeting the documentation requirements of WAC 182-501-0160.

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 2, 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 2, Repealed 0.

Date Adopted: July 31, 2015.

Wendy Barcus
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-15-044, filed 7/11/13, effective 8/11/13)

WAC 182-501-0070 Health care coverage—Noncovered services. (1) The medicaid agency or its designee does not pay for any health care service not listed or referred to as a covered health care service under the medical programs described in WAC 182-501-0060, regardless of medical necessity. For the purposes of this section, health care services includes treatment, equipment, related supplies, and drugs. Circumstances in which clients are responsible for payment of health care services are described in WAC 182-502-0160.

(2) This section does not apply to health care services provided as a result of the early and periodic screening, diagnosis, and treatment (EPSDT) program as described in chapter 182-534 WAC.

(3) The agency or its designee does not pay for any ancillary health care service(s) provided in association with a non-covered health care service.

(4) The following list of noncovered health care services is not intended to be exhaustive. Noncovered health care services include, but are not limited to:

(a) Any health care service specifically excluded by federal or state law;

(b) Acupuncture, Christian Science practice, faith healing, herbal therapy, homeopathy, massage, massage therapy, naturopathy, and sanipractice;

(c) Chiropractic care for adults;

(d) Cosmetic, reconstructive, or plastic surgery, and any related health care services, not specifically allowed under WAC 182-531-0100(4);

(e) Discography;

(f) Ear or other body piercing;

(g) Face lifts or other facial cosmetic enhancements;

(h) Fertility, infertility or sexual dysfunction testing, and related care, drugs, and/or treatment including but not limited to:

(i) Artificial insemination;

(ii) Donor ovum, sperm, or surrogate womb;

(iii) In vitro fertilization;

(iv) Penile implants;

(v) Reversal of sterilization; and

(vi) Sex therapy.

~~(i) ((Gender reassignment surgery and any surgery related to transsexualism, gender identity disorders, and body dysmorphism, and related health care services or procedures, including construction of internal or external genitalia, breast augmentation, or mammoplasty;~~

~~(j)) Hair transplants, epilation (hair removal), and electrolysis;~~

~~((k)) (j) Marital counseling;~~

~~((l)) (k) Motion analysis, athletic training evaluation, work hardening condition, high altitude simulation test, and health and behavior assessment;~~

~~((m)) (l) Nonmedical equipment;~~

~~((n)) (m) Penile implants;~~

~~((n))~~ (n) Prosthetic testicles;
~~((o))~~ (o) Psychiatric sleep therapy;
~~((p))~~ (p) Subcutaneous injection filling;
~~((q))~~ (q) Tattoo removal;
~~((r))~~ (r) Transport of Involuntary Treatment Act (ITA) clients to or from out-of-state treatment facilities, including those in bordering cities;
~~((s))~~ (s) Upright magnetic resonance imaging (MRI); and
~~((t))~~ (t) Vehicle purchase - New or used vehicle.

(5) For a specific list of noncovered health care services in the following service categories, refer to the WAC citation:

(a) Ambulance transportation and nonemergent transportation as described in chapter 182-546 WAC;

(b) Dental services as described in chapter 182-535 WAC;

(c) Durable medical equipment as described in chapter 182-543 WAC;

(d) Hearing care services as described in chapter 182-547 WAC;

(e) Home health services as described in WAC 182-551-2130;

(f) Hospital services as described in WAC 182-550-1600;

(g) Health care professional services as described in WAC 182-531-0150;

(h) Prescription drugs as described in chapter 182-530 WAC;

(i) Vision care hardware for clients twenty years of age and younger as described in chapter 182-544 WAC; and

(j) Vision care exams as described in WAC 182-531-1000.

(6) A client has a right to request an administrative hearing, if one is available under state and federal law. When the agency or its designee denies all or part of a request for a noncovered health care service(s), the agency or its designee sends the client and the provider written notice, within ten business days of the date the decision is made, that includes:

(a) A statement of the action the agency or its designee intends to take;

(b) Reference to the specific WAC provision upon which the denial is based;

(c) Sufficient detail to enable the recipient to:

(i) Learn why the agency's or its designee's action was taken; and

(ii) Prepare a response to the agency's or its designee's decision to classify the requested health care service as noncovered.

(d) The specific factual basis for the intended action; and

(e) The following information:

(i) Administrative hearing rights;

(ii) Instructions on how to request the hearing;

(iii) Acknowledgment that a client may be represented at the hearing by legal counsel or other representative;

(iv) Instructions on how to request an exception to rule (ETR);

(v) Information regarding agency-covered health care services, if any, as an alternative to the requested noncovered health care service; and

(vi) Upon the client's request, the name and address of the nearest legal services office.

(7) A client can request an exception to rule (ETR) as described in WAC 182-501-0160.

AMENDATORY SECTION (Amending WSR 13-16-008, filed 7/25/13, effective 9/1/13)

WAC 182-531-0200 Physician-related and health care professional services requiring prior authorization.

(1) The medicaid agency requires **prior authorization** for certain services. Prior authorization includes **expedited prior authorization (EPA)** and **limitation extension (LE)**. See WAC 182-501-0165.

(2) The EPA process is designed to eliminate the need for telephone prior authorization for selected admissions and procedures.

(a) The provider must create an authorization number using the process explained in the medicaid agency's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to the medicaid agency showing how the authorization number was created.

(c) Selected nonemergency admissions to contract hospitals require EPA. These are identified in the medicaid agency billing instructions.

(d) Procedures allowing expedited prior authorization include, but are not limited to, the following:

(i) Reduction mammoplasties/mastectomy for gynecomastia;

(ii) Strabismus surgery for clients eighteen years of age and older;

(iii) Meningococcal vaccine;

(iv) Placement of drug eluting stent and device;

(v) Cochlear implants for clients twenty years of age and younger;

(vi) Hyperbaric oxygen therapy;

(vii) Visual exam/refraction for clients twenty-one years of age and older;

(viii) Blepharoplasties; and

(ix) Neuropsychological testing for clients sixteen years of age and older.

(3) The medicaid agency evaluates new technologies under the procedures in WAC 182-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

(a) Abdominoplasty;

(b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R)**;

(c) Unilateral cochlear implants for clients twenty years of age and younger (refer to WAC 182-531-0375);

(d) Diagnosis and treatment of eating disorders for clients twenty-one years of age and older;

(e) Osteopathic manipulative therapy in excess of the medicaid agency's published limits;

(f) Panniculectomy;

(g) Bariatric surgery (see WAC 182-531-1600); ~~((and))~~

(h) Vagus nerve stimulator insertion, which also:

(i) For coverage, must be performed in an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim.

(i) Osseointegrated/bone anchored hearing aids (BAHA) for clients twenty years of age and younger;

(j) Removal or repair of previously implanted BAHA or cochlear device for clients twenty one years of age and older when medically necessary; and

(k) Gender reassignment surgery (see WAC 182-531-1675).

(5) All hysterectomies performed for medical reasons may require prior authorization, as explained in subsection (2) of this section.

(a) Hysterectomies may be performed without prior authorization in either of the following circumstances:

(i) The client has been diagnosed with cancer(s) of the female reproductive organs; and/or

(ii) A hysterectomy is needed due to trauma.

(b) The agency reimburses all attending providers for a hysterectomy procedure only when the provider submits an accurately completed agency-approved consent form with the claim for reimbursement.

(6) The medicaid agency may require a second opinion and/or consultation before authorizing any elective surgical procedure.

(7) Children six years of age and younger do not require authorization for hospitalization.

NEW SECTION

WAC 182-531-1675 Washington apple health—Gender dysphoria treatment program. (1) Overview of the gender dysphoria treatment program.

(a) The medicaid agency covers the following services, consistent with the program rules described in Title 182 WAC, to treat gender dysphoria:

(i) Medical services including, but not limited to:

(A) Presurgical and postsurgical hormone therapy;

(B) Prepuberty suppression therapy;

(ii) Mental health services; and

(iii) Surgical services including, but not limited to:

(A) Anesthesia;

(B) Labs;

(C) Pathology;

(D) Radiology;

(E) Hospitalization;

(F) Physician services; and

(G) Hospitalizations and physician services required to treat postoperative complications of procedures performed under component four.

(b) The agency's gender dysphoria treatment program has four components. Prior authorization is required for services provided in component four only. Any medicaid provider can refer a client to component one. These components are not intended to be sequential and may run concurrently to meet the client's medical needs. The components are as follows:

(i) Component one - Initial assessment and diagnosis of gender dysphoria;

(ii) Component two - Mental health and medical treatment;

(iii) Component three - Presurgical requirements for prior authorization for component four; and

(iv) Component four - Gender reassignment surgery.

(c) All services under this program must be delivered by providers who meet the qualifications in subsection (2) of this section.

(d) The agency evaluates requests for clients under age twenty-one according to the early and periodic screening, diagnosis, and treatment (EPSDT) program described in chapter 182-534 WAC. Under the EPSDT program, a service may be covered if it is medically necessary, safe, effective, and not experimental.

(e) The agency covers transportation services under the provisions of chapter 182-546 WAC.

(f) Any out-of-state care, including a presurgical consultation, must be approved as an out-of-state service under WAC 182-501-0182.

(2) Qualified health care providers for gender dysphoria treatment.

(a) Providers must meet the qualifications outlined in chapter 182-502 WAC.

(b) Each provider must be recognized as an agency-designated center of excellence (COE). COE is defined in WAC 182-531-0050. To be a COE, all providers must complete an agency form attesting that they:

(i) Possess knowledge about current community, advocacy, and public policy issues relevant to transgender people and their families (knowledge about sexuality, sexual health concerns, and the assessment and treatment of sexual disorders is preferred);

(ii) Endorse the *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Version 7* as developed by the World Professional Association for Transgender Health (WPATH); and

(iii) Agree to provide services consistent with this section. The agency's forms are available online at <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>.

(c) Diagnosis in component one must be made or confirmed by a COE provider who is a board certified physician, a psychologist, a board certified psychiatrist, or a licensed advanced registered nurse practitioner (ARNP).

(d) Mental health professionals who provide component two mental health treatment described in subsection (4)(d) of this section, or who perform the psychosocial evaluation described in subsection (5)(a)(iii) of this section must:

(i) Meet the requirements described in WAC 182-531-1400;

(ii) Sign the agency's form (HCA 18-493) attesting that they:

(A) Are competent in using the *Diagnostic Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)* and the *International Classification of Diseases* for diagnostic purposes;

(B) Are able to recognize and diagnose coexisting mental health conditions and to distinguish these from gender dysphoria;

(C) Have completed supervised training in psychotherapy or counseling;

(D) Are knowledgeable of gender-nonconforming identities and expressions, and the assessment and treatment of gender dysphoria; and

(E) Have completed continuing education in the assessment and treatment of gender dysphoria. This may include attending relevant professional meetings, workshops, or seminars; obtaining supervision from a mental health professional with relevant experience; or participating in research related to gender nonconformity and gender dysphoria; and

(iii) Be a board certified psychiatrist, a psychologist, or a licensed:

- (A) Psychiatric ARNP;
- (B) Psychiatric mental health nurse practitioner;
- (C) Mental health counselor;
- (D) Independent clinical social worker;
- (E) Advanced social worker; or
- (F) Marriage and family therapist.

(e) Any surgeon who performs gender reassignment surgery must:

(i) Be a board certified or board qualified:

- (A) Urologist;
- (B) Gynecologist;
- (C) Plastic surgeon;
- (D) Cosmetic surgeon; or
- (E) General surgeon;

(ii) Have a valid medical license in the state where the surgery is performed; and

(iii) Sign the agency's form (HCA 18-492) attesting to specialized abilities in genital reconstructive techniques and produce documentation showing that they have received supervised training with a more experienced surgeon.

(f) Any medical provider managing hormone therapy, androgen suppression, or puberty suppression for clients diagnosed with gender dysphoria must:

- (i) Be either of the following:
 - (A) A licensed, board certified, or board qualified:
 - (I) Endocrinologist;
 - (II) Family practitioner;
 - (III) Internist;
 - (IV) Obstetrician/gynecologist;
 - (V) Pediatrician;
 - (VI) Naturopath; or
 - (B) A licensed ARNP or a licensed physician's assistant;

and

(ii) Sign the agency's form (HCA 18-494) attesting to specialized abilities managing hormone therapy in treating gender dysphoria. The specialized abilities may be proved by producing documentation showing supervised training with a more experienced physician, and attesting attendance at relevant professional meetings, workshops, or seminars.

(3) Component one - Initial assessment and diagnosis of gender dysphoria. The purpose of component one is to assess and diagnose the client, and refer the client to other qualified providers as needed for additional medically necessary services. A health professional who meets the qualifications in subsection (2)(c) of this section must assess the client and:

(a) Confirm the diagnosis of gender dysphoria as defined by the *Diagnostic Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)*;

(b) Determine the gender dysphoria is not the result of another mental or physical health condition, and refer the client to other specialists if other health conditions are indicated;

(c) Develop an individualized treatment plan for the client;

(d) Refer the client to qualified providers for the component two services described in subsection (4) of this section; and

(e) Assist and support the client in navigating component two and component three requirements, and provide services consistent with WPATH guidelines and WAC 182-531-1675.

(4) Component two - Mental health and medical treatment.

(a) Clients enrolled with an agency managed care organization (MCO) plan are subject to the respective plan's policies and procedures for coverage of these services.

(b) Mental health and medical treatment are covered after a health professional who meets the qualifications in subsection (2)(c) of this section has diagnosed, or confirmed the diagnosis of, gender dysphoria as defined by the DSM-5 criteria.

(c) Medical treatment in component two covers androgen suppression, puberty suppression, continuous hormone therapy, and laboratory testing to monitor the safety of hormone therapy. Some of these prescriptions may be subject to prior authorization as required by pharmacy policy in chapter 182-530 WAC. Medical treatment must be prescribed by a COE provider who meets the requirements in subsection (2)(a), (b), and (f) of this section.

(d) The agency covers mental health treatment for the client and the client's spouse, parent, guardian, child, or person with whom the client has a child in common if the treatment is:

- (i) Medically necessary;
- (ii) Provided according to the provisions of WAC 182-531-1400; and
- (iii) Provided by a health professional who meets the requirements in subsection (2)(a), (b), and (d) of this section.

(5) Component three - Presurgical requirements.

(a) To proceed to component four gender reassignment surgery, the client must:

(i) Be age eighteen or older, unless allowed under EPSDT as described in subsection (1)(d) of this section;

(ii) Be competent to give consent for treatment and have this competency documented in clinical records; and

(iii) Undergo a comprehensive psychosocial evaluation that must do all of the following:

(A) Be conducted by two mental health professionals for genital surgery and one mental health professional for chest surgery. These mental health professionals must meet the qualifications described in subsection (2)(d) of this section.

(B) Confirm the diagnosis of gender dysphoria, document that professionals performing the evaluation believe the client is a good candidate for gender reassignment surgery, and document that surgery is the next reasonable step in the client's care.

(C) Evaluate the client for the presence of coexisting behavioral health conditions (substance abuse problems, or mental health illnesses), which could prevent the client from

participating in gender dysphoria treatment including, but not limited to, gender reassignment surgery and postsurgical care.

(D) Document that any coexisting behavioral health condition is adequately managed.

(b) The surgeon who will perform the gender reassignment surgery and who meets the qualifications outlined in subsection (2)(a), (b), and (e) of this section, must complete a presurgical consultation. When the presurgical consultation is completed, the surgeon must forward the report of the consultation to the other treatment team members.

(c) The client must have received continuous hormone therapy as required by the treatment plan to meet treatment objectives. For exceptions, see subsection (6)(b) of this section.

(d) The client must have lived in a gender role congruent with the client's gender identity immediately preceding surgery as required by the treatment plan to meet treatment objectives. For exceptions, see subsection (6)(b) of this section.

(e) The client's medical record must document that the client met the requirements in (a) through (d) of this subsection.

(f) A member of the treatment team must write a referral letter and submit it to the agency along with the prior authorization request for surgery. The contents of the referral letter or its attachments must include:

(i) Results of the client's psychosocial evaluation, as described in (a)(iii) of this subsection;

(ii) Documentation that any coexisting behavioral health condition is adequately managed;

(iii) A description of the relationship between the mental health professionals and the client, including the duration of the professional relationship, and the type of evaluation and therapy or counseling to date;

(iv) A brief description of the clinical justification supporting the client's request for surgery;

(v) An assessment and attestation that the provider believes the client is able to comply with the postoperative requirements, has the capacity to maintain lifelong changes, and will comply with regular follow up;

(vi) A statement about the client's adherence to the medical and mental health treatment plan;

(vii) A description of the outcome of the client's hormone therapy;

(viii) A copy of the client's signed informed consent according to the requirements under WAC 182-531-1550, or written acknowledgment of the permanent impact on male and female reproductive capacity if WAC 182-531-1550 is not applicable;

(ix) A statement that all the members of the treatment team will be available to coordinate or provide postoperative care as needed;

(x) A description of the surgical plan. See subsection (6)(d) and (e) of this section, covered and noncovered procedures. The description must:

(A) List all planned surgical procedures, including any listed in subsection (6)(e) of this section, with clinical justification; and

(B) Provide a timeline of surgical stages if clinically indicated; and

(xi) Signatures from the following treatment team members:

(A) The two mental health professionals for genital surgery and one mental health professional for chest surgery who completed the responsibilities described in subsection (4)(d) of this section and (a)(iii) of this subsection;

(B) The medical provider who has managed the care;

(C) Any surgeon performing the procedures; and

(D) The client.

(6) Component four - Gender reassignment surgery.

(a) The agency requires prior authorization for component four. Subsection (5) of this section lists the documentation that is required to be submitted with the authorization requests. Surgeries are not required to be completed at the same time. Surgeries may be performed in progressive stages.

(b) If the client fails to complete all of the requirements in subsection (5) of this section, the agency will not authorize gender reassignment surgery unless the clinical decision-making process is provided in the referral letter and attachments described in subsection (5)(f) of this section.

(c) A client preparing for gender reassignment surgery must be cared for by a treatment team consisting of:

(i) One of the mental health professionals described in subsection (2)(d) of this section, if mental health services are part of the treatment plan;

(ii) The medical provider who managed the medical care in component two and component three; and

(iii) Any surgeon performing the procedures.

(d) The agency covers the following procedures in component four with prior authorization:

(i) Abdominoplasty;

(ii) Belpharoplasty;

(iii) Breast reconstruction (male to female);

(iv) Bilateral mastectomy with or without chest reconstruction;

(v) Cliteroplasty;

(vi) Colovaginoplasty;

(vii) Colpectomy;

(viii) Genital surgery;

(ix) Genital electrolysis as required as part of the genital surgery;

(x) Hysterectomy;

(xi) Labiaplasty;

(xii) Laryngoplasty;

(xiii) Metoidioplasty;

(xiv) Orchiectomy;

(xv) Penectomy;

(xvi) Phalloplasty;

(xvii) Placement of testicular prosthesis;

(xviii) Rhinoplasty;

(xix) Salpingo-oophorectomy;

(xx) Scrotoplasty;

(xxi) Urethroplasty;

(xxii) Vaginectomy; and

(xxiii) Vaginoplasty.

(e) For the purposes of this section, the agency will review on a case-by-case basis and may pay for the following noncovered services under exception to rule:

- (i) Cosmetic procedures and services:
 - (A) Brow lift;
 - (B) Calf implants;
 - (C) Cheek/malar implants;
 - (D) Chin/nose implants;
 - (E) Collagen injections;
 - (F) Drugs for hair loss or growth;
 - (G) Facial or trunk electrolysis, except for the limited electrolysis described in (d)(ix) of this subsection;
 - (H) Facial feminization;
 - (I) Face lift;
 - (J) Forehead lift;
 - (K) Hair transplantation;
 - (L) Jaw shortening;
 - (M) Lip reduction;
 - (N) Liposuction;
 - (O) Mastopexy;
 - (P) Neck tightening;
 - (Q) Pectoral implants;
 - (R) Reduction thyroid chondroplasty;
 - (S) Removal of redundant skin;
 - (T) Suction-assisted lipoplasty of the waist; and
 - (U) Trachea shave;
 - (ii) Voice modification surgery; and
 - (iii) Voice therapy.
- (f) The agency evaluates a request for any noncovered service listed in (e) of this subsection as an exception to rule under the provisions of WAC 182-501-0160. The justification included in the surgical plan for any of the procedures listed in (e) of this subsection may be recognized by the agency as meeting the documentation requirements of WAC 182-501-0160.

WSR 15-16-085

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed July 31, 2015, 3:52 p.m., effective August 31, 2015]

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

Purpose: Chapter 246-853 WAC, Osteopathic physicians and surgeons, the adopted rules update the list of exams for licensure as an osteopathic physician; reduce barriers for delegation of laser, light, radiofrequency, and plasma devices; establish requirements for a retired active status credential and requirements for reentry to practice; and make general housekeeping changes. The fees for the retired active license were adopted separately by the department.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-853-260; and amending WAC 246-853-020, 246-853-130, and 246-853-630.

Statutory Authority for Adoption: RCW 18.57.005, 18.57A.020, and 18.130.250.

Adopted under notice filed as WSR 15-08-086 on March 31, 2015.

A final cost-benefit analysis is available by contacting Brett Cain, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4766, fax (360) 236-2901, e-mail brett.cain@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 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 3, Repealed 1.

Date Adopted: May 15, 2015.

C. Hunter, DO
Chair

AMENDATORY SECTION (Amending WSR 93-24-028, filed 11/22/93, effective 12/23/93)

WAC 246-853-020 Osteopathic medicine and surgery examination. (1) An applicant((s)) for licensure as an osteopathic physician((s)) must successfully pass ((the Federation of State Licensing Board (FLEX) with a minimum score of seventy five on each component of the FLEX I and II examination or after December 1993 satisfactorily pass the United States Medical Licensing Examination (USMLE) with a minimum score as established by the coordinating agencies, Federation of State Medical Boards of the United States and the National Board of Medical Examiners; and obtain at least a seventy five percent overall average on a board administered examination on osteopathic principles and practices.

The board shall waive the examination required under RCW 18.57.080 if the applicant has passed the FLEX examination prior to June 1985 with a FLEX weighted average of seventy five percent, or the FLEX I and FLEX II examinations with a minimum score of seventy five on each component and satisfactorily passes the board administered examination on the principles and practices of osteopathic medicine and surgery.

An applicant who has passed all parts of the examination given by the National Board of Osteopathic Examiners may be granted a license without further examination-);

(a) Parts I, II, and III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) or Parts I, II, and III of the exam administered by the National Board of Osteopathic Medical Examiners (NBOME); or

(b) The Washington Osteopathic Principles and Practices (OP&P) Examination with a minimum score of seventy-five percent in each section; the Comprehensive Osteopathic Variable-Purpose Examination (COMVEX) administered by NBOME with a minimum passing score as established by

NBOME; or other state administered OP&P exam approved by the board.

(2) In addition to the exams identified in subsection (1)(b) of this section, the applicant must also pass at least one of the following:

(a) The Federation of State Licensing Board (FLEX) Examination taken prior to June 1985 passed with a FLEX weighted average of a minimum seventy-five percent; or

(b) The FLEX I and FLEX II Examination with a minimum score of seventy-five on each component; or

(c) The United States Medical Licensing Examination (USMLE) Steps I, II, and III after December 1993 with a minimum score as established by the Federation of State Medical Boards and the National Board of Medical Examiners.

AMENDATORY SECTION (Amending WSR 91-20-120, filed 9/30/91, effective 10/31/91)

WAC 246-853-130 General provisions for mandatory reporting rules. (1) "Unprofessional conduct" shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" shall mean any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" shall mean any health care institution regulated under chapter 18.51 RCW.

(4) "Board" shall mean the Washington state board of osteopathic medicine and surgery (~~whose address is:~~

Department of Health
Professional Licensing Services
1300 Quince St., MS: EY-23
Olympia, WA 98504).

(5) "Physician" shall mean an osteopathic physician and surgeon licensed pursuant to chapter 18.57 RCW.

(6) "Physician's assistant" shall mean an osteopathic physician's assistant approved pursuant to chapter 18.57A RCW.

(7) "Mentally or physically impaired practitioner" shall mean an osteopathic physician and surgeon or osteopathic physician's assistant who has been determined by a court to be mentally incompetent or mentally ill or who is unable to practice medicine with reasonable skill and safety to patients by reason of any mental or physical condition.

NEW SECTION

WAC 246-853-235 Retired active license. (1) To obtain a retired active license an osteopathic physician must comply with chapter 246-12 WAC, Part 5, excluding WAC 246-12-120 (2)(c) and (d).

(2) An osteopathic physician with a retired active license may not receive compensation for health care services.

(3) An osteopathic physician with a retired active license may practice under the following conditions:

(a) In emergent circumstances calling for immediate action; or

(b) Intermittent circumstances on a part-time or full-time nonpermanent basis.

(4) A retired active license expires each year on the license holder's birthday. Retired active credential renewal fees are accepted no sooner than ninety days prior to the expiration date.

(5) An osteopathic physician with a retired active license shall complete and report one hundred fifty hours of continuing medical education every three years.

NEW SECTION

WAC 246-853-245 Reentry to practice requirements.

An osteopathic physician who has not been in active practice for a period of at least five years in any jurisdiction in the United States must:

(1) Successfully pass a board approved competency evaluation;

(2) Successfully pass a board approved exam;

(3) Successfully complete a board approved retraining program arranged by the osteopathic physician; or

(4) Successfully complete a board approved reentry to practice or monitoring program.

AMENDATORY SECTION (Amending WSR 08-20-125, filed 10/1/08, effective 11/1/08)

WAC 246-853-630 Use of laser, light, radiofrequency, and plasma devices as applied to the skin. (1) For the purposes of this section, laser, light, radiofrequency, and plasma (LLRP) devices are medical devices that:

(a) Use a laser, noncoherent light, intense pulsed light, radiofrequency, or plasma to topically penetrate skin and alter human tissue; and

(b) Are classified by the federal Food and Drug Administration as prescriptive devices.

(2) Because an LLRP device is used to treat disease, injuries, deformities, and other physical conditions in human beings, the use of an LLRP device is the practice of osteopathic medicine under RCW 18.57.001. The use of an LLRP device can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation.

(3) Use of medical devices using any form of energy to penetrate or alter human tissue for a purpose other than those in subsection (1) of this section constitutes surgery and is outside the scope of this section.

OSTEOPATHIC PHYSICIAN RESPONSIBILITIES

(4) An osteopathic physician must be appropriately trained in the physics, safety and techniques of using LLRP devices prior to using such a device, and must remain competent for as long as the device is used.

(5) An osteopathic physician must use an LLRP device in accordance with standard medical practice.

(6) Prior to authorizing treatment with an LLRP device, an osteopathic physician must take a history, perform an appropriate physical examination, make an appropriate diagnosis, recommend appropriate treatment, obtain the patient's informed consent (including informing the patient that (~~an allied health care professional~~)) a nonphysician may operate

the device), provide instructions for emergency and follow-up care, and prepare an appropriate medical record.

(7) Regardless of who performs LLRP device treatment, the osteopathic physician is ultimately responsible for the safety of the patient.

(8) Regardless of who performs LLRP device treatment, the osteopathic physician is responsible for assuring that each treatment is documented in the patient's medical record.

(9) The osteopathic physician must ensure that there is a quality assurance program for the facility at which LLRP device procedures are performed regarding the selection and treatment of patients. An appropriate quality assurance program shall include the following:

(a) A mechanism to identify complications and problematic effects of treatment and to determine their cause;

(b) A mechanism to review the adherence of supervised ((~~allied health care~~)) professionals to written protocols;

(c) A mechanism to monitor the quality of treatments;

(d) A mechanism by which the findings of the quality assurance program are reviewed and incorporated into future protocols required by subsection (10)(d) of this section and osteopathic physician supervising practices; and

(e) Ongoing training to maintain and improve the quality of treatment and performance of the treating ((~~allied health care~~)) professionals.

OSTEOPATHIC PHYSICIAN DELEGATION OF LLRP TREATMENT

(10) An osteopathic physician who meets the requirements in subsections (1) through (9) of this section may delegate an LLRP device procedure to a properly trained ((~~allied health care professional licensed under the authority of RCW 18.130.040~~)) and licensed professional, whose licensure and scope of practice allows the use of a prescriptive LLRP medical device, provided all the following conditions are met:

(a) The treatment in no way involves surgery as that term is understood in the practice of osteopathic medicine;

(b) Such delegated use falls within the supervised ((~~allied health care~~)) professional's lawful scope of practice;

(c) The LLRP device is not used on the globe of the eye;

(d) An osteopathic physician has a written office protocol for the supervised ((~~allied health care~~)) professional to follow in using the LLRP device. A written office protocol must include at a minimum the following:

(i) The identity of the individual osteopathic physician authorized to use the LLRP device and responsible for the delegation of the procedure;

(ii) A statement of the activities, decision criteria, and plan the supervised ((~~allied health care~~)) professional must follow when performing procedures delegated pursuant to this rule;

(iii) Selection criteria to screen patients for the appropriateness of treatments;

(iv) Identification of devices and settings to be used for patients who meet selection criteria;

(v) Methods by which the specified device is to be operated and maintained;

(vi) A description of appropriate care and follow-up for common complications, serious injury, or emergencies; and

(vii) A statement of the activities, decision criteria, and plan the supervised ((~~allied health care~~)) professional shall follow when performing delegated procedures, including the method for documenting decisions made and a plan for communication or feedback to the authorizing osteopathic physician concerning specific decisions made;

(e) The supervised ((~~allied health care~~)) professional has appropriate training including, but not limited to:

(i) Application techniques of each LLRP device;

(ii) Cutaneous medicine;

(iii) Indications and contraindications for such procedures;

(iv) Preprocedural and postprocedural care;

(v) Potential complications; and

(vi) Infectious disease control involved with each treatment;

(f) The delegating osteopathic physician ensures that the supervised ((~~allied health care~~)) professional uses the LLRP device only in accordance with the written office protocol, and does not exercise independent medical judgment when using the device;

(g) The delegating osteopathic physician shall be on the immediate premises during the patient's initial treatment and be able to treat complications, provide consultation, or resolve problems, if indicated. The supervised ((~~allied health care~~)) professional may complete the initial treatment if the physician is called away to attend to an emergency;

(h) Existing patients with an established treatment plan may continue to receive care during temporary absences of the delegating osteopathic physician provided there is a local back-up physician, licensed under chapter 18.57 or 18.71 RCW, who satisfies the requirements of subsection (4) of this section. The local back-up physician must agree in writing to treat complications, provide consultation or resolve problems if medically indicated. In case of an emergency the delegating osteopathic physician or a back-up physician shall be reachable by phone and able to see the patient within sixty minutes.

(11) The use of, or the delegation of the use of, an LLRP device by an osteopathic physician assistant is covered by WAC 246-854-220.

(12) This section only applies to the use of LLRP devices by osteopathic physicians and osteopathic physician assistants.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-853-260 USMLE examination application deadline.

WSR 15-16-090

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed August 3, 2015, 11:53 a.m., effective September 3, 2015]

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

Purpose: Revise and update WAC 308-56A-270 to align signature requirements with business requirements and best practices.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-270.

Statutory Authority for Adoption: RCW 46.01.110, 46.16A.220.

Adopted under notice filed as WSR 15-13-050 on June 10, 2015.

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

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

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

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

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

Date Adopted: August 3, 2015.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-15-060, filed 7/12/06, effective 8/12/06)

WAC 308-56A-270 Forms of signature. (1) **What forms of signature are acceptable to the department?** The department will accept(=

~~(a) The signature of an individual in the same form as the name appears on the application or on the certificate of ownership.~~

~~(b) The signature containing initials corresponding to the first letter of the given name(s).~~

~~(c) The signature containing a given name(s) corresponding to the initials.~~

~~(d) Common nicknames such as Bob for Robert, Jim for James, Betty for Elizabeth, etc.~~

~~(e) The signature,)) any memorandum, signature stamp, mark, or sign made with ((the)) intent to authenticate ((an application for certificate of ownership or registration of any person)) any instrument or writing.~~

(2) **What form of signature is required for business owned vehicles?** Signatures for business owned vehicles must include:

(a) The name of the business or a commonly accepted abbreviation for the business;

(b) The signature of the person authorized to sign on behalf of the business as stated in subsection (1) of this section; and

(c) The title or position of that person.

WSR 15-16-091

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed August 3, 2015, 12:07 p.m., effective September 3, 2015]

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

Purpose: The new rule provides flexibility for the department to specify the method for course approval application submissions. This change is being made because the department will new [now] require education providers to use the department's online resources to upload course material for approval.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124H-805.

Statutory Authority for Adoption: RCW 18.85.041.

Adopted under notice filed as WSR 15-13-020 on June 8, 2015.

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

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

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

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

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

Date Adopted: August 3, 2015.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-16-054, filed 7/29/14, effective 8/29/14)

WAC 308-124H-805 Course approval required. (1) Any education provider or course developer may submit a course to the department for approval.

(2) Course approval by the department is required prior to the date on which the course is offered for clock hour credit.

~~(3) ((Each application for approval of a course shall be submitted to the department on the appropriate application form provided)) The course provider must submit a completed course approval application, using the method defined by the department.~~

(4) The director or designee shall approve, disapprove, or conditionally approve applications based upon criteria established by the commission.

(5) Upon approval, disapproval or conditional approval, the applicant will be so advised in writing by the department. Notification of disapproval shall include the reasons therefor.

(6) Approval shall expire four years after the effective date of approval, except for the core course which shall expire after two years.

WSR 15-16-092
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Children's Administration)

[Filed August 3, 2015, 3:36 p.m., effective September 3, 2015]

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

Purpose: WAC 388-148-0455 was replaced by WAC 388-145-1760 when the children's administration division of licensed resources revised all of their WAC in January 2015. Therefore, WAC 388-148-0455 needs to be repealed to eliminate duplication.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 388-148-0455.

Statutory Authority for Adoption: RCW 74.15.030.

Adopted under notice filed as WSR 15-03-079 on January 16, 2015.

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 1.

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

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

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

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

Date Adopted: July 29, 2015.

Katherine I. Vasquez
 Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-148-0455 Do I need permission to travel on an overnight trip or out-of-state with my foster child?

WSR 15-16-118
PERMANENT RULES
DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed August 4, 2015, 5:26 p.m., effective September 4, 2015]

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

Purpose: WAC 246-817-460 Sexual misconduct, the dental quality assurance commission has modified the rule to clarify what forcible or nonconsensual acts are within the definition of sexual misconduct by a dental provider.

Citation of Existing Rules Affected by this Order:
 Amending WAC 246-817-460.

Statutory Authority for Adoption: RCW 18.32.0365 and 18.130.050.

Other Authority: RCW 18.130.062 and Executive Order 06-03.

Adopted under notice filed as WSR 15-09-138 on April 22, 2015.

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: June 5, 2015.

Charles Hall, DDS
 Commission Chair

AMENDATORY SECTION (Amending WSR 13-15-144, filed 7/23/13, effective 8/23/13)

WAC 246-817-460 Sexual misconduct. (1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes, but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the health care provider's scope of practice;
- (c) Rubbing against a patient or key party for sexual gratification;
- (d) Kissing;
- (e) Hugging, touching, fondling or caressing of a romantic or sexual nature;
- (f) Examination of or touching genitals without using gloves;
- (g) Not allowing a patient privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (h) Not providing the patient a gown or draping except as may be necessary in emergencies;
- (i) Dressing or undressing in the presence of the patient or key party;
- (j) Removing patient's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;

(k) Encouraging masturbation or other sex act in the presence of the health care provider;

(l) Masturbation or other sex act by the health care provider in the presence of the patient or key party;

(m) Soliciting a date with a patient or key party;

(n) Discussing the sexual history, preferences or fantasies of the health care provider;

(o) Any behavior, gestures, or expressions that can reasonably be interpreted as seductive or sexual;

(p) Sexually demeaning behavior including any verbal or physical contact which can reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient or key party;

(q) Photographing or filming the body or any body part or pose of a patient or key party, other than for legitimate health care purposes; or for the educational or marketing purposes with the consent of the patient; and

(r) Showing a patient or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.-030.

(3) A health care provider shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

~~((3))~~ (4) A health care provider shall not engage in the activities listed in subsection (1) of this section with a former patient or key party if the health care provider:

(a) Uses or exploits the trust, knowledge, influence or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the health care provider's personal or sexual needs.

~~((4))~~ (5) When evaluating whether a health care provider has engaged or has attempted to engage in sexual misconduct, the commission will consider factors~~(7)~~ including, but not limited to:

(a) Documentation of a formal termination;

(b) Transfer of care to another health care provider;

(c) Duration of the health care provider-patient relationship;

(d) Amount of time that has passed since the last dental health care services to the patient;

(e) Communication between the health care provider and the patient between the last dental health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's personal or private information was shared with the health care provider;

(g) Nature of the patient's health condition during and since the professional relationship; and

(h) The patient's emotional dependence and vulnerability.

~~((5))~~ (6) Patient or key party initiation or consent does not excuse or negate the health care provider's responsibility.

~~((6))~~ (7) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to the dental profession; or

(c) Providing dental services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient.

WSR 15-16-124

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed August 5, 2015, 8:48 a.m., effective September 5, 2015]

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

Purpose: Changes to chapter 204-21 WAC include format cleanup to change the word "shall" to "will" or "must," providing cleanup to existing language, renumbering WAC 204-21-160, and updating RCW and WAC references to ensure that they are current.

Citation of Existing Rules Affected by this Order: Amending WAC 204-21-160, 204-21-170, 204-21-180, 204-21-200, 204-21-220, and 204-21-230.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.320.

Adopted under notice filed as WSR 15-12-052 on May 28, 2015.

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

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

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

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

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

Date Adopted: August 5, 2015.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 08-19-104, filed 9/17/08, effective 10/18/08)

WAC 204-21-160 Slow-moving vehicle emblems. (1) Every farm tractor, ~~((every))~~ self-propelled unit of farm equipment, ~~((every))~~ implement of husbandry designed for operation at speeds not in excess of twenty-five miles per hour and every combination of farm tractor and towed farm

equipment or towed implement of husbandry normally operated at speeds not in excess of twenty-five miles per hour (~~shall~~) must at all times be equipped with a slow-moving vehicle emblem.

(2) Other classes of vehicles not covered by RCW 46.37.160 such as road construction vehicles and road maintenance vehicles which normally operate at a speed of twenty-five miles per hour or less may be equipped with slow-moving vehicle emblems meeting the requirements of this section.

(3) In order to comply with the provisions of RCW 46.37.160(6), slow-moving vehicle emblems:

(a) Must be constructed in conformance with SAE Standard J943.

(b) Must be mounted point up in plane perpendicular to the direction of travel of the vehicle so that the reflectorized side of the emblem is facing to the rear.

(c) Must be mounted, as nearly as is practicable, centrally at the rear of the vehicle in an unobscured location.

(d) Must be mounted not less than two feet nor more than six feet above the ground on which the vehicle stands measured from the lower edge of the emblem.

(e) May be permanently attached to the vehicle. Where portable brackets are used, they must be so constructed that they will hold the emblem securely and in a position meeting the requirements of all other mounting instructions under this section.

(f) Must be placed on the towed unit if the towed unit is sufficiently large to obscure the slow-moving vehicle emblem on the farm tractor, the towed unit must be equipped with a slow-moving vehicle emblem. In such cases, the towing vehicle need not display the emblem. Where the slow-moving vehicle emblem on the farm tractor unit is not obscured by the towed unit, then either or both may be equipped with the required emblem.

~~((f))~~ (g) Must not replace any of the required lamps or other devices required in chapter 46.37 RCW.

~~((g))~~ (h) Must not be used as a clearance marker for wide equipment.

AMENDATORY SECTION (Amending WSR 08-19-104, filed 9/17/08, effective 10/18/08)

WAC 204-21-170 Additional lighting for snow removal, highway maintenance and refuse haulers. (1) Additional headlamps may be positioned sufficiently high enough to clear operating equipment provided they are aimed at an angle to avoid blinding oncoming traffic while on their routes, involved in construction, maintenance, and/or operations. Except, refuse haulers must:

(a) Use regular mounted headlamps when transporting refuse to the dump site. Auxiliary headlamps may be used if necessary.

(b) Use the alternate lights when the refuse haulers' collections container is in a position to obscure the headlamps, and will not exceed twenty miles per hour.

(2) Additional operating lamps may be located on the top of the cab or at other locations to illuminate plowing, abrasive spreading or other equipment.

(3) No flashing red warning signal except those required by RCW 46.37.150 (~~shall~~) will be displayed or used on any highway equipment.

(4) Amber colored lamps must:

(a) Be mounted on the cab or other high point of the equipment so as to be visible at all times, at least from the front and rear of the vehicle, from a distance of five hundred feet in normal sunlight, unless otherwise prescribed below.

(b) Have a minimum light intensity of the lamp filament not be less than twenty-one candle power.

(c) Be used on the following vehicles:

(i) Power shovels or other similar highway maintenance equipment. The amber lamp and a red flag are to indicate an extension which designates the maximum danger limit created by the swing of the cab while operating along the traffic lane.

(ii) Other highway equipment which creates a potential hazard to traffic including those vehicles and trailers for construction, maintenance, and operations.

(iii) Knuckle of all man lift-type platform trucks with articulating boom, where the knuckle is capable of being rotated beyond the side of the truck.

(d) Only be illuminated:

(i) When the equipment is actually involved in construction, maintenance, collecting refuse, and/or operations.

(ii) When the equipment is traveling to or from the job site and is unable to maintain, either because of equipment limitations, or other reasons, at least one-half posted or prevailing speed.

AMENDATORY SECTION (Amending WSR 08-19-104, filed 9/17/08, effective 10/18/08)

WAC 204-21-180 Deceleration alert lamp system. (1) Deceleration warning lights must:

(a) Be installed as follows:

(i) Only one such system may be mounted on a motor vehicle, trailer, semitrailer, truck tractor, or pole trailer.

(ii) Provision must be made for rigid or shock-absorbing mounting.

(iii) The axis of the light beam must be parallel to the roadway and the longitudinal axis of the vehicle.

(iv) The lamp must be mounted on the centerline of the rear exterior of the vehicle or with the optical center of the lamp not more than fifteen inches from the centerline.

(v) The deceleration warning light system must be mounted as nearly as practicable at the same height as the existing stop lamps on the vehicle.

(vi) Visibility of the deceleration lamps to the rear must not be obstructed by any part of the vehicle or load thereon.

(b) Meet Type I or Type II requirements and test methods for a deceleration alert system.

(i) Type I - the system must:

(A) Be mounted on the rear of the vehicle as close as possible to the vertical centerline of the vehicle.

(B) Be mounted at a height of not more than seventy-two inches nor less than fifteen inches.

(C) Have a center-to-center (optical axis) distance between two adjacent compartments (~~should not exceed~~) not exceeding six inches.

(D) Have three compartments. The center compartment emits a green light and is energized when the vehicle operator has the accelerator depressed. The two outer compartments emit an amber light and are energized when the operator releases the accelerator and prior to applying pressure to the foot brake pedal. When the amber lights are energized, the green light is deenergized. When pressure is applied to the foot brake pedal, the amber lights are deenergized and the vehicle's stop lamps operate in the normal manner. SAE Standard J578d is adopted for color chromaticity boundaries.

(E) Meet the requirements under the following sections of SAE J575g: Section B, samples for test; Section C, lamp bulbs; Section D, laboratory facilities; Section E, vibration test; Section F, moisture test; Section G, dust test; Section H, corrosion test; and Section J, photometry. If plastic material is used in optical parts it must comply with the requirements set forth in SAE J576c.

(F) Measure the beam candle power with the H-V axis taken as paralleled to the longitudinal axis of the vehicle. The candle power measurements for the center green compartment must be made with the incandescent filament of the lamp at least ten feet from the photometric screen.

Beam candle power measurements of the two amber compartments ((shall)) must be made by either of the following methods:

(I) The two compartments may be photometered together provided that a line from the optical axis (filament centers) of each compartment to the center of the photometer sensing device does not make an angle of more than 0.6° with the photometer (H-V) axis.

(II) Each compartment may be photometered separately by aligning its axis with the photometer and adding the value at each test point.

Table 1 lists the design candle power requirements for the two outer amber lights, and Table 2 lists the design candle power requirements for the center green light.

Table 1			Table 2		
Minimum Design Candle power Requirements for Amber Light			Minimum Design Candle power Requirements for Green Light		
Test	Points	Candle power	Test	Points	Candle power
10 up and 10 down	10L	25	10 up and 10 down	10L	1
	V	65		V	1.5
	10R	25		10R	1
5 up and 5 down	20L	25	5 up and 5 down	20L	1
	10L	65		10L	2
	5L	85		5L	4
	V	125		V	4
	5R	85		5R	4
10R and 20R	10R	65	10R and 20R	10R	2
	20R	25		20R	1
	20L	25		20L	2
	10L	75		10L	3
	5L	125		5L	5
	H-V	175		H-V	5
	5R	125		5R	5
10R	75	10R	3		
20R	25	20R	2		

Table 1			Table 2		
Minimum Design Candle power Requirements for Amber Light			Minimum Design Candle power Requirements for Green Light		
Test	Points	Candle power	Test	Points	Candle power
	Maximum	450		Maximum	45

(ii) Type II - The system must:

(A) Operate so as to indicate a component of deceleration of the vehicle on which it is installed by varying the flashing rate of a yellow lamp when the service brakes are applied.

(B) Incorporate an automatic means for reducing the intensity of the lamp during darkness. The system must cause the voltage to the deceleration lamps to decrease to 5.0 V ± 10% at 0 g deceleration during darkness. The specified voltage must be reached when the illumination on the sensor is not more than 5 lm/sq. ft., nor less than 0.5 lm/sq. ft.

(C) Have an output voltage, duty cycle, and flash rate of the control unit as a temperature of 24° ± 5.5°C (75° ± 10°F), when 12.8 V dc is applied to the input terminal, as shown in Table I when the control sensor is placed on a tilt table and slightly vibrated as the table is slowly rotated through the angles representing the specified vehicle deceleration rates.

TABLE I

Test Requirements for Deceleration Lamps				
Deceleration (g)	Output (V)	Peak Relative Brightness	Flash Rate (Hz)	On Time (%)
0.0	7.0	1.0	1.0	50
0.1	—	1.0	1.5	48
0.2	—	1.0	2.3	46
0.3	—	1.2	3.4	44
0.4	—	1.4	5.0	42
0.5	—	1.7	7.6	40

(D) Have a deceleration at which the unit switches from a lower to a higher flash rate that is within ± 0.05 g of the rate specified in Table I. If the unit operates at more steps than the required minimum, the additional values for each column ((shall)) must lie on the smooth curve connecting the indicated values within the specified tolerances. The values specified in Table II apply to ramp-type inertial sensors for which the downward angles correspond to the deceleration and a tolerance of 3.0° applies to the tilt angle.

TABLE II

Test Requirements for Deceleration Sensors			
Deceleration (g)	DEGREES		
	Forward Tilt Angle	Dip Correction	Corrected Tilt Angle
0.0	0.0	0.0	0.0
0.1	5.7	0.8	6.5
0.2	11.3	1.6	12.9
0.3	16.7	2.4	19.1
0.4	21.8	3.2	25.0
0.5	26.6	4.0	30.6

(E) Have the rms of the output voltage during the on portion of the flash cycle at the 1 Hz flash rate within ± 5% of the specified value, measured at the lamp bulbs with daytime illumination on the automatic darkness sensor.

(F) Have a relative brightness of the lamp or bulbs at the decelerations within ± 25% of the specified values after the fifth flash with the brightness of the lamp or its bulbs taken as 1.0 when measured with the rms output voltage specified for 0 g deceleration.

(G) Have a flash rate within ± 15% of the specified value. The percent on time must be within ± 10% of the specified value.

(H) Have linear dip corrections varying from 4° at 0.5 g or more deceleration to 0° at 0 g on passenger vehicles and pickup trucks that have substantial front end dip upon braking.

(I) Comply with the following mechanical tests in SAE Standard J575g (tests for motor vehicle lighting devices and components): Corrosion, dust, moisture, vibration, and warp-age (at a flashing rate of 1 Hz when a plastic lens or housing is used).

(J) Meet the following control system requirements at both 11 V and 15 V:

(I) Low temperature test. The control system must be placed in its normal operating position in a circulating air cabinet at -32° ± 3°C (-25° ± 5°F) for 2 hours. At the end of that period and while still at that temperature, the unit must meet the requirements in Table I at 0 g and 0.3 g.

(II) High temperature test. The control system must be placed in its normal operating position in a circulating air cabinet at 74° 0°, -2.8°C (165° 0°, -5°F) for 2 hours. At the end of that period and while at that temperature, the unit must meet the requirements in Table I at 0 g and 0.3 g.

(K) Operate the control system continuously at a supply voltage of 12.8 V dc for 200 hours with no failure (except bulb replacement), after which it must meet the requirements in Table I at 0 g and 0.3 g.

(L) Meet the photometric requirements in Table III after the sample has been mechanically tested in the order shown in (b)(ii)(J) of this subsection for the luminous intensity of a deceleration lamp with the bulbs operated at mean spherical candela.

TABLE III

Photometric Requirements for Deceleration Signal Lamps					
Test Point Coordinates		Max		Min	
Vertical	Horizontal	Amber	Red	Amber	Red
10U	10L	70	35	25	12.5
	V	200	100	60	30
	10R	70	35	25	12.5
5U	20L	40	20	15	7.5
	10L	200	100	60	30
	5L	600	300	200	100
	V	800	400	350	175
	5R	600	300	200	100
	10R	200	100	60	30
	20R	40	20	15	7.5

Photometric Requirements for Deceleration Signal Lamps					
Test Point Coordinates		Max		Min	
Vertical	Horizontal	Amber	Red	Amber	Red
H	20L	40	20	15	7.5
	10L	200	100	60	30
	5L	800	400	350	175
	V	1,300	650	600	300
	5R	800	400	350	175
	10R	200	100	60	30
5D	20R	40	20	15	7.5
	20L	40	20	15	7.5
	10L	200	200	60	30
	5L	600	300	200	100
	V	800	400	350	175
	5R	600	300	200	100
10D	10R	200	100	60	30
	20R	40	20	15	7.5
	10L	70	35	25	12.5
	10R	70	35	25	12.5

AMENDATORY SECTION (Amending WSR 08-19-104, filed 9/17/08, effective 10/18/08)

WAC 204-21-200 Private carrier bus lamps. (1) All signal lamps on private carrier buses must be constructed in conformance with the SAE Standard for "school bus red signal lamps," in effect at the time of manufacture of such lamps, and must:

(a) Be mounted on the front and rear of the bus, above the windows, as high and as widely spaced laterally as practicable but in no case ~~((shall))~~ will the lateral spacing of these lamps be less than forty inches.

(b) Be mounted so that the vision of front signals to the front and rear signals to the rear ~~((are not unobstructed))~~, is not obstructed by any part of the vehicle from 5° above to 10° below the horizontal and from 30° to the right to 30° to the left of the centerline of the bus.

(c) Have the switch which activates the signal lamps be actuated by movement of the stop signal to the extended position.

(d) Be no switch between the signal lamps and the switch which activates these lamps when the stop signal is extended.

(e) Be a flashing red indicator lamp on the instrument panel of the vehicle which will indicate to the driver that the signal lamps are operating.

(f) Operate through a flasher unit which will cause the front signal lamps to flash alternately and the rear signal lamps to flash alternately at a rate no slower than sixty nor faster than one hundred twenty times per minute. The "on" period of the flasher must be long enough to permit the bulb filament to come up to a full brightness.

(g) Signal lamps must be aimed two inches below level at twenty-five feet and straight ahead. An aiming tolerance of from three inches up to seven inches down and ten inches right or left will be allowed.

(h) Only be actuated by the driver of a private carrier bus whenever such vehicle is stopped on the highway for the purpose of receiving or discharging passengers, except:

(i) When the passengers boarding or alighting do not have to cross a highway and the bus is stopped completely off the main traveled portion of the roadway; or

(ii) When the bus is stopped at an intersection or place where traffic is controlled by a traffic officer or official control signal.

~~((EXCEPTION: Buses that do not stop upon the roadway to load or discharge passengers are exempt from the requirements of this section.))~~

(2) Rear turn signal lamp and stop lamp lenses must be amber in color to avoid confusion with signal lamps and the message on the warning sign.

AMENDATORY SECTION (Amending WSR 08-19-104, filed 9/17/08, effective 10/18/08)

WAC 204-21-220 Trailer tongue lamps. A lamp must be used on the tongue of any trailer where the distance between the front of the trailer body and the rear of the body of the towing vehicle is fifteen feet or greater, and where the top of the tongue is less than twenty-four inches above the ground at any point between the front of the body of the trailer and the rear of the body of the towing vehicle. This lamp must:

(1) Be amber in color and be in operation whenever the combination of vehicles is in motion, and must be visible to each side of the combination.

(2) Have a minimum diameter of two and one-half inches.

(3) Have a steady burn or may be flashing provided that the flashing lamp only flashes by means of an electronic or electric flasher. Strobe lamps and rotating type lamps are not permitted.

(4) Be mounted as nearly as practicable in the center of the distance between the vehicle bodies. Lamps mounted on extendable tongues will necessarily vary in distance between the bodies in relation to the amount of extension used; however, in no case ~~((shall))~~ will the lamp be over five feet from the center of the distance between vehicle bodies nor more than fifteen feet from either of the vehicle bodies.

(5) Be mounted at a minimum height of twenty-one inches above the roadway, and maximum height of forty-eight inches above the roadway.

AMENDATORY SECTION (Amending WSR 08-19-104, filed 9/17/08, effective 10/18/08)

WAC 204-21-230 Lighting equipment prohibited. (1) The addition of a lamp, reflective device or other motor vehicle equipment must not impair the effectiveness of lighting equipment required by 49 C.F.R. Part 571.108 or chapter 46.37 RCW.

(a) If a vehicle is in motion on a public roadway, the vehicle must not:

(i) Display aftermarket neon lighting devices.

(ii) Combine any type of letter, number, sign, symbol or combination thereof with an eye level brake light meeting the

standards of 49 C.F.R. Part 571.108 (FMVSS 108). No function other than red reflex reflectors ~~((shall))~~ will be combined in eye level brake lights.

(iii) Have a lighted or electrically/mechanically powered sign or message board enabling change or movement of any displayed message to be displayed or affixed to the vehicle. Except:

(A) Vehicles that are used in conjunction with officially sanctioned or sponsored motor vehicle traffic control or movement may display lighted or electrically powered signs to assist in the efficient control of traffic movement on public roadways. The signs must be designed, worded, and located to limit misinterpretation and confusion by the motoring public.

(B) Electric signs may be unitized to identify taxicabs and the destinations of mass transportation vehicles. These signs must not contain any commercial or personal message and must be designed, worded, and located so that it is clearly differentiated from other required motor vehicle lights.

(b) If a vehicle is not in motion and parked on private property, the vehicle may use aftermarket lighting except as outlined under RCW ~~((47.36.180))~~ 46.37.180.

(c) This section is not intended to prohibit a scrolling sign provided that the scrolling sign must:

(i) Be powered by an external source or in a manner which does not cause the required equipment on the vehicle to be out of compliance with 49 C.F.R. Part 571, chapter 46.37 RCW or Title 204 WAC.

(ii) Not be lit.

(iii) Not have continual motion.

(2) Pursuant to Title 49 C.F.R. Part 571.108, the addition of an aftermarket style ornament or other feature such as tinted plastic glass covers, a grille or ~~((alotted))~~ slotted covers must not be placed in front of the headlamp lens, or in front of any other lighting devices installed on motor vehicles which impair the effectiveness of lighting equipment required under 49 C.F.R. Part 571.108 (FMVSS 108) or chapter 46.37 RCW. Except:

(a) Clear aftermarket headlamp covers.

(b) Headlamp wipers may be used in front of the lens provided that the headlamp system is designed to conform to all applicable photometric requirements in 49 C.F.R. Part 571.108 (FMVSS 108) with the wiper stopped in any position in front of the lens.

(c) A bike rack may be installed on the front of a municipal transit vehicle (as defined under RCW 46.04.355) provided that even with the bike rack installed, loaded or unloaded with bicycles, the headlight system still conforms with all applicable photometric requirements in 49 C.F.R. Part 571.108 (FMVSS 108).

(3) Red emergency lights are prohibited on any vehicle other than an authorized emergency vehicle, a law enforcement vehicle, an emergency tow truck as defined in WAC ~~((204-88-030 (1), (2), and (5)))~~ 204-21-020(8), school buses, and private carrier buses.

(4) Blue lights are prohibited on any vehicle other than a law enforcement vehicle as defined in WAC ~~((204-21-010))~~ 204-21-020.

(5) Flashing white lights are prohibited on any vehicle other than authorized emergency vehicles, law enforcement

vehicles, school buses, and emergency tow trucks as defined in WAC (~~(204-88-030 (1), (2), and (5))~~) 204-21-020.

WSR 15-16-125
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed August 5, 2015, 8:58 a.m., effective September 5, 2015]

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

Purpose: Adds new subsections to WAC 308-66-152 specifying further examples of unlawful statements or representations within the meaning of RCW 46.70.180(1) and clarifies how rebates must be advertised.

Citation of Existing Rules Affected by this Order: Amending WAC 308-66-152.

Statutory Authority for Adoption: RCW 46.70.160.

Adopted under notice filed as WSR 15-12-024 on May 26, 2015.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 1, 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: August 5, 2015.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-16-090, filed 8/3/04, effective 9/3/04)

WAC 308-66-152 Unlawful practices. (1) Examples of unlawful acts or practices, as defined by RCW 46.70.180 (1)(a), include, but are not limited to representations such as "no down payment," "a dollar down," "five dollars down," "take-over payments," "no cash out of your pocket," "no cash needed," and others of similar nature if either secondary financing or initial payment of any amount, including factory rebates in excess of that represented, is required from the purchaser. A dealer's plan to have all or a portion of the lease or selling price financed by a third party does not relieve the dealer of an obligation to refrain from this prohibited type of advertising. When any of these representations are made a payment disclosure shall be made as contained in subsection (6) of this section.

(2) Examples of unlawful acts or practices as defined by RCW 46.70.180 (1)(b), include, but are not limited to representations such as "one hundred percent financing" if the

terms of the purchase or lease involve more than one security agreement and payments to more than one financing institution. When collateral in addition to the vehicle is required, it must be listed on the security agreement containing the vehicle's description, not on a separate agreement.

(3) It shall be considered false, deceptive or misleading, and thereby unlawful, to advertise with words, phrases, or initials which are not clear and conspicuous and easily comprehended by persons other than those closely allied with the vehicle industry.

(a) Clear and conspicuous within an advertisement shall mean:

(i) In the case of a television advertisement, the information required to be disclosed shall be completely disclosed audibly, visually, or a combination thereof.

(A) If made visually, shall be made in a type size sufficiently large to be read with reasonable ease; shall appear on the television screen for at least seven seconds; shall be in print type of a color or shade that contrasts readily with the background; shall not be obscured by other words or images appearing on the television screen; and

(B) If made audibly, shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average television listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(ii) In the case of a radio advertisement, the information required to be disclosed shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average radio listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(iii) In the case of a printed advertisement, the information required to be disclosed shall be made in a type size which shall be sufficiently large to be read with reasonable ease and shall be made in relatively close proximity to each of the terms which require that the disclosures be made; disclosures shall be made in such color and contrast so as not to be obscured by other words or pictures appearing in the advertisement.

(b) Examples of words, phrases, or initials which are not easily comprehended by persons other than those closely allied with the vehicle industry, and that may not be used without explaining their meaning in the same advertisement, include but are not limited to: Executive; capitalized cost reduction, o.a.c., c.f., f.o.b. The words annual percentage rate may be abbreviated to read A.P.R. or apr.

(4) Examples of false, deceptive or misleading, and thereby unlawful statements or representations within the meaning of RCW 46.70.180(1) include, but are not limited to:

(a) Advertising a used vehicle for sale that is not available at the time the advertisement is placed;

(b) Advertising a new vehicle as available for immediate delivery if it is available only on order;

(c) Advertising any offer in connection with the sale of a vehicle or model or type of vehicle without disclosing any material limitations, including, but not limited to, the time limit, or that there is no time limit on the offer;

(d) Advertising using a picture:

(i) Of a new vehicle which does not substantially show the same vehicle offered for sale; or

(ii) Of a used vehicle which is not the same vehicle offered for sale;

(e) Causing an advertisement to be placed by a dealer or dealer representative that does not identify the dealer by its complete business name, or by the word "dealer" or abbreviation "DLR";

(f) Incorporating in the dealer's name any term or designation which would have a tendency to mislead others as to the true nature of the business, such as the use of "wholesale," when a dealer's business is substantially retail, or "discount" when the price and policy of a dealer does not provide substantial discounts;

(g) Advertising a vehicle manufactured fewer than two years prior to the date of the advertisement without designating the vehicle as "used," "demo," or "demonstrator." For purposes of adequate disclosure, the appropriate quoted term must be employed. Other descriptive words, such as "executive," "lease," or "rental" may be used in conjunction therewith, but not so as to create ambiguity as to whether the vehicle is new, used, or a demonstrator.

(h) Advertising a "rebuilt vehicle" for sale with knowledge as defined in RCW 46.70.101 (1)(b)(xi) that the vehicle is rebuilt, without clearly and conspicuously disclosing "rebuilt" in the advertisement;

(i) Advertising a specific price for a specific vehicle or model or type of vehicle without designating the number of vehicles available at that price, and;

(i) Without clearly identifying the vehicles available by complete vehicle identification number, license plate number; or

(ii) Without clearly and conspicuously stating in the advertisement that such vehicle identification or license plate number for each advertised vehicle is available from the dealer upon request, and requiring that the dealer using this method of identifying vehicles keep the media advertising copy along with the vehicle identification number or license plate number of each advertised vehicle offered for a specific price. Such records shall be retained for one year following the advertisement. Dealers shall also date and post a written copy of the advertisement text and list of vehicle identification numbers or license plate numbers in a conspicuous public area at their place of business for the duration of the vehicle's availability at the advertised price: Provided, however, That a dealer need not designate the number of vehicles available or identify the vehicles available or state in the advertisement that the identification of advertised vehicles is available upon request if, in fact, an unlimited supply of such vehicles are available for immediate delivery;

(j) Selling a particular vehicle at a higher price than advertised, regardless of trade-in allowance;

(k) Adding charges, costs, or items to the advertised price, except those allowed by statute, other than the selling price of additional equipment ordered by the purchaser, sales tax, and license fees. "Additional equipment ordered by the purchaser" shall not include options already installed on the vehicle at the time of advertising;

(l) Expressing "advertised price" as a combination of:

(i) Dollar figures and words unless all component figures and the total dollar figure is expressed; or

(ii) Dollar figures and dollar figures unless all component figures and the total dollar figure is expressed;

(m) Advertising that a new vehicle or model or type of vehicle will be leased or sold for a certain amount above or below invoice or cost without:

(i) Disclosing the actual dollar amount being referred to as "invoice";

(ii) Stating the final, total price for each vehicle, which may exclude sales taxes and license fees; and

(iii) Computing invoice as the actual cost to the dealer to get each vehicle from the manufacturer.

In computing "invoice" the dealer may include the actual cost of transportation of the vehicle from the manufacturer to the dealer, but must exclude dealer holdbacks, other manufacturer incentives, optional advertising fees, dealer overhead expenses, and other similar expenses;

(n) Advertising that a new or used vehicle is reduced in price from a former price, or that the advertised price is a percentage of dollar amount savings from a former price, or words to that effect, unless the seller actually recently advertised or has records showing that vehicle has been offered for sale at the former price;

(o) Advertising or offering:

(i) Any rebate that is not ~~((an authorized manufacturer's rebate paid directly))~~ payable to the consumer, which the consumer may apply to the purchase; ~~((and))~~

(ii) Any ~~((manufacturer's))~~ rebate ~~((for which the manufacturer))~~ that requires any financial participation by the dealer, without also clearly and conspicuously stating the following disclosure: "Dealer participation in this rebate program may increase vehicle price before rebate";

(iii) Any rebate without clearly and conspicuously stating the specific vehicle(s) or model(s) to which the rebate applies and all material limitations on and conditions of the rebate;

(iv) Multiple rebates that are applicable to the same vehicle(s) or model(s) but are not available in combination in any manner that implies that the rebates are available in combination, such as by adding them together;

(v) Any rebate other than a rebate offered by the dealer's franchise manufacturer or a financial institution that is affiliated by ownership or agreement with the dealer's franchise manufacturer;

(vi) A sum total of multiple rebates or a vehicle price that incorporates any rebate, unless each incorporated rebate meets the following requirements:

(A) For a rebate offered by a dealer's franchise manufacturer, more than fifty percent of individuals who acquired vehicles in the state of Washington from the manufacturer's franchise dealers in the preceding twelve months would have qualified for the rebate; and

(B) For a rebate offered by a financial institution that is affiliated by ownership or agreement with the dealer's manufacturer, more than fifty percent of individuals in the state of Washington who applied in the preceding twelve months to the financial institution for financing for the acquisition of a vehicle produced by the franchise manufacturer would have qualified for the rebate.

(p) Advertising that "any written price quote will be beaten," "any deal will be accepted," or that a dollar amount is guaranteed on any "push, pull or drag," trade-in, or words to that effect unless the dealer can clearly show through the records of the dealership that such is the case;

(q) Advertising a vehicle or model or type of vehicle as being available at "lowest cost," "best deal" or other words to that effect unless the dealer can clearly show through the records of the dealership that such is the case;

(r) Advertising an interest rate that is adjustable without clearly and conspicuously disclosing that the interest rate is adjustable;

(s) Advertising a vehicle or model or type of vehicle for sale at a financing rate which has been bought down by the dealer, without disclosing the actual annual percentage rate.

(5) No advertisement to aid, promote, or assist directly or indirectly any extension of credit may state:

(a) That a specific amount of credit or installment amount can be arranged unless the creditor usually and customarily arranges or will arrange credit amounts or installments for that period and in that amount; or

(b) That no down payment or that a specified down payment will be accepted in connection with any extension of credit unless the creditor usually and customarily accepts or will accept down payment in that amount.

(6) No advertisement to aid, promote, or assist directly or indirectly any credit sale of a vehicle shall state the amount or percentage of the down payment required, or that no down payment is required, the amount of any payment or the number of payments or the period of repayment, the amount of any finance charge or that there is no charge for credit, unless it states clearly and conspicuously all of the following terms:

(a) The cash price or the amount of the loan as applicable;

(b) The amount or percentage of the down payment required, or that no down payment is required, as applicable;

(c) The number, amount, and frequency of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate;

(e) The deferred payment price or the sum of the payments as applicable;

(f) The specific model or type of vehicle(s) to which the advertised offer applies; and

(g) Any other conditions material to the advertised offer.

(7) Any advertisement to aid, promote, or assist directly or indirectly a consumer lease must state clearly that the advertisement offers a lease rather than a vehicle sale.

(8) No advertisement to aid, promote, or assist directly or indirectly any consumer lease of a vehicle shall state the amount of any monthly payment, or state a capitalized cost reduction or other payment required prior to or at consummation/delivery, unless it also states the following terms:

(a) That the transaction advertised is a lease;

(b) The total amount due prior to or at consummation/delivery;

(c) The number, amount, and due dates or period of scheduled payments under the lease;

(d) A statement of whether or not a security deposit is required; and

(e) A disclosure of the lessee's liability at the end of an open-end lease.

WSR 15-16-126

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed August 5, 2015, 9:00 a.m., effective September 5, 2015]

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

Purpose: There is a need to update these rules as to provide cleanup and clarification to existing language to ensure that the rules reference and comply with current laws in the state of Washington.

Citation of Existing Rules Affected by this Order: Repealing WAC 212-75-001; and amending WAC 212-75-005.

Statutory Authority for Adoption: RCW 43.44.120.

Adopted under notice filed as WSR 15-12-050 on May 28, 2015.

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 1.

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

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

Date Adopted: August 5, 2015.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 84-08-018, filed 3/27/84)

WAC 212-75-005 Minimum specifications for approved signs. To be approved by the state fire marshal, a sign warning of the presence of guard animals as required by RCW ((48.48.150 shall satisfy the following two conditions)) 43.44.120 must:

(1) ((The sign must)) Be at least ((3" by 5" (3) three inches in height by five inches in length((, though it may be larger)); and

(2) ((The sign must)) Bear the following caption in bold print at least ((1/2" (1) one-half inch((+) high: "CAUTION! PREMISES PROTECTED BY GUARD ANIMALS."

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 212-75-001 Purpose.

WSR 15-16-127
PERMANENT RULES
WASHINGTON STATE PATROL

[Filed August 5, 2015, 9:01 a.m., effective September 5, 2015]

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

Purpose: There is a need to update these rules as to provide cleanup and clarification to existing language to ensure that the rules comply with current laws in the state of Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 446-80-005 and 446-80-010.

Statutory Authority for Adoption: RCW 46.44.105.

Adopted under notice filed as WSR 15-12-083 on June 1, 2015.

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 0.

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

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

Date Adopted: August 5, 2015.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 93-18-043, filed 8/27/93, effective 9/27/93)

WAC 446-80-005 Promulgation. By authority of RCW 46.44.105(~~((12))~~) (11), the Washington state patrol hereby adopts the following rules establishing standards for size, weight, and load enforcement activities authorized in chapter 46.44 RCW.

AMENDATORY SECTION (Amending WSR 93-18-043, filed 8/27/93, effective 9/27/93)

WAC 446-80-010 Stopping at scales exemption. The requirement to stop at a weighing facility when traffic control signs indicate the weighing facility is open does not apply to(~~(s))~~) unladen trucks towing or carrying a pole trailer, as defined in RCW 46.04.414, whose design and use is for

transporting logs, except at the (~~(points of entry))~~) following weighing facilities (~~(listed below.~~

~~Points of entry are))~~:

(Vancouver)) <u>Ridgefield</u> Port of Entry	I-5 MP 15
Bow Hill Port of Entry	I-5 MP 235
Plymouth Port of Entry	I-82 MP 1
Spokane Port of Entry	I-90 MP 300
Wallula ((Port of Entry)))	SR-12 MP 308
Home Valley	SR-14 MP 50
Goldendale	SR-97 MP 13
Tonasket	SR-97 MP 315
Kettle Falls	SR-395 MP 239