

WSR 16-17-011
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed August 4, 2016, 4:40 p.m.]

Title of Rule and Other Identifying Information: Chapter 16-167 WAC, Intrastate commerce in foods, this rule adopts federal regulations adopted under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq. This rule making is to update the chapter which was last revised May 24, 1999.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Henri Gonzales, Agency Rules Coordinator, Washington State Department of Agriculture (WSDA), P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, AND RECEIVED BY October 25, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: After congress passed the Food Safety Modernization Act (FSMA) in 2011, the U.S. Food and Drug Administration (FDA) released a number of revised and new federal code of regulations necessary to implement FSMA in late 2015 and again in 2016. Revision to chapter 16-167 WAC, Intrastate commerce in foods, is necessary to remain uniform with federal regulations so that food produced in Washington may be freely shipped in interstate and international commerce and to ultimately protect consumers from contaminated, adulterated, and/or misbranded food.

Reasons Supporting Proposal: Chapter 16-167 WAC, Intrastate commerce in foods, the agency is amending the rule to adopt recent changes to federal regulations regarding food safety in order to better protect public health and promote uniformity with other states.

Statutory Authority for Adoption: RCW 69.04.740, 69.07.020, 69.10.055, 15.36.021, 69.22.020, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 69.04, 69.07, 69.10, 69.22, and 15.36 RCW.

Rule is necessary because of federal law, [no further information supplied by agency].

Name of Proponent: WSDA, governmental.

Name of Agency Personnel Responsible for Drafting: Claudia G. Coles, Olympia, Washington, (206) 321-1124; Implementation and Enforcement: Lucy Severs, Olympia, Washington, (360) 725-5761.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The agency is conducting this rule making to update our chapter 16-167 WAC to be consistent with newly revised and new federal food safety regulations that FDA has issued. Uniformity with the federal rules are [is] necessary to

ensure WSDA is implementing and using enforcement requirements that are also meeting the new FSMA rule changes that FDA has issued so our state food producers can both move products within the state and in the domestic and international arena. Uniformity with the federal requirements is also important for partnership and funding opportunities with the federal government such as the FDA manufactured food regulatory standards program and our rapid response team program.

August 24, 2016
 Candace A. Jacobs
 Assistant Director
 Food Safety and
 Consumer Services Division

AMENDATORY SECTION (Amending WSR 99-12-020, filed 5/24/99, effective 6/24/99)

WAC 16-167-010 ((Purpose and authority-)) General. (1) Consistent with the concept of uniformity where possible with the federal regulations adopted under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq. ~~((the following federal regulations are specifically made applicable to all persons subject to chapters 69.04 and 69.07 RCW by virtue of RCW 69.04.392, 69.04.394, 69.04.396 and 69.04.398. Although these regulations are automatically applicable to all persons subject to chapters 69.04 and 69.07 RCW, the department is nevertheless adopting as its own rules the following existing regulations of the federal government published in the Code of Federal Regulations revised as of the dates stated in the rule.~~

(2) ~~The purpose of this rule is to adopt the following portion of the federal regulations promulgated under Title 21 C.F.R., Title 40 C.F.R. and FDA Compliance Policy Guidelines as Washington standards for food safety to ensure uniformity with United States standards and to protect the consuming public from possible harm due to the purchase or consumption of adulterated or misbranded food.~~

(3) ~~These rules are promulgated under authority of RCW 69.04.392, 69.04.394, 69.04.396, 69.04.398 and 69.07.020)), this chapter adopts the version of the referenced federal rule current at the time this rule becomes effective.~~

(2) To promote continued uniformity with federal rules: amendments to the federal rules referenced in this chapter are hereby incorporated and enforceable under this chapter upon the effective date of the federal amendment provided:

(a) The director of the Washington state department of agriculture or his or her authorized representative (director) gives notice of the federal rule amendment at the time it is published as a final rule in the Federal Register:

(b) The notice is published, at a minimum, in the state register and on the agency's web site; and

(c) The director has not otherwise determined that the amendment should not be adopted as provided in subsection (3) of this section.

(3) If the director determines that a proposed amendment to a federal rule referenced in this chapter should not be adopted, the director shall initiate rule making under chapter 34.05 RCW to amend this chapter to reflect the version of the federal rule, if any, effective under this chapter.

AMENDATORY SECTION (Amending WSR 99-12-020, filed 5/24/99, effective 6/24/99)

WAC 16-167-020 Pesticide chemicals. The following federal regulations are adopted as Washington tolerances for pesticide chemicals: 40 C.F.R. (~~(Revised as of July 1, 1998.~~

~~((1)) Chapter I Part((s)) 180 - Tolerances and Exemptions ((from Tolerances)) for Pesticide Chemical((s in or on Raw Agricultural Commodities)) Residues in Food.~~

~~((a)) (1) Subpart A - Definitions and Interpretative Regulations.~~

~~((b)) (2) Subpart C - Specific Tolerances.~~

~~((2) Part 185 - Tolerances for Pesticides in Food.~~

~~(3) Part 186 - Tolerances for Pesticides in Animal Feeds.))~~

AMENDATORY SECTION (Amending WSR 99-12-020, filed 5/24/99, effective 6/24/99)

WAC 16-167-030 Food additives. The following federal regulations prescribing the conditions under which such food additives may safely be used are adopted as Washington food additive regulations. 21 C.F.R. Chapter ~~((1 Revised as of April 1, 1998)) I.~~

(1) Part 170 - Food Additives.

(2) Part 172 - Food Additives Permitted for Direct Addition to Food for Human Consumption.

(3) Part 173 - Secondary Direct Food Additives Permitted in Food for Human Consumption.

(4) Part 174 - Indirect Food Additives: General.

(5) Part 175 - Indirect Food Additives: Adhesives and Components of Coatings.

(6) Part 176 - Indirect Food Additives: Paper and Paper-board Components.

(7) Part 177 - Indirect Food Additives: Polymers.

(8) Part 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers.

(9) Part 179 - Irradiation in the Production, Processing and Handling of Food.

(10) Part 180 - Food Additives Permitted in Food ~~((on an Interim Basis))~~ or in Contact with Food on an Interim Basis Pending Additional Study.

(11) Part 181 - Prior-Sanctioned Food Ingredients.

(12) Part 182 - Substances Generally Recognized as Safe.

(13) Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe.

(14) Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe.

(15) Part 189 - Substances Prohibited From Use in Human Food.

AMENDATORY SECTION (Amending WSR 99-12-020, filed 5/24/99, effective 6/24/99)

WAC 16-167-040 Color additives. The following federal regulations prescribing the use or limited use of such color additives are adopted as Washington color additive regulations. 21 C.F.R. Chapter ~~((1 Subchapter A - General Revised as of April 1, 1998)) I.~~

(1) Part 70 - Color Additives.

(2) Part 73 - Listing of Color Additives Exempt From Certification.

(3) Part 74 - Listing of Color Additives Subject to Certification.

(4) Part 81 - General Specifications and General Restrictions for Provisional Color Additives for Use in Foods, Drugs and Cosmetics.

(5) Part 82 - Listing of Certified Provisionally Listed Colors and Specifications.

AMENDATORY SECTION (Amending WSR 99-12-020, filed 5/24/99, effective 6/24/99)

WAC 16-167-050 General requirements. The following ~~((federal regulations concerning food))~~ provisions of 21 C.F.R. Chapter I are adopted as Washington requirements for regulating food in intrastate commerce.

(1) ~~((21 C.F.R. Chapter 1))~~ The following parts in Subchapter A-General ((Revised as of April 1, 1998)).

(a) Part 1 - General Enforcement Regulations.

(i) Subpart A General Provisions.

(ii) Subpart B General Labeling Requirements.

(iii) Subpart O Sanitary Transportation of Human and Animal Food.

(b) Part 2 - General Administrative Rulings and Decisions.

(i) Subpart A General Provisions.

(ii) Subpart B Human and Animal Foods.

(c) Part 7 - Enforcement Policy.

(2) ~~((21 C.F.R. Chapter 1))~~ All parts of Subchapter B-Food for Human Consumption, ((Revised as of Federal Register: July 8, 1998, (Volume 63, Number 130) Page 37030-37056.

~~(a) Part 100 - General.~~

~~(b) Part 101 - Food Labeling.~~

~~(c) Part 102 - Common or Usual Name for Nonstandardized Foods.~~

~~(d) Part 104 - Nutritional Quality Guidelines for Foods.~~

~~(e) Part 105 - Foods for Special Dietary Use.~~

~~(f) Part 106 - Infant Formula Quality Control Procedures.~~

~~(g) Part 107 - Infant Formula.~~

~~(h) Part 108 - Emergency Permit Control.~~

~~(i) Part 109 - Unavoidable Contaminants in Food for Human Consumption and Food Packaging Material.~~

~~(j) Part 110 - Current Good Manufacturing Practice in Manufacturing, Packing and Holding Human Food.~~

~~(k) Part 111 - Current Good Manufacturing Practices for Dietary Supplements.~~

~~(l) Part 113 - Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.~~

~~(m) Part 114 - Acidified Foods.~~

~~(n) Part 123 - Fish and Fishery Products.~~

~~(o) Part 129 - Processing and Bottling Bottled Drinking Water.~~

~~(p) Part 130 - Food Standards: General.~~

~~(q) Part 131 - Milk and Cream.~~

~~(r) Part 133 - Cheeses and Related Cheese Products.~~

~~(s) Part 135 - Frozen Desserts.~~

~~(t) Part 136 - Bakery Products.~~

(u) Part 137—Cereal Flours and Related Products.
 (v) Part 139—Macaroni and Noodle Products.
 (w) Part 145—Canned Fruits.
 (x) Part 146—Canned Fruit Juices.
 (y) Part 150—Fruit Butters, Jellies, Preserves and Related Products.
 (z) Part 152—Fruit Pies.
 (aa) Part 155—Canned Vegetables.
 (bb) Part 156—Vegetable Juices.
 (cc) Part 158—Frozen Vegetables.
 (dd) Part 160—Eggs and Egg Products.
 (ee) Part 161—Fish and Shellfish.
 (ff) Part 163—Cacao Products.
 (gg) Part 164—Tree Nut and Peanut Products.
 (hh) Part 165—Beverages.
 (ii) Part 166—Margarine.
 (jj) Part 168—Sweeteners and Table Syrups.
 (kk) Part 169—Food Dressings and Flavorings)) except for Part 119.

AMENDATORY SECTION (Amending WSR 97-02-036, filed 12/26/96, effective 1/26/97)

WAC 16-167-900 (~~(Where can)) Access to publications adopted ((by WSDA)) under this chapter ((be obtained?))~~, (1) ((Title 21 C.F.R. and Title 40 C.F.R. can be purchased from the Superintendent of Documents, U.S. Printing Office, Mail Stop SSOP, Washington D.C. 20402-9328.

(2) ~~The compliance policy guidelines can be obtained by writing the Center for Food Safety and Applied Nutrition, Director, Office of Constituent Operations, Industry Activities Staff, HFS-S65-200 "C" Street SW, Washington D.C. 20204.~~

(3) ~~Information can also be obtained from FDA's homepage at [HTTP://WWW.FDA.GOV/FDAHOMEPAGE.HTML](http://www.fda.gov/fdahomepage.html)) Electronic access to Titles 21 and 40 C.F.R. is available at <https://www.gpo.gov/fdsys/search/home.action>. Print copies of the titles can be purchased from the U.S. Government Bookstore online at <https://bookstore.gpo.gov/catalog/laws-regulations/code-federal-regulations-cfrs-print> or, if you do not have electronic access, contact the U.S. Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000; phone 1-866-512-1800.~~

(2) Electronic access to the FDA's Manual of Compliance Policy Guides is available at <http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/default.htm>. If you do not have electronic access, contact the Food and Drug Administration, 1093 New Hampshire Avenue, Silver Spring, MD 20993-0002; phone 1-888-463-6332.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-167-060 Compliance policy guidelines.

WSR 16-17-059
EXPEDITED RULES
DEPARTMENT OF HEALTH

[Filed August 12, 2016, 4:10 p.m.]

Title of Rule and Other Identifying Information: Repealing chapter 246-305 WAC, Certification of independent review organizations (IROs). Repealing all sections of this chapter as of January 1, 2017, to implement HB 2326 (chapter 139, Laws of 2016).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Sherry Thomas, Department of Health, P.O. Box 47850, Olympia, WA 98504-7850, AND RECEIVED BY October 24, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On January 1, 2017, regulation of IROs moves to the office of the insurance commissioner (OIC) necessitating the department of health (department) repeal of chapter 246-305 WAC. OIC is adopting new rules to replace chapter 246-305 WAC to be effective January 1, 2017, and is working with the department to transfer other elements of the IRO program.

Reasons Supporting Proposal: HB 2326 (chapter 139, Laws of 2016) transfers all regulatory authority of IROs from the department to OIC. OIC is adopting rules to implement this transfer of authority effective January 1, 2017, for which the department will no longer have statutory authority over these rules. Expedited rule making is appropriate because the statute on which the rule is based is repealed January 1, 2017, and has not been replaced by another statute providing the department statutory authority for the rule, per RCW 34.05.353 (2)(a).

Statutory Authority for Adoption: HB 2326 (chapter 139, Laws of 2016).

Statute Being Implemented: HB 2326 (chapter 139, Laws of 2016).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Nancy Elliott, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4878; Implementation and Enforcement: Sherry Thomas, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4612.

August 12, 2016
 John Wiesman, DrPH, MPH
 Secretary

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 246-305-001 Purpose and scope.
- WAC 246-305-010 Definitions.
- WAC 246-305-020 General requirements for certification.
- WAC 246-305-030 Conflict of interest.
- WAC 246-305-040 Expert reviewers.
- WAC 246-305-050 Independent review process.
- WAC 246-305-051 Additional requirements for experimental or investigational treatment reviews.
- WAC 246-305-060 Criteria and considerations for independent review determinations.
- WAC 246-305-070 Administrative processes and capabilities of IROs.
- WAC 246-305-080 Application for certification as an IRO.
- WAC 246-305-090 Ongoing requirements for IROs.
- WAC 246-305-100 Powers of the department.
- WAC 246-305-110 Grounds for action against an applicant or a certified IRO.
- WAC 246-305-990 Maximum fee schedule.

WSR 16-17-102**EXPEDITED RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed August 19, 2016, 9:11 a.m.]

Title of Rule and Other Identifying Information: Duties of elections officials receiving copies of campaign finance reports, WAC 390-13-100.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lori Anderson, Public Disclosure Commission, e-mail lori.anderson@pdc.wa.gov, P.O. Box 40908, Olympia, WA 98504-0908, AND RECEIVED BY October 25, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Prior to 2010, candidates and political committees filed disclosure reports with the public disclosure commission and locally with their counties' election administrators. Chapter 205, Laws of 2010, repealed the local filing requirement. Counties were required to keep the reports for six years and make them available in a

manner set out in chapter 390-13 WAC. The six year retention period expired in June 2016 and the commission now repeals its rule that dictated recordkeeping requirements.

Reasons Supporting Proposal: This rule is based on a repealed statute.

Statutory Authority for Adoption: RCW 42.17A.110.

Statute Being Implemented: Chapter 205, Laws of 2010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Public disclosure commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Lori Anderson, 711 Capitol Way, Room 206, Olympia, WA 98504-0908, (360) 664-2737; and Enforcement: Evelyn Fielding-Lopez, 711 Capitol Way, Room 206, Olympia, WA 98504-0908, (360) 664-2737 [664-2735].

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The commission anticipates no enforcement or fiscal impacts.

August 19, 2016
Lori Anderson
Communications and
Training Officer

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 390-13-100 Duties of elections officials receiving copies of campaign finance reports.

WSR 16-17-103**EXPEDITED RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed August 19, 2016, 9:13 a.m.]

Title of Rule and Other Identifying Information: Amending WAC 390-18-040 Use of the terms "reelect," "retain," and "return."

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lori Anderson, Public Disclosure Commission, e-mail lori.anderson@pdc.wa.gov, P.O. Box 40908, Olympia, WA 98504-0908, AND RECEIVED BY October 25, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Remove candidates' implied incumbency restrictions from political advertising rules.

Reasons Supporting Proposal: WAC 390-18-040(6) is no longer necessary because of changed circumstances. The statute on which the rule was based was found to be unconstitutional and the statute enacted to replace the unconstitutional statute makes subsection (6) unnecessary.

Statutory Authority for Adoption: RCW 42.17A.110.

Statute Being Implemented: RCW 42.17A.335.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Public disclosure commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Lori Anderson, 711 Capitol Way, Room 206, Olympia, WA 98504-0908, (360) 664-2737; and Enforcement: Evelyn Fielding-Lopez, 711 Capitol Way, Room 206, Olympia, WA 98504-0908, (360) 664-2735.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The commission anticipates no enforcement or fiscal impacts.

August 19, 2016
Lori Anderson
Communications and
Training Officer

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-18-040 Use of the terms "reelect," "retain," and "return." (1) The term "reelect" when used in an advertisement represents that the candidate is presently holding the office being sought, was elected to it, and is seeking another term in that same office in the same district or political subdivision.

(2) The term "reelect" may be used in an advertisement by a nonincumbent candidate who has previously been elected to the office being sought provided that in the same advertisement it is clearly stated that the candidate is not the incumbent.

(3) The term "retain" in an advertisement represents that the candidate is the incumbent but does not imply that the candidate attained the office by election.

(4) The term "return" in an advertisement represents that the candidate now holds, or has previously held, the office being sought, but does not represent that the office was attained by election.

(5) Whenever the boundaries of a district or political subdivision are officially altered through redistricting, consolidation or other official procedures, the candidate holding an office in the affected district or political subdivision may, in an advertisement, use the term "reelect," "retain" or "return," as appropriate, if the candidate is seeking the same office in the revised district or political subdivision.

~~((6) Stating the office sought (e.g., "mayor") by a candidate in a political advertisement without expressly stating the candidate is seeking election to the office (e.g., "for mayor");~~

~~("Elect Smith Mayor") represents that the candidate presently holds that office.))~~

WSR 16-17-110
EXPEDITED RULES
DEPARTMENT OF LICENSING

[Filed August 22, 2016, 11:32 a.m.]

Title of Rule and Other Identifying Information: Engineers and professional land surveyors, WAC 196-27A-010 Purpose and applicability and 196-29-110 Land surveying practice standards.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Julie Konnersman, Department of Licensing, Regulatory Boards Section, P.O. Box 9012, Olympia, WA 98507, AND RECEIVED BY October 24, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Housekeeping of WAC 196-27A-010 and 196-29-110. Both reference RCW 18.43.105(11) which no longer exists. There will be no anticipated effects on stakeholders.

Reasons Supporting Proposal: Clarifies rules by removing obsolete reference without changing its effect.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: RCW 18.43.035, [18.43.]-110.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, regulatory boards section, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Julie Konnersman, Olympia, (360) 664-1507; and Enforcement: Lorin Doyle, Olympia, (360) 664-1386.

August 22, 2016
Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-23-027, filed 11/12/02, effective 12/13/02)

WAC 196-27A-010 Purpose and applicability. (1) RCW 18.43.110 provides the board of registration for professional engineers and land surveyors (board) with the exclusive power to fine and reprimand registrants and suspend or revoke the certificate of registration of any registrant for violation of any provisions of chapter 18.43 or 18.235 RCW.

~~((This includes, as stated in RCW 18.43.105(11), "Committing any other act, or failing to act, which act or failure are customarily regarded as being contrary to the accepted professional conduct or standard generally expected of those practicing engineering or land surveying."))~~ The purpose of chapter 196-27A WAC is to provide further guidance to registrants with respect to the accepted professional conduct and practice generally expected of those practicing engineering or land surveying.

(2) These rules of professional conduct and practice are applicable to all registrants and engineering/land surveying firms. A registrant is any person holding a certificate or license issued in accordance with chapter 18.43 RCW and an engineering/land surveying firm is one that has been issued a certificate of authorization to practice by the board.

(3) All persons, corporations, joint stock associations and limited liability companies registered under the provisions of chapter 18.43 RCW are charged with having knowledge of, and practicing in accordance with, the provisions of this chapter.

AMENDATORY SECTION (Amending WSR 06-22-038, filed 10/25/06, effective 11/25/06)

WAC 196-29-110 Land surveying practice standards. Failure by any registrant to comply with the provisions of the Survey Recording Act, chapter 58.09 RCW and the survey standards, chapter 332-130 WAC shall be considered misconduct or malpractice as defined by RCW 18.43-105~~((+))~~ (10).

The following standards shall also apply:

(1) The monumentation, posting, and/or the marking of a boundary line between two existing corner monuments constitutes the "practice of land surveying" as defined in chapter 18.43 RCW and chapter 196-16 WAC, and consequently requires said work to be performed under the direct supervision of a registered professional land surveyor.

(2) The field survey work performed to accomplish the monumentation, posting, and marking of a boundary line between two existing corner monuments shall meet the minimum standards imposed by chapter 332-130 WAC.

(3) The monumentation, posting, and/or marking of a boundary line between two existing corner monuments involves a determination of the accuracy and validity of the existing monuments by the use of standard survey methods and professional judgment.

(4) The monumentation, posting, and marking of a boundary line between two existing corner monuments shall require the filing of a record of survey according to chapter 58.09 RCW unless both corners satisfy one or both of the following requirements:

(a) The corner(s) are shown as being established on a properly recorded or filed survey according to chapter 58.09 RCW and are accurately and correctly shown thereon.

(b) The corner(s) are described correctly, accurately, and properly on a land corner record according to chapter 58.09 RCW if their establishment was by a method not requiring the filing of a record of survey.

WSR 16-17-131
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 23, 2016, 12:06 p.m.]

Title of Rule and Other Identifying Information: Chapter 296-829 WAC, Helicopters; chapter 296-876 WAC, Ladders, portable and fixed; and chapter 296-878 WAC, Window cleaning.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Chris Miller, Department of Labor and Industries, P.O. Box 44610, Olympia, WA 98504, AND RECEIVED BY October 24, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to fix any outstanding housekeeping issues that are on the department of labor and industries, division of occupational safety and health's change log for the chapters listed above.

Amended Sections:

WAC 296-829-099 Definitions, remove definition of "Jet A Fuel." This term is not used in chapter 296-826 WAC so the definition is not needed.

WAC 296-829-40020 Make sure the load is handled correctly, change the term "figure" to "illustration" in subsection (1).

WAC 296-876-100 Scope, add "For requirements related to mobile ladder stands or rolling ladders, please refer to WAC 296-874-20024 Make sure stairway-type ladders meet these requirements." This addition of this reference will help provide clarity regarding existing requirements for these types of ladders.

WAC 296-876-60050 Extensions and grab bars, delete subsection (3) and renumbered the rest of the section - this was duplicated. The exact same sentence is in subsection (1).

WAC 296-878-15005 Select and use appropriate equipment, update reference to the Ladder, portable and fixed standard in Table 1 from WAC 296-800-876 to chapter 296-876 WAC. This change corrects a typo.

Reasons Supporting Proposal: Updating these housekeeping errors will help keep employers and workers safe by being current.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, (360) 902-5516; Implementation and Enforcement: Anne Soiza, Tumwater, (360) 902-5090.

August 23, 2016
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-829-099 Definitions.

Aviation gasoline. Gasoline fuel for reciprocating piston engine helicopters, also known as avgas.

Cargo hook. A device attached to a helicopter that is used to hold suspended loads.

Competent person. One who is capable of identifying existing and predictable hazards in the surroundings, or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

Deadman controls. A control, switch or device that will automatically shut off whenever the operator releases it.

Deposit area. An area that is designated for dropping off and picking up suspended loads.

Downwash. The wind created by the rotating blades of a helicopter.

Ground device. A device used to dissipate the static electricity charge that has built up on a suspended load.

Helicopter crane. A helicopter that carries cargo or equipment suspended underneath it.

~~(**Jet A type fuel.** A kerosene grade fuel suitable for helicopters with turbine engines.)~~

Jet B type fuel. A blend of gasoline and kerosene fuel.

Powered hoist. A powered device designed to lift and lower equipment and cargo.

Tag line. A line or rope used to control suspended loads that can swing freely.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-829-40020 Make sure the load is handled correctly. (1) You must make sure signal systems, whether radio or hand signals, are checked before hoisting the load. When using hand signals, use those shown in ((Figure)) Illustration 1.

(2) You must make sure workers on the ground do **either** of the following before touching the suspended load:

(a) Use a ground device to safely discharge any static charge; or

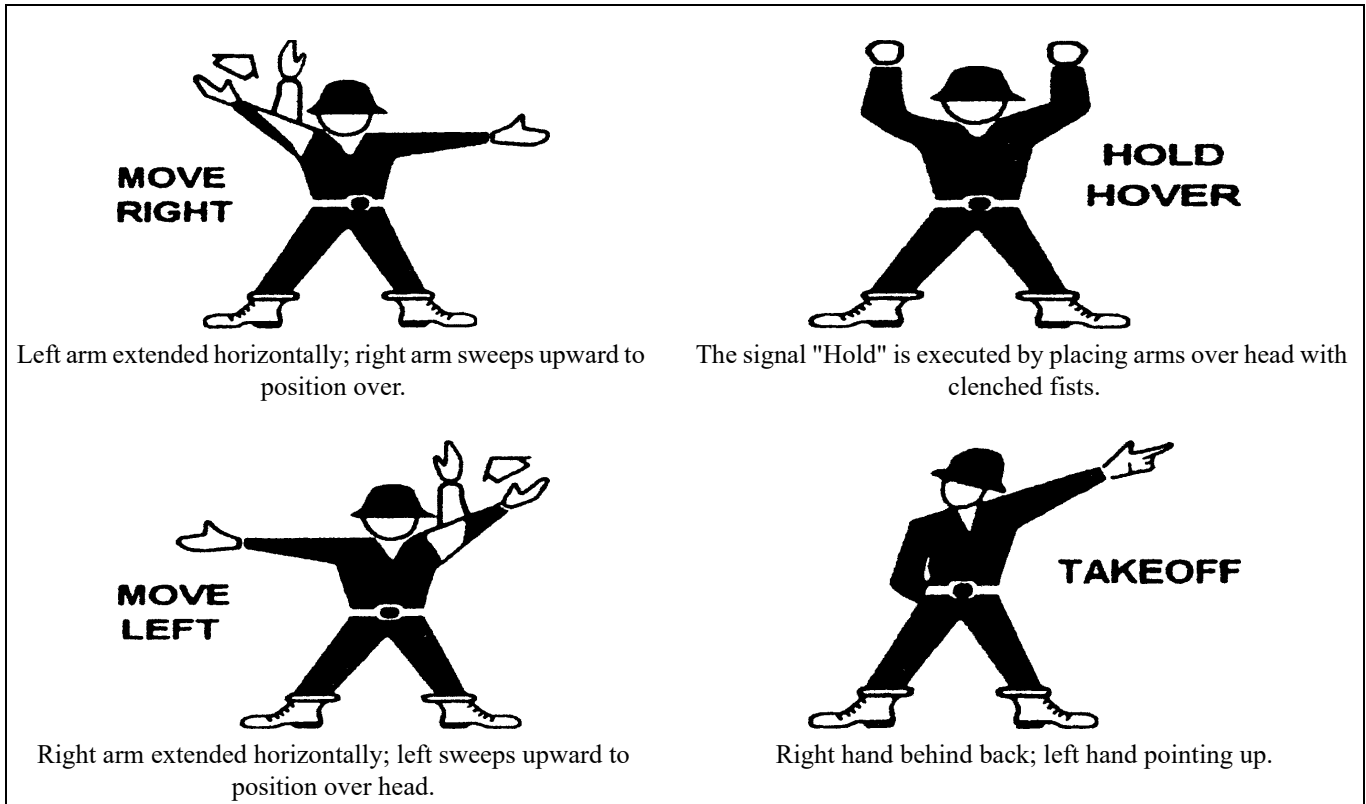
(b) Put on and wear rubber gloves.

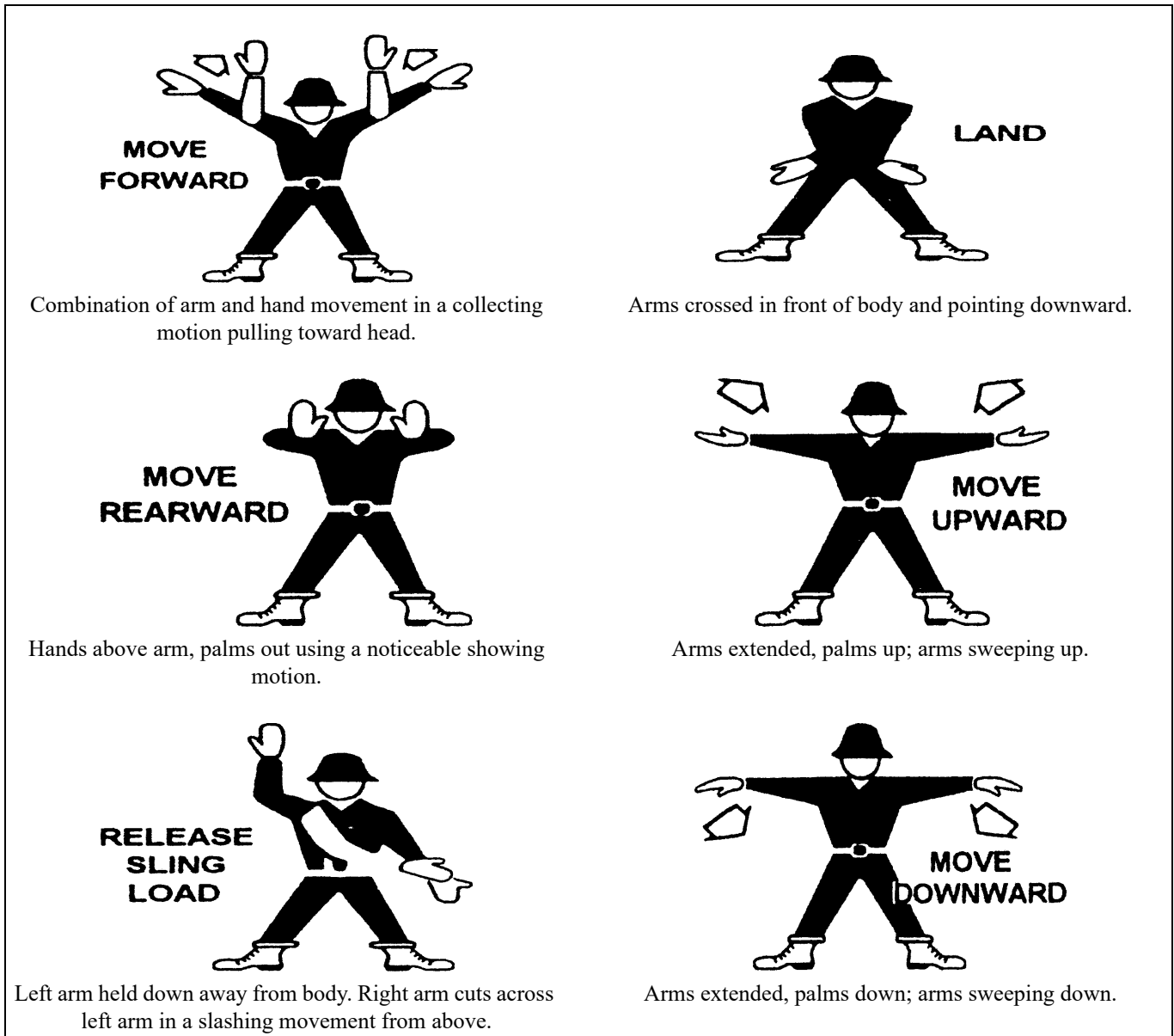
(3) You must make sure there are enough employees for safe loading and unloading operations.

(4) You must make sure constant communications are maintained between the pilot and signal person.

(5) You must make sure the signal person is distinctly recognizable from other ground personnel.

HELICOPTER HAND SIGNALS





MOVE FORWARD

Combination of arm and hand movement in a collecting motion pulling toward head.

LAND

Arms crossed in front of body and pointing downward.

MOVE REARWARD

Hands above arm, palms out using a noticeable showing motion.

MOVE UPWARD

Arms extended, palms up; arms sweeping up.

RELEASE SLING LOAD

Left arm held down away from body. Right arm cuts across left arm in a slashing movement from above.

MOVE DOWNWARD

Arms extended, palms down; arms sweeping down.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-100 Scope. This chapter applies to portable and fixed ladders, including job-made wooden ladders. For requirements related to mobile ladder stands or rolling ladders, please refer to WAC 296-874-20024 Make sure stairway-type ladders meet these requirements.

- EXEMPTION:** This chapter does not apply to:
1. Portable ladders used by the fire services for fire combat that are covered by safety standards for firefighters, chapter 296-305 WAC;
 2. Agriculture activities covered by safety standards for agriculture, chapter 296-307 WAC.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60050 Extensions and grab bars. (1) You must make sure the side rails of through or side-step ladders extend forty-two inches above the top of the access level or landing platform.

- Note: For a parapet ladder, the access level is:
1. The roof if the parapet is cut to permit passage through it; or
 2. The top of the parapet if it is continuous and uncut.

- (2) You must make sure the extension of a through ladder above the access level or landing platform has:
- (a) Steps or rungs omitted from the extension; and
 - (b) Clearance between the side rails that is:
 - (i) Not less than twenty-four inches; or
 - (ii) Greater than thirty inches.

EXEMPTION: The maximum clearance between side rails of the extension may be increased to thirty-six inches if the ladder has a ladder safety device.

(3) ~~((You must make sure the side rails of through or side step ladders extend forty two inches above the top of the access level or landing platform.~~

(4)) You must make sure side-step ladders have the steps or rungs and the side rails continuous in the extension.

~~((5))~~ (4) You must make sure individual rung-step ladders are extended at least forty-two inches above the access level or landing platform by:

(a) Continuing the rung spacings as horizontal grab bars; or

(b) Providing vertical grab bars that have the same lateral spacing as the vertical legs of the rungs.

EXEMPTION: Extensions are not required for individual rung-step ladders with access openings through a manhole or hatch.

~~((6))~~ (5) You must make sure grab bars:

(a) Are at least four inches from the nearest permanent object in back of the grab bar, measured from the centerline of the grab bar; and

(b) Do not extend beyond the rungs on the climbing side of the ladder.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-878-15005 Select and use appropriate equipment. (1) You must make sure that all equipment provided to workers for window-cleaning operations is engineered, designed, and intended for use in commercial applications.

Note: Equipment that is designed or labeled for recreational use or rescue use only is prohibited for use in window-cleaning operations.

(2) You must make sure that the window-cleaning equipment is not altered unless it is specifically approved in writing by the original manufacturer or a registered professional engineer.

(3) You must provide manufacturer's instructions to employees for all window-cleaning equipment they will use.

Reference: Use Table 1 for other window-cleaning equipment requirements.

**Table 1
Other Window-Cleaning Equipment**

If you use:	Then follow all requirements in:
Portable ladders	((WAC 296-800-876)) Chapter 296-876 WAC, Ladders, portable and fixed
Supported scaffolds	Chapter 296-24 WAC, Scaffolds
Suspension ropes and life-lines Powered and manual hoists Suspended scaffold equipment	Chapter 296-24 WAC, Scaffolds

If you use:	Then follow all requirements in:
Single and multipoint adjustable suspension scaffolds	Chapter 296-24 WAC, Scaffolds
Powered platforms	Chapter 296-24 WAC, PART J-3, Powered platforms

**WSR 16-17-151
EXPEDITED RULES
BELLEVUE COLLEGE**
[Filed August 24, 2016, 10:53 a.m.]

Title of Rule and Other Identifying Information: Chapter 132H-410 WAC, Family Education Rights and Privacy Act; WAC 132H-410-010 Family Education Rights and Privacy Act—General policy, 132H-310-020 Definitions, 132H-410-030 Annual notification of rights, 132H-410-040 Primary rights of students, 132H-410-050 Inspection of education records, 132H-410-060 Limitation on right of access, 132H-410-070 Refusal to provide copies, 132H-410-080 Types, locations, and custodians of education records, 132H-410-090 Disclosure of education records, 132H-410-100 Directory information, and 132H-410-110 Correction of education records.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lisa Corcoran, Bellevue College, 3000 Landerholm Circle S.E., Bellevue, WA 98007, AND RECEIVED BY October 24, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Bellevue College currently has its policies and procedures governing student educational records pursuant to the Family Education Rights and Privacy Act (FERPA) memorialized in chapter 132H-410 WAC. Publication of the FERPA policies in the administrative code is no longer required and the college administration needs the ability to revise these policies without undergoing time consuming rule-making processes and procedures. The college seeks to repeal current chapter 132H-410 WAC.

Regulations recently adopted by the United States Department of Education restrict the types of personally identifiable student information institutions of higher education can share with third parties who are responsible for distributing financial aid to students. Bellevue College is contracting with a third party to distribute financial aid to its stu-

dents. Bellevue College students will be provided the option of having the financial aid mailed to their home addresses, electronically deposited in a designated bank account, or linked to debit cards. Under the department of education (DOE) regulations applicable to Bellevue College's third party contractor, the college can only share the following student information with the third party contractor before the student selects a payment option: A secret PIN number, a unique identification number, the amount of the financial aid grant, and any information that has been designated by the college as directory information. If the student does not select a payment option, the default option is mailing the check to the student's home address. Based upon past experience, many students do not select a payment option and, therefore, their financial aid is distributed by mail.

Currently, student addresses, birthdates, phone numbers, and gender are not included in the college's definition of directory information, which is memorialized in WAC 132H-410-100. Lacking a mailing address, the third party contractor will not be able to mail checks to students who do not select a delivery option. Birthdates, gender and telephone numbers are used as a means of confirming the student's identity. An emergency repeal of the directory rule is necessary because amending the definition of directory information using regular rule making cannot be accomplished in time for the distribution of financial aid for fall quarter 2016.

The college is repealing the remainder of the FERPA rules because federal law does not require that they be memorialized as state regulations and because doing so will provide the administration with needed flexibility when it comes to making revisions to these policies. FERPA requires that the college notify students about FERPA and their rights under the act in an annual notification and in notices that are posted in the college's catalog and on its web site. DOE has recognized that these notices are sufficient to inform students of their rights under FERPA. There is no requirement that these policies or procedures be memorialized as rules.

Statutory Authority for Adoption: RCW 28B.50.140, 20 U.S.C. sec. 1232g.

Rule is necessary because of federal law, [no information supplied by agency].

Name of Proponent: Bellevue College, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: RaeEllen Reas, 3000 Landerholm Circle S.E., Bellevue, WA 98007, (425) 564-5608.

July 20, 2016
Lisa Corcoran
Rules Coordinator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132H-410-010 Family Education Rights and Privacy Act—General policy.
- WAC 132H-410-020 Definitions.
- WAC 132H-410-030 Annual notification of rights.

- WAC 132H-410-040 Primary rights of students.
- WAC 132H-410-050 Inspection of education records.
- WAC 132H-410-060 Limitation on right of access.
- WAC 132H-410-070 Refusal to provide copies.
- WAC 132H-410-080 Types, locations, and custodians of education records.
- WAC 132H-410-090 Disclosure of education records.
- WAC 132H-410-100 Directory information.
- WAC 132H-410-110 Correction of education records.