

WSR 21-16-027
PROPOSED RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed July 26, 2021, 8:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-16-109.

Title of Rule and Other Identifying Information: Chapter 196-09 RCW, Board practices and procedures.

Hearing Location(s): On September 15, 2021, at 6:00 p.m.; join via WebEx, meeting number (access code) 1774 35 5700, meeting password r2pJmPVMV49; join by phone +1-415-655-0001 US Toll, +1-206-207-1700 United States Toll (Seattle). In response to the COVID-19 public health emergency, the board of registration for professional engineers and land surveyors will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical space, will be held instead. The public may participate in the hearing by accessing the hearing link on the board's rule-making page <https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity> or calling the phone number provided.

Date of Intended Adoption: October 21, 2021.

Submit Written Comments to: Shanana Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, email Shanana.Gillespie@brpels.wa.gov, by September 15, 2021.

Assistance for Persons with Disabilities: Contact Shanana Gillespie, phone 360-664-1570, TTY 711 or 1-800-833-6388, email Shanana.Gillespie@brpels.wa.gov, by September 14, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Review and revision of existing rules were initiated because of the 2019 legislation making the board of registration for professional engineers and land surveyors an independent state agency, which lead [led] to an overall review and update to Title 196 WAC.

Reasons Supporting Proposal: Changes to current language, and the addition of new language will help licensees, and the public understand agency processes, including adjudicative proceedings, the complaint process, how to request public records, board member limitations, and change of address.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

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

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for Drafting: Shanana Gillespie, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1570; Implementation and Enforcement: Ken Fuller, 605 11th Avenue S.E. Suite 201, Olympia, WA 98501, 360-968-4805.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The board of registration for professional engineers and land surveyors is not one of the agencies to which RCW 34.05.328 applies pursuant to RCW 34.05.328 (5)(a).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

July 26, 2021

Ken Fuller

Director

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

WAC 196-09-010 Declaration of purpose. This chapter contains rules and administrative procedures for regular and special meetings, adjudicative proceedings (~~held by~~) hearings and reviews, public records and other activities of the board, board members and board staff in executing (~~its~~) their responsibilities under chapters 18.43 and 18.210 RCW.

NEW SECTION

WAC 196-09-012 Definitions. The following definitions shall apply to this chapter:

(1) "Adjudicative proceedings" are processes of administrative review provided by the board and may be either a formal hearing before the full board including witness testimony or a simplified review by a single presiding officer without witness testimony.

(2) "Administrative review" means an objective review of an initial enforcement or licensing decision made by board staff, to which any person adversely affected by such a decision is entitled by law.

(3) "Board administrative staff" or "board staff" means staff who perform the day-to-day operations and administration for the board and who may make preliminary decisions on licensing and enforcement matters.

(4) "Case manager" means a board member who provides expertise and works with board staff on a specific licensing or enforcement matter and who will not participate in a judicial capacity on that matter.

(5) "Presiding officer" means a member of the board who may preside over a full board hearing, conduct prehearing conferences, or perform a brief adjudicative proceeding.

(6) "Respondent" means the person who has been named in a complaint and may request an administrative review of a board staff decision as described herein.

NEW SECTION

WAC 196-09-015 Complaint processing approach. The board processes complaints as follows:

(1) Anyone may submit a complaint against a licensed or unlicensed person alleging unprofessional conduct, unlicensed practice, or any other violations of chapter 18.43 or 18.210 RCW. Complaints must be sworn to in writing and should include documentation of the alleged conduct.

(2) Upon receipt of the complaint, board staff will send an acknowledgment of the complaint to the complainant. If the subject of the complaint ("respondent") is a licensee, the board will notify the licensee respondent that a complaint was filed against them and include a copy of the complaint documents.

(3) Board staff will conduct an initial review of the complaint to determine whether the complaint raises a potential violation that would fall within the jurisdiction and purview of a potential board action.

(a) If board staff determines there are no violations, the complaint is administratively closed, and the parties are notified.

(b) If board staff determines there is a potential violation, a formal investigation is opened, and an investigator and case manager are assigned. The respondent is notified, and a response to the allegations is requested.

(4) The case manager will evaluate all documentation or comments received (the investigation file), may ask questions, or call for further investigation. When the case manager completes their review of the documentation, they will draft a written report, which will result in either case closure, remedial counseling, expedited resolution, or issuance of statement of charges.

(5) The board may resolve a complaint or investigation at any time during this process.

NEW SECTION

WAC 196-09-018 Right to administrative review.

When the board makes an enforcement or licensing decision that negatively affects a licensee, applicant, or unlicensed practitioner under chapters 18.43 and 18.210 RCW, that person is entitled to request administrative review of the decision pursuant to the Administrative Procedure Act, chapters 34.05 RCW and 10-08 WAC.

AMENDATORY SECTION (Amending WSR 98-12-045, filed 5/29/98, effective 7/1/98)

WAC 196-09-020 Adjudicative proceedings. The Administrative Procedure Act, chapters 34.05 RCW and 10-08 WAC apply to all adjudicative proceedings under the jurisdiction of the board. ((The procedures described in Washington superior court civil rules 26 through 32, 34, 36 and 37 also apply.))

Administrative review is performed by one of the following types of adjudicative proceedings:

(1) A formal adjudicative hearing before the entire board with the presentation of witness testimony and/or documentary evidence; or

(2) A brief adjudicative proceeding (BAP) before a single presiding officer, which may be used for the review of simple matters where no witness testimony is needed.

(3) An emergency adjudicative proceeding under RCW 34.05.479, which may be used when there is an immediate

danger to the public health, safety, or welfare requiring immediate board action.

AMENDATORY SECTION (Amending WSR 18-21-028, filed 10/5/18, effective 11/5/18)

WAC 196-09-050 Brief adjudicative proceedings. (1) The board ~~((will))~~ may conduct brief adjudicative proceedings as provided ~~((for))~~ in RCW 34.05.482 through 34.05.494 of the Administrative Procedure Act. ~~((Brief adjudicative proceedings may be used whenever a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of chapters 18.43, 18.210, and 18.235 RCW, administrative rules in Title 196 WAC or any statutes or rules that specifically govern the defined practices of engineering, land surveying and on-site wastewater treatment system designs. Brief adjudicative proceedings may also be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act.))~~

(2) Brief adjudicative proceedings may only be ~~((used to determine))~~ allowed when a respondent challenges the following ~~((issues, including, but not limited to))~~ categories of board decisions:

(a) ~~((Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;))~~ A denial of application for licensure, including renewal, reinstatement, or denial of eligibility to take examinations;

(b) ~~((Whether an applicant is eligible to sit for a professional licensing examination;~~

(c) ~~Whether a sanction proposed by the board is appropriate based on the stipulated facts;~~

(d) ~~Whether an applicant meets minimum requirements for an initial or renewal application;~~

(e) ~~Whether an applicant has failed the professional licensing examination;~~

(f) ~~Whether~~) A finding that a licensee has ~~((sufficient))~~ failed to meet continuing ~~((education credits when the licensee submits a renewal application))~~ professional development requirements;

~~((g) Whether an applicant or licensee failed to cooperate in an investigation by the board;~~

(h) ~~Whether an application or licensee was convicted of a crime that disqualifies the applicant or licensee from holding the specific license sought or held;~~

(i) ~~Whether an applicant or~~) (c) A finding that a licensee has violated the terms of a final order or agreed order issued by the board or the board's designee;

~~((j) Whether))~~ (d) A finding that a person has engaged in false, deceptive, or misleading advertising~~((;))~~, or ~~((k) Whether a person has))~~ engaged in unlicensed practice.

~~((3))~~ In addition to the situations enumerated in subsection (2) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings

whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.)

AMENDATORY SECTION (Amending WSR 18-21-028, filed 10/5/18, effective 11/5/18)

WAC 196-09-055 Records required for brief adjudicative proceeding. The records for the brief adjudicative proceeding ~~(shall)~~ may include, but are not limited to:

(1) ~~(Renewal or reinstatement of)~~ License related denials:

(*) (a) All correspondence, including emails, between the applicant or respondent and the board ~~(about the renewal or reinstatement;~~

*) staff regarding an initial determination including copies of applications, renewal notice(s) ~~(sent by the department of licensing to the licensee;~~

*) denials, or appeals;

(b) All documents received by the board from or on behalf of the applicant, licensee or respondent relating to information, payments, or explanations that have been provided to the board~~(-);~~

~~((2) Applicants for certification/licensing;~~

*) Original complete application with all attachments as submitted by the applicant;

*) (c) Copies of all supplementary information related to application or complaint review by staff or board member;

(*) (d) All documents relied upon by board staff in reaching the initial determination ~~(of ineligibility;~~

*) All correspondence between the applicant and the board about the application or appeal.

~~(3));~~

(e) Any other information that may be of assistance to the presiding officer in deciding the case.

(2) Determination of compliance with previously issued board order:

(*) (a) The previously issued final order or agreement;

(*) (b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(*) (c) All correspondence between the license holder and the ~~(program)~~ board regarding compliance with the final order or agreement; and

(*) (d) All documents relied upon by the ~~(program)~~ board showing that the license holder has failed to comply with the previously issued final order or agreement.

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

WAC 196-09-060 Procedures for brief adjudicative proceedings. A brief adjudicative proceeding ~~(shall be held under the supervision of)~~ is conducted by a presiding officer as designated by the board chair. The presiding officer shall have knowledge and experience in the administrative processes of the board and the requirements of the provisions for a brief adjudicative proceeding as provided ~~(for)~~ in chapter 34.05 RCW and WAC 196-09-050 through 196-09-060, but shall not have participated in the determination or action

under review. Except as may be otherwise required by the presiding officer, the following procedures shall apply:

(1) ~~(The petitioner)~~ Both parties shall ~~(present petitioner's position in writing in accordance with the process and schedule established)~~ provide any written statements, explanations, documents, emails, and other information they feel might be relevant as instructed by the presiding officer.

(2) In unique circumstances, during the administrative review, the presiding officer may ~~(accept oral)~~ ask questions and take testimony ~~(and/or argument)~~ of the respondent and the board staff, as necessary to supplement the record.

(3) No other witnesses may appear to testify. If the presiding officer determines that witnesses are needed to make a decision, the proceeding will be converted into a formal hearing.

(4) ~~(In addition to the written record,)~~ The presiding officer may ~~(employ agency expertise as a basis for the decision)~~ convert the brief adjudicative proceeding into a formal hearing if they determine, for any reason, that a formal hearing is needed.

(5) At the time any unfavorable action is taken, the presiding officer ~~(will not issue an oral order at the time of the brief adjudicative proceeding)~~ may serve upon each party a preliminary brief statement of the reasons for the decision. Within ten days of the ~~(final date established by)~~ preliminary statement, the presiding officer ~~(for receipt of additional materials and/or oral arguments, if any, the presiding officer will enter)~~ shall give the parties a written ~~(initial)~~ order containing the findings and conclusions supporting the decision and information about any internal administrative review available.

(6) The brief written statement is an initial order. If no review is taken of the initial order as authorized by RCW 34.05.488 and 34.05.491, the initial order shall be the final order.

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

WAC 196-09-100 Investigative cost reimbursement. The reimbursement of investigative costs may be ordered by the board if the adjudicative process has resulted in a ~~(finding by the board that identifies conduct which is considered misconduct or malpractice and has resulted in the suspension or revocation of the license to practice)~~ board order. Costs subject to reimbursement are those expenses paid by the board during the investigation process, such as expert or consultant witness contracts.

In addition, the disciplinary authority may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which a person engaged in the unlicensed practice of a profession or operation of a business for which a license is required by one or more of the chapters specified in RCW 18.235.020; chapters 18.43 and 18.210 RCW.

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

WAC 196-09-110 Cooperation with board investigation. In the course of an investigation and request by the

board under its authority in chapter 18.43 RCW, a licensee or registrant must provide access to any papers, records, or documents in their possession or accessible to them that pertain to the allegations in a complaint or investigation, and may provide a written explanation addressing such complaint/investigation or other information requested by the board. A facility related to a complaint or investigation shall be made accessible by the licensee during regular business hours.

AMENDATORY SECTION (Amending WSR 06-22-032, filed 10/25/06, effective 11/25/06)

WAC 196-09-130 Board member limitations—Contract selection. (1) When a member of the board of registration for professional engineers and land surveyors (Board) is beneficially interested, directly or indirectly, in a contract, sale, lease, purchase or grant that may be made by, through, or is under the supervision of the board in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant, the member must:

- (a) Exclude him or herself from the board discussion regarding the specific contract, sale, lease, purchase or grant;
- (b) Exclude him or herself from the board vote on the specific contract, sale, lease, purchase or grant; and
- (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific contract, sale, lease, purchase or grant.

(2) The prohibition against discussion set forth in sections (a) and (c) may not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

~~((3) Under subsection (1), "any other person" has a beneficial interest in a contract, sale, lease, purchase or grant when the other person bids or otherwise seeks to be awarded the contract, sale, lease, purchase or grant.~~

EXAMPLE:

~~The board is composed of licensed professional engineers (PE) and professional land surveyors (PLS). A licensed PE member of the board is employed by a company, which conducts forensic evaluations for the purpose of determining whether an engineering design was properly performed. The board is in the process of selecting a contractor to conduct an evaluation of said engineering design for the board's use during disciplinary activities. The company that employs the PE member of the board has responded to the board's RFP.~~

~~The PE member of the board may use his general expertise regarding the performance of forensic evaluations to educate the board as to the general elements of such review. The member is prohibited from participating in the board's discussion, decision and vote for selecting a contractor.)~~

AMENDATORY SECTION (Amending WSR 06-22-032, filed 10/25/06, effective 11/25/06)

WAC 196-09-131 Board member limitations—((Transactions)) Board actions. (1) When a member of the board of registration for professional engineers and land surveyors (Board) either owns a beneficial interest in or is an

officer, agent, employee or member of an entity or individual, which is ~~((engaged in a transaction involving the))~~ subject to a board action, the member must:

- (a) ~~((Exclude))~~ Recuse him or herself from the board discussion regarding the specific ~~((transaction))~~ action;
- (b) ~~((Exclude))~~ Recuse him or herself from the board vote on the specific ~~((transaction))~~ action; and
- (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific ~~((transaction))~~ action.

(2) The prohibition against discussion and voting set forth in sections (a) and (c) may not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

~~(3)((a) "Transaction" involving the board means a)~~ "Board action" may include any of the following:

- (a) An investigation or adjudicative proceeding((:));
- (b) Application((:)) or submission((:));
- (c) Request for a ruling or other determination((,- contract, claim, case, or other similar matter that the member in question believes, or has reason to believe:
 - (i) Is, or will be, the subject of board action; or
 - (ii) Is one to which the board is or will be a party; or
 - (iii) Is one in which the board has a direct and substantial proprietary interest.

(b) "Transaction" involving the board does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the board that is the basis for the claim, case, or lawsuit. Rule making is not a "transaction" as described in this subsection.

(4) "Board action" means any action on the part of the board including, but not limited to:

- (a) A) decision, ~~((determination,))~~ finding, ruling, or order; ~~((and~~
- ~~((b) A) or~~
- (d) Monetary grant, payment, or award((,- license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

EXAMPLE:

~~The board may discipline engineers or land surveyors for incompetence in their practice in Washington. The board is conducting an investigation involving questionable surveying services provided by a county engineer's office. One of the members of the board sits on that county's planning commission. The member must exclude him or herself from any board investigation, discussion, deliberation and vote with respect to disciplinary actions arising from the investigation).~~

AMENDATORY SECTION (Amending WSR 06-22-032, filed 10/25/06, effective 11/25/06)

WAC 196-09-135 Reporting of board member recusal. ~~((+))~~ If exclusion or recusal occurs pursuant to WAC 196-09-130 or 196-09-131, the member of the board

should disclose to the public the reasons for his or her exclusion or recusal from any board action whenever ~~((recusal))~~ it occurs. The board staff should record each instance of exclusion or recusal and the basis for ~~((the exclusion))~~ it in the minutes of the board meetings.

NEW SECTION

WAC 196-09-150 Public records. All public records of the board are available for public inspection and copying pursuant to these rules and applicable state law (chapter 42.56 RCW), as follows:

(1) Inspection of records. Public records are available for inspection and copying during normal business hours of the office of the Washington state board of registration for professional engineers and land surveyors. Records may be inspected at the board's office when the requestor has been notified of the availability of the requested documents and an appointment is made with the public records officer.

(2) Records index. An index of public records, consisting of the retention schedules applicable to those records, is available to members of the public at the board's office.

(3) Organization of records. The board maintains its records in a reasonably organized manner. The board will take reasonable actions to protect records from damage and disorganization. A requestor shall not take original records from the board's office. A variety of records are also available on the board's website at <https://brpels.wa.gov/>. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or obtain copies of public records should make the request using the board's public records request form available on the board's website or in writing by letter or email addressed to the public records officer. Written request must include the following information:

(i) Date of the request.

(ii) Name of the requestor.

(iii) Address of the requestor and other contact information, including telephone number and any email addresses.

(iv) Clear identification of the public records requested to permit the public records officer or designee to identify and locate the records.

(b) The public records officer may also accept requests for public records by telephone or in person. If the public records officer or designee accepts an oral or telephone request, he or she will confirm receipt of the request and the details of the records requested, in writing, to the requestor.

(c) If the requests received in (a) or (b) of this subsection are not sufficiently clear to permit the public records officer to identify the specific records requested, the public records officer will request clarification from the requestor in writing.

(d) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should make that preference clear in the request. Copies will be made by the board's public records officer or designee.

(e) When fulfilling public records requests, the board will perform its public records responsibilities in the most expeditious manner consistent with the board's need to fulfill its other essential functions.

(f) By law, certain records and/or specific content of any specific record or document may not be subject to public disclosure. Accordingly, a reasonable time period may occur between the date of the request and the ability of the public records officer to identify, locate, retrieve, remove content not subject to disclosure, prepare a redaction log that includes the specific exemption, a brief explanation of how the exemption applies to the records or portion of the records being withheld, and produce the records for inspection and/or copying. The requestor will be kept informed of the expected delivery timetable.

(g) If the request includes a large number of records, the production of the records for the requestor may occur in installments. The requestor will be informed, in writing, of the board's anticipated installment delivery timetable.

(h) In certain instances, the board may notify affected third parties to whom the record relates. This notice allows the affected third party to seek an injunction within fifteen days from the date of the written notice. The notice further provides that release of the records to the requestor will be honored unless timely injunctive relief is obtained by the affected third party on or before the end of the fifteen-day period.

(i) Requests for lists of credentialed individuals by educational organizations and professional associations: In order to obtain a list of individuals under the provisions of RCW 42.56.070(8), educational organizations and professional associations must provide sufficient information to satisfy the board that the requested list of individuals is primarily for educational and professionally related uses.

Board forms are available on the board's website or upon request.

NEW SECTION

WAC 196-09-160 Change of address—Board notification. All licensees in this state must notify the board in writing within thirty days of any change of mailing address or email address. Corporations and LLCs licensed in this state must notify the board of any opening, closing, or relocation of the main office or a branch office in this state.

WSR 21-16-028

PROPOSED RULES

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

[Filed July 26, 2021, 8:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-16-107.

Title of Rule and Other Identifying Information: Chapter 196-12 WAC, Registered professional engineers.

Hearing Location(s): On September 15, 2021, at 6:00 p.m., join via WebEx meeting number (access code) 1774 35 5700, meeting password r2pJmPVMV49; join by phone +1-415-655-0001 US Toll, +1-206-207-1700 United States Toll (Seattle). In response to the COVID-19 public health emer-

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Assistance for Persons with Disabilities: Contact Shanán Gillespie, phone 360-664-1570, TTY 711 or 1-800-833-5388 [6388], email Shanán.Gillespie@brpels.wa.gov, by September 14, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to chapter 196-12 WAC, professional engineers are necessary due to updates to chapter 18.43 WAC in 2019, and to clarify the processes and requirements for licensure as a professional engineer in Washington. This rule change will impact all applicants applying for licensure as a professional engineer or structural engineer in Washington, but they will have no additional costs to implement and comply.

Reasons Supporting Proposal: The amendments, and new sections, better define the requirements for licensure, the different ways an applicant can apply for licensure, and allows more flexibility to the board to consider different types of education and experience that do not follow the "normal" path to licensure.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: RCW 18.43.040.

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

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for Drafting: Shanán Gillespie, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1570; Implementation and Enforcement: Ken Fuller, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-968-4805.

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A cost-benefit analysis is not required under RCW 34.05.328. The board of registration for professional engineers and land surveyors is not one of the agencies to which RCW 34.05.328 applies pursuant to RCW 34.05.328 (5)(a).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

July 26, 2021
Ken Fuller
Director

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

WAC 196-12-005 Declaration and purpose. This chapter contains rules and procedures for applications, examinations, experience, education, and eligibility (~~and examinations~~) to ~~((be))~~ become licensed as professional engineers.

AMENDATORY SECTION (Amending WSR 18-10-085, filed 5/1/18, effective 6/1/18)

WAC 196-12-010 ((Registration)) Licensure requirements for all applicants—Initial licensure and licensed in another jurisdiction. To become licensed as a professional engineer in the state of Washington, whether you are applying for an initial license or you possess a license in another jurisdiction, you must meet the requirements for experience and examinations described below, which need not be completed within the state of Washington:

(1) **Experience:** Have eight years of experience in engineering work of a character satisfactory to the board:

(a) The eight years (~~of experience~~) may be a combination of education and (~~practical~~) work experience. (~~Under selected circumstances a maximum of five years of education (baccalaureate and master's degrees in engineering) can be granted toward the eight-year requirement;~~)

(b) The eight years of experience must be broad based (~~;~~) and progressive (~~experience~~) to include gaining knowledge and comprehension of engineering subjects and applying engineering principles.

(2) (~~Receive a~~) **Examination requirements:** An applicant must have received passing scores on two stages of examination(s). One must test the fundamentals of engineering and the other must test the principles and practice of engineering. Exam results must be independently verified by a NCEES member board, or a board approved foreign jurisdiction.

(a)(i) Fundamentals of engineering examination must meet the following requirements:

(ii) The examination must be either:

(A) The National Council of Examiners for Engineering and Surveying (NCEES) fundamentals-of-engineering (FE) examination (~~Or, have a current license as a Canadian professional engineer (P.Eng), and having received a passing score on the Engineers Canada Professional Practice Examination (PPE);~~)

(3) Receive a passing score on the NCEES); or

(B) An equivalent examination as determined by the board which tests the applicant's knowledge of appropriate fundamentals of engineering subjects including mathematics and the basic sciences as defined in RCW 18.43.040 (1)(b)(i).

(b) Principles and practice of engineering ((PE)) examination (~~;~~)

(4));

The principles and practice of engineering (PE) examination must be either the examination administered by NCEES, or an equivalent examination as determined by the board.

(3) Additional licensure requirements:

An applicant must meet the following additional requirements for licensure:

(a) Receive a passing score on the Washington law review;

~~((5) Be of good character and reputation))~~ (b) Fully complete the application form to the satisfaction of the board; and

~~((6) Payment of))~~ (c) Pay all applicable fees.

~~((Exam results must be independently verified by the NCEES member board, or engineers Canada constituent association that granted approval to take the exam-))~~

NEW SECTION

WAC 196-12-013 FE examination application. (1) **ABET accredited degree applicants.** For those who have attended ABET accredited degree programs and now have reached senior standing, applications to take the FE examination may be completed online directly with NCEES. Applicants should list the state of Washington as their licensing state.

(2) **All other applicants.** Those who do not meet the requirements of subsection (1) of this section must fill out the FE exam application provided on the board website, <https://brpels.wa.gov/>, demonstrate they meet the requirements, provide required documentation, and be approved by the board to take the examination.

Further details on education experience records are provided under WAC 196-12-021.

NEW SECTION

WAC 196-12-014 PE licensure application form. The board has a single application form for PE licensure in the state of Washington. This application form must be used by all applicants including those applying for the PE exam and licensure concurrently, those who have already taken the PE examination in another jurisdiction but have not obtained their initial license, and those who are already licensed in another jurisdiction and are seeking a license in Washington state.

(1) **Current PE examination and licensure applications:** Applicants who have not taken the PE examination will apply for both the PE examination and licensure on the application form. In order to be approved by the board to take the PE examination, the applicant must complete all sections of the form, except the date and location of taking the PE exam, and must otherwise meet all of the qualifications for licensure. Upon passing the PE examination, the applicant is also qualified for licensure.

Applications for PE examination and licensure must be received at the board's address with the applicable fee by the date posted on the board's website.

(2) **All other applicants for PE licensure in Washington state.** All other applicants applying for licensure in the state of Washington, including those who are licensed in another jurisdiction or have passed the Principles & Practices of engineering examination but have not obtained their initial license, must complete all sections of the application form provided by the board.

(a) All applicants must provide information on the application form that demonstrates they meet all requirements for licensure. This includes work experience requirements, education requirements, and examination requirements as detailed in WAC 196-12-010, 196-12-020, and 196-12-021; and RCW 18.43.040.

(b) All applicants must provide the following documents to verify these requirements:

(i) Education experience records - Official transcripts or the equivalent, showing all grades and degrees.

(ii) Work experience records - Completed form titled "Professional Engineering Experience Verification" which includes not only work experience information and details but also verifications of work experience by supervisors or other verifiers.

(iii) Verification of licensing in any other jurisdiction(s), if any.

(iv) Verification of passing the FE examination or its equivalent (if any) and verification of passing the PE examination or its equivalent (if any).

AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

WAC 196-12-020 Work experience records. The following criteria will be used in evaluating an applicant's experience record:

(1) Work experience will be approved based on a demonstration of competency and progressive responsibility in the analysis, synthesis and evaluation of engineering concepts and data, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering. Under the general guidance and direct supervision of an authorized professional, the applicant must be in a position of making independent judgments and decisions in the following experience areas:

(a) Formulating conclusions and recommendations;

(b) Identifying design and/or project objectives;

(c) Identifying possible alternative methods and concepts;

(d) Defining performance specifications and functional requirements;

(e) Solving engineering problems;

(f) Interacting with allied professionals (~~from other areas of practice~~);

(g) Effectively communicating recommendations and conclusions;

(h) Demonstrating an understanding and concern for energy/environmental considerations, socioeconomic impact, and sustainability of resources.

(2) ~~((The branch of structural engineering requires specialized work experience to protect the public safety. To be eligible to take the structural license examination, an applicant must have at least two years of progressive responsibility in structural engineering experience. These two years of structural experience are in addition to the eight years of engineering experience required to be registered as a professional engineer and must be documented in the application in accordance with subsection (1) of this section. The structural engineering experience must be supervised by a licensed pro-~~

professional engineer in the branch of structural engineering or a licensed professional engineer with substantial structural engineering work experience.

(3)) Engineering teaching may be considered satisfactory experience up to a maximum of two years at the discretion of the board.

((4)) (3) Applied research is considered satisfactory experience when it meets the following conditions:

(a) The research must be conducted under the guidance or supervision of a ~~(licensed)~~ professional engineer. For the purposes of this subsection, guidance or supervision means being cognizant of all applicable aspects of the work and a reviewer of all applicable reporting documentation.

(b) The principal result(s) of the research are in a published report or a recognized engineering journal article in which the applicant is the ~~(first)~~ primary author or the work is adequately documented and available to the board upon request.

((5)) (4) For military engineering experience to be considered acceptable, it should be similar to engineering experience that would be gained in a nonmilitary environment as defined in subsection (1) of this section, and such experience must be verified.

~~((6) Any work experience gained without the supervision of a professional engineer authorized to practice under chapter 18.43 RCW or an individual authorized by another statute to practice engineering, or any work experience gained in any other situation which violates the provisions of chapters 18.43 and 18.235 RCW or Title 196 WAC will not be counted toward the statutory experience requirement.)~~

AMENDATORY SECTION (Amending WSR 14-07-106, filed 3/19/14, effective 4/19/14)

WAC 196-12-021 Education experience records.

Official transcripts must be sent to the board's office for ~~(full education experience credit)~~ review and approval.

(1) A baccalaureate degree in engineering in a program accredited by ~~((the engineering accreditation commission (EAC) of))~~ the accreditation board for engineering and technology (ABET) is equivalent to four years of required experience. Satisfactory completion of each year of such an approved program is equivalent to one year of experience.

(2) ~~((A baccalaureate degree in an engineering technology program accredited by the technology accreditation commission (TAC) of ABET, is equivalent to three years of required experience. Satisfactory completion of each year of such an approved program is equivalent to three-fourths of one year of experience.~~

~~(3) An approved four years in))~~ A degree in engineering from a non-ABET accredited engineering program ((will)) may be given ((a maximum of three)) four years at the discretion of the board. The board will determine if the degree is satisfactory to the board to award years of experience.

((4)) (3) No more than one year may be granted for postgraduate engineering courses ~~((for those applicants having earned degrees in accordance with subsections (1), (2), or (3) of this section)).~~

~~((5))~~ (4) A baccalaureate degree in a nonengineering program will be given a maximum of two years of experience.

~~((If the degree is followed by a graduate degree in engineering from a school that has an ABET accredited undergraduate program in the same discipline as the graduate degree, a maximum of four years of experience may be granted for this combination of education.~~

(6)) (5) An associate degree in engineering from an approved program may be equivalent for up to two years of experience.

~~((7) Education gained over time where no degree is conferred will be granted no more than two years of experience. For the purpose of this subsection, education over time means:))~~ (6) Sporadic engineering related education may be considered as experience by the board at its discretion. For example, one or two engineering classes taken at a time, often at different schools; ~~((seminars; workshops; and))~~ and/or classes taken through industry ~~((and))~~ or the military may count as experience. In ~~((order to determine the appropriate amount of experience;))~~ evaluating this type of education, the board will ((be compared)) compare the courses taken to college coursework in a baccalaureate of engineering ((technology)) degree program.

~~((8) The board may approve engineering degree programs from other countries.))~~

(a) A number of foreign degree programs are included in mutual recognition agreements entered into by ABET with other accrediting authorities. Applicants with a degree from one of these programs will be evaluated ~~((in accordance with subsections (1) and (2) of this section))~~ by the board.

(b) Applicants having engineering degrees from programs in countries that are not ABET accredited will be required to have their transcripts evaluated by a transcript evaluation service approved by the board. This evaluation will be performed at the applicant's expense, and the applicant will be responsible for submitting all necessary information to the evaluation service. The board will use the evaluation to determine if the foreign degree is ~~((equivalent to an ABET accredited degree. If the board determines that the degree is equivalent, experience will be granted in accordance with subsection (1) or (2) of this section. If the board determines that the foreign degree is not equivalent to an ABET accredited degree, then a maximum of three years of experience will be granted in accordance with subsection (3) of this section))~~ satisfactory to the board to award years of experience.

(c) An applicant with an undergraduate degree from a foreign program that is not ABET accredited, can waive the requirement for a degree evaluation if they have a graduate degree in engineering from a school that has an ABET accredited undergraduate engineering degree program in the same discipline as the graduate degree. ~~((No more than four))~~ Years of experience will be ((granted for this combination of education)) determined at the discretion of the board.

~~((9))~~ (7) Any other education ~~((will))~~ may be taken into account and evaluated on its merits by the board.

~~((10))~~ (8) Work experience gained between semesters or quarters or during summers while enrolled in an approved curriculum ~~((will be considered part of the educational pro-~~

ess. No more than one year of experience will be granted for one calendar year)) may be counted as experience at the discretion of the board.

AMENDATORY SECTION (Amending WSR 14-07-106, filed 3/19/14, effective 4/19/14)

WAC 196-12-030 ((Principles and practice)) Additional branches of engineering ((examination)). ((The principles and practice of engineering examination is given at times and places as approved by the board.)) A professional engineer with a current registration in the state of Washington that is seeking to become licensed in an additional branch of engineering must pass the principles and practice examination for that additional branch.

AMENDATORY SECTION (Amending WSR 18-10-085, filed 5/1/18, effective 6/1/18)

WAC 196-12-045 Registration of applicants licensed in other jurisdictions. Licenses may be issued only in the branches of engineering ((offered)) currently recognized by the board. The board has discretion to issue a license to an out-of-state licensee who meets the following requirements:

(1) Completes ((an)) the application ((on forms)) form provided by the board including supporting documentation, as listed in WAC 196-12-010, 196-12-014, 196-12-020, 196-12-021, and pays the appropriate fee;

(2) Holds a currently valid license in a board recognized licensing jurisdiction in a state, territory, possession, district, or foreign country; and

(3) Meets minimum requirements for licensure as determined by the board under WAC 196-12-010 and 196-12-014, including testing that adequately measures the fundamentals of engineering and principles and practice of engineering.

AMENDATORY SECTION (Amending WSR 18-10-085, filed 5/1/18, effective 6/1/18)

WAC 196-12-047 Structural licensing requirements. The branch of structural engineering requires specialized work experience to protect the public health, safety, and welfare. To be licensed as a structural engineer, an applicant must:

(1) Be currently licensed as a professional engineer in Washington state;

(2) Have at least two years of progressive responsibility in structural engineering experience in addition to the eight years of engineering experience required to be registered as a professional engineer. The structural experience should:

(a) Demonstrate the applicant's ability to design building structures or nonbuilding structures integrated within "significant structures" as defined in RCW 18.43.020(((11) and located in International Building Code (IBC) Seismic Design Category D or above)) (12);

(b) Be progressive in difficulty and magnitude;

(c) Demonstrate breadth and depth of seismic design ((subject matter)) and detailing experience for projects in seismic regions similar to those located in Washington state;

(d) Incorporate two of the four common construction materials (steel, concrete, wood, and masonry);

(e) Reflect ability to design and apply structural engineering principles that show sound judgment on projects involving public health, safety, and welfare;

(f) Be supervised by a licensed professional engineer in the branch of structural engineering or a licensed professional engineer with substantial structural engineering work experience for projects in seismic regions similar to those located in Washington state; and

(3) Pass a board approved structural exam.

AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

WAC 196-12-055 Permit for temporary practice.

Any nonresident engineer who intends to practice engineering in the state of Washington on a temporary basis must provide the board with the following before starting any work:

(1) A completed application with applicable fees.

(2) Dates work is to be started.

(3) Name and address of client.

(4) Description and location (address) of project.

(5) Name and contact information for local permitting authority.

Plans, specifications, and reports prepared by the nonresident engineer must be signed, dated, and stamped with their professional seal. A copy of the permit issued by this board shall be attached to the engineering documents submitted for approval or building permit.

AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

WAC 196-12-065 Retired status. A professional engineer having reached the age of sixty-five and having discontinued active practice as a professional engineer may be eligible for retired status. "Active practice" is defined as exercising direct supervision and control over any professional engineering activity as defined in RCW 18.43.020(5).

(1) Request for retired status. Upon approval, a request for retired status will be granted effective the next scheduled renewal date.

(2) A licensee on retired status may:

(a) Retain the board issued wall certificate of registration;

(b) Use the title "retired professional engineer" or "PE-retired" or "SE-retired" as appropriate;

(c) Work as an engineer in a volunteer capacity, provided that the retired licensee does not create an engineering document or use their seal;

(d) Provide experience verifications and references for persons seeking registration;

(e) Serve as an instructor for engineering related courses;

(f) Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to engineering work performed by the licensee;

(g) Serve in a function that supports the principles of registration and/or promotes the profession of engineering, such as members of commissions, boards or committees;

(h) Serve in an engineering capacity as a "good samaritan." The state laws governing such activity are RCW 38.52.-195 and 38.52.1951 and chapter 18.43 RCW.

(3) A licensee on retired status must not:

(a) Perform any engineering activity, as provided for in RCW 18.43.020(5), unless the activity is under the direct supervision of a licensed professional engineer with an active registration in Washington;

(b) Act as the designated engineer for a corporation or limited liability company;

(c) Apply their professional engineers seal to any plan, specification, ~~((plat))~~ or report.

(4) Certificate of registration reinstatement. A retired licensee may resume active engineering practice with payment of the current renewal fee.

(5) Exemptions. A licensee is not eligible for retired status if their license to practice is under board ordered sanction. This exemption exists until the sanctions have been lifted or satisfied by the board.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 196-12-011 Application requirements.

WAC 196-12-012 Reexamination requirements.

WSR 21-16-029
PROPOSED RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed July 26, 2021, 8:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-06-023.

Title of Rule and Other Identifying Information: Chapter 196-20 WAC, Engineers-in-training.

Hearing Location(s): On September 15, 2021, at 6:00 p.m., join via WebEx, meeting number (access code) 1774 35 5700, meeting password r2pJmPVMV49; join by phone +1-415-655-0001 US Toll, +1-206-207-1700 United States Toll (Seattle). In response to the COVID-19 public health emergency, the board of registration for professional engineers and land surveyors will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical space, will be held instead. The public may participate in the hearing by accessing the hearing link on the board's rule-making page <https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity> or calling the phone number provided.

Date of Intended Adoption: October 21, 2021.

Submit Written Comments to: Shanana Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, email Shanana.Gillespie@brpels.wa.gov, by September 15, 2021.

Assistance for Persons with Disabilities: Contact Shanana Gillespie, phone 360-664-1570, TTY 711 or 1-800-833-

6388, email Shanana.Gillespie@brpels.wa.gov, by September 14, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The title of this chapter is being changed to better reflect the subject matter it covers. The proposed title is fundamentals of engineering exam and engineers-in-training. Changes were made to existing rules to clarify eligibility requirements to take the fundamentals of engineering examination and applying for certification as an engineer-in-training in Washington.

Reasons Supporting Proposal: Changes to the current language will allow more flexibility to the board to consider different types of education and experience for individuals that do not have an accredited engineering degree, and it allows individuals that have passed the fundamentals of engineering exam in another state to apply to become certified as an engineer-in-training in Washington.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: RCW 18.43.040.

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

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for Drafting: Shanana Gillespie, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1570; Implementation and Enforcement: Ken Fuller, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-968-4805.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The board of registration for professional engineers and land surveyors is not one of the agencies to which RCW 34.05.328 applies pursuant to RCW 34.05.328 (5)(a).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

July 26, 2021

Ken Fuller

Director

Chapter 196-20 WAC

FUNDAMENTALS OF ENGINEERING EXAM AND ENGINEERS-IN-TRAINING

AMENDATORY SECTION (Amending WSR 04-10-067, filed 5/3/04, effective 6/3/04)

WAC 196-20-005 Declaration and purpose. This chapter contains rules and procedures for applications~~((s))~~ and eligibility ~~((and))~~ to take the fundamentals of engineering examination~~((s to be enrolled as engineers in training))~~ and to apply for an engineer-in-training certificate.

NEW SECTION

WAC 196-20-007 Fundamentals of engineering exam. Approval to sit for the fundamentals-of-engineering examination (FE) is based upon satisfactory evidence that the applicant has completed a minimum of four years of practical engineering experience or four years of engineering education or a combination of both, as approved by the board.

(1) Experience: Qualifying practical experience should include some or all of the following:

(a) Preparation of technical reports and specifications, including graphics;

(b) Application of mathematical techniques to problem solving;

(c) Application of the basic physical sciences (chemistry, physics, statics, and dynamics, etc.) in tasks;

(d) Performing assignments, experiments and tests to general specifications;

(e) Compilation and interpretation of data (statistical analysis, etc.);

(f) Executing engineering tasks according to instructions;

(g) Effective communication with associates and presenting recommendations and conclusions to supervisor;

(h) Knowledge of the impacts of the products of technology on society (i.e., energy/environmental considerations).

(2) Education: A baccalaureate in engineering from an ABET accredited program meets the four-year requirement. Other education will be evaluated by the board.

(3) Any qualifying practical engineering experience may be combined with education to meet the four-year requirement as approved by the board.

(4) Approval to take the FE exam cannot be relied upon for approval to take the professional engineer (PE) examination.

AMENDATORY SECTION (Amending WSR 14-07-106, filed 3/19/14, effective 4/19/14)

WAC 196-20-010 (~~(How do I become eligible and register to take the)~~ Fundamentals-of-engineering exam~~(?)~~ registration process. (1) (~~In order to be eligible to take the fundamentals-of-engineering exam, you must complete four years of education and/or experience as delineated in WAC 196-20-020.~~

~~(2))~~ (2) If you have completed a baccalaureate degree program which is accredited by the (~~engineering accreditation commission (EAC) of the~~) accreditation board for engineering and technology (ABET) or have achieved senior standing within that program, you (~~may use the expedited process for FE exam registration as approved by the board~~) should apply directly to NCEES to take the FE examination.

~~((3))~~ (2) Applicants (~~that do not meet the EAC educational credit described above must~~) with education and/or experience other than an ABET accredited degree should submit (~~the full~~) their application to the board describing the education and/or experience that would meet the requirements in WAC (~~196-20-020~~) 196-20-007 and then obtain written approval from the board prior to registering for the FE exam.

(3) Foreign education: Unless exempted by the board, all applicants with foreign degrees must have a transcript evaluation by a transcript evaluation service as approved by the board. The cost of the evaluation and the information needed to be evaluated is the responsibility of the applicant.

AMENDATORY SECTION (Amending WSR 14-07-106, filed 3/19/14, effective 4/19/14)

WAC 196-20-045 (~~(How do I obtain)~~ Obtaining certification as an engineer-in-training in Washington~~(?)~~. In order to obtain a certification as an engineer-in-training in Washington (~~is only available to those applicants who designate Washington as their practice state when registering to take the FE exam and who also~~), you must pass the FE exam (~~Those that meet the above conditions must~~), and submit an application (~~for certification as an engineer-in-training~~) to the board that shows you meet the requirements listed in WAC 196-20-007.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 196-20-020 How is experience and education applied toward FE exam eligibility?

WAC 196-20-030 Fundamentals of engineering examination.

WSR 21-16-050
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed July 28, 2021, 11:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-05-068.

Title of Rule and Other Identifying Information: WAC 458-20-NEW Workforce education investment surcharge—Select advanced computing businesses.

Hearing Location(s): On September 8, 2021, at 10:00 a.m. This meeting will be conducted over the internet/telephone. Contact Keith Dacus at KeithD@dor.wa.gov for login/dial-in information.

Date of Intended Adoption: September 30, 2021.

Submit Written Comments to: Leslie Mullin, P.O. Box 47453, Olympia, WA 98504-7453, email LeslieMu@dor.wa.gov, 360-534-1589, by September 15, 2021.

Assistance for Persons with Disabilities: Contact Julie King or Renee Cosare, phone 360-704-5733 or 360-704-5734, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed new rule is to reflect 2020 legislation, ESSB 6492, that imposed a surcharge on select advanced computing businesses as described in RCW 82.04.299.

Reasons Supporting Proposal: Businesses that engage in the activities subject to RCW 82.04.299 will find the new rule

provides additional clarification on the application of the surcharge.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.04.299.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: John Ryser, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not a significant legislative rule as defined by RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule making does not impose any liability for taxes, reporting requirements, recordkeeping requirements, or compliance requirements not otherwise imposed by statute.

July 28, 2021

Atif Aziz

Rules Coordinator

NEW SECTION

WAC 458-20-290 Workforce education investment surcharge—Select advanced computing businesses. (1) **Introduction.** This rule provides information about the taxability of and surcharge for select advanced computing businesses as described in RCW 82.04.299.

(2) **Examples.** This rule includes examples that identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(3) **Definitions.** The following definitions apply throughout this rule:

(a) **"Advanced computing"** means:

(i) Designing or developing computer software or computer hardware, whether directly or contracting with another person, including modifications to computer software or computer hardware;

(ii) Providing cloud computing services;

(iii) Operating an online marketplace as a marketplace facilitator within the definition of RCW 82.08.010(15);

(iv) Operating an online search engine; or

(v) Operating an online social networking platform.

(b) **"Advanced computing business"** means a business that derives income, including income from affiliates, from engaging in advanced computing.

(c) **"Affiliate"** and **"affiliated"** means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(d) **"Affiliated group"** means a group of two or more persons that are affiliated with each other.

(e) **"Cloud computing services"** means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet.

(f) **"Control"** means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(g) **"Select advanced computing business"** means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group had worldwide gross revenue of more than twenty-five billion dollars during the immediately preceding calendar year. A select advanced computing business does not include any of the following:

(i) A person primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332 (d)(1);

(ii) A person primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks; or

(iii) A person primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004, as that section existed on January 1, 2020.

For purposes of (g) of this subsection, "primarily" is determined based on the taxable income of the business, as defined in (h) of this subsection.

(h) **"Taxable income of the business"** means the gross income of the business, as defined in RCW 82.04.080, to which the tax rate in RCW 82.04.290(2) is applied to determine the business's tax liability under that B&O tax classification. In other words, it is the business's taxable income under the service and other activities B&O tax classification.

(i) **"Worldwide gross revenue"** means the annual sum of all sources of revenues, worldwide, prior to any subtractions, for all members of an affiliated group.

(4) **Select advanced computing businesses - Taxability.**

(a) **Service and other activities B&O tax.** A select advanced computing business is subject to the service and other activities B&O tax rate of 1.5 percent as required in RCW 82.04.290 (2)(a)(ii).

(b) **Workforce education investment surcharge.** Beginning with business activities occurring on or after April 1, 2020, a workforce education investment surcharge (surcharge) is imposed on select advanced computing businesses. This surcharge is in addition to the B&O taxes described in (a) of this subsection, plus any additional taxes that are due and payable to the department.

(i) **Surcharge amount.** For each select advanced computing business, the surcharge is equal to the taxable income of the business, multiplied by a rate of 1.22 percent. The combined annual surcharge paid by all members of an affiliated group may not exceed nine million dollars.

(ii) Surcharge reporting. A select advanced computing business must report and pay the surcharge to the department on a quarterly basis, regardless of the tax reporting frequencies of the members in the select advanced computing business under RCW 82.32.045. The return and amount payable are due by the last day of the month immediately following the end of the quarter. This reporting requirement continues even if the combined annual surcharge paid by all members of an affiliated group reaches the nine million dollar annual maximum amount described in (b)(i) of this subsection.

(iii) Surcharge payment agreement. Members of an affiliated group of select advanced computing businesses may enter into an agreement with the department for facilitating the payment of the surcharge for all members of the group.

(iv) Disclosure obligations. The department may require persons believed to be engaging in advanced computing, or affiliated with a person believed to be engaging in advanced computing, to disclose whether they are a member of an affiliated group, and if so, to identify all other members of the affiliated group subject to the surcharge.

(v) Penalties. If the department establishes by clear, cogent, and convincing evidence, that one or more members of an affiliated group, with the intent to evade the surcharge, failed to fully comply with the department's disclosure request, as described in (b)(iv) of this subsection, that person, or those persons collectively, will be assessed a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during which the person or persons failed to comply. This penalty is in lieu of, and not in addition to, the evasion penalty under RCW 82.32.090(7). However, additional penalties may still apply including, but not limited to, the penalty for late payment of tax due on a return. See RCW 82.32.090(1).

(vi) Hospital exemption. The surcharge described in (b) of this subsection does not apply to a hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(c) **Example.** Entity X, Entity Y, and Entity Z, an affiliated group, cumulatively had worldwide gross revenue of over twenty-five billion dollars in 2021. Entity X and Entity Y are engaged in advanced computing. All three entities are registered with the department and file and pay taxes on a monthly basis. For the first quarter of 2022, the entities reported the following amounts as taxable income of the business, respectively: Entity X: \$800,000; Entity Y: \$100,000; and Entity Z: \$1,200,000.

The first step is to determine whether the taxable income subject to tax under the service and other activities B&O tax classification for each entity is subject to the 1.22 percent surcharge. Because Entities X, Y, and Z are all members of an affiliated group that had more than twenty-five billion dollars of worldwide gross revenue during the preceding calendar year (2021 in this example), and Entity X and Entity Y are engaged in the business of advanced computing, Entities X, Y, and Z are each considered a "select advanced computing business." Therefore, the taxable income of the business of each is subject to the 1.22 percent surcharge as follows:

Entity X: $\$800,000 * 1.22\% = \$9,760$

Entity Y: $\$100,000 * 1.22\% = \$1,220$

Entity Z: $\$1,200,000 * 1.22\% = \$14,640$

The total surcharge owed by this affiliated group of select advanced computing businesses for the first quarter of 2022 is \$25,620. This amount is due no later than April 30, 2022, and must be reported and paid by each select advanced computing business to the department.

The next step is to determine the service and other activities B&O tax rate in RCW 82.04.290(2) to apply to the taxable income reported by each entity. Because the three entities are subject to the 1.22 percent surcharge, the taxable income reported under RCW 82.04.290(2) by each entity will be subject to the B&O tax rate of 1.5 percent as required in RCW 82.04.290 (2)(a)(ii):

Entity X: $\$800,000 (*) 1.5\% (=) \$12,000$

Entity Y: $\$100,000 (*) 1.5\% (=) \$1,500$

Entity Z: $\$1,200,000 (*) 1.5\% (=) \$18,000$

Each entity will continue to file and pay any taxes due on a monthly basis.

WSR 21-16-065
PROPOSED RULES
HEALTH CARE AUTHORITY

[Filed July 30, 2021, 9:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-07-066.

Title of Rule and Other Identifying Information: WAC 182-503-0535 Washington apple health—Citizenship and immigration status.

Hearing Location(s): On September 7, 2021, at 10:00 a.m. The health care authority (HCA) remains closed in response to the coronavirus disease 2019 (COVID-19) public health emergency. Until further notice, HCA continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington state. To attend the virtual public hearing, you must register in advance https://zoom.us/join/wnkgAzsWy4RSChdQxJ-O29_g. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than September 8, 2021.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by September 7, 2021.

Assistance for Persons with Disabilities: Contact Amber Loughheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.loughheed@hca.wa.gov, by August 27, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending this section to align with the Consolidated Appropriations Act, 2021 (Sec. 208) which restored eligibility for medicaid benefits for individuals from the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160; Consolidated Appropriations Act, 2021, Sec. 208.

Rule is necessary because of federal law, Consolidated Appropriations Act, 2021, Sec. 208.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Williams, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1346; Implementation and Enforcement: Ariel Pyrttek, P.O. Box 43022, Olympia, WA 98504-3022, 360-725-1919.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The changes to the proposed rules apply to clients and do not impose any costs on businesses.

July 30, 2021
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-10-002, filed 4/22/15, effective 5/23/15)

WAC 182-503-0535 Washington apple health—Citizenship and immigration status. (1) Definitions.

(a) **Nonqualified alien** means someone who is lawfully present in the United States (U.S.) but who is not a qualified alien, a U.S. citizen, a U.S. national, or a qualifying American Indian born abroad.

(b) **Qualified alien** means someone who is lawfully present in the United States and who is one or more of the following:

(i) A person lawfully admitted for permanent residence (LPR).

(ii) An abused spouse or child, a parent of an abused child, or a child of an abused spouse who no longer resides with the person who committed the abuse, and who has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse of an unmarried LPR younger than twenty-one years of age.

(B) Proof of a pending application for suspension of deportation or cancellation of removal under the Violence Against Women Act (VAWA).

(C) A notice of prima facie approval of a pending self-petition under VAWA. An abused spouse's petition covers his or her child if the child is younger than twenty-one years of age. In that case, the child retains qualified alien status even after he or she turns twenty-one years of age.

(iii) A person who has been granted parole into the U.S. for one year or more, under the Immigration and Nationality Act (INA) Section 212 (d)(5), including public interest parolees.

(iv) A member of a Hmong or Highland Laotian tribe that rendered military assistance to the U.S. between August 5, 1964, and May 7, 1975, including the spouse, unremarried widow or widower, and unmarried dependent child of the tribal member.

(v) A person who was admitted into the U.S. as a conditional entrant under INA Section 203 (a)(7) before April 1, 1980.

(vi) A person admitted to the U.S. as a refugee under INA Section 207.

(vii) A person who has been granted asylum under INA Section 208.

(viii) A person granted withholding of deportation or removal under INA Section 243(h) or 241 (b)(3).

(ix) A Cuban or Haitian national who was paroled into the U.S. or given other special status.

(x) An Amerasian child of a U.S. citizen under 8 C.F.R. Section 204.4(a).

(xi) A person from Iraq or Afghanistan who has been granted special immigrant status under INA Section 101 (a)(27).

(xii) A person who has been certified or approved as a victim of trafficking by the federal office of refugee resettlement, or who is:

(A) The spouse or child of a trafficking victim of any age; or

(B) The parent or minor sibling of a trafficking victim who is younger than twenty-one years of age.

(xiii) A person from the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands living in the United States in accordance with the Compacts of Free Association.

(c) **U.S. citizen** means someone who is a United States citizen under federal law.

(d) **U.S. national** means someone who is a United States national under federal law.

(e) **Undocumented person** means someone who is not lawfully present in the U.S.

(f) **Qualifying American Indian born abroad** means someone who:

(i) Was born in Canada and has at least fifty percent American Indian blood, regardless of tribal membership; or

(ii) Was born outside of the United States and is a member of a federally recognized tribe or an Alaska Native enrolled by the Secretary of the Interior under the Alaska Native Claims Settlement Act.

(2) Eligibility.

(a) A U.S. citizen, U.S. national or qualifying American Indian born abroad may be eligible for:

(i) Apple health for adults;

(ii) Apple health for kids;

(iii) Apple health for pregnant women; or

(iv) Classic medicaid.

(b) A qualified alien who meets or is exempt from the five-year bar may be eligible for:

(i) Apple health for adults;

(ii) Apple health for kids;

- (iii) Apple health for pregnant women; or
- (iv) Classic medicaid.

(c) A qualified alien who neither meets nor is exempt from the five-year bar may be eligible for:

- (i) Alien medical programs;
 - (ii) Apple health for kids;
 - (iii) Apple health for pregnant women; or
 - (iv) Medical care services.
- (d) A nonqualified alien may be eligible for:
- (i) Alien medical programs;
 - (ii) Apple health for kids;
 - (iii) Apple health for pregnant women; or
 - (iv) Medical care services.

(e) An undocumented person may be eligible for:

- (i) Alien medical programs;
- (ii) State-only funded apple health for kids; or
- (iii) State-only funded apple health for pregnant women.

(3) The five-year bar.

(a) A qualified alien meets the five-year bar if he or she:

- (i) Continuously resided in the U.S. for five years or more from the date he or she became a qualified alien; or
- (ii) Entered the U.S. before August 22, 1996, and:
 - (A) Became a qualified alien before August 22, 1996; or
 - (B) Became a qualified alien on or after August 22, 1996, and has continuously resided in the U.S. between the date of entry into the U.S. and the date he or she became a qualified alien.

(b) A qualified alien is exempt from the five-year bar if he or she is:

- (i) A qualified alien as defined in subsection((s)) (1)(b) through ((~~xii~~)) (xiii) of this section;

(ii) An LPR, parolee, or abused person, who is also an armed services member or veteran, or a family member of an armed services member or veteran, as described below:

(A) An active-duty member of the U.S. military, other than active-duty for training;

(B) An honorably discharged U.S. veteran;

(C) A veteran of the military forces of the Philippines who served before July 1, 1946, as described in Title 38 U.S.C. Section 107; or

(D) The spouse, unremarried widow or widower, or unmarried dependent child of an honorably discharged U.S. veteran or active-duty member of the U.S. military.

WSR 21-16-089

**WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL**

(By the Code Reviser's Office)

[Filed August 3, 2021, 8:07 a.m.]

WAC 51-50-0427, proposed by the building code council in WSR 21-03-078, appearing in issue 21-03 of the Washington State Register, which was distributed on February 3, 2021, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Jennifer C. Meas, Editor
Washington State Register

WSR 21-16-090

**WITHDRAWAL OF PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD**

(By the Code Reviser's Office)

[Filed August 3, 2021, 8:07 a.m.]

WAC 181-79A-213 and 181-79A-226, proposed by the professional educator standards board in WSR 21-03-083, appearing in issue 21-03 of the Washington State Register, which was distributed on February 3, 2021, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Jennifer C. Meas, Editor
Washington State Register

WSR 21-16-092

**PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed August 3, 2021, 8:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-10-079 on May 3, 2021.

Title of Rule and Other Identifying Information: WAC 220-413-030 Importation and retention of dead nonresident wildlife and 220-413-180 Special closures and firearm restricted areas.

Hearing Location(s): On September 16-18, 2021, at 8 a.m., webinar. This meeting of the fish and wildlife commission will take place by webinar. See <http://wdfw.wa.gov/about/commission/meetings> [<http://wdfw.wa.gov/about/commission/meetings>] or contact the commission office at 360-902-2267 or commission@dfw.wa.gov for instructions on how to join the meeting.

Date of Intended Adoption: October 22, 2021.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email V7556@PublicInput.com, fax 360-902-2162, website for public commenting <https://publicinput.com/V7556>, by September 15, 2021.

Assistance for Persons with Disabilities: Contact Title VI/ADA Compliance Coordinator, phone 360-902-2349, TTY 711 or 360-902-2207, email Title6@dfw.wa.gov, <https://wdfw.wa.gov/accessibility/requests-accommodation>, by September 15, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **WAC 220-413-030 Importation and retention of dead nonresident wildlife.** The purpose of this proposal is to add the state of Ohio to the list of states and provinces where it is unlawful to import or possess certain parts of deer, elk, or moose. We also alphabetized the list of states and provinces, so the list is easier to reference. The anticipated effects of the proposal would be limited to hunters that choose to hunt deer in Ohio. This rule requires additional time to process a carcass but given the amount of time needed to travel to and from Ohio, it is likely

hunters are already processing their carcass in accordance with this rule, thus anticipated effects are minimal.

WAC 220-413-180 Special closures and firearm restricted areas. The purpose of this rule change is to clarify that firearm restrictions for all San Juan County includes game management units (GMUs) 423 (Henry) and 424 (Stuart). There are no anticipated effects associated with this proposal other than providing clarification for hunters.

Reasons Supporting Proposal: **WAC 220-413-030 Importation and retention of dead nonresident wildlife.** Chronic wasting disease (CWD) is a prion disease (pathogenic agents that are transmissible and able to induce abnormal folding of specific normal cellular proteins) that affects cervids (family of hoofed ruminant mammal) and is fatal. There is no treatment or vaccine and the disease presents a substantial risk to Washington's cervid populations. CWD has not been detected in wild or captive cervid populations in Washington. CWD can be spread to new areas when infected animal parts are discarded on the landscape. The intent of this rule is to reduce the risk of hunters transporting deer, elk, or moose parts into Washington that are infected with CWD. The states and provinces identified in this rule have detected CWD in wild cervid populations. The department became aware that Ohio had detected CWD in wild white-tailed deer populations in February 2021.

WAC 220-413-180 Special closures and firearm restricted areas. In April 2021, the fish and wildlife commission adopted a rule that formally identified Henry and Stuart Islands in San Juan County as standalone GMUs. The department failed to realize at the time that WAC 220-413-180 also needed to be amended because it clarifies that firearm restrictions for all San Juan County also apply to islands in San Juan County that are standalone GMUs. This proposal corrects that omission.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; Enforcement: Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not require a cost-benefit analysis under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The portion of the proposed rule related to GMUs is a correction from a previous rule amendment. The portion related to adding Ohio to the restricted states for importation of wildlife parts does not affect small businesses because this change does not impose additional costs or regulatory requirements for any businesses.

August 3, 2021

Annie Szvetez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-10-011, filed 4/19/19, effective 5/20/19)

WAC 220-413-030 Importation and retention of dead nonresident wildlife. (1) It is unlawful:

(a) To import or possess dead wildlife, taken in another state or country, into Washington unless such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts.

(b) For a person who imports a dead bighorn sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within ten days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being stored, and general information describing where and how the wildlife was obtained.

(c) To import or possess deer, elk, or moose, or parts thereof, harvested in (~~Pennsylvania, Texas, Missouri, Colorado, Wyoming, Utah, New Mexico, Wisconsin, Illinois, South Dakota, Nebraska, Kansas, New York, West Virginia, Virginia, North Dakota, Alberta, Maryland, Minnesota, Montana, Mississippi, Iowa, Arkansas, Michigan, Saskatchewan, and Tennessee~~) Alberta, Arkansas, Colorado, Illinois, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Saskatchewan, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming with the following exceptions:

(i) Meat that has been deboned in the state or province where it was harvested and is imported as boned-out meat;

(ii) Skulls and antlers, antlers attached to the skull plate, or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

(iii) Hides or capes without heads attached;

(iv) Tissue imported for use by a diagnostic or research laboratory; and

(v) Finished taxidermy mounts.

(2) Violation of subsection (1) of this section is punishable under RCW 77.15.290 Unlawful transportation of fish or wildlife—Penalty.

(3) It is unlawful for an importer or receiver of deer or elk to fail to notify the department within twenty-four hours if a state or province alerts the importer or receiver that a harvested animal has tested positive for chronic wasting disease. Violation of this subsection is an infraction punishable under RCW 77.15.160 Infractions.

AMENDATORY SECTION (Amending WSR 20-12-080, filed 6/1/20, effective 7/2/20)

WAC 220-413-180 Special closures and firearm restriction areas. (1) RESTRICTED HUNTING AREAS.

It is unlawful to hunt in the following restricted hunting areas unless otherwise provided:

(a) Parker Lake (GMU 117, Pend Oreille County): All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389), and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to hunting wild animals and wild birds year-round except for special hunts adopted by the fish and wildlife commission. The Parker Lake closure provides a protected area for the U.S. Air Force Military Survival Training Program.

(b) Columbia River: The Columbia River, all islands except privately owned, in the river, the Benton County shoreline below the high water mark, Central Hanford Department of Energy property, and any peninsula originating on the Benton County shoreline, between Vernita Bridge on Highway 24 downstream to the Richland city limits are designated as a "CLOSED AREA" to hunting wild animals and wild birds except waterfowl hunting is open below the high water mark between the old Hanford townsite power line crossing in Section 24, T 13 N, R 27 E, and the Richland city limits.

(c) Green River (GMU 485): Except for special permit hunters, who may also take a black bear and/or cougar with the appropriate license/tag options, all lands within GMU 485 are designated as a "CLOSED AREA" to hunting big game year-round. During the general westside elk season and general and late deer seasons, all lands within GMU 485 year-round are also designated as a "CLOSED AREA" to hunting all wild animals, including wild birds, year-round. The city of Tacoma enforces trespass within GMU 485 year-round on lands owned or controlled by the city.

(d) McNeil Island (part of GMU 652): Closed to hunting all wild animals, including wild birds, year-round.

(e) Loo-wit (GMU 522): Closed to hunting and trapping, except for elk and mountain goat hunting by special permit holders during established seasons and in designated areas.

(2) A violation of subsection (1) of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

(3) CLOSED BIG GAME HUNTING AREAS.

It is unlawful to hunt big game in the following closed areas, unless otherwise specified:

(a) Clark, Cowlitz, Pacific, and Wahkiakum counties: Closed to hunting for Columbian whitetail deer.

(b) Cathlamet: Except for special permits issued by the department for nonendangered deer and elk, this area is closed to all deer and elk hunting to protect the Columbian whitetail deer. This area's boundaries are described as:

Beginning in the town of Skamokawa; then east along SR 4 to Risk Road; then south and east along Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the

Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning.

(c) Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to hunting all wild animals, including wild birds. The only exception is for deer or elk hunting by holders of GMU-157 special deer or elk permits during the established open season. These permit holders must have a U.S. Forest Service permit to enter the hunt area, and the area is closed to motorized vehicles. No entry into the Mill Creek Watershed is allowed at other times.

(d) Westport: Closed to hunting all big game animals on the part of Westport Peninsula lying north of State Highway 105 from the Elk River Bridge west end and the Schafer Island Road to the ocean beach.

(e) Cottonwood and Howard islands (GMU 564): Closed to all deer hunting.

(4) A violation of subsection (3) of this section is a gross misdemeanor or a class C felony punishable under RCW 77.15.410, depending on the circumstances of the violation.

(5) FIREARM RESTRICTION AREAS.

(a) It is unlawful to hunt wildlife in the following firearm restriction areas with centerfire or rimfire rifles, or to fail to comply with additional firearm restrictions, except as established below:

COUNTY	AREA
Chelan	That portion of GMU 251 (Mission) beginning at the intersection of the Duncan Road and Highway 2; south on Duncan Road to Mountain Home Road; south along Mountain Home Road to the Icicle Irrigation Ditch; south and west along the Icicle Irrigation Ditch to the Snow Lake Trail; west and north along the Snow Lake Trail and across the Icicle River to Icicle River Road; east and north along Icicle River Road to the Wenatchee River; northwest along the Wenatchee River to Highway 2; north and east on Highway 2 to Duncan Road and the point of beginning.
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.
Clark	GMU 564 (Battle Ground). That portion of GMU 554 (Yale) in Clark County.
Cowlitz	GMU 554 (Yale). GMU 504 (Stella). That portion of GMU 564 (Battle Ground) in Cowlitz County.
Grays Harbor	The following restriction applies only during modern firearm general elk seasons:

COUNTY	AREA	COUNTY	AREA
	That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Cranberry Road; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning.		The following portion of GMU 652 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning.
Grays Harbor	The following restriction applies only during modern firearm general elk seasons: That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to State Street in Oakville; south on State Street to its merge with Oakville Road; west on Oakville Road to its merge with South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to the Chehalis River; west along the Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 to the point of beginning.	Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newberry Hill Road, north of Newberry Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.
		Klickitat	Elk Area 5062 (Trout Lake) closed to centerfire rifles, handguns, and muzzleloaders October 1 to January 30.
		Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstine Island.
		Pacific	GMU 684 (Long Beach) the following Long Beach Peninsula restriction applies only during modern firearm general deer and elk seasons: Beginning at the end of Outer Harbor Way in the City of Ilwaco to U.S. Highway 101, west and north on Highway 101 to Sandridge Road; north on Sandridge Road to 95th Street; west on 95th Street to Tarlatt Slough; out Tarlatt Slough to Willapa Bay, north along the shoreline of Willapa Bay, then west to the Pacific Ocean. South along the west coast of the peninsula to Cape Disappointment State Park; east along state park boundary to Baker Bay; east along Baker Bay to the point of beginning.
Island	GMUs 421 (Camano) and 420 (Whidbey).		The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge.
Jefferson	Indian and Marrowstone islands.		
King	The area west of Highway 203 (Monroe-Fall City, then Fall City-Preston Road) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; and GMU 422 (Vashon-Maury).		
King	This area is restricted to archery only during general season hunts (agency directed damage permit hunts exempt):		

COUNTY	AREA
	GMU 681 (Chinook Valley) beginning at confluence of Wallacut River, east along the Columbia River to the Astoria-Megler bridge; west along U.S. Highway 101 to Houtchen Road, north on Houtchen Road to the Chinook River; west on the Chinook River to the Chinook Valley Road; west on the Chinook Valley Road to Highway 101 and Wallacut River bridge; southwest on Wallacut River to point of beginning.
Pierce	Ketron Island in GMU 652 limited to archery, shotgun, and muzzleloader. GMU 655 (Anderson) limited to archery, shotgun, and muzzleloader. McNeil Island closed to hunting. See GMU 652 restriction area outlined for King County. GMU 627 (Kitsap) south of Highway 302 on the Key (Longbranch) Peninsula is a firearm restriction area.
San Juan	All San Juan County, including GMUs 411 (Orcas), 412 (Shaw), 413 (San Juan), 414 (Lopez), 415 (Blakely), 416 (Decatur), 423 (Henry), 424 (Stuart), and those portions of GMU 410 (Islands) that occur in San Juan County.
Snohomish	All areas west of Highway 9, until the intersection of Highway 9 and Highway 2, then east along Highway 2 to Highway 203, then all areas west of Highway 203 to the Snohomish/King County line.
Skagit	All mainland areas and islands, including GMU 419 (Guemes), in Skagit County west of I-5 and north of the Skagit/Snohomish County line, except Cypress Island. This restriction applies to big game hunting only.
Skamania	That portion of GMU 564 (Battle Ground) in Skamania County.
Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
Whatcom	All mainland areas and islands of Whatcom County that are west of I-5. This restriction applies to big game hunting only.

(b) Archery tag holders may only hunt during established archery seasons with archery equipment as defined under WAC 220-414-070.

(c) Muzzleloader tag holders may only hunt during established muzzleloader seasons with muzzleloader equipment or archery equipment as defined by department rule.

(d) Modern firearm tag holders may hunt during established modern firearm seasons with bows and arrows; crossbows; muzzleloaders; revolver-type handguns; semiautomatic handguns of .40 (10 mm) caliber or larger; or shotguns, so long as the equipment and ammunition complies with department rules.

(6) A violation of subsection (5) of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

WSR 21-16-094
PROPOSED RULES
STATE BOARD OF HEALTH
[Filed August 3, 2021, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-05-032

Title of Rule and Other Identifying Information: Chapter 246-390 WAC, Drinking water laboratory certification and data reporting (lab rule). The state board of health (board) is proposing amendments to the lab rule to align laboratory data reporting requirements with the anticipated changes to chapter 246-290 WAC, Group A public water supplies (Group A rule) as related to per- and polyfluoroalkyl substances (PFAS).

Hearing Location(s): On October 13, 2021, at 1:30 p.m. In response to the COVID-19 pandemic and public health emergency, the state board of health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Please register for the public hearing using the link https://us02web.zoom.us/webinar/register/WN_KVff1ReLT0Ou6mTS_GHpg. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: October 13, 2021.

Submit Written Comments to: Nina Helpling, Department of Health, Division of Environmental Health, P.O. Box 47820, Olympia, WA 98504-7820, email <https://fortress.wa.gov/doh/policyreview>, labrule1@doh.wa.gov, by September 3, 2021.

Assistance for Persons with Disabilities: Contact Nina Helpling, phone 360-236-3065, TTY 711, email nina.helping@doh.wa.gov, by September 29, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On October 11, 2017, the board accepted a petition for rule making to consider revisions to the Group A public water supplies rule under chapter 246-290 WAC (Group A rule) to set a standard for PFAS. The board filed the CR-101, Preproposal statement of inquiry, as WSR 18-01-080 on December 15, 2017. The amendments being considered to the Group A rule necessitated changes to the lab rule because PFAS contaminant results have never been reported directly to the department or

public water system and therefore have never been a required component of the lab rule. The proposed changes to the Group A rule require corresponding changes to the lab rule for explicit PFAS reporting requirements and add notification requirements for specific PFAS contaminants. The rule revision also includes technical and clarifying corrections as needed.

Reasons Supporting Proposal: The proposed amendments to the Group A rule necessitate changes to the lab rule because sampling drinking water for PFAS contaminants and associated requirements such as reporting sampling results directly to the department and public water systems are not included in the current chapter requirements. The proposed changes to the Group A rule require corresponding changes to the lab rule for explicit PFAS reporting requirements and add notification requirements for specific PFAS contaminants. The rule revision also includes technical and clarifying corrections as needed.

Statutory Authority for Adoption: RCW 43.20.050 and 70A.125.080.

Statute Being Implemented: RCW 43.20.050 and 70A.125.080.

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

Name of Proponent: Washington state board of health, governmental.

Name of Agency Personnel Responsible for Drafting: Nina Helpling, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3065; Implementation and Enforcement: Derrick Dennis, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3122.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Nina Helpling, Department of Health, Division of Environmental Health, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3065, TTY 711, email nina.helpling@doh.wa.gov, <https://www.doh.wa.gov/CommunityandEnvironment/DrinkingWater/RegulationandCompliance/RuleMaking>.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW [no information provided by agency].

Explanation of exemptions: The amendments to WAC 246-390-010, 246-390-065, 246-390-085, and 246-390-095 add or delete definitions where needed, clarify current requirements to make the rule easier to understand, and updates rule language to conform to new terms without changing the effect of the rules.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Based on the analysis, there is an estimated one-time cost incurred by labs

of \$1,000 and an estimated annual reoccurring cost of \$500 would be incurred by labs. The minor cost thresholds are \$10,606 for the 1% average annual payroll threshold and \$7,878 for the .03% average annual receipts (sales) threshold. This shows that there are only minor costs incurred by labs to comply with the proposed rule changes.

August 3, 2021
Michelle A. Davis
Executive Director

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

WAC 246-390-010 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "umhos/cm" means micromhos per centimeter (1 umhos/cm = 1 S/cm).

(2) "ug/L" means micrograms per liter (1 ug/L = 1 ppb).

(3) "Acute" means posing an immediate risk to human health.

~~((2))~~ "Analyte" means the constituent or property of a sample measured using an analytical method for compliance purposes under chapters 246-290 and 246-291 WAC.

~~(3))~~ (4) "Bioaccumulative" means a chemical that can accumulate in the body when regular exposure occurs through drinking water.

(5) "C.F.R." means the Code of Federal Regulations.

~~((4))~~ (6) "CFU" means colony-forming unit.

(7) "Chronic" means ~~((human exposure over many years to a contaminant at levels above the MCL))~~ posing a risk to human health only when exposure occurs over many years to a contaminant above a state or federal health standard.

~~((5))~~ (8) "Close of business" means the latest time during a business day when a lab is no longer in routine operation for accepting or performing drinking water sample analysis.

~~((6))~~ (9) "Confirmation" means ~~((an additional sample is analyzed from the same location where a detection has occurred to confirm the detection. The original sample and the confirmation sample are collected and analyzed within a reasonable period of time, generally not to exceed two weeks. Confirmation occurs when the confirmation sample analysis result falls within plus or minus thirty percent of the original sample result))~~ to demonstrate the accuracy of results of a sample by analyzing another sample from the same location within a reasonable period of time, generally not to exceed two weeks. Confirmation occurs when analysis results fall within plus or minus thirty percent of the original sample results. This confirmation analysis is in addition to any analytical method confirmation requirements.

~~((7))~~ (10) "Contaminant" means a substance present in drinking water that may adversely affect the health of the consumer or the aesthetic quality of the water. It is measured using an analytical method for compliance purposes under chapters 246-290 and 246-291 WAC.

(11) "Contracted lab" means a certified lab that receives a drinking water sample from another certified lab for analysis.

~~((8))~~ (12) "Contracting lab" means a certified lab that sends a drinking water sample to another certified lab to be analyzed.

~~((9))~~ (13) "CU" means color unit.

(14) "Department" means the Washington state department of health or health officer as identified in a joint plan of responsibility under WAC 246-290-030(1).

~~((10))~~ (15) "Ecology" means the Washington state department of ecology.

~~((11))~~ (16) "EPA" means the United States Environmental Protection Agency.

~~((12))~~ (17) "Estimated concentration" means the level of the ~~((analyte))~~ contaminant reported to the department is above a lab's MDL, but below the lab's MRL.

~~((13))~~ (18) "GWR" means groundwater rule.

~~((14))~~ (19) "Lab" or "certified lab" means an environmental lab accredited under chapter 173-50 WAC for one or more drinking water ~~((analytes))~~ contaminants and meets the requirements of this chapter.

~~((15))~~ (20) "Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water that a public water system delivers to consumers. MCLs are established in chapters 246-290 and 246-291 WAC.

~~((16))~~ (21) "Minimum detectable activity (MDA)" means the smallest activity or concentration of radioactive material in a sample that will yield a net count (above sample background) that can be detected with ninety-five percent probability.

~~((17))~~ (22) "Minimum detection level (MDL)" means the minimum measured concentration of a substance that can be reported with ninety-nine percent confidence that the measured concentration is distinguishable from the method blank results.

~~((18))~~ (23) "Method reporting limit (MRL)" means the lowest concentration of a standard used for calibration.

~~((19))~~ (24) "MFL" means microfibers per liter.

(25) "mg/L" means milligrams per liter (1 mg/L = 1 ppm).

(26) "MPN" means most probable number.

(27) "ng/L" means nanograms per liter (1 ng/L = 1 ppt).

(28) "NTU" means nephelometric turbidity units.

(29) "pCi/L" means picocuries per liter.

(30) "ppb" means parts per billion (1 ppb = 1 µg/L).

(31) "ppm" means parts per million (1 ppm = 1 mg/L).

(32) "ppt" means parts per trillion (1 ppt = 1 ng/L).

(33) "Proficiency testing (PT)" means the evaluation of sample analysis results, the true values of which are known to the supplier of the samples, but unknown to the lab conducting the analysis. PT samples are provided by a source external to the certified lab.

~~((20))~~ (34) "Public water system" is defined ~~((and reference))~~ under WAC 246-290-020 and 246-291-010.

~~((21))~~ (35) "Quality control (QC)" means a set of measures used during an analytical method to ensure that the process is within specified control parameters.

~~((22))~~ (36) "State action level (SAL)" means the concentration of a contaminant or group of contaminants, without an MCL, established to protect public health in accordance with WAC 246-290-315 and which, if exceeded, trig-

gers actions a purveyor must take in accordance with WAC 246-290-320.

(37) "State detection reporting limit (SDRL)" means the minimum reportable detection of ~~((an analyte))~~ a contaminant as established in Tables ~~((4))~~ 3 through ~~((4))~~ 7 of this chapter.

(38) "Tentatively identified compound (TIC)" means compounds detected in samples that are not target compounds, internal standards, system monitoring compounds or surrogates.

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

WAC 246-390-055 Reporting contracted analytical results. (1) A contracting lab that contracts with another lab shall:

~~((1))~~ (a) Verify that the contracted lab is ~~((a))~~ currently certified ~~((lab))~~ in Washington to analyze samples for the contaminant;

~~((2))~~ (b) Notify the public water system that a sample will be contracted to another lab at the time the contracting lab confirms that the sample will be contracted out to another lab;

(c) Confirm that the contracted lab receives the sample within fourteen calendar days of the contracting lab receiving the sample, but not to exceed ~~((an analyte))~~ a contaminant holding time if the holding time is less than fourteen calendar days;

~~((3))~~ (d) Provide the following information to the contracted lab:

~~((a))~~ (i) The public water system's department assigned water system identification number;

~~((b))~~ (ii) The name of the public water system;

~~((c))~~ (iii) The date the sample was collected;

~~((d))~~ (iv) The location where the sample was collected;

~~((e))~~ (v) The public water system's department assigned source identification number;

~~((f))~~ (vi) The purpose for the sample;

~~((g))~~ (vii) The sample composition; and

~~((h))~~ (viii) The sample type;

(e) Identify, on the final analytical results to the public water system, which sample results were contracted to another lab and clearly identify the lab.

~~((4) The contracted lab shall)~~ (2) A contracted lab that receives a sample from a contracting lab shall:

(a) Submit to the department a copy of the analytical results following the requirements under WAC 246-390-065 and 246-390-075;

~~((5) The contracted lab shall)~~ (b) Submit a copy of the analytical results to the contracting lab in the format and time frame per the contract terms established between the contracting lab and the contracted lab.

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

WAC 246-390-065 Notification requirements. (1) In addition to the data reporting requirements under WAC 246-390-075, a lab shall notify the department and the public water system ~~((for:~~

~~(a)(i) Routine, repeat, GWR, triggered source water monitoring, and assessment source water monitoring results, as required under chapter 246-290 WAC, that are *E. coli* bacteria present.~~

~~(ii) Notification occurs with no less than three attempts to contact the department and the public water system by telephone, facsimile, or email as soon as possible after sample results have been determined, but no later than the close of business.~~

~~(b)(i) Routine, repeat, GWR, triggered source water monitoring, and assessment source water monitoring results that are total coliform bacteria present.~~

~~(ii) Notification occurs with one attempt to contact the department and the public water system by telephone (voice mail is acceptable), facsimile, or email as soon as possible after sample results have been determined, but no later than the close of business on the next business day. For labs that~~

operate seven days per week or observe regular holidays; weekends and holidays are not considered "business days" for the purposes of this subsection.

~~(e) Routine or confirmation sample results for nitrate or nitrite that exceed the MCL under chapters 246-290 and 246-291 WAC; or~~

~~(d)(i) Routine or confirmation sample results for inorganic, organic, or radiological contaminants that exceed four times the contaminant's primary MCL under chapters 246-290 and 246-291 WAC.~~

~~(ii) For (e) and (d) of this subsection, notification occurs with one attempt to contact the department and public water system by telephone, facsimile, or email as soon as possible after sample results have been verified by quality control staff, but no later than the close of business.~~

~~(2)) in accordance with Table 1 of this section for the following exceedances:~~

Table 1 - Notification Requirements for Routine Compliance Samples

<u>Sample type</u>	<u>Exceeds</u>	<u>¹Required Notification</u>	<u>Required Number of Attempts to Contact the Department</u>
<u>Routine, repeat, triggered, and assessment water coliform samples</u>	<u>Total coliform positive and <i>E. coli</i> positive</u>	<u>Close of business same day</u>	<u>3</u>
<u>Routine, repeat, triggered, and assessment water coliform samples</u>	<u>Total coliform positive and <i>E. coli</i> negative</u>	<u>Close of business² next business day</u>	<u>1</u>
<u>Routine or confirmation samples for nitrate or nitrite</u>	<u>MCL under chapters 246-290 and 246-291 WAC</u>	<u>Close of business same day</u>	<u>3</u>
<u>Routine or confirmation sample results for other inorganic, organic, or radiological contaminant sample results</u>	<u>4 times the state or federal MCL under chapters 246-290 and 246-291 WAC</u>	<u>Close of business same day</u>	<u>1</u>

~~(2) For routine or confirmation sample results for contaminants that exceed the SAL or state MCL under WAC 246-290-315 and classified as Tier 1, Tier 2 bioaccumulative, or Tier 2 nonbioaccumulative under WAC 246-290-71006 Table 17, a lab shall notify the department as indicated in Table 2 of this section:~~

Table 2 - Notification Requirements for Contaminants with a SAL or State MCL

<u>Tier Number</u>	<u>Bioaccumulative (Y/N)</u>	<u>Exceeds</u>	<u>¹Required Notification</u>	<u>Required Number of Attempts to Contact the Department</u>
<u>Tier 1</u>	<u>Either</u>	<u>SAL or state MCL</u>	<u>Close of business same day</u>	<u>3</u>
<u>Tier 2</u>	<u>Y</u>	<u>4 times SAL or state MCL</u>	<u>Close of business same day</u>	<u>3</u>
<u>Tier 2</u>	<u>Y</u>	<u>SAL or state MCL</u>	<u>Close of business² next business day</u>	<u>1</u>
<u>Tier 2</u>	<u>N</u>	<u>4 times SAL or state MCL</u>	<u>Close of business same day</u>	<u>1</u>

¹ Notification may occur by telephone, facsimile, or email. If close of business is after 5 p.m. PST, contact the department's after-hours telephone number.

² For labs that operate seven days per week or observe regular holidays; weekends and holidays are not considered business days for the purposes of this subsection.

~~(3) A lab shall:~~

(a) Document all notification attempts required under subsections (1) and (2) of this section by recording the following information in a paper or electronic logbook:

- (i) Date;
 - (ii) Time;
 - (iii) Sample number;
 - (iv) Public water system name and department-assigned identification number;
 - (v) The contact person and telephone number, facsimile number, or email address for the public water system;
 - (vi) The contact person and telephone number, facsimile number, or email address of the department; and
 - (vii) The initials of the lab person that made the attempt.
- (b) Make the logbook available to the department upon request; and
- (c) Retain the logbook for a minimum of two years after the last entry date.

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

WAC 246-390-075 Reporting. (1) A lab shall report analytical results to the department and the public water system.

(2) ~~((Effective December 1, 2018,))~~ A lab submitting paper reports shall complete and submit to the department data reports following the procedures and templates in the department's *Laboratory Reporting Guidance*, Publication DOH 331-530, ~~((March 2018))~~ December 2021.

(3) A lab submitting electronic reports shall complete and submit to the department data reports following the procedures in the department's *Electronic Reporting Guidance*, Publication 331-289, ~~((March 2018))~~ December 2021.

(4) Labs shall submit reports to the public water system in the format and time frame that was agreed upon when executing the service agreement between the laboratory and the public water system.

(5) Labs shall submit reports of acute contaminant results within ten business days after receiving the sample.

(6) Labs shall submit reports of chronic contaminants within ~~((forty-five business))~~ thirty calendar days after receiving the sample.

(7) Analytical results must be complete, legible, and accurate.

(8) A lab shall report numerical results consistent with the accuracy of the EPA-approved methods and any associated lab instruments, glassware, or tools.

(9) A lab shall report numerical results out to, but not exceed, one decimal place past the SDRL in cases where the last definitely known digit exceeds one decimal place past the SDRL as follows:

(a) If the SDRL is 1.1 and the result, out to the last definitely known digit is 1.132, then the value reported to the department is 1.13;

(b) If the digit 6, 7, 8, or 9 is dropped, increase the preceding digit by one unit;

(c) If the digit 0, 1, 2, 3, or 4 is dropped, do not alter the preceding digit; or

(d) If the digit 5 is dropped, round off the preceding digit to the nearest even number. For example, 2.25 becomes 2.2, and 2.35 becomes 2.4.

(10) A lab shall include the following data qualifiers adjacent to the results that are affected:

(a) "B" - This data qualifier is used when the target ~~((analyte))~~ contaminant is detected in the method blank above the lab's established MRL or SDRL, whichever is lower;

(b) "J" - This data qualifier is used when the result is an estimated concentration per subsections (13) ~~((and))~~, (14), and (17) of this section;

(c) "NDDS" - This data qualifier is used when the ~~((analyte))~~ contaminant is not detected in duplicate sample; or

(d) "U" - This data qualifier is used when the radiochemistry ~~((analyte))~~ contaminant is not detected at or above the lab's established MDA.

(11) A lab shall notate on the report to the public water system and the department when any analysis is completed using a provisional accreditation.

(12) At the department's request, a lab shall submit the following information:

(a) The method specific QC for any given analytical report.

(b) The most recent MDL procedures performed for any given ~~((analyte))~~ contaminant.

(c) The most recent PT study performed for any given ~~((analyte))~~ contaminant.

(13) The SDRLs for organic chemical ~~((analytes))~~ contaminants are established in Table ~~((+))~~ 3 of this section. All contaminants in Table 3 are considered chronic contaminants.

(a) Labs shall attach to the ~~((lab report))~~ analytical result a copy of the method specific QC results for any organic chemical detection that is reported to the department which is at or above the SDRLs listed in Table ~~((+))~~ 3 of this section except for:

- (i) Chloroform (0027);
- (ii) Bromodichloromethane (0028);
- (iii) Dibromochloromethane (0029);
- (iv) Bromoform (0030);
- (v) Monochloroacetic Acid (0411);
- (vi) Dichloroacetic Acid (0412);
- (vii) Trichloroacetic Acid (0413);
- (viii) Monobromoacetic Acid (0414);
- (ix) Monobromoacetic Acid (0415); and
- (x) Total Organic Carbon (0421).

(b) A lab shall report organic chemical ~~((analyte))~~ contaminant results when the lab's established MRL is greater than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL;

(ii) An estimated concentration, notated with a "J" data qualifier when a result is equal to or greater than the SDRL, but less than the lab's established MRL;

(iii) A number when a result is equal to or greater than the lab's established MRL.

(c) A lab shall report organic chemical ~~((analyte))~~ contaminant results when the lab's established MRL is less than the SDRL as:

- (i) "Nondetect" or "ND" when a lab's result is less than the lab's established MRL;
- (ii) "Nondetect" or "ND" when a lab's result is less than the ((lab's)) established SDRL; or
- (iii) A number when a result is equal to or greater than the SDRL.
- (d) A lab shall report organic chemical ((analyte)) contaminant results when their established MRL is equal to the SDRL as:
 - (i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL; or
 - (ii) A number when a result is equal to or greater than the SDRL and the lab's established MRL.

Table ((4)) 3 - Organic ((Chemicals)) Contaminants

((Analyte)) Contaminant Name	((Analyte)) Contaminant Number	Units	SDRL
1,1 Dichloroethane	0058	µg/L	0.5
1,1 Dichloroethylene	0046	µg/L	0.5
1,1 Dichloropropene	0062	µg/L	0.5
1,1,1 Trichloroethane	0047	µg/L	0.5
1,1,1,2 Tetrachloroethane	0072	µg/L	0.5
1,1,2 Trichloroethane	0067	µg/L	0.5
1,1,2,2 Tetrachloroethane	0080	µg/L	0.5
1,2 Dichlorobenzene	0084	µg/L	0.5
1,2 Dichloroethane	0050	µg/L	0.5
1,2 Dichloropropane	0063	µg/L	0.5
1,2,3 Trichlorobenzene	0098	µg/L	0.5
1,2,3 Trichloropropane	0079	µg/L	0.5
1,2,4 Trichlorobenzene	0095	µg/L	0.5
1,2,4 Trimethylbenzene	0091	µg/L	0.5
1,3 Dichloropropane	0070	µg/L	0.5
1,3 Dichloropropene	0154	µg/L	0.5
1,3,5 Trimethylbenzene	0089	µg/L	0.5
1,4 Dichlorobenzene	0052	µg/L	0.5
2,2 Dichloropropane	0059	µg/L	0.5
2,3,7,8 TCDD (dioxin)	0149	ng/L	0.005
2,4 D	0037	µg/L	0.1
2,4 DB	0135	µg/L	1
2,4,5 T	0136	µg/L	0.4
2,4,5 TP (Silvex)	0038	µg/L	0.2
3,5 Dichlorbenzoic Acid	0226	µg/L	0.5
4,4 DDD	0232	µg/L	0.1
4,4 DDE	0233	µg/L	0.1
4,4 DDT	0234	µg/L	0.1
Acenaphthylene	0244	µg/L	0.2
Acifluorfen	0223	µg/L	2
Alachlor	0117	µg/L	0.2
Aldicarb	0142	µg/L	0.5
Aldicarb Sulfone	0143	µg/L	0.8
Aldicarb Sulfoxide	0144	µg/L	0.5
Aldrin	0118	µg/L	0.1
Anthracene	0246	µg/L	0.2
Arochlor 1016	0180	µg/L	0.08

((Analyte)) Contaminant Name	((Analyte)) Contaminant Number	Units	SDRL
Arochlor 1221	0173	µg/L	20
Arochlor 1232	0174	µg/L	0.5
Arochlor 1242	0175	µg/L	0.3
Arochlor 1248	0176	µg/L	0.1
Arochlor 1254	0177	µg/L	0.1
Arochlor 1260	0178	µg/L	0.2
Atrazine	0119	µg/L	0.1
Bentazon	0220	µg/L	0.5
Benzene	0049	µg/L	0.5
Benzo (a) anthracene	0247	µg/L	0.2
Benzo (a) Pyrene	0120	µg/L	0.02
Benzo (b) fluoroanthene	0248	µg/L	0.2
Benzo (k) fluoranthene	0250	µg/L	0.2
Benzyl Butyl Phthalate	0258	µg/L	1.0
Bromacil	0179	µg/L	0.1
Bromobenzene	0078	µg/L	0.5
Bromochloromethane	0086	µg/L	0.5
Bromodichloromethane	0028	µg/L	0.5
Bromoform	0030	µg/L	0.5
Bromomethane	0054	µg/L	0.5
Butachlor	0121	µg/L	0.1
Carbaryl	0145	µg/L	2
Carbofuran	0146	µg/L	0.9
Carbon Tetrachloride	0048	µg/L	0.5
Chlordane (total)	0122	µg/L	0.2
Chlorobenzene	0071	µg/L	0.5
Chloroethane	0055	µg/L	0.5
Chloroform	0027	µg/L	0.5
Chloromethane	0053	µg/L	0.5
Chrysene	0251	µg/L	0.2
Cis- 1,2 Dichloroethylene	0060	µg/L	0.5
Cis- 1,3 Dichloropropene	0065	µg/L	0.5
Dalapon	0137	µg/L	1
DBCP	0103	µg/L	0.02
DBCP (screening)	0428	µg/L	0.5
DCPA Acid Metabolites	0225	µg/L	0.1
Di (2-Ethylhexyl) Adipate	0124	µg/L	0.6
Di (2-Ethylhexyl) Phthalate	0125	µg/L	0.6
Dibromoacetic Acid	0415	µg/L	1
Dibromochloromethane	0029	µg/L	0.5
Dibromomethane	0064	µg/L	0.5
Dicamba	0138	µg/L	0.2

((Analyte)) Contaminant Name	((Analyte)) Contaminant Number	Units	SDRL
Dichloroacetic Acid	0412	µg/L	1
Dichlorodifluoromethane	0104	µg/L	0.5
Dichloroprop	0221	µg/L	0.5
Dieldrin	0123	µg/L	0.1
Diethyl Phthalate	0260	µg/L	1.0
Dimethyl Phthalate	0261	µg/L	1.0
Di-n-butyl Phthalate	0259	µg/L	1.0
Dinoseb	0139	µg/L	0.2
Diquat	0150	µg/L	0.4
EDB	0102	µg/L	0.01
EDB (screening)	0427	µg/L	0.5
Endothal	0151	µg/L	9
Endrin	0033	µg/L	0.01
EPTC	0208	µg/L	0.1
Ethylbenzene	0073	µg/L	0.5
((Fluoranthene	0253	µg/L	0.2)
Fluorene	0254	µg/L	0.2
Glyphosate	0152	µg/L	6
HAA(5)	0416	µg/L	((*) ±
Heptachlor	0126	µg/L	0.04
Heptachlor Epoxide	0127	µg/L	0.02
Hexachlorobenzene	0128	µg/L	0.1
Hexachlorobutadiene	0097	µg/L	0.5
Hexachlorocyclopentadiene	0129	µg/L	0.1
Isopropylbenzene	0087	µg/L	0.5
Lindane (bhc - gamma)	0034	µg/L	0.02
M- dichlorobenzene	0083	µg/L	0.5
M/P Xylenes (MCL for total)	0074	µg/L	0.5
Methomyl	0147	µg/L	4
Methoxychlor	0035	µg/L	0.1
Methylene Chloride (Dichloromethane)	0056	µg/L	0.5
Metolachlor	0130	µg/L	0.1
Metribuzin	0131	µg/L	0.1
Molinate	0218	µg/L	0.1
Monobromoacetic Acid	0414	µg/L	1
Monochloroacetic Acid	0411	µg/L	2
Naphthalene	0096	µg/L	0.5
N-Butylbenzene	0094	µg/L	0.5
N-Propylbenzene	0088	µg/L	0.5
O- Chlorotoluene	0081	µg/L	0.5
O- Xylene (MCL for total)	0075	µg/L	0.5
Oxamyl	0148	µg/L	2

((Analyte)) Contaminant Name	((Analyte)) Contaminant Number	Units	SDRL
P- Chlorotoluene	0082	µg/L	0.5
Paraquat	0400	µg/L	0.8
PCB (as Decachlorobiphenyl)	0401	µg/L	0.1
Pentachlorophenol	0134	µg/L	0.04
Phenanthrene	0256	µg/L	0.2
Picloram	0140	µg/L	0.1
P-Isopropyltoluene	0093	µg/L	0.5
Propachlor	0132	µg/L	0.1
Pyrene	0257	µg/L	0.2
Sec- Butylbenzene	0092	µg/L	0.5
Simazine	0133	µg/L	0.07
Styrene	0076	µg/L	0.5
Terbacil	0190	µg/L	0.1
Tert- Butylbenzene	0090	µg/L	0.5
Tetrachloroethylene	0068	µg/L	0.5
Toluene	0066	µg/L	0.5
Total organic carbon	0421	mg/L	0.7
Total Trihalomethane	0031	µg/L	((±)) ±
Total Xylenes	0160	µg/L	0.5
Toxaphene	0036	µg/L	1
Trans- 1,2 Dichloroethylene	0057	µg/L	0.5
Trans- 1,3 Dichloropropene	0069	µg/L	0.5
Trichloroacetic Acid	0413	µg/L	1
Trichloroethylene	0051	µg/L	0.5
Trichlorofluoromethane	0085	µg/L	0.5
Trifluralin	0243	µg/L	0.1
Vinyl Chloride	0045	µg/L	0.5

~~((Key~~

~~mg/L~~ = parts per million, or milligrams per liter

~~ng/L~~ = nanograms per liter

~~µg/L~~ = parts per billion, or micrograms per liter

~~±~~ ⇒) ± Results are calculated values based on other analytical results.

(14) The SDRLs for inorganic chemical ~~((analytes))~~ contaminants are established in Table ~~((2))~~ 4 of this section. All contaminants in Table 4 are considered chronic contaminants except annual, quarterly, or monthly nitrate analysis which is considered an acute contaminant. Labs shall report analytical results within ten business days after receiving the nitrate sample. If nitrate analysis is part of a routine complete inorganic compound panel, then labs shall submit a report to the department within thirty calendar days after receiving the sample.

(a) A lab shall report inorganic chemical ~~((analyte))~~ contaminant results when the lab's established MRL is greater than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL;

(ii) An estimated concentration, notated with a "J" data qualifier, when a result is equal to or greater than the SDRL, but less than the lab's established MRL; or

(iii) A number when a result is equal to or greater than the lab's established MRL.

(b) A lab shall report inorganic chemical ~~((analyte))~~ contaminant results when the lab's established MRL is less than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the lab's established MRL;

(ii) "Nondetect" or "ND" when a lab's result is less than the ~~((lab's))~~ department's established SDRL, but greater than the lab's established MRL; or

(iii) A number when a result is equal to or greater than the SDRL.

(c) A lab shall report inorganic chemical (~~(analyte)~~) contaminant results when the lab's established MRL is equal to the SDRL as:

- (i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL; or
- (ii) A number when a result is equal to or greater than the SDRL and the lab's established MRL.

Table ~~(2)~~ 4 - Inorganic (~~(Chemicals)~~) Contaminants

(Analyte) <u>Contaminant Name</u>	(Analyte) <u>Contaminant Number</u>	<u>Units</u>	<u>SDRL</u>
Alkalinity-Lab	0403	mg/L	5
Antimony	0112	mg/L	0.003
Arsenic	0004	mg/L	0.001
Asbestos	0115	MFL	0.20
Barium	0005	mg/L	0.1
Beryllium	0110	mg/L	0.0003
Bromate	0419	mg/L	0.005/0.001((*))
Cadmium	0006	mg/L	0.001
Chloride	0021	mg/L	((20)) 2
Chlorite	0418	mg/L	0.02
Chromium	0007	mg/L	0.007
Color	0018	CU	15
Conductivity	0016	µmhos/cm	70
Copper	0023	mg/L	0.02
Cyanide	0116	mg/L	0.05
Fluoride	0019	mg/L	0.2
Hardness	0015	mg/L	10
Iron	0008	mg/L	0.1
Lead	0009	mg/L	0.001
Manganese	0010	mg/L	0.01
Mercury	0011	mg/L	0.0002
Nickel	0111	mg/L	0.005
Nitrate-n	0020	mg/L	0.5
Nitrite-n	0114	mg/L	0.1
Selenium	0012	mg/L	0.002
Silver	0013	mg/L	0.1
Sodium	0014	mg/L	5
Sulfate	0022	mg/L	((50)) 2
TDS-total dissolved solids	0026	mg/L	100
Thallium	0113	mg/L	0.001
Total nitrate/nitrite	0161	mg/L	0.5
Turbidity	0017	NTU	0.1
Zinc	0024	mg/L	0.2

~~(Key~~

- ~~CU~~ = color units
- ~~MFL~~ = million fibers per liter
- ~~mg/L~~ = parts per million, or milligrams per liter
- ~~NTU~~ = nephelometric turbidity units
- ~~µmhos/cm~~ = micromhos per centimeter
- ~~*~~ =>) Labs that use EPA Methods 317.0, 326.0 or 321.8 must meet a 0.0010 mg/L SDRL for bromate.

(15) The SDRLs for radiochemistry (~~(analyte)~~) contaminants are established in Table ~~((3))~~ 5 of this section. All contaminants in Table 5 are considered chronic contaminants.

(a) A lab's MDA must meet the established SDRL levels for the analysis to be considered for compliance purposes.

(b) A lab shall report radiochemistry (~~(analyte)~~) contaminant results as:

(i) A number and a "U" qualifier if the (~~(analyte)~~) contaminant was analyzed for, but not detected at or above the lab's established MDA; or

(ii) A number when a result is equal to or greater than the lab's established MDA.

Table ~~((3))~~ 5 - Radiochemistry Contaminants

((Analyte)) <u>Contaminant Name</u>	((Analyte)) <u>Contaminant Number</u>	<u>Units</u>	<u>SDRL</u>
Cesium 134	0107	pCi/L	10.0
Gross Alpha	0165	pCi/L	3.0
Gross Alpha (Minus Uranium)	0041	pCi/L	((*)) ±
Gross Beta	0042	pCi/L	4.0
Iodine 131	0108	pCi/L	1.0
Radium 226	0039	pCi/L	1.0
Radium 226 + 228	0040	pCi/L	((*)) ±
Radium 228	0166	pCi/L	1.0
Radon	0109	pCi/L	((*)) ±
Strontium 90	0044	pCi/L	2.0
Tritium	0043	pCi/L	1000
Uranium	0105	µg/L	1.0

~~((Key~~

~~pCi/L~~ = picocuries per liter

~~µg/L~~ = parts per billion, or micrograms per liter

~~*~~ =) ± Results are calculated values based on other analytical results.

(16) The units for microbiology (~~(analytes)~~) contaminants are established in Table ~~((4))~~ 6 of this section. All contaminants in Table 6 are considered acute contaminants.

(a) Total coliform and *E. coli* results for routine and repeat samples in accordance with 40 C.F.R. 141 Subpart Y - Revised Total Coliform Rule, GWR triggered, and GWR assessment source sample results that are absent or present as follows:

(i) "Satisfactory" if no total coliforms are detected.

(ii) "Unsatisfactory" if:

(A) Total coliforms are detected; and

(B) *E. coli* absent if *E. coli* is not detected; or

(C) *E. coli* present if *E. coli* is detected.

(b) A lab shall report routine filtered and unfiltered surface water microbiology (~~(analyte)~~) contaminant results as a number.

(c) A lab shall report routine heterotrophic plate count results as a number.

(d) A lab shall report results of investigative samples or samples collected for information only to the public water system for total coliforms, fecal coliforms, and *E. coli* as a number or, as absent or present. Investigative samples or samples collected for information only are not required to be reported to the department.

Table ~~((4))~~ 6 - Microbiology Contaminants

((Analyte)) <u>Contaminant Name</u>	((Analyte)) <u>Contaminant Number</u>	<u>Units</u>
<u><i>E. coli</i> (numerical)</u>	<u>0003</u>	<u>CFU/100mL</u>
<u><i>E. coli</i> (numerical)</u>	<u>0003</u>	<u>MPN/100mL</u>
<u><i>E. coli</i> (absence/presence)</u>	<u>0003</u>	<u>N/A</u>
<u>Fecal Coliform (numerical)</u>	<u>0002</u>	<u>CFU/100mL</u>
<u>Fecal Coliform (numerical)</u>	<u>0002</u>	<u>MPN/100mL</u>
<u>Fecal Coliform (absence/presence)</u>	<u>0002</u>	<u>N/A</u>
<u>Heterotrophic Plate Count (numerical)</u>	<u>0101</u>	<u>CFU/1mL</u>

((Analyte)) Contaminant Name	((Analyte)) Contaminant Number	Units
Heterotrophic Plate Count (numerical)	0101	MPN/mL
Total Coliform (numerical)	0001	CFU/100mL
Total Coliform (numerical)	0001	MPN/100mL
Total Coliform (absence/presence)	0001	N/A
((Fecal Coliform (numerical))	0002	CFU/100mL
Fecal Coliform (numerical)	0002	MPN/100mL
Fecal Coliform (absence/presence)	0002	N/A
<i>E. coli</i> (numerical)	0003	CFU/100mL
<i>E. coli</i> (numerical)	0003	MPN/100mL
<i>E. coli</i> (absence/presence)	0003	N/A
Heterotrophic Plate Count (numerical)	0101	CFU/1mL

Key

- CFU/100mL** = colony forming units per 100 milliliters of sample
- CFU/1mL** = colony forming units per 1 milliliter of sample
- MPN/100mL** = most probable number per 100 milliliters of sample))

(17) The SDRLs for per- and polyfluoroalkyl substances (PFAS) are established in Table 7 of this section. All contaminants in Table 7 are considered chronic contaminants.

(a) A lab shall analyze PFAS samples using EPA method 537.1, or EPA method 533, or with written approval, other department-approved methods.

(b) A lab shall report PFAS contaminant results when the lab's established MRL is greater than the SDRL as follows:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL;

(ii) An estimated concentration, notated with a "J" data qualifier when a result is equal to or greater than the SDRL, but less than the lab's established MRL; or

(iii) A number when a result is equal to or greater than the lab's established MRL.

(c) A lab shall report PFAS contaminant results when the lab's established MRL is less than the SDRL as follows:

(i) "Nondetect" or "ND" when a lab's result is less than the lab's established MRL;

(ii) "Nondetect" or "ND" when a lab's result is less than the established SDRL; or

(iii) A number when a result is equal to or greater than the SDRL.

(d) A lab shall report PFAS contaminant results when the lab's established MRL is equal to the SDRL as follows:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL; or

(ii) A number when a result is equal to or greater than the SDRL and the lab's established MRL.

(e) A lab shall report to the department any tentatively identified compounds (TIC) that are detected while analyzing a PFAS sample if the approved method allows for TIC determinations to be made.

(f) A lab shall attach to the analytical result a copy of the method-specific QC results for any TIC detections that are reported to the department.

Table 7 - Per- and Polyfluoroalkyl Contaminants

<u>Contaminant Name</u>	<u>Contaminant Number</u>	<u>Units</u>	<u>SDRL</u>	³ <u>Required Contaminant List for EPA 537.1</u>	⁴ <u>Required Contaminant List for EPA 533</u>
(11Cl-PF3OUdS) 11-Chloroeicosafluoro-3-oxaundecane-1-sulfonic acid	448	ng/L	2	Y	Y
(4:2FTS) 1H,1H, 2H, 2H-Perfluorohexane sulfonic acid	450	ng/L	2	N	Y
(6:2FTS) 1H,1H, 2H, 2H-Perfluorooctane sulfonic acid	451	ng/L	2	N	Y
(8:2FTS) 1H,1H, 2H, 2H-Perfluorodecane sulfonic acid	452	ng/L	2	N	Y
(9Cl-PF3ONS) 9-Chlorohexadecafluoro-3-oxanonane-1-sulfonic acid	446	ng/L	2	Y	Y

<u>Contaminant Name</u>	<u>Contaminant Number</u>	<u>Units</u>	<u>SDRL</u>	<u>³Required Contaminant List for EPA 537.1</u>	<u>⁴Required Contaminant List for EPA 533</u>
(ADONA) 4,8-Dioxa-3H-perfluorononanoic acid	445	ng/L	2	Y	Y
(HFPO-DA) Hexafluoropropylene oxide dimer acid	447	ng/L	2	Y	Y
(NEtFOSAA) N-ethyl perfluorooctanesulfonamido-acetic acid	441	ng/L	3	Y	N
(NFDHA) Nonafluoro-3,6-dioxaheptanoic acid	453	ng/L	2	N	Y
(NMeFOSAA) N-methyl perfluorooctanesulfonamidoacetic acid	442	ng/L	3	Y	N
(PFBA) Perfluorobutanoic acid	454	ng/L	2	N	Y
(PFBS) Perfluorobutanesulfonic acid	429	ng/L	2	Y	Y
(PFDA) Perfluorodecanoic acid	436	ng/L	2	Y	Y
(PFDoA) Perfluorododecanoic acid	438	ng/L	2	Y	Y
(PFEESA) Perfluoro(2-ethoxyethane)sulfonic acid	460	ng/L	2	N	Y
(PFHpA) Perfluoroheptanoic acid	430	ng/L	2	Y	Y
(PFHpS) Perfluoroheptanesulfonic acid	455	ng/L	2	N	Y
(PFHxA) Perfluorohexanoic acid	435	ng/L	2	Y	Y
(PFHxS) Perfluorohexanesulfonic acid	431	ng/L	2	Y	Y
(PFMBA) Perfluoro-4-methoxybutanoic acid	456	ng/L	2	N	Y
(PFMPA) Perfluoro-3-methoxypropanoic acid	457	ng/L	2	N	Y
(PFNA) Perfluorononanoic acid	432	ng/L	2	Y	Y
(PFOA) Perfluorooctanoic acid	434	ng/L	2	Y	Y
(PFOS) Perfluorooctanesulfonic acid	433	ng/L	2	Y	Y
(PFPeA) Perfluoropentanoic acid	458	ng/L	2	N	Y
(PFPeS) Perfluoropentanesulfonic acid	459	ng/L	2	N	Y
(PFTA) Perfluorotetradecanoic acid	440	ng/L	2	Y	N
(PFTrDA) Perfluorotridecanoic acid	439	ng/L	2	Y	N
(PFUnA) Perfluoroundecanoic acid	437	ng/L	2	Y	Y

³ For a water system to qualify for a monitoring waiver these contaminants must be reported to the department if analyzing the sample using EPA method 537.1.

⁴ For a water system to qualify for a monitoring waiver these contaminants must be reported to the department if analyzing the sample using EPA method 533.

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

WAC 246-390-085 Enforcement. (1) When a lab fails to comply with the requirements of this chapter, the department may initiate one or more of the following enforcement actions:

(a) An informal (~~letter~~) enforcement document directing appropriate corrective measures to return a lab to compliance with the requirements of this chapter prior to taking formal enforcement measures;

(b) A formal enforcement process that includes, but is not limited to:

(i) ~~A notice ((of)) to correct violations ((requiring appropriate corrective measures~~;

(e) ~~A compliance schedule of specific actions needed to achieve compliance~~;

~~(d) A notice of correction with specific actions needed within a designated time period to achieve compliance~~);

~~(ii) An order to correct violations; or~~

~~(iii) A formal compliance agreement.~~

(2) If a lab fails to comply with ~~((a notice of correction as))~~ the terms and deadlines specified in one or more enforcement documents in subsection (1)((+)) of this section, the department may revoke or suspend a lab's drinking water certification in accordance with WAC 246-390-095.

AMENDATORY SECTION (Amending WSR 18-09-048, filed 4/13/18, effective 5/14/18)

WAC 246-390-095 Revocation and suspension. (1)

The department may suspend a lab's certification for up to one year or revoke a lab's certification for up to five years if

a lab fails to comply with ~~((a notice of correction as))~~ any formal enforcement actions specified in WAC 246-390-085(1).

(2) A lab whose certification is suspended or revoked may, after the period of suspension or revocation has ended, apply for certification in conformance with the requirements at the time of application.

(3) If ecology suspends or revokes a lab's accreditation for drinking water ~~((analytes))~~ contaminants as authorized under chapter 173-50 WAC, the department shall immediately suspend or revoke a lab's certification to analyze drinking water samples. The lab must immediately notify the department and public water systems of any samples that are invalidated as a result of the revocation or suspension.

WSR 21-16-095

PROPOSED RULES

STATE BOARD OF HEALTH

[Filed August 3, 2021, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-01-080.

Title of Rule and Other Identifying Information: Chapter 246-290 WAC, Group A public water supplies. The proposal makes amendments to this chapter to include requirements regarding per- and polyfluoroalkyl substances (PFAS), federally unregulated contaminants. The proposal establishes the administrative processes for setting drinking water quality standards as state action levels (SAL) and state maximum contaminant levels (MCLs). The proposal also establishes SALs for five PFAS contaminants: Perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), and perfluorobutane sulfonic acid (PFBS). The proposal requires Group A community and nontransient non-community public water systems to test for PFAS. For those Group A water systems that have detections of PFAS, but do not exceed the SAL, the proposal requires additional ongoing monitoring, with the frequency of monitoring based upon the detected level in comparison to the SAL. It also establishes reporting, recordkeeping, and consumer confidence report requirements. For those Group A water systems that exceed the SAL, the proposal requires follow-up actions such as monitoring, public notification, additional recordkeeping, and reporting requirements.

Hearing Location(s): On October 13, 2021, at 1:30 p.m. In response to the COVID-19 pandemic and public health emergency, the state board of health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Please register for the public hearing for chapter 246-290 WAC, Group A public water supplies. Registration link here https://us02web.zoom.us/webinar/register/WN_KVff1ReLToOu6mTS_GHpjg. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: October 13, 2021.

Submit Written Comments to: Jocelyn W. Jones, Department of Health, Office of the Assistant Secretary, P.O. Box 47820-7820, Olympia, WA 98504-7820, email <https://fortress.wa.gov/doh/policyreview>, PFAS1@doh.wa.gov, by September 3, 2021.

Assistance for Persons with Disabilities: Contact Jocelyn W. Jones, phone 360-236-3020, TTY 711, email jocelyn.jones@doh.wa.gov, PFAS1@doh.wa.gov, by September 29, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to protect public health by establishing SALs for PFAS, which are currently unregulated contaminants without an established MCL, and which may be present in Washington state Group A public drinking water systems.

At a minimum, Group A water systems will be required to take one sample every three years for each active and permanent or seasonal source to determine if the drinking water is contaminated with PFAS.

The anticipated effect of the proposal is to inform customers of Group A drinking water systems about the quality of the drinking water. Group A water systems with an exceedance of any PFAS SAL must notify their customers so they can make more informed decisions about their health and the health of their families.

In addition, the department of health (department) and purveyors of Group A water systems will have more data available upon which to base future decisions regarding PFAS drinking water contamination and potential mitigation options, should they be necessary to protect public health.

The proposal also establishes the process the board and the department would be required to follow should it ever be necessary to establish a state MCL.

Reasons Supporting Proposal: PFAS are chemicals that have been used in industry and consumer products such as carpeting, apparels, upholstery, food paper wrappings, fire-fighting foams, and metal plating worldwide since the 1950s. Wide use combined with their persistent and bioaccumulative properties have led to widespread detection of PFOA, PFOS, PFHxS, and PFNA in the blood serum of the general United States population. Average serum levels of PFAS may be more than one hundred times higher than national norms in communities exposed via contaminated drinking water and currently the state has limited data on PFAS contamination in Group A water systems in Washington state.

A recent Center for Disease Control (CDC), Agency for Toxic Substances and Disease Registry (ATSDR) study in the community of Airway Heights, Washington showed that study participants had mean serum levels of PFHxS that were sixty times higher than national norms even two years after PFAS contamination had been fully mitigated in their community drinking water. Mean serum levels of PFOS and PFOA in participant's serum were ten and six times higher than national norms, respectively.

Health concerns about PFAS stem from the wide range of adverse effects observed in animal testing. Effects of the best studied PFAS include liver, kidney, thyroid and immune toxicity, developmental and reproductive toxicity, hormone disruption and tumors in certain organs like the liver. The

specific profile of effects and the weight of evidence varies by the PFAS examined.

Monitoring for the five proposed PFAS contaminants in the state's Group A water systems will assist the state in identifying PFAS contamination in Group A water systems statewide and is intended to help the department locate sources of contamination and allow for source control measures to be implemented, stopping future contamination from occurring.

Public notification requirements will inform drinking water customers if their drinking water exceeds a SAL, providing customers with information that can protect their health and safety and that of their families.

Statutory Authority for Adoption: RCW 43.20.050.

Statute Being Implemented: RCW 70A.125.080.

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

Name of Proponent: State board of health, governmental.

Name of Agency Personnel Responsible for Drafting: Jocelyn W. Jones, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3020; Implementation and Enforcement: ODW Director, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3178.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jocelyn W. Jones, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3020, TTY 711, email jocelyn.jones@doh.wa.gov, pfas1@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: The following sections incorporate by reference without material change a Washington state statute: WAC 246-290-001 Purpose and scope, 246-290-050 Enforcement, 246-290-100 Water system plan, 246-290-107 Place of use expansion, 246-290-415 Operations and maintenance, and 246-290-630 General requirements.

In addition, the following sections clarify language of the rule without changing its effect: WAC 246-290-100 Water system plan, 246-290-415 Operations and maintenance, 246-290-453 Corrective action under the GWR, 246-290-490 Cross-connection control, 246-290-630 General requirements, 246-290-638 Analytical requirements, 246-

290-654 Treatment criteria for filtered systems, 246-290-660 Filtration, 246-290-686 Compliance requirements for unfiltered systems, 246-290-71002 Public notice content, 246-290-71004 Public notification mandatory language, and 246-290-72001 Purpose and applicability of consumer confidence report requirements.

Lastly, WAC 246-290-010 Definitions, abbreviations, and acronym, the impact of definition changes are analyzed in the context they are used in throughout the rule sections and WAC 246-290-810 Water use efficiency program, makes a technical correction to align the table numbers in the chapter.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement

The majority of estimated costs of the proposed rule are associated with collecting and analyzing the samples. These costs are relatively fixed and are not contingent or impacted by the size of the business. Public notices, follow-up monitoring, and including these contaminants in the system's consumer confidence report are not required unless a Group A water system detects or exceeds a PFAS SAL in a compliance sample.

Because the costs are relatively fixed, the department assumes that that rule will have a disproportionate impact on small businesses.

Description of the proposed rule, including: A brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

Background: More than 6.2 million Washington residents get their drinking water from Group A public water systems (Group A water systems). In Washington state, the state board of health (board) regulates Group A water systems under RCW 43.20.050.

Under RCW 70A.125.080, the department is directed to administer a Group A drinking water program with at least the elements necessary to assume primary enforcement responsibility of the federal Safe Drinking Water Act.

The department administers the Group A drinking water program and regulates Group A water systems with a formal agreement with the United States Environmental Protection Agency (EPA) known as "primacy." The department's other authorities to regulate Group A water systems come from state laws, like those mentioned above, and WAC, like the Group A public water supplies rule, chapter 246-290 WAC, which the board is proposing to amend at this time. The department and the board work closely on rule-making projects, with the department providing expertise, resources, and recommendations to the board. Ultimately, it is the board that has the authority to adopt the proposed changes in this rule.

The board accepted a petition from Toxic Free Future and nine other organizations on October 11, 2017, to set drinking water standards for PFAS in chapter 246-290 WAC.

PFAS are chemicals that have been used in industry and consumer products such as carpeting, apparels, upholstery, food paper wrappings, fire-fighting foams, and metal plating

worldwide since the 1950s. Wide use combined with their persistent and bioaccumulative properties have led to widespread detection of PFOA, PFOS, PFHxS, and PFNA in the blood serum of the general United States population¹. Average serum levels of PFAS may be more than one hundred times higher than national norms in communities exposed via contaminated drinking water². A recent CDC, ATSDR study in the community of Airway Heights, Washington showed that study participants had mean serum levels of PFHxS that were sixty times higher than national norms even two years after PFAS contamination had been fully mitigated in their community drinking water³. Mean serum levels of PFOS and PFOA in participant's serum were ten and six times higher than national norms, respectively.

Health concerns about PFAS stem from the wide range of adverse effects observed in animal testing.

Effects of the best studied PFAS include liver, kidney, thyroid and immune toxicity; developmental and reproductive toxicity, hormone disruption and tumors in certain organs like the liver⁴. The specific profile of effects and the weight of evidence varies by the PFAS examined.

Health researchers are still learning about how environmental exposure to PFAS might affect people's health. The strongest evidence from epidemiology indicates that some PFAS may increase serum cholesterol levels⁵, alter liver enzyme levels⁶, slightly lower birth weights⁷, and reduce immune response to childhood vaccines⁸. Outcomes with more limited evidence of an association with PFAS exposure include thyroid disease, hypertension disorders during pregnancy, reproductive problems, altered hormone levels, and metabolic issues⁹. There is some evidence from occupational and nonoccupational studies that PFOA may increase rates of kidney and testicular cancer¹⁰. Little human-data are available for other PFAS.

Starting in 2002, PFAS have been detected in United States drinking water, primarily near manufacturing facilities, local fire departments, military bases and airports. Between 2013 and 2015, EPA required a representative number of Group A water systems to measure for six PFAS as part of the third Unregulated Contaminant Monitoring Rule (UCMR3)¹¹.

In Washington state, this UCMR3 sampling included one hundred thirty-two water systems representing ninety-four percent of people served by Group A water systems. Additionally, voluntary testing by the Navy, Air Force, and Army has discovered additional drinking water contamination in private and public wells on or around four military bases between 2016 and 2020. Proactive testing by nearby public water systems has discovered additional wells that are impacted.

PFAS have been identified in drinking water in Issaquah and in private wells and public water systems at or near four military bases: Naval Air Station Whidbey Island, Fairchild Air Force Base, Joint Base Lewis-McChord, and Navy Base Kitsap-Bangor. In each area, the sum of PFOA and PFOS in at least one drinking water well exceeded the lifetime health advisory level of 70 parts per trillion (ppt) set by the EPA in May 2016. PFAS-based firefighting foam is the suspected source of contamination at all these areas. Ongoing investigations may identify other contributing sources. In light of this,

several Group A water systems have either installed treatment to reduce PFAS or are pursuing treatment.

In Washington, while we know PFAS have been identified in multiple areas, we do not yet know the full extent of PFAS contamination in our drinking water supplies, and the science around PFAS is evolving quickly.

In this rule making, the board and the department considered setting a state MCL for PFAS but ultimately the board directed the department to develop a "state advisory level," which is undergoing a concurrent name change in this proposal to "state action level (SAL)."

Why are the changes to the rule needed? This proposed rule change is needed to protect public health from an unregulated contaminant in Washington state drinking water.

Monitoring for these proposed contaminants will help us identify PFAS contamination in Group A public water systems across our state. The proposed rule establishes public notification requirements to inform drinking water consumers if levels of PFAS in their drinking water exceed a SAL. The proposed rule will help us better understand the extent of PFAS contamination across our state.

Michigan, a state that has done comprehensive testing¹², found contamination sites that were not located near any obvious PFAS release site. Because we still don't know about all the different uses of PFAS or the industrial users of PFAS, testing based on proximity to a known release site will not be comprehensive enough. Finding PFAS in drinking water supplies led Michigan to seek and find local release sites that could be mitigated. Mitigating a source will benefit the drinking water supply, and consumers of that supply, over the long term.

One example is that contamination of PFAS in the Ann Arbor water system led to discovery of a chrome plating company that was discharging PFOS to a tributary upstream¹³. The local government required the company to install pretreatment to remove the PFOS from its discharge. That not only benefitted the water system but also fish and wildlife that share the river.

PFAS are odorless and tasteless so the only way to know if they are in your water system is to test for them. PFAS contamination of groundwater is likely to be a localized problem. One-time testing broadly across our state of Group A systems will help us find impacted drinking water supplies and notify other nearby private and Group B wells that they may want to test¹⁴. It will start the process of finding and mitigating local sources.

Should PFAS results be very high in a community, then the department and local health officer would work to support them in our shared mission to protect public health—just as we would in any other public health emergency.

A key part of this assistance would be in risk communications to help the utility and its customers discuss next steps. These discussions will likely lead to choices these communities will have to make to protect public health and safety and address the PFAS contamination in their drinking water supplies. This is a mission we all share.

The department is working with the department of ecology (ecology), to develop a PFAS Chemical Action Plan (PFAS CAP)¹⁵. The proposed PFAS SALs lay the foundation for ecology to establish clean-up standards for PFAS. The

draft PFAS CAP¹⁶ makes several recommendations that would support Group A water systems in addressing PFAS contamination when and if it is discovered upon implementation of these proposed amendments.

What are the compliance requirements in the proposed rule? The proposal establishes SALs for five PFAS contaminants—PFOA, PFOS, PFHxS, PFNA, and PFBS. The proposed rule requires Group A community and nontransient noncommunity (NTNC) public water systems¹⁷ to test for PFAS. These Group A water systems will be required to take one sample every three years—for each active and permanent or seasonal source—to determine if the drinking water is contaminated with PFAS.

It should be noted that transient noncommunity (TNC) Group A water systems¹⁸ that are near a known or suspected area of PFAS contamination may also be required to sample for PFAS under the proposed rule.

For those Group A water systems that have detections of PFAS, but do not exceed the SAL, the proposed rule requires additional ongoing monitoring, with the frequency of monitoring based upon the detected level in comparison to the SAL. It also establishes reporting, recordkeeping, and consumer confidence report (CCR) requirements.

For those Group A water systems that exceed the SAL, the rule also sets follow-up actions such as monitoring, public notification, and additional recordkeeping and reporting requirements.

For those Group A water systems that exceed the SAL, the rule sets follow-up actions such as monitoring, public notification, and additional recordkeeping and reporting requirements. There may be individual situations where a water system's PFAS results are very high and pose an immediate public health threat. In those unique situations, the department, the water system, and the local health officer will work together to take actions to protect public health, as they would in the event of any known or unknown contaminant. If supported by the facts and emerging science, the local health officer and/or the department may order a water system to take action to remedy a public health emergency under its general authority to regulate drinking water systems, including RCW 70A.125.030(1), 70.05.070, 43.70.130(7). This would be a case-by-case decision, not a requirement of general application under this rule.

Some Group A water systems hire outside firms/contractors to conduct certain activities for the business. This includes contractors to take water samples, prepare CCR, and represent the company before the Washington utilities and transportation commission (UTC). These costs are further discussed in section 3 below.

The following businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

Table 1: Businesses Required to Comply Using NAICS Code

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	Minor Cost Threshold = 1% of Average Annual Payroll ¹⁹	Minor Cost Threshold = .3% of Average Annual Receipts ²⁰
221310	Water supply and irrigation systems ²¹	\$2,154	\$1,814

Probable cost of compliance. The following are the probable costs to comply with the proposed rule, including cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue. The department sent surveys to Group A and community and NTNC public water systems that the department had email addresses for in our files. Of the more than one thousand public water systems, one hundred thirty-six responded to the survey request. In addition, the department conducted a survey of all investor-owned utilities (IOUs) regulated by UTC and a subset of privately owned satellite management agencies (SMAs) (for which the department had email addresses) to obtain an estimated cost of the proposed rule. Table 2 below shows the responses to the survey.

Table 2: Survey Response Summary

Categories	IOUs and SMAs	Group A water systems, IOUs and SMAs
Number sampled	49 IOUs + 21 SMAs = 70	Over 1,000
Number responded	14	136

Categories	IOUs and SMAs	Group A water systems, IOUs and SMAs
Monitoring cost range per PFAS sample ²²	\$675 to \$1,140	\$610 to \$2,386
Monitoring average cost per PFAS sample	\$199 + \$600 = \$799	\$196 + \$600 = \$796
Public notification cost range per quarter	\$50 to \$1,216	\$15 to \$49,680
Public notification average cost per quarter	\$482	\$2,505
Recordkeeping and reporting annual cost range	\$12.50 to \$1,034	\$1 to \$2,400
Recordkeeping and reporting average annual cost	\$192	\$235

Categories	IOUs and SMAs	Group A water systems, IOUs and SMAs
CCR annual cost range per system	\$10 to \$792	\$5 to \$4,071
CCR annual average cost per system	\$113	\$226

Cost Summary: The costs provided in the table above for monitoring are for one sample from one source. A Group A water system will have to multiply these sampling costs by the number of active and permanent or seasonal sources they have on their system to get a planning level estimate of costs²³. In addition to the initial sampling and PN costs, if a business must conduct follow-up sampling, again, a multiplication factor would be used to determine total sampling costs.

Some costs are incurred by all Group A water systems that sample whether or not there are detections, such as recordkeeping and reporting. Public notification is only required by those Group A water systems with results that exceed a SAL. Costs associated with this rule for adding additional contaminants to a consumer confidence report applies only if a business' Group A water source had detections for any PFAS contaminants within the last five years. For a more in-depth explanation of the costs of the proposed rule, please refer to the legislative significant analysis for the Group A water system rule. For businesses that operate water systems, the department assumes that the cost of the rule (e.g., monitoring, public notification, recordkeeping and reporting and addition to the consumer confidence report) will ultimately be paid by the users of the water systems in fees.

Loss of sales or revenue discussion: Only one respondent indicated they thought they might lose revenue because some water system clients may use this as an opportunity to look for other SMA competitors that charge less for the same services.

The proposed rule may impose more-than-minor costs on businesses in the industry: Based on the survey results that show: (1) Cost of taking one sample for one source (estimated average cost of \$799) and that some businesses have several sources to test, (2) businesses that exceed the PFAS SAL will take additional samples, complete recordkeeping and reporting (average annual cost of \$192), send out public notification (estimated quarterly cost \$482), and include PFAS information in the CCR (estimated average annual cost \$113), the department's assumption is that the proposed rule will impose more than the \$1,814 minor cost threshold on two or more businesses in the industry.

The proposed rule may have a disproportionate impact on small businesses as compared to the ten percent of businesses that are the largest businesses required to comply with the proposed rule: The majority of estimated costs of the proposed rule are associated with collecting and analyzing PFAS samples. These costs are relatively fixed and are not contingent or impacted by the size of the business. Public notices, follow-up monitoring, and including these contaminants in the system's CCR are not required

unless a Group A water system detects or exceeds a PFAS SAL in a compliance sample.

Because the costs are relatively fixed, the department assumes that rule will have a disproportionate impact on small businesses.

Steps taken to reduce the costs of the rule on small businesses. If the costs can not be reduced, a clear explanation of why is provided: Based upon the requirement in RCW 19.85.030, the department considered each of the following methods of reducing the impact of the proposed rule on small businesses.

Reducing, modifying, or eliminating substantive regulatory requirements: The scope of the rule is very narrow. It establishes requirements for Group A water systems to test each source to determine if there is PFAS contamination. The proposal does allow Group A water systems that participate in EPA's UCMR5 to use these sample results towards meeting the initial monitoring requirements. This will be a cost savings for all Group A water systems that participate in UCMR5. Additionally, the proposed rule will help us better understand the extent of PFAS contamination across our state, so we can develop a waiver model that will reduce the burden of monitoring, while still ensuring public health protection.

Simplifying, reducing, or eliminating recordkeeping and reporting requirements: There were no simplification, reduction, or elimination of recordkeeping and reporting requirements opportunities. The requirements are aligned with the recordkeeping and reporting requirements for the other contaminants in this chapter and merely adds the five new PFAS SALs.

Reducing the frequency of inspections: There are no inspections required in the proposed rule and does not apply.

Delaying compliance timetables: The proposal delays implementation of the rule and the initial testing requirement until 2023. The initial testing requirements will be staged among Group A water systems through 2025. The department will prioritize systems that are more likely to have detections based on what the department already knows about PFAS contamination in the state and systems with larger populations. The proposed rule includes options for samples collected proactively by public water systems, which meet minimum requirements, to count towards initial monitoring.

Reducing or modifying fine schedules for noncompliance: The proposal does not include or amend a fine schedule for noncompliance. The requirements for monitoring for PFAS is modeled after the existing requirements for other contaminants.

Any other mitigation techniques including those suggested by small businesses or small business advocates: The department drafted the proposal to reduce the burden on all systems, including SMAs and IOUs. The proposal does allow for a waiver model to be developed that could potentially reduce the burden to small businesses, but the department will not issue a waiver for systems to reduce costs at the expense of public health. There are no other mitigative techniques available to reduce the burden that meet the general goals and objectives of the authorizing statute.

The following describes how small businesses were involved in the development of the proposed rule: The department regularly engages with and presents information about the Group A PFAS rule making at the drinking water advisory group (DWAG) monthly meetings, which membership includes small business owners.

In addition, the department held three workshops around the state (Tacoma, Mt. Vernon, and Spokane) in December 2019, held two informal, thirty-day public comment periods, and held a public meeting during the September 2020 DWAG meeting to actively engage that advisory group in the PFAS rule making and to encourage their participation in the process—about one hundred thirty [people] attended this public meeting.

In December 2020, the rule-making project manager presented at the Northwest Environmental Business Council on the PFAS rule making—more than one hundred people attended the presentation.

In February 2021, the department's director of drinking water and the drinking water policy manager presented at two separate conferences with small business representatives and small business association representative in attendance. Lastly, in March 2021, the PFAS rule-making project manager gave another update to DWAG, which included more than one hundred participants.

The estimated number of jobs that will be created or lost as the result of compliance with the proposed rule: In response to one of the questions in the survey, one respondent that manages many systems said they thought they might need to hire one additional staff person to conduct the additional monitoring.

- 1 CDC - NHANES, Fourth Report on Human Exposure to Environmental Chemicals, Updated Tables, (January 2019), C.f.D.C.a. Prevention, Editor. 2019, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention: Atlanta, GA.
- 2 Frisbee, S.J., et al., *Perfluorooctanoic acid, perfluorooctane sulfonate, and serum lipids in children and adolescents: results from the C8 Health Project*. Arch Pediatr Adolesc Med, 2010. **164**(9): p. 860-9; Li, Y., et al., *Half-lives of PFOS, PFHxS and PFOA after end of exposure to contaminated drinking water*. Occup Environ Med, 2018. **75**(1): p. 46-51; Pitter, G., et al., *Serum Levels of Perfluoroalkyl Substances (PFAS) in Adolescents and Young Adults Exposed to Contaminated Drinking Water in the Veneto Region, Italy: A Cross-Sectional Study Based on a Health Surveillance Program*. Environ Health Perspect, 2020. **128**(2): doi.org/10.1289/EHP5337.
- 3 CDC/ATSDR PFAS Exposure Assessment Community Level Results for Spokane County (WA) near Fairchild Air Force Base, 2020 <https://www.atsdr.cdc.gov/pfas/communities/factsheet/Spokane-County-Community-Level-Results-Factsheet.html>.

- 4 Agency for Toxic Substances and Disease Registry (ATSDR), Toxicological Profile for Perfluoroalkyls - Draft for Public Comment. 2018, U.S. Department of Health and Human Services: Atlanta. p. 852; EPA, *Drinking Water Health Advisory for Perfluorooctanoic Acid (PFOA)*. 2016, Environmental Protection Agency: Washington, D.C. p. 103; EPA, *Drinking Water Health Advisory of Perfluorooctane Sulfonate (PFOS)*, O.o. Water, Editor. 2016, Environmental Protection Agency; EPA, *Human Health Toxicity Values for Perfluorobutane Sulfonic Acid (CASRN 375-73-5) and Related Compound Potassium Perfluorobutane Sulfonate (CASRN 29420-49-3): Public Comment Draft*. 2018; National Toxicology Program (NTP), NTP Technical Report on the Toxicity Studies of Perfluoroalkyl Sulfonates (Perfluorobutane Sulfonic Acid, Perfluorohexane Sulfonate Potassium Salt, and Perfluorooctane Sulfonic Acid) Administered by Gavage to Sprague Dawley Rats P.H. Service, Editor. 2019, U.S. Department of Health and Human Services: Research Triangle Park, NC; National Toxicology Program (NTP), NTP Technical Report on the Toxicity Studies of Perfluoroalkyl Carboxylates (Perfluorohexanoic Acid, Perfluorooctanoic Acid, Perfluorononanoic Acid, and Perfluorodecanoic Acid) Administered by Gavage to Sprague Dawley Rats P.H. Service, Editor. 2019, U.S. Department of Health and Human Services: Research Triangle Park, NC; NJDWQI, Health-based Maximum Contaminant Level Support Document: Perfluorononanoic acid (PFNA) 2015, New Jersey Drinking Water Quality Institute Health Effects Subcommittee.
- 5 Frisbee, S.J., et al., *Perfluorooctanoic acid, perfluorooctane sulfonate, and serum lipids in children and adolescents: results from the C8 Health Project*. Arch Pediatr Adolesc Med, 2010. **164**(9): p. 860-9; Graber, J.M., et al., *Per and polyfluoroalkyl substances (PFAS) blood levels after contamination of a community water supply and comparison with 2013-2014 NHANES*. J Expo Sci Environ Epidemiol, 2019. **29**(2): p. 172-182; Li, Y., et al., *Associations between perfluoroalkyl substances and serum lipids in a Swedish adult population with contaminated drinking water*. Environ Health, 2020. **19**(1): p. 33.
- 6 Bassler, J., et al., *Environmental perfluoroalkyl acid exposures are associated with liver disease characterized by apoptosis and altered serum adipocytokines*. Environ Pollut, 2019. **247**: p. 1055-1063; Salihovic, S., et al., *Changes in markers of liver function in relation to changes in perfluoroalkyl substances - A longitudinal study*. Environ Int, 2018. **117**: p. 196-203; Salihovic, S., et al., *Changes in markers of liver function in relation to changes in perfluoroalkyl substances - A longitudinal study*. Environ Int, 2018. **117**: p. 196-203; Gallo, V., et al., *Serum perfluorooctanoate (PFOA) and perfluorooctane sulfonate (PFOS) concentrations and liver function biomarkers in a population with elevated PFOA exposure*. Environ Health Perspect, 2012. **120**(5): p. 655-60.
- 7 Johnson, P.I., et al., *The Navigation Guide - evidence-based medicine meets environmental health: systematic review of human evidence for PFOA effects on fetal growth*. Environ Health Perspect, 2014. **122**(10): p. 1028-39; Meng, Q., et al., *Prenatal Exposure to Perfluoroalkyl Substances and Birth Outcomes; An Updated Analysis from the Danish National Birth Cohort*. Int J Environ Res Public Health, 2018. **15**(9); Wikstrom, S., et al., *Maternal serum levels of perfluoroalkyl substances in early pregnancy and offspring birth weight*. Pediatr Res, 2019.

- 8 National Toxicology Program (NTP), Systematic Review of Immunotoxicity Associated with Exposure to Perfluorooctanoic acid (PFOA) or Perfluorooctane Sulfonate (PFOS). 2016, National Toxicology Program, U.S. Department of Health and Human Services; DeWitt, J.C., S.J. Blossom, and L.A. Schaidler, Exposure to per-fluoroalkyl and poly-fluoroalkyl substances leads to immunotoxicity: epidemiological and toxicological evidence. *J Expo Sci Environ Epidemiol*, 2019. 29(2): p. 148-156; Grandjean, P., et al., Serum Vaccine Antibody Concentrations in Adolescents Exposed to Perfluorinated Compounds. *Environ Health Perspect*, 2017. 125(7): p. 077018; Abraham, K., et al., Internal exposure to perfluoroalkyl substances (PFASs) and biological markers in 101 healthy 1-year-old children: associations between levels of perfluorooctanoic acid (PFOA) and vaccine response. *Arch Toxicol*, 2020; Timmermann, C.A.G., et al., Serum Perfluoroalkyl Substances, Vaccine Responses, and Morbidity in a Cohort of Guinea-Bissau Children. 2020. 128(8): p. 087002.
- 9 Fenton, S.E., et al., Per- and Polyfluoroalkyl Substance Toxicity and Human Health Review: Current State of Knowledge and Strategies for Informing Future Research. *Environ Toxicol Chem*, 2021. 40(3): p. 606-630; C8 Science Panel. *C8 Probable Link Reports*. 2012 11/28/2013; Available from: http://www.c8sciencepanel.org/prob_link.html.
- 10 IARC, Some Chemicals Used as Solvents and in Polymer Manufacture, in IARC Monographs on the Identification of Carcinogenic Hazards to Humans. Volume 110. 2017, International Agency for Research on Cancer (IARC): Lyon, France; Shearer, J.J., et al., *Serum concentrations of per- and polyfluoroalkyl substances and risk of renal cell carcinoma*. *J Natl Cancer Inst*, 2020.
- 11 EPAs UCMR3 Webpage: <https://www.epa.gov/dwucmr/third-unregulated-contaminant-monitoring-rule>.
- 12 Michigan water testing resting results: https://www.michigan.gov/pfasresponse/0,9038,7-365-95571_95577_95587---,00.html.
- 13 MI investigation of Ann Harbor water - https://www.michigan.gov/pfasresponse/0,9038,7-365-86511_95792_95795---,00.html and <https://www.wixomgov.org/Home/ShowDocument?id=7721>.
- 14 A Group B water system is a public water system that does not meet the definition of a Group A water system. (See Table 1 and chapter 246-291 WAC for further explanation of a Group B water system.) Group B water systems are regulated by local health jurisdictions, not the department or the board.
- 15 A CAP identifies, characterizes, and evaluates uses and releases of a specific Persistent Bioaccumulative Toxin (PBT), a group of PBTs, or metals of concern, and recommends actions to protect human health or the environment.
- 16 Department of Ecology, PFAS CAP Publication 20-04-035 <https://apps.ecology.wa.gov/publications/SummaryPages/1810001.html>.
- 17 For explanation of what constitutes Group A community and nontransient noncommunity (NTNC), and TNC public water systems see <https://apps.leg.wa.gov/wac/default.aspx?cite=246-290-020>.
- 18 Ibid, footnote 12 this page.
- 19 Economic Census, All Sectors: Summary Statistics for the U.S., States, and Selected Geographies: 2017, Table ID EC1700BASIC Dataset: ECNBASIC2017 this represents data from 134 businesses in Washington State.
- 20 Economic Annual Surveys, Statistics for All U.S. Firms by Industry, Race, and Receipts Size of Firm for the U.S and States: 2012, Table ID SB1200CSA07 Dataset: SBOCS2012 this represents data from 146 businesses in Washington State.
- 21 NAICS defines water supply and irrigation systems as industry that comprises establishments primarily engaged in operating water treatment plants and/or operating water supply systems. The water supply system may include pumping stations, aqueducts, and/or distribution mains. The water may be used for drinking, irrigation, or other uses.
- 22 The department survey used an estimated laboratory cost of \$600 to run a PFAS sample. This value includes the \$600 estimate. Actual laboratory cost to run sample will vary based on laboratory.
- 23 Economies of scale may be realized when multiplying the cost per sample by the number of sources due to potential savings from combined transportation and shipping costs. The extent of these potential savings is unknown but believed to be negligible.

A copy of the statement may be obtained by contacting Jocelyn W. Jones, Department of Health, P.O. Box 47820, Olympia, WA, 98504-7820, phone 360-236-3020, TTY 711, email jocelyn.jones@doh.wa.gov, pfasl@doh.wa.gov.

August 3, 2021
Michelle A. Davis
Executive Director

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-001 Purpose and scope. (1) The purpose of this chapter is to define basic regulatory requirements and to protect the health of consumers using public drinking water supplies.

(2) The rules of this chapter are specifically designed to ~~((ensure))~~ **set requirements for:**

(a) Adequate design, construction, sampling, management, maintenance, and operation practices; and

(b) Provision of safe and high-quality drinking water in a reliable manner and in a quantity suitable for intended use.

(3) Purveyors shall be responsible for complying with the regulatory requirements of this chapter.

(4) These rules are intended to conform with Public Law 93-523, the Federal Safe Drinking Water Act of 1974, and Public Law 99-339, the Safe Drinking Water Act Amendments of 1986, and certain provisions of Public Law 104-182, the Safe Drinking Water Act Amendments of 1996.

(5) The rules set forth are adopted under chapter 43.20 RCW. Other statutes relating to this chapter are:

(a) RCW 43.20B.020, Fees for services—Department of health and department of social and health services;

(b) Chapter 43.70 RCW, Department of health;

(c) Chapter 70.05 RCW, Local health department, boards, officers—Regulations;

(d) Chapter ~~((70.116))~~ 70A.100 RCW, Public Water System Coordination Act of 1977;

(e) Chapter ~~((70.119))~~ 70A.120 RCW, Public water supply systems—Operators;

(f) Chapter ~~((70.119A))~~ 70A.125 RCW, Public water systems—Penalties and compliance; and

(g) Chapter ~~((70.142))~~ 70A.130 RCW, Chemical contaminants and water quality.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-010 Definitions, abbreviations, and acronyms. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Acute" means posing an immediate risk to human health.

(2) ~~("ADD" means an average day demand.~~

~~(3) "AG" means an air gap.~~

(4) "Adverse effect" means a biological change, functional impairment, or pathologic lesion that may affect the performance of the whole organism or reduce an organism's ability to respond to an additional environmental challenge.

(3) "Alternative filtration technology" means a filtration process for substantial removal of particulates (generally > 2-log *Giardia lamblia* cysts and ≥ 2-log removal of *Cryptosporidium* oocysts) by other than conventional, direct, diatomaceous earth, or slow sand filtration processes.

~~((5))~~ (4) "Analogous treatment system" means an existing water treatment system that has unit processes and source water quality characteristics that are similar to a proposed treatment system.

~~((6))~~ (5) "ANSI" means the American National Standards Institute.

~~((7))~~ (6) "Approved air gap (AG)" means a physical separation between the free-flowing end of a potable water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel.

To be an air gap approved by the department, the separation must be at least:

(a) Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); and

(b) Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

~~((8))~~ (7) "Approved atmospheric vacuum breaker (AVB)" means an AVB of make, model, and size that is approved by the department. AVBs that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or that are listed or approved by other nationally recognized testing agencies (such as IAPMO, ANSI, or UL) acceptable to the authority having jurisdiction are considered approved by the department.

~~((9))~~ (8) "Approved backflow preventer" means an approved air gap, an approved backflow prevention assembly, or an approved AVB. The terms "approved backflow preventer," "approved air gap," or "approved backflow prevention assembly" refer only to those approved backflow preventers relied upon by the purveyor for the protection of the public water system. The requirements of WAC 246-290-490

do not apply to backflow preventers installed for other purposes.

~~((10))~~ (9) "Approved backflow prevention assembly" means an RPBA, RPDA, DCVA, DCDA, PVBA, or SVBA of make, model, and size that is approved by the department. Assemblies that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or other entity acceptable to the department are considered approved by the department.

~~((11))~~ (10) "As-built drawing" means the drawing created by an engineer from the collection of the original design plans, including changes made to the design or to the system, that reflects the actual constructed condition of the water system.

~~((12))~~ (11) "Assessment source water monitoring" means an evaluation of groundwater sources that may be at risk for fecal contamination. Assessment source water monitoring involves the collection of source water samples at regular intervals and analysis of those samples for fecal indicators as directed by the department.

~~((13))~~ (12) "Authority having jurisdiction" (formerly known as local administrative authority) means the local official, board, department, or agency authorized to administer and enforce the provisions of the Uniform Plumbing Code as adopted under chapter 19.27 RCW.

~~((14))~~ (13) "Authorized agent" means any person who:

(a) Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

(b) Makes decisions whether to improve, expand, purchase, or sell the system; or

(c) Has discretion over the finances of the system.

~~((15))~~ (14) "Authorized consumption" means the volume of metered and unmetered water used for municipal water supply purposes by consumers, the purveyor, and others authorized to do so by the purveyor(s) including, but not limited to, ~~(fire fighting)~~ firefighting and training, flushing of mains and sewers, street cleaning, and watering of parks and landscapes. These volumes may be billed or unbilled.

~~((16) "AVB" means an atmospheric vacuum breaker.~~

~~(17))~~ (15) "Average day demand (ADD)" means the total quantity of water use from all sources of supply as measured or estimated over a calendar year divided by three hundred sixty-five. ADD is typically expressed as gallons per day (gpd) per equivalent residential unit (ERU).

~~((18))~~ (16) "AWWA" means the American Water Works Association.

~~((19))~~ (17) "Backflow" means the undesirable reversal of flow of water or other substances through a cross-connection into the public water system or consumer's potable water system.

~~((20))~~ (18) "Backflow assembly tester (BAT)" means a person holding a valid BAT certificate issued under chapter 246-292 WAC.

~~((21))~~ (19) "Backpressure" means a pressure (caused by a pump, elevated tank or piping, boiler, or other means) on the consumer's side of the service connection that is greater than the pressure provided by the public water system and which may cause backflow.

~~((22))~~ (20) "Backsiphonage" means backflow due to a reduction in system pressure in the purveyor's distribution system and/or consumer's water system.

~~((23))~~ (21) "Bag filter" means a pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a nonrigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

~~((24))~~ (22) "Bank filtration" means a water treatment process that uses a well to recover surface water that has naturally infiltrated into groundwater through a ~~(river bed)~~ riverbed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s).

~~((25))~~ ~~"BAT" means a backflow assembly tester.~~

~~(26))~~ (23) "Best available technology" means the best technology, treatment techniques, or other means that EPA finds, after examination for efficacy under field conditions, are available, taking cost into consideration.

~~((27))~~ (24) "Bioaccumulative" means a chemical that can accumulate in the body when regular exposure occurs through drinking water.

(25) "Blended sample" means a sample collected from two or more individual sources at a point downstream of the confluence of the individual sources and prior to the first connection.

~~((28))~~ (26) "C" means the residual disinfectant concentration in mg/L at a point before or at the first consumer.

~~((29))~~ (27) "Cartridge filter" means a pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

~~((30))~~ (28) "Category red operating permit" means an operating permit identified under chapter 246-294 WAC. Placement in this category results in permit issuance with conditions and a determination that the system is inadequate.

~~((31))~~ ~~"CCP" means composite correction program.~~

~~(32)~~ ~~"CCS" means a cross-connection control specialist.~~

~~(33))~~ (29) "C.F.R." means the Code of Federal Regulations.

~~((34))~~ (30) "Chemical contaminant treatment facility" means a treatment facility specifically used for the purpose of removing chemical contaminants.

~~((35))~~ (31) "Clarification" means a treatment process that uses gravity (sedimentation) or dissolved air (flotation) to remove flocculated particles.

~~((36))~~ (32) "Clean compliance history" means a record of:

- (a) No *E. coli* MCL violations;
- (b) No monitoring violations under WAC 246-290-300 (3); and
- (c) No coliform treatment technique trigger exceedances or treatment technique violations under WAC 246-290-320 (2) or 246-290-415.

~~((37))~~ (33) "Closed system" means any water system or portion of a water system in which water is transferred to a

higher-pressure zone closed to the atmosphere, such as when no gravity storage is present.

~~((38))~~ (34) "Coagulant" means a chemical used in water treatment to destabilize particulates and accelerate the rate at which they aggregate into larger particles.

~~((39))~~ (35) "Coagulation" means a process using coagulant chemicals and rapid mixing to destabilize colloidal and suspended particles and agglomerate them into flocs.

~~((40))~~ (36) "Combination fire protection system" means a fire sprinkler system that:

- (a) Is supplied only by the purveyor's water;
- (b) Does not have a fire department pumper connection; and

(c) Is constructed of approved potable water piping and materials that serve both the fire sprinkler system and the consumer's potable water system.

~~((41))~~ (37) "Combined distribution system" means the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

~~((42))~~ (38) "Completely treated water" means water from a surface water source, or a groundwater source under the direct influence of surface water (GWI) source that receives filtration or disinfection treatment that fully complies with the treatment technique requirements of Part 6 of this chapter as determined by the department.

~~((43))~~ (39) "Composite correction program (CCP)" means a program that consists of two elements - a comprehensive performance evaluation (CPE) and comprehensive technical assistance (CTA).

~~((44))~~ (40) "Composite sample" means a sample in which more than one source is sampled individually by the water system and then composited by a certified laboratory by mixing equal parts of water from each source (up to five different sources) and then analyzed as a single sample.

~~((45))~~ (41) "Comprehensive monitoring plan" means a schedule that describes both the frequency and appropriate locations for sampling of drinking water contaminants as required by state and federal rules.

~~((46))~~ (42) "Comprehensive performance evaluation (CPE)" means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements.

The comprehensive performance evaluation must consist of at least the following components:

- (a) Assessment of plant performance;
- (b) Evaluation of major unit processes;
- (c) Identification and prioritization of performance limiting factors;
- (d) Assessment of the applicability of comprehensive technical assistance; and
- (e) Preparation of a CPE report.

~~((47))~~ (43) "Comprehensive technical assistance (CTA)" means the performance improvement phase that is implemented if the CPE results indicate improved performance potential. The system must identify and systematically

address plant-specific factors. The CTA is a combination of using CPE results as a basis for follow-up, implementing process control priority-setting techniques, and maintaining long-term involvement to systematically train staff and administrators.

~~((48))~~ (44) "Confirmation" means to demonstrate the accuracy of results of a sample by analyzing another sample from the same location within a reasonable period of time, generally not to exceed two weeks. Confirmation is when analysis results fall within plus or minus thirty percent of the original sample results.

~~((49))~~ (45) "Confluent growth" means a continuous bacterial growth covering a portion or the entire filtration area of a membrane filter in which bacterial colonies are not discrete.

~~((50))~~ (46) "Consecutive system" means a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

~~((51))~~ (47) "Construction completion report" means a form provided by the department and completed for each specific construction project to document:

- (a) Project construction in accordance with this chapter and general standards of engineering practice;
- (b) Physical capacity changes; and
- (c) Satisfactory test results.

The completed form must be stamped with an engineer's seal and signed and dated by a professional engineer.

~~((52))~~ (48) "Consumer" means any person receiving water from a public water system from either the meter, or the point where the service line connects with the distribution system if no meter is present. For purposes of cross-connection control, "consumer" means the owner or operator of a water system connected to a public water system through a service connection.

~~((53))~~ (49) "Consumer's water system," as used in WAC 246-290-490, means any potable or industrial water system that begins at the point of delivery from the public water system and is located on the consumer's premises. The consumer's water system includes all auxiliary sources of supply, storage, treatment, and distribution facilities, piping, plumbing, and fixtures under the control of the consumer.

~~((54))~~ (50) "Contaminant" means a substance present in drinking water that may adversely affect the health of the consumer or the aesthetic qualities of the water.

~~((55))~~ (51) "Contingency plan" means that portion of the wellhead protection program section of the water system plan or small water system management program that addresses the replacement of the major well(s) or wellfield in the event of loss due to groundwater contamination.

~~((56))~~ (52) "Continuous monitoring" means determining water quality with automatic recording analyzers that operate without interruption twenty-four hours per day.

~~((57))~~ (53) "Conventional filtration treatment" means a series of processes including coagulation, flocculation, clarification, and filtration that together result in substantial particulate removal in compliance with Part 6 of this chapter.

~~((58))~~ (54) "Corrective action plan" means specific written actions and deadlines developed by the water system

or the department that the system must follow as a result of either the identification of significant deficiencies during a sanitary survey or the determination of a fecal indicator-positive sample in source water monitoring.

~~((59))~~ (55) "Cost-effective" means the benefits exceed the costs.

~~((60))~~ (56) "Council" means the Washington state building code council under WAC 51-04-015(2).

~~((61)~~ "CPE" means a comprehensive performance evaluation.

~~((62))~~ (57) "Critical water supply service area (CWSSA)" means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area as set forth by the Public Water System Coordination Act, chapter ~~((70-116))~~ 70A.100 RCW and chapter 246-293 WAC.

~~((63))~~ (58) "Cross-connection" means any actual or potential physical connection between a public water system or the consumer's water system and any source of nonpotable liquid, solid, or gas that could contaminate the potable water supply by backflow.

~~((64))~~ (59) "Cross-connection control program" means the administrative and technical procedures the purveyor implements to protect the public water system from contamination via cross-connections as required in WAC 246-290-490.

~~((65))~~ (60) "Cross-connection control specialist (CCS)" means a person holding a valid CCS certificate issued under chapter 246-292 WAC.

~~((66))~~ (61) "Cross-connection control summary report" means the annual report that describes the status of the purveyor's cross-connection control program.

~~((67))~~ (62) "CT" or "CTcalc" means the product of "residual disinfectant concentration" (C) and the corresponding "disinfectant contact time" (T) i.e., "C" x "T."

~~((68))~~ (63) "CT_{99.9}" means the CT value required for 99.9 percent (3-log) inactivation of *Giardia lamblia* cysts.

~~((69)~~ "CTA" means comprehensive technical assistance.

~~((70))~~ (64) "CTreq" means the CT value a system shall provide to achieve a specific percent inactivation of *Giardia lamblia* cysts or other pathogenic organisms of health concern as directed by the department.

~~((71))~~ (65) "Curtailment" means short-term, infrequent actions by a purveyor and its consumers to reduce their water use during or in anticipation of a water shortage.

~~((72)~~ "CWSSA" means a critical water supply service area.

~~((73))~~ (66) "DBPs" means disinfection byproducts.

~~((74))~~ (67) "DCDA" means a double check detector assembly.

~~((75))~~ (68) "DCVA" means a double check valve assembly.

~~((76))~~ (69) "Dead storage" means the volume of stored water not available to all consumers at the minimum design pressure under WAC 246-290-230 (5) and (6).

~~((77))~~ (70) "Demand forecast" means an estimate of future water system water supply needs assuming historically normal weather conditions and calculated using numerous parameters, including population, historic water use, local land use plans, water rates and their impacts on consumption, employment, projected water use efficiency savings from implementation of a water use efficiency program, and other appropriate factors.

~~((78))~~ (71) "Department" means the Washington state department of health or health officer as identified in a joint plan of responsibility under WAC 246-290-030(1).

~~((79))~~ (72) "Design and construction standards" means department design guidance and other peer reviewed documents generally accepted by the engineering profession as containing fundamental criteria for design and construction of water facility projects. Design and construction standards are comprised of performance and sizing criteria and reference general construction materials and methods.

~~((80))~~ (73) "Detectable residual disinfectant concentration" means 0.2 mg/L free chlorine, total chlorine, combined chlorine, or chlorine dioxide.

~~((81))~~ (74) "Diatomaceous earth filtration" means a filtration process for substantial removal of particulates (> 2-log *Giardia lamblia* cysts) in which:

(a) A precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum); and

(b) Water is passed through the cake on the septum while additional filter media, known as body feed, is continuously added to the feed water to maintain the permeability of the filter cake.

~~((82))~~ (75) "Direct filtration" means a series of processes including coagulation, flocculation, and filtration (but excluding sedimentation) that together result in substantial particulate removal in compliance with Part 6 of this chapter.

~~((83))~~ (76) "Direct service connection" means a service hookup to a property that is contiguous to a water distribution main and where additional distribution mains or extensions are not needed to provide service.

~~((84))~~ (77) "Disinfectant contact time (T in CT)" means:

(a) When measuring the first or only C, the time in minutes it takes water to move from the point of disinfectant application to a point where the C is measured; and

(b) For subsequent measurements of C, the time in minutes it takes water to move from one C measurement point to the C measurement point for which the particular T is being calculated.

~~((85))~~ (78) "Disinfection" means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

~~((86))~~ (79) "Disinfection profile" means a summary of *Giardia lamblia* inactivation through a surface water treatment plant.

~~((87))~~ (80) "Distribution coliform sample" means a sample of water collected from a representative location in the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

~~((88))~~ (81) "Distribution-related projects" means distribution projects such as storage tanks, booster pump facilities,

transmission mains, pipe linings, and tank coating. It does not mean source of supply (including interties) or water quality treatment projects.

~~((89))~~ (82) "Distribution system" means all piping components of a public water system that serve to convey water from transmission mains linked to source, storage and treatment facilities to the consumer excluding individual services.

~~((90))~~ (83) "Domestic or other nondistribution system plumbing problem" means contamination of a system having more than one service connection with the contamination limited to the specific service connection from which the sample was taken.

~~((91))~~ (84) "Dual sample set" means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under WAC 246-290-300 (6)(b)(i)(F) and determining compliance with the TTHM and HAA5 MCLs under WAC 246-290-310(4).

~~((92))~~ (85) "Duplicate (verification) sample" means a second sample collected at the same time and location as the first sample and used for verification.

~~((93))~~ (86) "DVGW" means Deutsche Vereinigung des Gas und Wasserfaches.

~~((94))~~ (87) "Elected governing board" means the elected officers with ultimate legal responsibility for operational, technical, managerial, and financial decisions for a public water system.

~~((95))~~ (88) "Emergency" means an unforeseen event that causes damage or disrupts normal operations and requires immediate action to protect public health and safety.

~~((96))~~ (89) "Emergency source" means any source that a purveyor intends to use for emergency purposes only and not used for routine or seasonal water demands.

~~((97))~~ (90) "Engineering design review report" means a form provided by the department and completed for a specific distribution-related project to document:

(a) Engineering review of a project report and/or construction documents under the submittal exception process in WAC 246-290-125(3); and

(b) Design in accordance with this chapter and general standards of engineering practice.

(c) The completed form must be stamped with engineer's seal, and signed and dated by a professional engineer.

~~((98))~~ (91) "EPA" means the U.S. Environmental Protection Agency.

~~((99))~~ (92) "Equalizing storage" means the volume of storage needed to supplement supply to consumers when the peak hourly demand exceeds the total source pumping capacity.

~~((100))~~ (93) "Equivalent residential unit (ERU)" means a system-specific unit of measure used to express the amount of water consumed by a typical full-time single family residence.

~~((101))~~ "ERU" means an equivalent residential unit.

~~((102))~~ (94) "Expanding public water system" means a public water system that increases the geographical area where direct service connections are available or increases the approved number of service connections.

((103)) (95) "Filter profile" means a graphical representation of individual filter performance in a direct or conventional surface water filtration plant, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

((104)) (96) "Filtration" means a process for removal of particulate matter from water by passage through porous media.

((105)) (97) "Financial viability" means the capability of a water system to obtain sufficient funds to construct, operate, maintain, and manage a public water system, on a continuing basis, in full compliance with federal, state, and local requirements.

((106)) (98) "Finished water" means water introduced into a public water system's distribution system and is intended for distribution and consumption without further treatment, except as treatment necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals).

((107)) (99) "Finished water storage facility" means a water storage structure that is integrated with a water system's distribution network to provide for variable system demands including, but not limited to, daily equalizing storage, standby storage, or fire reserves, or to provide for disinfectant contact time.

((108)) (100) "Fire flow" means the maximum rate and duration of water flow needed to suppress a fire under WAC 246-293-640 or as required under local fire protection authority standards.

((109)) (101) "Fire suppression storage" means the volume of stored water available during fire suppression activities to satisfy minimum pressure requirements per WAC 246-290-230.

((110)) (102) "First consumer" means the first service connection associated with any source (i.e., the point where water is first withdrawn for human consumption, excluding connections where water is delivered to another water system covered by these regulations).

((111)) (103) "Flocculation" means a process enhancing agglomeration and collection of colloidal and suspended particles into larger, more easily settleable or filterable particles by gentle stirring.

((112)) (104) "Flowing stream" means a course of running water flowing in a definite channel.

((113)) (105) "Flow-through fire protection system" means a fire sprinkler system that:

- (a) Is supplied only by the purveyor's water;
- (b) Does not have a fire department pumper connection;
- (c) Is constructed of approved potable water piping and materials to which sprinkler heads are attached; and
- (d) Terminates at a connection to a toilet or other plumbing fixture to prevent stagnant water.

((114)) (106) "Forecasted demand characteristics" means the factors that may affect a public water system's projected water needs.

((115)) (107) "Future service area" means a specific area a water system in a CWSSA plans to provide water service as determined by a written agreement between purvey-

ors under chapter ((70-116)) 70A.100 RCW and chapter 246-293 WAC.

((116)) (108) "GAC" means granular activated carbon.

((117)) (109) "GAC10" means granular activated carbon filter beds with an empty-bed contact time of ten minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with MCLs under WAC 246-290-310(4) shall be one hundred twenty days.

((118)) (110) "GAC20" means granular activated carbon filter beds with an empty-bed contact time of twenty minutes based on average daily flow and a carbon reactivation frequency of every two hundred forty days.

((119)) (111) "Governing body" means the individual or group of individuals with ultimate legal responsibility for operational, technical, managerial, and financial decisions for a public water system.

((120)) (112) "gph" means gallons per hour.

((121)) (113) "gpm" means gallons per minute.

((122)) (114) "Grab sample" means a water quality sample collected at a specific instant in time and analyzed as an individual sample.

((123)) (115) "Groundwater system" means all public water systems that use groundwater including:

- (a) Consecutive systems receiving finished groundwater;
- or
- (b) Surface water systems with groundwater sources except those systems that combine all sources prior to treatment.

((124)) (116) "Groundwater under the direct influence of surface water (GWI)" means any water beneath the surface of the ground that the department determines has the following characteristics:

(a) Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*; or

(b) Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions where natural conditions cannot prevent the introduction of surface water pathogens into the source at the system's point of withdrawal.

((125)) (117) "Guideline" means a department document assisting the purveyor in meeting a rule requirement.

~~((126)) "GWI" means groundwater under the direct influence of surface water.~~

((127)) (118) "GWR" means groundwater rule.

((128)) (119) "HAA5" means haloacetic acids (five).

((129)) (120) "Health officer" means the health officer of the city, county, city-county health department or district, or an authorized representative.

((130)) (121) "Heterotrophic plate count (HPC)" means a procedure to measure a class of bacteria that use organic nutrients for growth. The density of these bacteria in drinking water is measured as colony forming units per milliliter and is referred to as the HPC.

((131)) (122) "High health cross-connection hazard" means a cross-connection involving any substance that could

impair the quality of potable water and create an actual public health hazard through injury, poisoning, or spread of disease.

~~((132))~~ ~~"HPC" means heterotrophic plate count.~~

~~((133))~~ (123) "Human consumption" means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.

~~((134))~~ (124) "Hydraulic analysis" means the study of a water system's distribution main and storage network to determine present or future adequacy for provision of service to consumers within the established design parameters for the system under peak flow conditions, including fire flow. The analysis is used to establish any need for improvements to existing systems or to substantiate adequacy of design for distribution system components such as piping, elevated storage, booster stations or similar facilities used to pump and convey water to consumers.

~~((135))~~ (125) "IAPMO" means the International Association of Plumbing and Mechanical Officials.

~~((136))~~ (126) "IDSE" means an initial distribution system evaluation.

~~((137))~~ (127) "Inactivation" means a process which renders pathogenic microorganisms incapable of producing disease.

~~((138))~~ (128) "Inactivation ratio" means the ratio obtained by dividing CTcalc by CTreq.

~~((139))~~ (129) "Incompletely treated water" means water from a surface or GWI source that receives filtration and/or disinfection treatment that does not fully comply with the treatment technique requirements of Part 6 of this chapter as determined by the department.

~~((140))~~ (130) "In-line filtration" means a series of processes, including coagulation and filtration (but excluding flocculation and sedimentation) that together result in particulate removal.

~~((141))~~ (131) "In-premises protection" means a method of protecting the health of consumers served by the consumer's potable water system, located within the property lines of the consumer's premises by the installation of an approved air gap or backflow prevention assembly at the point of hazard, which is generally a plumbing fixture.

~~((142))~~ (132) "Intertie" means an interconnection between public water systems permitting the exchange or delivery of water between those systems.

~~((143))~~ (133) "kPa" means kilo pascal (SI units of pressure).

~~((144))~~ (134) "Lake or reservoir" means a natural or man-made basin or hollow on the earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

~~((145))~~ (135) "Legionella" means a genus of bacteria containing species which cause a type of pneumonia called Legionnaires' disease.

~~((146))~~ (136) "Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and when possible, the likely reason that the system triggered the assessment. The assessment is conducted by the system operator or the purveyor.

~~((147))~~ (137) "Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects,

defects in distribution system coliform monitoring practices, and when possible, the likely reason that the system triggered the assessment. A level 2 assessment is a more detailed examination of the system (including the system's monitoring and operational practices) than is a level 1 assessment through the use of a more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. The level 2 assessment is conducted by a party approved by the department.

~~((148))~~ (138) "Limited alternative to filtration" means a process that ensures greater removal and/or inactivation efficiencies of pathogenic organisms than would be achieved by the combination of filtration and chlorine disinfection.

~~((149))~~ (139) "Local plans and regulations" means any comprehensive plan or development regulation adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the applicable service area.

~~((150))~~ (140) "Locational running annual average (LRAA)" means the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

~~((151))~~ (141) "Low cross-connection hazard" means a cross-connection that could impair the quality of potable water to a degree that does not create a hazard to the public health, but does adversely and unreasonably affect the aesthetic qualities of potable waters for domestic use.

~~((152))~~ ~~"LRAA" means the locational running annual average.~~

~~((153))~~ (142) "Major project" means all construction projects subject to the State Environmental Policy Act (SEPA) under chapter 43.21C RCW, and meeting the requirements of WAC 246-03-030 (3)(a).

~~((154))~~ (143) "Mandatory curtailment" means curtailment required by a public water system of specified water uses and consumer classes for a specified period of time.

~~((155))~~ (144) "Marginal costs" means the costs incurred by producing the next increment of supply.

~~((156))~~ (145) "Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-310, Table 5.

~~((157))~~ (146) "Maximum contaminant level violation" means a confirmed measurement above the MCL and for a duration of time, where applicable, as outlined under WAC 246-290-310.

~~((158))~~ (147) "Maximum day demand (MDD)" means the highest actual or estimated quantity of water that is, or is expected to be, used over a twenty-four hour period, excluding unusual events or emergencies. MDD is typically expressed as gallons per day per ERU (gpd/ERU).

~~((159))~~ ~~"MCL" means the maximum contaminant level.~~

~~((160))~~ ~~"MDD" means the maximum day demand.~~

~~((161))~~ (148) "Membrane filtration" means a pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which

has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

~~((162))~~ (149) "Metabolite" means a byproduct of a contaminant in drinking water formed during a natural biological process in the body.

(150) "mg/L" means milligrams per liter (1 mg/L = 1 ppm).

~~((163))~~ (151) "mL" means a milliliter.

~~((164))~~ (152) "mm" means a millimeter.

~~((165))~~ (153) "Monitoring waiver" means an action taken by the department under WAC 246-290-300 (4)(g) ~~((166))~~ (7)(f), or (10)(h) to allow a water system to reduce specific monitoring requirements based on a determination of low source vulnerability to contamination.

~~((166))~~ (154) "MRDL" means the maximum residual disinfectant level.

~~((167))~~ (155) "MRDLG" means the maximum residual disinfectant level goal.

~~((168))~~ (156) "MTTP" means maximum total trihalomethane potential.

~~((169))~~ (157) "Municipal water supplier" means an entity that supplies water for municipal water supply purposes.

~~((170))~~ (158) "Municipal water supply purposes" means a beneficial use of water:

(a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year;

(b) For governmental or governmental proprietary purposes by a city, town, public utility district, county, sewer district, or water district; or

(c) Indirectly for the purposes in (a) or (b) of this definition through the delivery of treated or raw water to a public water system for such use.

(i) If water is beneficially used under a water right for the purposes listed in (a), (b), or (c) of this definition, any other beneficial use of water under the right generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

(ii) If a governmental entity holds a water right that is for the purposes listed in (a), (b), or (c) of this definition, its use of water or its delivery of water for any other beneficial use generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

~~((171))~~ (159) "Nested storage" means one component of storage is contained within the component of another.

~~((172))~~ (160) "ng/L" means nanograms per liter.

(161) "Nonacute" means posing a possible or less than immediate risk to human health.

~~((173))~~ (162) "Nonresident" means a person having access to drinking water from a public water system who lives elsewhere. Examples include travelers, transients, employees, students, etc.

~~((174))~~ (163) "Normal operating conditions" means those conditions associated with the designed, day-to-day provision of potable drinking water that meets regulatory water quality standards and the routine service expectations of the system's consumers at all times, including meeting fire flow demands. Operation under conditions such as power outages, floods, or unscheduled transmission or distribution disruptions, even if considered in the system design, are considered abnormal.

~~((175))~~ (164) "NSF" means NSF International (formerly known as the National Sanitation Foundation (NSF)).

~~((176))~~ (165) "NTNC" means nontransient noncommunity.

~~((177))~~ (166) "NTU" means a nephelometric turbidity unit.

~~((178))~~ (167) "ONORM" means Osterreichisches Normungsinstitut.

~~((179))~~ (168) "Operational storage" means the volume of distribution storage associated with source or booster pump normal cycling times under normal operating conditions and is additive to the equalizing and standby storage components, and to fire flow storage if this storage component exists for any given tank.

~~((180))~~ "~~PAA~~" means a project approval application.

~~((181))~~ (169) "pCi/L" means picocuries per liter.

~~((182))~~ (170) "PFAS" means per- and polyfluoroalkyl substances, a group of man-made chemicals found in products such as aqueous film-forming foam used to suppress petroleum-based fires, nonstick cookware, stain-resistant fabrics and many other products.

(171) "PFBS" means perfluorobutane sulfonic acid.

(172) "PFHxS" means perfluorohexane sulfonic acid.

(173) "PFNA" means perfluorononanoic acid.

(174) "PFOA" means perfluorooctanoic acid, also known as C8.

(175) "PFOS" means perfluorooctane sulfonic acid.

(176) "Peak hourly demand (PHD)" means the maximum rate of water use, excluding fire flow, that can be expected to occur within a defined service area over a continuous sixty minute time period. PHD is typically expressed in gallons per minute (gpm).

~~((183))~~ (177) "Peak hourly flow" means, for the purpose of CT calculations, the greatest volume of water passing through the system during any one hour in a day.

~~((184))~~ (178) "Performance criteria" means the level at which a system shall operate in order to maintain system reliability compliance, in accordance with WAC 246-290-420, and to meet consumers' reasonable expectations.

~~((185))~~ (179) "Permanent residence" means any dwelling that is, or could reasonably be expected to be, occupied on a continuous basis.

~~((186))~~ (180) "Permanent source" means a public water system supply source that is used regularly each year, and based on expected operational requirements of the system, will be used more than three consecutive months in any twelve-month period. For seasonal water systems that are in

operation for less than three consecutive months per year, their sources ~~((shall))~~ are also ~~((be))~~ considered to be permanent.

~~((187))~~ **"PHD"** means peak hourly demand.

~~((188))~~ (181) "Plant intake" means the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

~~((189))~~ (182) "Point of disinfectant application" means the point where the disinfectant is added, and where water downstream of that point is not subject to contamination by untreated surface water.

~~((190))~~ (183) "Population served" means the number of persons, resident and nonresident, having immediate access to drinking water from a public water system, whether or not persons have actually consumed water from that system. The number of nonresidents ~~((shall be))~~ is the average number of persons having immediate access to drinking water on days access was provided during that month. In the absence of specific population data, the number of residents ~~((shall be))~~ is computed by multiplying the number of active services by two and one-half.

~~((191))~~ (184) "Potable" means water suitable for drinking by the public.

~~((192))~~ (185) "Potential GWI" means a source identified by the department as possibly under the influence of surface water, and includes, but is not limited to, all wells with a screened interval fifty feet or less from the ground surface at the wellhead and located within two hundred feet of a surface water, and all Ranney wells, infiltration galleries, and springs.

~~((193))~~ (186) "ppm" means parts per million (1 ppm = 1 mg/L).

~~((194))~~ (187) "ppt" means parts per trillion (1 ppt = 1 ng/L).

(188) "Premises isolation" means a method of protecting a public water system by installation of approved air gaps or approved backflow prevention assemblies at or near the service connection or alternative location acceptable to the purveyor to isolate the consumer's water system from the purveyor's distribution system.

~~((195))~~ (189) "Presedimentation" means a preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

~~((196))~~ (190) "Pressure filter" means an enclosed vessel containing properly sized and graded granular media through which water is forced under greater than atmospheric pressure.

~~((197))~~ (191) "Primary disinfection" means a treatment process for achieving inactivation of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern to comply with the treatment technique requirements of Part 6 of this chapter.

~~((198))~~ (192) "Primary standards" means standards based on chronic, nonacute, or acute human health effects.

~~((199))~~ (193) "Primary turbidity standard" means an accurately prepared formazin solution or commercially prepared polymer solution of known turbidity (prepared in accordance with "standard methods") that is used to calibrate

bench model and continuous turbidimeters (instruments used to measure turbidity).

~~((200))~~ (194) "Project approval application (PAA)" means a department form documenting ownership of water system, design engineer for the project, and type of project.

~~((201))~~ (195) "Protected groundwater source" means a groundwater source the purveyor shows to the department's satisfaction as protected from potential sources of contamination on the basis of hydrogeologic data and/or satisfactory water quality history.

~~((202))~~ (196) "psi" means pounds per square inch.

~~((203))~~ (197) "Public forum" means a meeting open to the general public that allows for their participation.

~~((204))~~ (198) "Public water system" is defined and referenced under WAC 246-290-020.

~~((205))~~ (199) "Purchased source" means water a purveyor purchases from a public water system not under the control of the purveyor for distribution to the purveyor's consumers.

~~((206))~~ (200) "Purveyor" means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of these entities.

~~((207))~~ (201) "PVBA" means a pressure vacuum breaker assembly.

~~((208))~~ **"RAA"** means the running annual average.

~~((209))~~ (202) "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater.

~~((210))~~ (203) "Record drawings" means the drawings bearing the seal and signature of a professional engineer that reflect the modifications made to construction documents, documenting actual constructed conditions of the water system facilities.

~~((211))~~ (204) "Recreational tract" means an area that is clearly defined for each occupant, but has no permanent structures with internal plumbing, and the area has been declared in the covenants or on the recorded plat in order to be eligible for reduced design considerations.

~~((212))~~ (205) "Regional public water supplier" means a water system that provides drinking water to one, or more, other public water systems.

~~((213))~~ (206) "Regularly" means four hours or more per day for four days or more per week.

~~((214))~~ (207) "Removal credit" means the level (expressed as a percent or log) of *Giardia* and virus removal the department grants a system's filtration process.

~~((215))~~ (208) "Repeat sample" means a sample collected to confirm the results of a previous analysis.

~~((216))~~ (209) "Resident" means an individual living in a dwelling unit served by a public water system.

~~((217))~~ (210) "Residual disinfectant concentration" means the analytical level of a disinfectant, measured in milligrams per liter, that remains in water following the application (dosing) of the disinfectant after some period of contact time.

~~((218))~~ (211) "Retail service area" means the specific area defined by the municipal water supplier where the municipal water supplier has a duty to provide service to all new service connections as set forth in RCW 43.20.260.

~~((219))~~ (212) "RPBA" means reduced pressure back-flow assembly.

~~((220))~~ (213) "RPDA" means reduced pressure detector assembly.

~~((221))~~ "SAL" means state advisory level.

~~((222))~~ (214) "Running annual average (RAA)" means the average of analytical results from compliance samples collected at the monitoring locations identified in WAC 246-290-300 during any consecutive four calendar quarters. If a system fails to collect the required number of samples, the RAA is based on the total number of samples collected. If a sample result is less than the SDRL, zero is used to calculate the RAA.

(215) "Same farm" means a parcel of land or series of parcels that are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a Group A public water system.

~~((223))~~ (216) "Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place.

~~((224))~~ (217) "Sanitary survey" means a review, inspection, and assessment of a public water system, by the department or department designee, to determine the adequacy of the system and its operation for producing and distributing safe and reliable drinking water. Each survey includes, but is not limited to, an evaluation of the following components:

- (a) Source;
- (b) Treatment;
- (c) Distribution system;
- (d) Finished water storage;
- (e) Pump, pump facilities, and controls;
- (f) Monitoring, reporting, and data verification;
- (g) System management and operation; and
- (h) Operator compliance.

~~((225))~~ (218) "Satellite system management agency (SMA)" means a person or entity that is approved by the department to own or operate public water systems on a regional or county-wide basis without the necessity for a physical connection between the systems.

~~((226))~~ (219) "SCA" means a sanitary control area.

~~((227))~~ (220) "SDWA" means the Safe Drinking Water Act.

~~((228))~~ (221) "Seasonal source" means a public water system source used on a regular basis, that is not a permanent or emergency source.

~~((229))~~ (222) "Seasonal system" means a noncommunity water system defined ~~((and referenced under))~~ in WAC 246-290-020 that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season.

~~((230))~~ (223) "Secondary standards" means standards based on factors other than health effects.

~~((231))~~ (224) "SEPA" means the State Environmental Policy Act.

~~((232))~~ (225) "Service area" means the specific area a water system currently serves and areas where future water service is planned. A wholesale system may include areas where it provides wholesale water to other public water systems in its service area. A water system in a CWSSA includes its future service area in its service area as "future service area" as defined under chapters ~~((70.116))~~ 70A.100 RCW and 246-293 WAC.

~~((233))~~ (226) "Service connection" means a connection to a public water system designed to provide potable water to a single family residence, or other residential or nonresidential population. When the connection provides water to a residential population without clearly defined single family residences, the following formulas ~~((shall be))~~ are used in determining the number of services to be included as residential connections on the WFI form:

(a) Divide the average population served each day by two and one-half; or

(b) Using actual water use data, calculate the total ERUs represented by the service connection in accordance with department design guidance.

(c) ~~((In no case shall))~~ The calculated number of services ~~((be))~~ is never less than one.

~~((234))~~ (227) "Severe health cross-connection hazard" means a cross-connection which could impair the quality of potable water and create an immediate, severe public health hazard through poisoning or spread of disease by contaminants from radioactive material processing plants, nuclear reactors, or wastewater treatment plants.

~~((235))~~ (228) "Simple disinfection" means any form of disinfection that requires minimal operational control in order to maintain the disinfection at proper functional levels, and that does not pose safety concerns that would require special care, equipment, or expertise. Examples include hypochlorination, UV-light, contactor chlorination, or any other form of disinfection practice that is safe to use and easy to routinely operate and maintain.

~~((236))~~ (229) "Slow sand filtration" means a process involving passage of source water through a bed of sand at low velocity (generally less than 0.10 gpm/ft²) that results in substantial particulate removal (> 2-log *Giardia lamblia* cysts) by physical and biological mechanisms.

~~((237))~~ "SMA" means a satellite system management agency.

~~((238))~~ "SOC" means a synthetic organic chemical.

~~((239))~~ (230) "Societal perspective" means:

A point of view that includes a broad spectrum of public benefits including, but not limited to:

(a) Enhanced system reliability;

(b) Savings that result from delaying, deferring, or minimizing capital costs; and

(c) Environmental benefits such as increased water in streams, improvements in aquifer recharge and other environmental factors.

~~((240))~~ (231) "Source meter" means a meter that measures total output of a water source over specific time periods.

~~((241))~~ (232) "Source water" means untreated water that is not subject to recontamination by surface runoff and:

- (a) For unfiltered systems, enters the system immediately before the first point of disinfectant application; and
- (b) For filtered systems, enters immediately before the first treatment unit of a water treatment facility.

~~((242)) "SRF" means a special purpose investigation.~~

~~(243))~~ (233) "Special purpose investigation (SPI)" means on-site inspection of a public water system by the department or designee to address a potential public health concern, regulatory violation, or consumer complaint.

~~((244))~~ (234) "Special purpose sample" means a sample collected for reasons other than the monitoring compliance specified in this chapter.

~~((245))~~ (235) "Spring" means a source of water where an aquifer comes in contact with the ground surface.

~~((246)) "SRF" means the state revolving fund.~~

~~(247) "SSNC" means state significant noncomplier.~~

~~(248))~~ (236) "Standard methods" means the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235. The edition to be used is that specified by EPA for the relevant drinking water parameter in 40 C.F.R. Part 141.

~~((249))~~ (237) "Standby storage" means the volume of stored water available for use during a loss of source capacity, power, or similar short-term emergency.

~~((250))~~ (238) "State ~~(advisory)~~ action level (SAL)" means ~~((a level established by the department and state board of health for a contaminant without an existing MCL. The SAL represents a level that when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health))~~ the concentration of a contaminant or group of contaminants, without an MCL, established to protect public health in accordance with WAC 246-290-315 and which, if exceeded, triggers actions a purveyor takes in accordance with WAC 246-290-320.

~~((251))~~ (239) "State board of health" and "board" means the board created by RCW 43.20.030.

~~((252))~~ (240) "State building code" means the codes adopted by and referenced in chapter 19.27 RCW; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

~~((253))~~ (241) "State detection reporting limit (SDRL)" means the minimum reportable detection of a contaminant established in WAC 246-390-075.

(242) "State revolving fund (SRF)" means the revolving loan program financed by the state and federal governments and managed by the state for the purpose of assisting water systems to meet their capital needs associated with complying with the federal Safe Drinking Water Act under chapter 246-296 WAC.

~~((254))~~ (243) "State significant noncomplier (SSNC)" means a system that is violating or has violated department rules, and the violations may create, or have created an imminent or a significant risk to human health.

The violations include, but are not limited to:

- (a) Repeated violations of monitoring requirements;
- (b) Failure to address an exceedance of permissible levels of regulated contaminants;
- (c) Failure to comply with treatment technique standards or requirements;
- (d) Failure to comply with waterworks operator certification requirements; or
- (e) Failure to submit to a sanitary survey.

~~((255))~~ (244) "Subpart H System" see definition for "surface water system."

~~((256))~~ (245) "Surface water" means a body of water open to the atmosphere and subject to surface runoff.

~~((257))~~ (246) "Surface water system" means a public water system that uses in whole, or in part, source water from a surface supply, or GWI supply. This includes systems that operate surface water treatment facilities, and systems that purchase "completely treated water". A "surface water system" is also referred to as a "Subpart H System" in some federal regulatory language adopted by reference and the two terms are considered equivalent for the purposes of this chapter.

~~((258))~~ (247) "Susceptibility assessment" means the completed susceptibility assessment survey form for groundwater sources, or a surface water checklist for surface water sources, developed by the department to evaluate the hydrologic setting of the water source and assess its contribution to the source's overall susceptibility to contamination from surface activities.

~~((259))~~ (248) "SUVA" means specific ultraviolet absorption.

~~((260))~~ (249) "SVBA" means spill resistant vacuum breaker assembly.

~~((261))~~ (250) "SWTR" means the surface water treatment rule.

~~((262))~~ (251) "Synthetic organic chemical (SOC)" means a manufactured carbon-based chemical.

~~((263))~~ (252) "System capacity" means the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations.

~~((264))~~ (253) "System physical capacity" means the maximum number of service connections or equivalent residential units (ERUs) that the system can serve when considering the limitation of each system component such as source, treatment, storage, transmission, or distribution, individually and in combination with each other.

~~((265))~~ (254) "T" means disinfectant contact time in minutes.

~~((266))~~ (255) "Time-of-travel" means the time required for groundwater to move through the water bearing zone from a specific point to a well.

~~((267))~~ (256) "TNC" means transient noncommunity.

~~((268)) "TNTC" means too numerous to count.~~

~~(269))~~ (257) "TOC" means total organic carbon.

~~((270))~~ (258) "Too numerous to count (TNTC)" means the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

~~((271))~~ (259) "Tracer study" means a field study conducted to determine the disinfectant contact time, T, provided

by a water system component, such as a clearwell or storage reservoir, used for *Giardia lamblia* cyst and virus inactivation. The study involves introducing a tracer chemical at the inlet of the contact basin and measuring the resulting outlet tracer concentration as a function of time.

~~((272))~~ (260) "Transmission line" means pipes used to convey water from source, storage, or treatment facilities to points of distribution or distribution mains, and from source facilities to treatment or storage facilities. This also can include transmission mains connecting one section of distribution system to another section of distribution system as long as this transmission main is clearly defined on the plans and no service connections are allowed along the transmission main.

~~((273))~~ (261) "Treatment technique (TT) requirement" means a department-established requirement for a public water system to provide treatment, such as filtration or disinfection, as defined by specific design, operating, and monitoring requirements. A ~~("treatment technique")~~ TT requirement~~(")~~ is established in lieu of a primary MCL when monitoring for the contaminant is not economically or technologically feasible.

~~((274))~~ (262) "Triggered source water monitoring" means collection of groundwater source samples as a result of a total coliform-positive routine sample in the distribution system under WAC 246-290-300(3).

~~((275))~~ (263) "Trihalomethane (THM)" means one of a family of organic compounds, named as derivatives of methane, where three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure. THMs may occur when chlorine, a halogen, is added to water containing organic material and are generally found in water samples as disinfection byproducts.

~~((276))~~ (264) "TTHM" means total trihalomethane.

~~((277))~~ (265) "Turbidity event" means a single day or series of consecutive days, not to exceed fourteen, when one or more turbidity measurement each day exceeds 5 NTU.

~~((278))~~ (266) "Two-stage lime softening" means a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

~~((279))~~ (267) "T10" means the time it takes ten percent of the water passing through a system contact tank intended for use in the inactivation of *Giardia lamblia* cysts, viruses, and other microorganisms of public health concern, as determined from a tracer study conducted at peak hourly flow or from published engineering reports or guidance documents for similarly configured tanks.

~~((280))~~ (268) "ug/L" means micrograms per liter.

~~((281))~~ (269) "UL" means the Underwriters Laboratories, Inc.

~~((282))~~ (270) "umhos/cm" means micromhos per centimeter.

~~((283))~~ (271) "Unapproved auxiliary water supply" means a water supply (other than the purveyor's water supply) on or available to the consumer's premises that is either not approved for human consumption by the health agency having jurisdiction or is not otherwise acceptable to the purveyor.

~~((284))~~ (272) "Uncovered finished water storage facility" means a tank, reservoir, or other facility used to store water, which will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere without a suitable water-tight roof or cover.

~~((285))~~ (273) "Uniform Plumbing Code (UPC)" means the code adopted under RCW 19.27.031(4) and implemented under chapter 51-56 WAC. This code establishes statewide minimum plumbing standards applicable within the property lines of the consumer's premises.

~~((286))~~ "UPC" means the Uniform Plumbing Code.

~~((287))~~ (274) "Used water" means water which has left the control of the purveyor.

~~((288))~~ (275) "UTC" means the utilities and transportation commission.

~~((289))~~ (276) "Verification" means to demonstrate the results of a sample to be precise by analyzing a duplicate sample. Verification occurs when analysis results fall within plus or minus thirty percent of the original sample.

~~((290))~~ (277) "Virus" means a virus of fecal origin which is infectious to humans and transmitted through water.

~~((291))~~ "VOC" means a volatile organic chemical.

~~((292))~~ (278) "Volatile organic chemical (VOC)" means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

~~((293))~~ (279) "Voluntary curtailment" means a curtailment of water use requested, but not required of consumers.

~~((294))~~ (280) "WAC" means the Washington Administrative Code.

~~((295))~~ (281) "Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with drinking water from a public water system, as determined by the appropriate local health agency or the department.

~~((296))~~ (282) "Water demand efficiency" means minimizing water use by the public water system's consumers through purveyor sponsored activities that may include, but are not limited to, distributing water saving devices, providing rebates or incentives to promote water efficient technologies or by providing water audits to homes, businesses, or landscapes.

~~((297))~~ (283) "Water facilities inventory (WFI) form" means the department form summarizing each public water system's characteristics.

~~((298))~~ (284) "Water right" means a certificated water right, water right permit, valid claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

~~((299))~~ (285) "Water right self-assessment" means an evaluation of the legal ability of a water system to use water for existing or proposed usages in conformance with state water right laws. The assessment may be done by a water system, a purveyor, the department of ecology, or any combination thereof.

~~((300))~~ (286) "Watershed" means the region or area that:

(a) Ultimately drains into a surface water source diverted for drinking water supply; and

(b) Affects the physical, chemical, microbiological, and radiological quality of the source.

~~((301))~~ (287) "Water shortage" means a situation during which the water supplies of a system cannot meet normal water demands for the system, including peak periods.

~~((302))~~ (288) "Water shortage response plan" means a plan outlining policies and activities to be implemented to reduce water use on a short-term basis during or in anticipation of a water shortage.

~~((303))~~ (289) "Water supply characteristics" means the factors related to a public water system's source of water supply that may affect its availability and suitability to provide for both short-term and long-term needs.

Factors include, but are not limited to:

- (a) Source location;
- (b) Name of any body of water and water resource inventory area from which water is diverted or withdrawn;
- (c) Production capacity;
- (d) The source's natural variability;
- (e) The system's water rights for the source;
- (f) Other legal demands on the source such as water rights for other uses;
- (g) Conditions established to protect species listed under the Endangered Species Act in 50 C.F.R. 17.11;
- (h) Instream flow restrictions established under Title 173 WAC; and

(i) Any conditions established by watershed plans approved under chapter 90.82 RCW and RCW 90.54.040(1) or salmon recovery plans under chapter 77.85 RCW.

~~((304))~~ (290) "Water supply efficiency" means increasing a public water system's transmission, storage and delivery potential through activities that may include, but are not limited to:

- (a) System-wide water audits;
- (b) Documenting authorized uses;
- (c) Conducting leak surveys; and
- (d) Repairs on:
 - (i) Meters;
 - (ii) Lines;
 - (iii) Storage facilities; and
 - (iv) Valves.

~~((305))~~ (291) "Water use efficiency (WUE)" means increasing water supply efficiency and water demand efficiency to minimize water withdrawals and water use.

~~((306))~~ (292) "Water use efficiency program" means policies and activities focusing on increasing water supply efficiency and water demand efficiency to minimize water withdrawals and water use.

~~((307))~~ (293) "Well field" means a group of wells one purveyor owns or controls that:

(a) Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis and comparable static water level and top of the open interval elevations; and

(b) Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

~~((308))~~ (294) "Wellhead protection area (WHPA)" means the portion of a well's, wellfield's or spring's zone of

contribution defined using WHPA criteria established by the department.

~~((309))~~ "WFI" means a water facilities inventory form.

~~(310))~~ (295) "Wholesale system" means a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

~~((311))~~ "WHPA" means a wellhead protection area.

~~(312)~~ "WUE" means water use efficiency.

~~(313))~~ (296) "Zone of contribution" means the area surrounding a pumping well or spring that encompasses all areas or features that supply groundwater recharge to the well or spring.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-050 Enforcement. When any purveyor is out of compliance with a law or rule regulating public water systems and administered by the department, the department may initiate appropriate enforcement actions, regardless of any prior approvals issued. These actions may include, but are not limited to, any one or combination of the following:

- (1) Notice of violation instructing or requiring appropriate corrective measures;
- (2) Compliance schedule for specific actions necessary to achieve compliance status;
- (3) Departmental order requiring submission of project reports, construction documents, and construction report forms;
- (4) Departmental order requiring specific actions or ceasing unacceptable activities within a designated time period;
- (5) Departmental order to stop work and/or refrain from using any public water system or improvements thereto until all written approvals required by statute or rule are obtained;
- (6) Imposition of civil penalties may be issued for up to five thousand dollars per day per violation, or, in the case of a violation that has been determined to be a public health emergency, a penalty of not more than ten thousand dollars per day per violation under authority of chapter ~~((70.119A))~~ 70A.125 RCW;
- (7) Imposition of civil penalties may be issued to a person who constructs, modifies, or expands a public water system or who commences the construction, modification, or expansion of a public water system without first obtaining the required department approval. The amount of the penalty may be up to five thousand dollars per service connection, or, in the case of a system serving a transient population, a penalty of not more than four hundred dollars per person based on the highest average daily population the system serves or is anticipated to serve. The total penalty that may be imposed pursuant to this subsection and RCW ~~((70.119A.040))~~ 70A.125.040 (1)(b) is five hundred thousand dollars;
- (8) Action that requires the purveyor to take preventive or corrective steps when results of a sanitary survey or special purpose investigation conducted by, or on behalf of, the

department indicate conditions that are currently or may become a detriment to system operation;

(9) Legal action may be taken by the attorney general or local prosecutor. The legal action may be criminal or civil.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-100 Water system plan. (1) The purpose of this section is to establish a uniform process for purveyors to:

(a) Demonstrate system capacity as defined in WAC 246-290-010;

(b) Demonstrate how the system will address present and future needs in a manner consistent with other relevant plans and local, state, and federal laws, including applicable land use plans;

(c) Establish eligibility for funding under chapter 246-296 WAC.

(2) Purveyors of the following categories of community public water systems shall submit a water system plan for review and approval by the department:

(a) Systems serving one thousand or more service connections;

(b) Systems required to develop water system plans under the Public Water System Coordination Act of 1977, ~~((c))~~chapter ~~((70.116))~~ 70A.100 RCW~~((4))~~;

(c) Any system experiencing problems related to system capacity, as determined by the department;

(d) All new systems;

(e) Any system proposing to:

(i) Increase or otherwise modify the service area identified in a previously approved planning document; or

(ii) Increase the geographical area where direct service is provided if a planning or engineering document has not been previously approved; or

(iii) Install additions, extensions, or changes to existing source, storage, or transmission facilities and increase the approved number of service connections.

(f) Any system proposing to use the document submittal exception process in WAC 246-290-125; or

(g) Any system operating under or proposing to operate under an unspecified number of service connections.

(3) The purveyor shall work with the department to establish the relative priority and level of detail for each element of the water system plan. The priority and level of detail must be related to size, complexity, water supply characteristics, forecasted demand characteristics, past performance, planning history, and use of the water system. Project reports may be combined with a water system plan.

(4) The purveyor shall, at a minimum, address the following elements in the water system plan:

(a) Description of the water system, including:

(i) Ownership and management, including the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system;

(ii) System history and background;

(iii) Related plans, such as coordinated water system plans, abbreviated coordinated water system plans, local land use plans, groundwater management plans, and basin plans;

(iv) Service area maps, including retail service area and future service area, if applicable, and areas where wholesale water is provided to other public water systems. Municipal water suppliers shall identify the area that will expand their water rights' place of use if the requirements under WAC 246-290-107 have been met;

(v) Service area characteristics, agreements, and policies;

(vi) Satellite management, if applicable.

(b) Basic planning data, including:

(i) Current population, service connections, water use, and equivalent residential units; and

(ii) Sufficient water production and consumption data to identify trends including the following elements:

(A) Monthly and annual production totals for each source, including water purchased from another public water system;

(B) Annual usage totals for each customer class as determined by the purveyor;

(C) Annual usage totals for water supplied to other public water systems; and

(D) For systems serving one thousand or more total connections, a description of the seasonal variations in consumption patterns of each customer class defined by the purveyor.

(iii) Designated land use, zoning, population, and water demand within the water system's service area for the plan approval period, and at least a twenty-year planning period.

(c) Demand forecasts, developed under WAC 246-290-221, for the plan approval period, and at least a twenty-year planning period. These ~~((shall))~~ must show future use with and without savings expected from the system's water use efficiency program.

(d) For systems serving one thousand or more total connections, a demand forecast for the plan approval period and at least a twenty-year planning period that projects demand if the measures deemed cost-effective per WAC 246-290-810 were implemented.

(e) System analysis, including:

(i) System design standards;

(ii) Water quality analysis;

(iii) Inventory and analysis of water system facilities; and

(iv) Summary of system deficiencies.

(f) Water resource analysis for the plan approval period and at least a twenty-year planning period, including:

(i) A water use efficiency program. Municipal water suppliers must meet the requirements in WAC 246-290-810;

(ii) Source of supply analysis, which includes:

(A) An evaluation of water supply alternatives if additional water rights will be pursued within twenty years; and

(B) A narrative description of the system's water supply characteristics and the foreseeable effect from current and future use on the water quantity and quality of any body of water from which its water is diverted or withdrawn based on existing data and studies;

(iii) A water shortage response plan as a component of the reliability and emergency response requirements under WAC 246-290-420;

(iv) Water right self-assessment;

(v) Water supply reliability analysis;

- (vi) Interties; and
- (vii) For systems serving one thousand or more total connections, an evaluation of opportunities for the use of reclaimed water, where they exist, as defined in RCW 90.46-120.
- (g) Source water protection program under WAC 246-290-135.
- (h) Operation and maintenance program under WAC 246-290-415 and 246-290-654(5), as applicable.
- (i) Improvement program, including a capital improvement schedule that identifies all capital improvements scheduled within the plan approval period and any major projects or other capital improvements planned within at least a twenty-year planning period.
- (j) Financial program, including demonstration of financial viability by providing:
 - (i) A summary of past income and expenses;
 - (ii) A balanced operational budget for the plan approval period;
 - (iii) A plan for collecting the revenue necessary to maintain cash flow stability and to fund the capital improvement program and emergency improvements; and
 - (iv) An evaluation that has considered:
 - (A) The affordability of water rates; and
 - (B) The feasibility of adopting and implementing a rate structure that encourages water demand efficiency.
 - (k) Other documents, such as:
 - (i) Documentation of SEPA compliance;
 - (ii) Agreements; and
 - (iii) Comments from each local government with jurisdiction and adjacent utilities.
- (5) Purveyors intending to implement the project report and construction document submittal exceptions authorized under WAC 246-290-125 must include:
 - (a) Standard construction specifications for distribution mains; and/or
 - (b) Design and construction standards for distribution-related projects, including:
 - (i) Description of project report and construction document internal review procedures, including engineering design review and construction completion reporting requirements;
 - (ii) Construction-related policies and requirements for external parties, including consumers and developers;
 - (iii) Performance and sizing criteria; and
 - (iv) General reference to construction materials and methods.
 - (6) Purveyors shall submit reports identifying the progress in developing their water system plans if required by the department.
 - (7) Purveyors shall transmit water system plans to adjacent utilities and each local government with jurisdiction, to assess consistency with ongoing and adopted planning efforts.
 - (8) Prior to department approval of a water system plan or a water system plan update, the purveyor shall:
 - (a) Hold an informational meeting for the water system consumers and notify consumers in a way that is appropriate to the size of the water system; and

- (b) Obtain approval of the water system plan from the purveyor's governing body or elected governing board.
- (9) Department approval of a water system plan is effective for ten years from the date of written approval unless:
 - (a) The purveyor requests and receives a plan approval period of less than ten years; or
 - (b) The department requests an updated plan.
- (10) The purveyor shall update the water system plan and obtain department approval at or before the expiration of the current plan approval if the system meets any of the conditions of subsection (2) of this section.
- (11) Water system plan amendments. A purveyor may submit an amendment to its current approved water system plan for department approval at any time during the plan approval period. Project reports may be included in a water system plan amendment to meet the requirements under WAC 246-290-110(3). Department approval of a water system plan amendment does not alter the current plan approval period in accordance with subsection (9) of this section and does not satisfy the requirement of subsection (2) of this section to update the water system plan.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-107 Place of use expansion. The place of use of a surface or groundwater right may be expanded to include any portion of the approved service area that was not previously within the place of use for the water right when documented in an approved planning or engineering document under chapter 43.20 RCW or in accordance with procedures adopted under chapter ~~((70.116))~~ 70A.100 RCW. This occurs as an effect of the department's approval of a service area identified in a water system plan, water system plan amendment, small water system management program, engineering document, or as an effect of the local legislative authority's approval of a service area as part of a coordinated water system plan.

- (1) The following conditions must be met:
 - (a) The municipal water supplier is in compliance with the terms of the water system plan or small water system management program, including those regarding water use efficiency.
 - (b) The alteration of the place of use is not inconsistent regarding an area added to the place of use with any local plans and regulations.
 - (c) The alteration of the place of use is not inconsistent regarding an area added to the place of use with any watershed plan approved under chapter 90.82 RCW or a comprehensive watershed plan approved under RCW 90.54.040(1) after September 3, 2003, if such a watershed plan has been approved for the area.
- (2) As part of the planning or engineering document, municipal water suppliers must:
 - (a) Identify the area where the place of use will be expanded.
 - (b) Document that subsection (1)(a) and (c) of this section are met.
 - (c) Meet the requirements of WAC 246-290-108 for the area where the place of use will be expanded.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-130 Source approval. (1) Every purveyor shall obtain drinking water from the highest quality source feasible. ~~((N))~~ Every purveyor shall, prior to using a source as a public water supply, obtain approval from the department for:

(a) All new sources~~((;))~~.

(b) Previously unapproved sources~~((; or))~~.

(c) Modifications~~((of an))~~ to existing sources ~~((shall be used as a public water supply without department approval. N))~~.

~~((2))~~ (2) In no case may a purveyor maintain an intake or other connection ~~((shall be maintained))~~ between a public water system and a source of water not approved by the department.

~~((3))~~ (3) Before initiating source development or modification, the purveyor shall contact the department to identify submittal requirements.

~~((4))~~ (4) Any party seeking source approval shall provide the department sufficient documentation, in a project report, construction documents, or in supplemental documents, that the source:

(a) Is reasonable and feasible for the type and size of the system;

(b) May legally be used in conformance with state water rights laws;

(c) Supplies water that is physically and reliably available in the necessary quantities, as shown in:

(i) A hydrogeologic assessment of the proposed source;

(ii) A general description of the watershed, spring, and/or aquifer recharge area affecting the quantity or quality of flow, which includes seasonal variation and upstream water uses that may significantly affect the proposed source;

(iii) For groundwater and spring sources, well source development data that are available from a pump test at the maximum design rate and duration, or are available from other sources of information, that establish pump settings (depth) in the well and demonstrate adequacy of water quantity to meet design criteria while not leading to water quality problems;

(iv) For groundwater and spring sources, installation of a source meter or other equivalent device that reliably measures volume of flow into the system;

(d) Is, or is not, a GWI under WAC 246-290-640, and meets or can meet the applicable requirements for GWI sources as described in that section including treatment;

(e) Adequately provides for source protection, as shown in:

(i) For surface water and GWI sources, the watershed control program identified under WAC 246-290-135 and Part 6 of this chapter;

(ii) For wells, a preliminary department susceptibility assessment or equivalent information, and preliminary WHPA delineation and contaminant inventory, under the requirements for sanitary control and wellhead protection under WAC 246-290-135;

(f) Is designed and constructed in conformance with this chapter, and relevant requirements of chapter 173-160 WAC (department of ecology well construction standards);

(g) Meets water quality standards under WAC 246-290-310, as shown in an initial water quality analysis that includes, at a minimum, the following:

(i) Bacteriological, in addition to water quality standards under WAC 246-290-310, the raw water coliform source sample must be satisfactory;

(ii) Complete inorganic chemical and physical except that the MCL for arsenic under WAC 246-290-310 does not apply to TNC systems;

(iii) Complete VOC;

(iv) Radionuclides, if source approval is requested for a community system;

(v) SOC, except where waived or not required under WAC 246-290-300; ~~((and))~~

(vi) Contaminants with a SAL, except where waived or not applicable under WAC 246-290-300(10); and

(vii) Any other information required by the department relevant to the circumstances of the particular source.

(h) Sources that otherwise would not meet water quality standards under WAC 246-290-310 or that have unsatisfactory raw water coliform source samples may be approved if treatment is provided.

~~((5))~~ (5) The required documentation under subsection (3) of this section ~~((shall))~~ must include, at a minimum:

(a) A water right self-assessment;

(b) A map showing the project location and vicinity;

(c) A map depicting topography, distances to the surface water intake, well or spring from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water;

(d) The dimensions, location, and legal documentation of the SCA under WAC 246-290-135;

(e) A copy of the on-site inspection form completed by the department or local health department representative;

(f) A copy of the water well report including the unique well identification tag number, depth to open interval or top of screened interval, overall depth of well from the top of the casing, vertical elevation, and location (both plat location and latitude/longitude); and

(g) Documentation of source meter installation. The purveyor may utilize other documents, such as a water system plan, susceptibility assessment, wellhead protection program, project report, or construction documents, to provide the documentation and information to the department, provided that the documents are current, and the purveyor indicates the location in the document of the relevant information.

~~((6))~~ (6) If treatment of a source is necessary to meet water quality standards, the purveyor may be required to meet the provisions of WAC 246-290-250 and Part 6 of this chapter, if applicable, prior to or as a condition of approval.

~~((7))~~ (7) An intertie must be adequately described in a written agreement between the purveyor and the supplier of the water, and otherwise meet the requirements of WAC 246-290-132.

~~((8))~~ (8) The purveyor shall not construct facilities for source development and use without prior approval of the department pursuant to the provisions of WAC 246-290-120.

~~((9))~~ (9) The purveyor may request a conditional source approval, such as one that sets limits on use or requires

interim treatment, if further analysis of the quality of the source is required before final approval.

~~((9))~~ (10) For sources or supplies of water used by bottled water or ice plants to produce bottled water or ice:

(a) If the bottled water or ice plant is a Group A community water system and the plant uses the system's source for the water that is bottled or made into ice, the source and supply used for the bottled water and ice ~~((shall))~~ must meet the applicable Group A requirements;

(b) If the bottled water or ice plant uses its own source for the water that is bottled or made into ice, and the plant is not a Group A community water system, the owner or operator shall obtain source approval from the department, and the source water ~~((shall))~~ must meet the ongoing source water quality monitoring requirements for a Group A community system;

(c) If the bottled water or ice plant purchases the water for bottling or making ice from another source or supply, the water ~~((shall))~~ must meet the minimum requirements for a Group A community water system, and the owner or operator of the plant shall ensure that the water meets the requirements;

(d) The source or supply for the water that is bottled or made into ice ~~((shall))~~ must be protected from contamination prior to the bottling or ice making process; and

(e) In addition to the requirements imposed under this subsection, the processing of bottled water ~~((shall be))~~ is subject to regulation by the state department of agriculture and the United States Food and Drug Administration.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-300 Monitoring requirements. (1) General.

(a) The monitoring requirements specified in this section are minimums. The department may require additional monitoring when:

(i) Contamination is present or suspected in the water system;

(ii) A groundwater source is determined to be a potential GWI;

(iii) The degree of source protection is not satisfactory;

(iv) Additional monitoring is needed to verify source vulnerability for a requested monitoring waiver;

(v) Under other circumstances as identified in a department order; or

(vi) Additional monitoring is needed to evaluate continuing effectiveness of a treatment process where problems with the treatment process may exist.

(b) Special purpose samples collected by the purveyor ~~((shall))~~ do not count toward fulfillment of the monitoring requirements of this chapter unless the quality of data and method of sampling and analysis are acceptable to the department.

(c) The purveyor shall ensure samples required by this chapter are collected, transported, and submitted for analysis according to EPA-approved methods. The analyses ~~((shall))~~ must be performed by a laboratory accredited by the state using EPA-approved methods or other department-approved

methods. Qualified water utility, accredited laboratory, health department personnel, and other parties approved by the department may conduct measurements for pH, temperature, residual disinfectant concentration, alkalinity, bromide, chlorite, TOC, SUVA, turbidity, calcium, conductivity, orthophosphate, and silica as required by this chapter, provided, these measurements are made according to EPA approved methods.

(d) Compliance samples required by this chapter ~~((shall))~~ must be taken at locations listed in Table 4 of this section.

(e) Purveyors failing to comply with a monitoring requirement shall notify:

(i) The department under WAC 246-290-480; and

(ii) The owner or operator of any consecutive system served and the appropriate water system users under 40 C.F.R. 141.201 and Part 7, Subpart A of this chapter.

(2) Selling and receiving water.

(a) Source monitoring. Purveyors, with the exception of those that "wheel" water to their consumers (i.e., sell water that has passed through another purchasing purveyor's distribution system), shall conduct source monitoring under this chapter for the sources under their control. The level of monitoring ~~((shall))~~ must satisfy the monitoring requirements associated with the total population served by the source.

(b) Distribution system monitoring. The purveyor of a system that receives and distributes water shall perform distribution-related monitoring requirements. Monitoring ~~((shall))~~ must include, but not be limited to, the following:

(i) Collect coliform samples under subsection (3) of this section;

(ii) Collect disinfection byproduct samples as required by subsection (6) of this section;

(iii) Perform the distribution system residual disinfectant concentration monitoring under subsection (6) of this section, and as required under WAC 246-290-451, 246-290-664, or 246-290-694. Systems with fewer than one hundred connections shall measure residual disinfectant concentration at the same time and location that a routine or repeat coliform sample is collected, unless the department determines that more frequent monitoring is necessary to protect public health;

(iv) Perform lead and copper monitoring required under 40 C.F.R. 141.86, 141.87, and 141.88;

(v) Perform the distribution system monitoring under 40 C.F.R. 141.23(b) for asbestos if applicable;

(vi) Other monitoring as required by the department.

(c) Reduced monitoring for regional programs. The receiving purveyor may receive reductions in the coliform, lead and copper, disinfection byproduct (including ~~((THMs))~~ TTHMs and HAA5) and distribution system disinfectant residual concentration monitoring requirements, provided the receiving system:

(i) Purchases water from a purveyor that has a department-approved regional monitoring program;

(ii) Has a written agreement with the supplying system or regional water supplier that is acceptable to the department, and which identifies the responsibilities of both the supplying and receiving system(s) with regards to monitoring, reporting and maintenance of the distribution system; and

(iii) Has at least one compliance monitoring location for disinfection byproducts, if applicable.

(d) Periodic review of regional programs. The department may periodically review the sampling records of public water systems participating in a department-approved monitoring program to determine if continued reduced monitoring is appropriate. If the department determines a change in the monitoring requirements of the receiving system is appropriate:

(i) The department shall notify the purveyor of the change in monitoring requirements; and

(ii) The purveyor shall conduct monitoring as directed by the department.

(3) Bacteriological.

(a) The purveyor shall be responsible for collection and submittal of coliform samples from representative points throughout the distribution system. Samples ~~((shall))~~ must be collected after the first service and at regular time intervals each month the system provides water to consumers. Samples ~~((shall))~~ must be collected that represent normal system operating conditions.

(i) Systems providing disinfection treatment shall measure the residual disinfectant concentration within the distribution system at the same time and location of routine and repeat samples.

(ii) Systems providing disinfection treatment shall assure that disinfectant residual concentrations are measured and recorded on all coliform sample report forms submitted for compliance purposes.

(b) Coliform monitoring plan.

(i) Systems shall develop a written coliform monitoring plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system. The plan is subject to department review and approval. Systems shall collect total coliform samples according to the plan. Monitoring may take place at a customer's premises, dedicated sampling station, or other designated compliance sampling location. Routine and repeat sample sites and any sampling points necessary to meet the requirements of Part 6 of this chapter and WAC 246-290-300 (3)(h) must be identified in the plan.

(ii) Systems shall collect samples at regular time intervals throughout the month, except for systems that use groundwater and serve four thousand nine hundred or fewer people may collect all required samples on a single day if the samples are taken from different sites.

(iii) Systems shall take at least the minimum number of required samples even if the system has had an *E. coli* MCL violation or has exceeded the coliform treatment technique triggers in WAC 246-290-320(2).

(iv) Systems may conduct more compliance monitoring than is required under subsection (3)(b) of this section to investigate potential problems in the distribution system and use monitoring as a tool to assist in identifying problems. Systems may take more than the minimum number of required routine samples and must include the results in calculating whether or not the coliform treatment technique triggers in WAC 246-290-320(2) have been exceeded only if the samples are taken in accordance with the plan and are representative of water throughout the distribution system.

(v) Systems shall identify repeat monitoring locations in the plan. Unless the provisions of subsection (3)(b)(i) through (iv) of this section are met, the system shall collect at least one repeat sample from the sample tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sample site. If a total coliform-positive sample is at the end of the distribution system, or one service connection away from the end of the distribution system, the system shall still take all required repeat samples. The department may allow an alternative sampling location in lieu of the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. Systems may propose repeat monitoring locations to the department that the system believes to be representative of a pathway for contamination of the distribution system. A system may elect to specify either alternative fixed locations or criteria for selecting repeat sampling sites on a situational basis in a standard operating procedure (SOP) in its plan. The system shall design its SOP to focus the repeat samples at locations that best verify and determine the extent of potential contamination of the distribution system area based on specific situations. The department may modify the SOP or require alternative monitoring locations as needed.

(vi) The purveyor shall:

(A) Keep the coliform monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer ensures representative monitoring of the system, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(c) Special purpose coliform samples. Special purpose coliform samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, must not be used to determine whether or not the coliform treatment technique trigger has been exceeded. Repeat samples taken in accordance with subsection (3) of this section are not considered special purpose coliform samples, and must be used to determine whether or not the coliform treatment technique trigger has been exceeded.

(d) Invalidation of total coliform samples. A total coliform-positive sample invalidated under subsection (3) of this section does not count toward meeting the minimum monitoring requirements of this section.

(i) The department may invalidate a total coliform-positive sample if one or more of the following conditions are met:

(A) The laboratory establishes that improper sample analysis caused the total coliform-positive result;

(B) The department, on the basis of the results of repeat samples collected as required under subsection (3) of this section, determines that the total coliform-positive samples resulted from a domestic or other nondistribution system plumbing problem. The department may not invalidate a sample on the basis of repeat sample results unless all repeat

samples collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected at a location other than the original tap are total coliform-negative. For example, the department may not invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the system has only one service connection; or

(C) The department has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition that does not reflect water quality in the distribution system. In this case, the system shall still collect all repeat samples required under subsection (3) of this section, and use the samples to determine whether a coliform treatment technique trigger under WAC 246-290-320(2) has been exceeded.

(ii) Unless total coliforms are detected, a laboratory shall invalidate a total coliform sample if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined such as the multiple-tube fermentation technique, produces a turbid culture in the absence of an acid reaction in the presence-absence coliform test, or exhibits confluent growth or produces colonies TNTC with an analytical method using a membrane filter such as a membrane filter technique. If a laboratory invalidates a sample because of such interference, the system shall collect another sample from the same location as the original sample within twenty-four hours of notification of the interference problem, and have it analyzed for the presence of total coliforms. The system shall continue to re-sample within twenty-four hours and have the samples analyzed until it obtains a valid result. The department may waive the twenty-four hour time limit on a case-by-case basis.

(e) Monitoring frequency. The number of required routine coliform samples is based on total population served.

(i) Purveyors of community systems shall collect and submit for analysis no less than the number of routine samples listed in Table 2 of this section during each calendar month of operation;

(ii) Unless directed otherwise by the department, purveyors of noncommunity systems shall collect and submit for analysis no less than the number of samples required in Table 2 of this section. Each month's population (~~shall~~) must be based on the average daily population and (~~shall~~) must include all residents and nonresidents served during that month. During months when the average daily population served is less than twenty-five, routine sample collection is not required when:

(A) Using only protected groundwater sources;

(B) The system has a clean compliance history for a minimum of twelve months;

(C) The system has no sanitary defects or significant deficiencies;

(D) The system has detected no total coliform-positive routine or repeat samples in the previous month; and

(E) The system has collected and submitted for analysis one routine sample during one of the previous two months.

(iii) Purveyors of NTNC and TNC systems are not required to collect routine samples in months when the population served is zero.

(iv) Purveyors of systems serving both a resident and a nonresident population shall base their minimum sampling requirement on the total of monthly populations served, both resident and nonresident as determined by the department, but no less than the minimum required in Table 2 of this section.

(v) Seasonal systems.

(A) In accordance with WAC 246-290-480 (2)(f)(ii), seasonal systems shall certify that a department-approved start-up procedure, which may include a requirement for start-up sampling, was completed prior to serving water to the public.

(B) Seasonal systems shall monitor every month that it is in operation unless it meets the criteria in subsection (3)(e)(ii) of this section.

(C) The department may exempt a seasonal system from some or all of the requirements in subsection (3)(e)(v)(A) of this section if the entire distribution system remains pressurized during the entire period that the system is not operating, except that systems that monitor less frequently than monthly shall still monitor during the vulnerable period designated by the department.

Table 2
Total Coliform Monitoring Frequency

Population served	Minimum number of samples per month
1 to 1,000*	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180

Population served	Minimum number of samples per month
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

*Noncommunity systems using only protected groundwater sources and serving less than twenty-five individuals, may collect and submit for analysis, one sample every three months per WAC 246-290-300 (3)(e)(ii).

(f) Repeat monitoring.

(i) If a routine sample taken under subsection (3) of this section is total coliform-positive, the system shall collect a set of repeat samples within twenty-four hours of being notified of the positive result. Additional treatment, such as batch or shock chlorination must not be started prior to the collection of repeat samples unless the department gives prior authorization. The purveyor shall contact the department to determine the best interim approach in this situation. The system shall collect no fewer than three repeat samples for each total coliform-positive sample found. The department may extend the twenty-four hour limit on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within twenty-four hours that is beyond its control. Following the collection of repeat samples, and before the analytical results are known, the system may provide interim precautionary treatment or other means to protect public health.

(ii) The system shall collect all repeat samples on the same day, except the department may allow a system with a single connection to collect the required set of repeat samples over a three-day period or to collect a larger volume of repeat samples in one or more sample containers of any size, as long as the total volume collected is at least 300 (~~ml~~) mL.

(iii) The system shall collect an additional set of repeat samples in the manner specified in subsection (3)(f)(i) through (iii) of this section if one or more repeat samples in the current set of repeat samples is total coliform-positive. The system shall collect the additional set of repeat samples within twenty-four hours of being notified of the positive result, unless the department extends the time limit as provided in subsection (3)(f)(i) of this section. The system shall continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger specified in WAC 246-290-320 (2)(a) has been exceeded as a result of a repeat sample being total coliform-positive and notifies the department. If a treatment technique trigger identified in WAC 246-290-320 (2)(a) is

exceeded as a result of a routine sample being total coliform-positive, the system is required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

(iv) After a system collects a routine sample and before it gets the results of the analysis of that sample, if it collects subsequent routine samples from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent samples as a repeat sample instead of as a routine sample.

(v) Results of all routine and repeat samples taken under subsection (3)(e) and (f) of this section not invalidated by the department under subsection (3)(d) of this section must be used to determine whether a coliform treatment technique trigger specified in WAC 246-290-320 (2)(a) has been exceeded.

(g) *E. coli* testing.

(i) If any routine or repeat sample is total coliform-positive, the system shall analyze that total coliform-positive culture medium to determine if *E. coli* are present. If *E. coli* are present, the system shall notify the department by the end of the day when the system is notified of the test result.

(ii) The department may allow a system, on a case-by-case basis, to forgo *E. coli* testing on a total coliform-positive sample if the system assumes that the total coliform-positive sample is *E. coli*-positive. Accordingly, the system shall notify the department as specified in WAC 246-290-320 (1)(a).

(h) Triggered source water monitoring.

(i) All groundwater systems with their own groundwater sources must conduct triggered source water monitoring unless the following conditions exist:

(A) The system has submitted a project report and received department approval that it provides at least 4-log treatment of viruses using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal before or at the first customer for each groundwater source; and

(B) The system is conducting compliance monitoring under WAC 246-290-453(2).

(ii) Any groundwater source sample required under this subsection (3) must be collected at the source prior to any treatment unless otherwise approved by the department.

(iii) Any groundwater source sample collected under this subsection (3) must be at least 100 mL in size and must be analyzed for *E. coli* using one of the analytical methods under 40 C.F.R. 141.402(c).

(iv) Groundwater systems shall collect at least one sample from each groundwater source in use at the time a routine sample collected under subsection (3) of this section is total coliform-positive and not invalidated under subsection (3)(d) of this section. These source samples must be collected within twenty-four hours of notification of the total coliform-positive sample. The following exceptions apply:

(A) The twenty-four hour time limit may be extended if granted by the department and will be determined on a case-by-case basis. If an extension is granted, the system shall sample by the deadline set by the department.

(B) Systems with more than one groundwater source may meet the requirements of subsection (3)(h)(iv) of this section by sampling a representative groundwater source or sources. The system shall have a department-approved triggered source water monitoring plan that identifies one or more groundwater sources that are representative of each monitoring site in the system's coliform monitoring plan under subsection (3)(b) of this section. The plan must be approved by the department before representative sampling will be allowed.

(v) Groundwater systems with an *E. coli* positive source water sample that is not invalidated under subsection (3)(h)(vii) of this section, shall:

(A) Notify the department by the end of the day when the system is notified of the test result.

(B) Provide Tier 1 public notice as required under Part 7, Subpart A of this chapter and special notification under WAC 246-290-71005 (4) and (5);

(C) If directed by the department, take corrective action as required under WAC 246-290-453(1); and

(D) Systems that are not directed by the department to take corrective action shall collect five additional samples from the same source within twenty-four hours of being notified of the *E. coli* positive source water sample. If any of the five additional samples are *E. coli* positive, the system shall take corrective action under WAC 246-290-453(1).

(vi) Any consecutive groundwater system that has a total coliform-positive routine sample collected under this subsection and not invalidated under subsection (3)(d) of this section shall notify each wholesale system it receives water from within twenty-four hours of being notified of the total coliform-positive sample and comply with subsection (3)(h) of this section.

(A) A wholesale groundwater system that receives notice from a consecutive system under subsection (3)(h)(vi) of this section shall conduct triggered source water monitoring under subsection (3)(h) of this section unless the department determines and documents in writing that the total coliform-positive sample collected was caused by a distribution system deficiency in the consecutive system.

(B) If the wholesale groundwater system source sample is *E. coli* positive, the wholesale system shall notify all consecutive systems served by that groundwater source within twenty-four hours of being notified of the results and shall meet the requirements of subsection (3)(h)(v) of this section.

(C) Any consecutive groundwater system receiving water from a source with an *E. coli* positive sample shall notify water system users as required under subsection (3)(h)(v)(B) of this section.

(vii) An *E. coli* positive groundwater source sample may be invalidated only if one of the following conditions apply:

(A) The system provides the department with written notice from the laboratory that improper sample analysis occurred; or

(B) The department determines and documents in writing that there is substantial evidence that the *E. coli* positive groundwater sample is not related to source water quality.

(viii) If the department invalidates an *E. coli* positive groundwater source sample, the system shall collect another source water sample within twenty-four hours of being noti-

fied by the department of its invalidation decision and have the sample analyzed using the same analytical method. The department may extend the twenty-four hour time limit as allowed under subsection (3)(h)(iv)(A) of this section.

(ix) Groundwater systems that fail to meet any of the monitoring requirements of subsection (3)(h) of this section shall conduct Tier 2 public notification under Part 7, Subpart A of this chapter.

(i) Assessment source water monitoring. If directed by the department, a groundwater system shall conduct assessment source water monitoring which may include, but is not limited to, the collection of at least one representative groundwater source sample each month the source provides groundwater to the public, for a minimum of twelve months.

(i) Sampling must be conducted as follows:

(A) Source samples must be collected at a location prior to any treatment. If the water system's configuration does not allow sampling at the source itself, the department may approve an alternative source sampling location representative of the source water quality.

(B) Source samples must be at least 100 mL in size and must be analyzed for *E. coli* using one of the analytical methods under 40 C.F.R. 141.402(c).

(ii) A groundwater system may use a triggered source water sample collected under subsection (3)(h) of this section to meet the requirements for assessment source water monitoring.

(iii) A groundwater system with an *E. coli* positive assessment source water sample that is not invalidated under subsection (3)(h)(vii) of this section, and consecutive systems receiving water from this source shall:

(A) Provide Tier 1 public notice under Part 7, Subpart A of this chapter and special notification under WAC 246-290-71005 (4) and (5); and

(B) Take corrective action as required under WAC 246-290-453(1).

(iv) A groundwater system that fails to conduct assessment source water monitoring as directed by the department shall provide Tier 2 public notice under Part 7, Subpart A of this chapter.

(4) Inorganic chemical and physical.

(a) A complete inorganic chemical and physical analysis ~~((shall))~~ must consist of the primary and secondary chemical and physical ~~((substances))~~ contaminants.

(i) Primary chemical and physical ~~((substances))~~ contaminants are antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate (as N), nitrite (as N), selenium, sodium, thallium, and for unfiltered surface water, turbidity. (Except that the MCL for arsenic under WAC 246-290-310 does not apply to TNC systems.)

(ii) Secondary chemical and physical ~~((substances))~~ contaminants are chloride, color, hardness, iron, manganese, specific conductivity, silver, sulfate, total dissolved solids~~((\neq))~~, and zinc. Total dissolved solids are required only when specific conductivity exceeds seven hundred micromhos/centimeter.

~~((Required only when specific conductivity exceeds seven hundred micromhos/centimeter.))~~

(b) Purveyors shall monitor for all primary and secondary chemical and physical (~~(substances)~~) contaminants identified in WAC 246-290-310, Table 5 and Table 6. Samples (~~(shall)~~) must be collected in accordance with the monitoring requirements referenced in 40 C.F.R. 141.23 introductory text, 141.23(a) through 141.23(j), and 40 C.F.R. 143.4, except for composite samples for systems serving less than three thousand three hundred one persons. For these systems, compositing among different systems may be allowed if the systems are owned or operated by a department-approved satellite management agency.

(c) Samples required by this subsection (~~(shall)~~) must be taken at designated locations under 40 C.F.R. 141.23(a) through 141.23(j), and 40 C.F.R. 143.4, and Table 4 (~~(herein)~~) of this section.

(i) Wellfield samples (~~(shall be)~~) are allowed from department designated wellfields; and

(ii) Under 40 C.F.R. 141.23 (a)(3), alternate sampling locations may be used if approved by the department. The process for determining these alternate sites is described in department guidance. Purveyors of community and NTNC systems may ask the department to approve an alternate sampling location for multiple sources within a single system that are blended prior to entry to the distribution system. Alternate sampling plans (~~(shall)~~) must address the following:

- (A) Source vulnerability;
- (B) Individual source characteristics;
- (C) Previous water quality information;
- (D) Status of monitoring waiver applications; and
- (E) Other information deemed necessary by the department.

(d) Composite samples:

(i) Under 40 C.F.R. 141.23 (a)(4), purveyors may ask the certified (~~(lab))~~ laboratory to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in department guidance; and

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(e) When the purveyor provides treatment for one or more inorganic chemical or physical contaminants, the department may require the purveyor to sample before and after treatment. The department shall notify the purveyor if and when this additional source sampling is required.

(f) Inorganic monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an inorganic chemical monitoring plan and base routine monitoring on the plan.

(ii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(g) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any nonnitrate/nitrite inorganic chemical and physical monitoring requirements identified in this chapter.

(ii) Purveyors requesting a monitoring waiver shall comply with applicable subsections of 40 C.F.R. 141.23 (b)(3), and 141.23 (c)(3).

(iii) Purveyors shall update and resubmit requests for waiver renewals as applicable during each compliance cycle or period or more frequently as directed by the department.

(iv) Failure to provide complete and accurate information in the waiver application (~~(shall)~~) may be grounds for denial of the monitoring waiver.

(h) The department may require the purveyor to repeat sample for confirmation of results.

(i) Purveyors with emergency and seasonal sources shall monitor those sources when they are in use.

(5) Lead and copper. Monitoring for lead and copper shall be conducted in accordance with 40 C.F.R. 141.86 (a) - (f), 141.87, and 141.88. All systems that have fewer than five drinking water taps used for human consumption shall collect at least one sample from each tap and then collect additional samples from those taps on different days during the monitoring period to meet the required number of samples as described in 40 C.F.R. 141.86(c).

(6) Disinfection byproducts (DBP), disinfectant residuals, and disinfection byproduct precursors (DBPP). Purveyors of community and NTNC systems providing water treated with chemical disinfectants and TNC systems using chlorine dioxide shall monitor as follows:

(a) General requirements.

(i) Systems shall collect samples during normal operating conditions.

(ii) All monitoring shall be conducted in accordance with the analytical requirements in 40 C.F.R. 141.131.

~~(iii) ((Systems may consider multiple wells drawing from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with department approval in accordance with department guidance.~~

~~(iv))~~ Systems required to monitor under this subsection shall prepare and implement a monitoring plan in accordance with 40 C.F.R. 141.132(f) or 40 C.F.R. 141.622, as applicable.

(A) Community and NTNC surface water and GWI systems that deliver water that has been treated with a disinfectant other than ultraviolet light and serve more than three thousand three hundred people shall submit a monitoring plan to the department.

(B) The department may require submittal of a monitoring plan from systems not specified in subsection (6)(a) ~~((iv))~~ ~~(iii)~~(A) of this section, and may require revision of any monitoring plan.

(C) Failure to monitor for TTHM, HAA5, or bromate will be treated as a violation for the entire period covered by the annual average where compliance is based on a locational running annual average or running annual average of monthly or quarterly samples or averages, as applicable.

(D) Failure to monitor for chlorine and chloramine residuals will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the systems' failure to monitor makes it impossible to determine compliance with the MRDLs.

(b) Disinfection byproducts - Community and NTNC systems only.

(i) TTHMs and HAA5.

(A) Systems shall monitor for TTHM and HAA5 in accordance with 40 C.F.R. ~~((141.132 (b)(1)(i) until the dates set in Table 3. On and after the dates set in Table 3, the systems shall monitor in accordance with 40 C.F.R.))~~ 141.620, 141.621, and 141.622.

((Table 3

Population Served	Routine Monitoring Start Date ¹
100,000 or more	April 1, 2012
50,000 - 99,999	October 1, 2012
10,000 - 49,999	October 1, 2013
Less than 10,000	October 1, 2013 ² October 1, 2014 ³

¹Systems that have nonemergency interties with other systems must comply with the dates associated with the largest system in their combined distribution system.

²Surface water and GWI systems that did not have to do *Cryptosporidium* monitoring under 40 C.F.R. 141.701 (a)(4).

³Surface water and GWI systems that also did *Cryptosporidium* monitoring under 40 C.F.R. 141.701 (a)(4).)

(B) With department approval, systems may reduce monitoring in accordance with ~~((40 C.F.R. 141.132 (b)(1)(ii) and (iii), or))~~ 40 C.F.R. 141.623~~((, as applicable))~~.

(C) Systems on department-approved reduced monitoring schedules may be required to return to routine monitoring, or initiate increased monitoring in accordance with ~~((40 C.F.R. 141.132 (b)(1)(iv),))~~ 40 C.F.R. 141.625~~((,))~~ or 40 C.F.R. 141.627, as applicable.

(D) ~~((The department may return systems on increased monitoring to routine monitoring if, after one year, annual average results for TTHMs and HAA5 are less than or equal to 0.060 mg/L and 0.045 mg/L, respectively, or monitoring results are consistently below the MCLs indicating that increased monitoring is no longer necessary. After the dates set in Table 3,))~~ Systems must meet requirements of 40 C.F.R. 141.628 and 40 C.F.R. 141.625(c) to return to routine monitoring.

(E) ~~((After the dates set in Table 3,))~~ Systems must calculate operational evaluation levels each calendar quarter and take action, as needed, in accordance with 40 C.F.R. 141.626.

(F) NTNC systems serving ten thousand or more people and community systems must comply with the provisions of 40 C.F.R. Subpart U - Initial Distribution System Evaluation under:

- 40 C.F.R. 141.600 General requirements.
- 40 C.F.R. 141.601 Standard monitoring.

- 40 C.F.R. 141.602 System specific studies.
- 40 C.F.R. 141.603 40/30 certification.
- 40 C.F.R. 141.604 Very small system waivers.
- 40 C.F.R. 141.605 Subpart V compliance monitoring location recommendations.

(ii) Chlorite - Only systems that use chlorine dioxide.

(A) Systems using chlorine dioxide shall conduct daily and monthly monitoring in accordance with 40 C.F.R. 141.132 (b)(2)(i) and additional chlorite monitoring in accordance with 40 C.F.R. 141.132 (b)(2)(ii).

(B) With department approval, monthly monitoring may be reduced in accordance with 40 C.F.R. 141.132 (b)(2) (iii)(B). Daily monitoring at entry to distribution required by 40 C.F.R. 141.132 (b)(2)(i)(A) may not be reduced.

(iii) Bromate - Only systems that use ozone.

(A) Systems using ozone for disinfection or oxidation must conduct bromate monitoring in accordance with 40 C.F.R. 141.132 (b)(3)(i).

(B) With department approval, monthly bromate monitoring may be reduced to once per quarter in accordance with 40 C.F.R. 141.132 (b)(3)(ii)(B).

(c) Disinfectant residuals.

(i) Chlorine and chloramines. Systems that deliver water continuously treated with chlorine or chloramines, including consecutive systems, shall monitor and record the residual disinfectant level in the distribution system under WAC 246-290-300 (2)(b), 246-290-451, 246-290-664(6), or 246-290-694(8).

(ii) Chlorine dioxide. Community, NTNC, or TNC systems that use chlorine dioxide shall monitor in accordance with 40 C.F.R. 141.132 (c)(2) and record results.

(d) Disinfection byproducts precursors.

Community and NTNC surface water or GWI systems that use conventional filtration with sedimentation as defined in WAC 246-290-660(3) shall monitor under 40 C.F.R. 141.132(d), and meet the requirements of 40 C.F.R. 141.135.

(7) Organic chemicals.

(a) Purveyors of community and NTNC water systems shall comply with monitoring requirements under 40 C.F.R. 141.24 ~~((a) - (d), 141.24))~~ (f)(1) - (f)(15), 141.24 (f)(18) - (19), 141.24 (f)(21), 141.24 ~~((g)(1) - (9), 141.24 (g)(12) - (14), 141.24))~~ (h)(1) - (11), and 141.24 (h)(14) - (17).

(b) Sampling locations shall be as defined in 40 C.F.R. 141.24(f)~~((, 141.24(g),))~~ and 141.24(h).

(i) Wellfield samples ~~((shall be))~~ are allowed from department designated wellfields; and

(ii) Under 40 C.F.R. 141.24 (f)(3) and 141.24 (h)(3), alternate sampling locations may be allowed if approved by the department. These alternate locations are described in department guidance. Purveyors may ask the department to approve an alternate sampling location for multiple sources within a single system that are blended prior to entry to the distribution system. The alternate sampling location shall consider the following:

(A) Source vulnerability;

(B) An updated organic monitoring plan showing location of all sources with current and proposed sampling locations;

- (C) Individual source characteristics;
- (D) Previous water quality information;
- (E) Status of monitoring waiver applications; and
- (F) Other information deemed necessary by the department.
- (c) Composite samples:
 - (i) Purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in department guidance;
 - (ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.
- (d) The department may require the purveyor to sample both before and after treatment for one or more organic contaminants. The department shall notify the purveyor if and when this additional source sampling is required.
- (e) Organic chemical monitoring plans.
 - (i) Purveyors of community and NTNC systems shall prepare an organic chemical monitoring plan and base routine monitoring on the plan.
 - (ii) The purveyor shall:
 - (A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;
 - (B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and
 - (C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

- (f) Monitoring waivers.
 - (i) Purveyors may request in writing, a monitoring waiver from the department for any organic monitoring requirement (~~except those relating to unregulated VOCs~~);
 - (ii) Purveyors requesting a monitoring waiver shall comply with 40 C.F.R. 141.24 (f)(7), 141.24 (f)(10), 141.24 (h)(6), and 141.24 (h)(7);
 - (iii) Purveyors shall update and resubmit requests for waiver renewals as directed by the department; and
 - (iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.
- (g) Purveyors with emergency and seasonal sources shall monitor those sources under the applicable requirements of this section when they are actively providing water to consumers.
- (8) Radionuclides. Monitoring for radionuclides shall be conducted under 40 C.F.R. 141.26.
- (9) *Cryptosporidium* and *E. coli* source monitoring. Purveyors with surface water or GWI sources shall monitor the sources in accordance with 40 C.F.R. 141.701 and 702.
- (10) ~~(Other substances.~~
 - On the basis of public health concerns, the department may require the purveyor to monitor for additional substances.) Contaminants with a SAL under WAC 246-290-315, Table 9.
 - (a) Purveyors shall monitor for contaminants with a SAL in accordance with Tables 3 and 4 of this section. Source sample locations and blended samples are allowed as consistent with other federally regulated organic contaminants referenced in subsection (7)(b) of this section.

TABLE 3
SAL MONITORING

<u>Contaminant or Group of Contaminants</u>	<u>Applicable Water System Classification</u>	<u>Initial Sampling</u>	<u>Routine Sampling Frequency</u>	<u>Sampling Location</u>
<u>Organic Contaminants</u>				
<u>Per- and polyfluoroalkyl substances (PFAS)</u>	<u>Community and NTNC, and if applicable, TNC</u>	<u>One sample on or before December 31, 2025</u>	<u>Once every three years</u>	<u>Per the locations described in WAC 246-290-300 (7)(b) and Table 4 of this section</u>

- (b) Purveyors shall monitor for the PFAS contaminants listed in Table 7 under WAC 246-390-075.
- (i) Purveyors, on a schedule determined by the department, but no later than December 31, 2025, shall complete initial sampling for PFAS from a sample location representing each source as listed in Table 4 of this section.
- (ii) Initial PFAS sampling prioritization and scheduling is based on the following criteria:
 - (A) Susceptibility of the source water to contamination by surface activities due to physical attributes of the source;
 - (B) Vulnerability of the source water to PFAS contamination; and
 - (C) Population served.

- (iii) Purveyors of TNC systems determined by the department to be at risk of PFAS contamination due to proximity of the system's water supply to known PFAS contamination shall collect a sample for analysis as directed by the department and, if detected, comply with the follow-up requirements under WAC 246-290-320(8).
- (c) Analytical results for contaminants or groups of contaminants listed in Table 3 of this section reported prior to January 1, 2023, that meet the SDRL and requirements established in chapter 246-390 WAC with the effective date of January 1, 2022, or later may be used to comply with the initial PFAS monitoring requirement in this chapter.

(d) For sources that become active after January 1, 2022, purveyors shall perform the required monitoring as part of the source approval process under WAC 246-290-130.

(e) The department may require a confirmation sample. If a confirmation sample is required by the department, the result will be averaged with the first sampling result and the average is used as the final result. The department has the discretion to delete results of obvious sampling errors from this calculation.

(f) After completing initial sampling as described in Table 3 of this section, each source must be monitored as follows:

(i) For sources with organic results less than the SDRL, purveyors shall begin routine monitoring as described in Table 3 of this section, unless a monitoring waiver is granted by the department under (h) of this subsection.

(ii) For sources with organic detections equal to or greater than the SDRL, purveyors shall conduct follow-up monitoring under WAC 246-290-320(8).

(iii) For sources with inorganic detections below the SAL, purveyors shall monitor as identified in subsection (4) of this section.

(iv) For sources with inorganic detections above the SAL, purveyors shall conduct follow-up monitoring under WAC 246-290-320(9).

(g) For public water systems required to sample for PFAS under EPA's fifth Unregulated Contaminant Monitoring Rule (UCMR5), if the minimum reporting limits are less than fifty percent of any SAL, the department shall accept data that has been accepted by EPA under UCMR5 for the purposes of meeting initial monitoring requirements under WAC 246-290-300. Public water systems required to sample for PFAS shall submit all results to the department to be considered in compliance with the initial monitoring requirements.

(i) If the minimum reporting limit for a result is greater than twenty percent of any SAL, but the result is reported as a nondetect, then follow-up monitoring per WAC 246-290-320 will not be required.

(ii) If a detection is reported below the minimum detection limit and is greater than twenty percent of a SAL, then one additional quarter of follow-up monitoring will be required per WAC 246-290-320 (8)(b).

(h) Monitoring waivers for contaminants with a SAL.

(i) The department may grant a waiver for SAL monitoring requirements identified in this chapter.

(ii) As a condition of the waiver, the department may require a purveyor take a minimum of one sample per source while the waiver is effective.

(11) Other contaminants. On the basis of public health concerns, the department may require a purveyor to monitor for additional contaminants.

Sample Type	Sample Location
Bacteriological	From representative points throughout distribution system.
<i>Cryptosporidium</i> and <i>E. coli</i> (Source Water) - WAC 246-290-630(16)	Under 40 C.F.R. 141.703.
Complete Inorganic Chemical & Physical	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Lead/Copper	From the distribution system at targeted sample tap locations.
Nitrate/Nitrite	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Disinfection Byproducts - TTHMs and HAA5 - WAC 246-290-300(6)	Under 40 C.F.R. 141.132 (b)(1) (Subpart L of the C.F.R.).
Disinfection Byproducts - TTHMs and HAA5 - WAC 246-290-300(6)	Under 40 C.F.R. 141.600 - 629 (IDSE and LRAA in Subparts U and V of the C.F.R.).
Disinfection Byproducts - Chlorite (Systems adding chlorine dioxide)	Under 40 C.F.R. 141.132 (b)(2).
Disinfection Byproducts - Bromate (Systems adding ozone)	Under 40 C.F.R. 141.132 (b)(3).
Disinfectant Residuals - Chlorine and Chloramines	Under 40 C.F.R. 141.132 (c)(1).
Disinfectant Residuals - Chlorine dioxide	Under 40 C.F.R. 141.132 (c)(2).
Disinfection Precursors - Total Organic Carbon (TOC)	Under 40 C.F.R. 141.132(d).
Disinfection Precursors - Bromide (Systems using ozone)	From the source before treatment.
Radionuclides	From a point representative of the source, after treatment and prior to entry to distribution system.
Organic Chemicals (VOCs (&)), SOCs, & PFAS)	From a point representative of the source, after treatment and prior to entry to distribution system.
((Other Substances (unregulated chemicals))	From a point representative of the source, after treatment, and prior to entry to the distribution system, or as directed by the department.))

TABLE 4
MONITORING LOCATION

Sample Type	Sample Location
Asbestos	One sample from distribution system or if required by department, from the source.

Sample Type	Sample Location
<u>Other contaminants without a As directed by the department. MCL, MRDL, TT or SAL</u>	

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-310 Maximum contaminant levels (MCLs) and maximum residual disinfectant levels (MRDLs). (1) General.

(a) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a ~~((substance))~~ contaminant exceeds its MCL or its maximum residual disinfectant level (MRDL), the purveyor shall take follow-up action under WAC 246-290-320.

(b) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.

(2) Bacteriological.

(a) An *E. coli* MCL under this subsection is considered a primary standard.

(b) *E. coli* MCL. An *E. coli* MCL violation occurs each month in which a system is required to monitor for total coliforms when there is:

- (i) *E. coli* presence in a repeat sample following a total coliform presence routine sample;
- (ii) Total coliform presence in any repeat samples collected as a follow-up to a sample with *E. coli* presence;
- (iii) The system fails to take all required repeat samples following an *E. coli* presence routine sample; or
- (iv) The system fails to test for *E. coli* when any repeat samples test positive for total coliform.

~~((Note: For the purposes of the public notification requirements in Part 7, Subpart A of this chapter, an *E. coli* MCL is a violation that requires Tier 1 public notification.))~~

(3) Inorganic chemical and physical.

(a) The primary and secondary ~~((MCLs))~~ standards are listed in Tables 5 and 6 of this section:

TABLE 5
INORGANIC CHEMICAL CHARACTERISTICS

((Substance)) <u>Con-</u> <u>taminant</u>	Primary MCLs (mg/L)
Antimony (Sb)	0.006
Arsenic (As)	0.010*
Asbestos	7 million fibers/liter (longer than 10 microns)
Barium (Ba)	2.0
Beryllium (Be)	0.004
Cadmium (Cd)	0.005
Chromium (Cr)	0.1
Copper (Cu)	**
Cyanide ((HCN)) <u>(CN)</u>	0.2

Fluoride (F)	4.0***
Lead (Pb)	**
Mercury (Hg)	0.002
((Nickel (Ni)))	0.1
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium (Se)	0.05
Sodium (Na)	**
Thallium (Tl)	0.002
((Substance)) <u>Contaminant</u>	Secondary MCLs (mg/L)
Chloride (Cl)	250.0
Fluoride (F)	2.0***
Iron (Fe)	0.3
Manganese (Mn)	0.05
Silver (Ag)	0.1
Sulfate (SO ₄)	250.0
Zinc (Zn)	5.0

Note* Does not apply to TNC systems.

Note** Although the state board of health has not established MCLs for copper, lead, and sodium, there is sufficient public health significance connected with copper, lead, and sodium levels to require inclusion in inorganic chemical and physical source monitoring. For lead and copper, the EPA has established distribution system related levels at which a system is required to consider corrosion control. These levels, called "action levels," are 0.015 mg/L for lead and 1.3 mg/L for copper and are applied to the highest concentration in ten percent of all samples collected from the distribution system. The EPA has also established a recommended level of twenty mg/L for sodium as a level of concern for those consumers that may be restricted for daily sodium intake in their diets.

Note*** If a water system provides community fluoridation, the level of fluoride and associated requirements are set under WAC 246-290-460.

TABLE 6
PHYSICAL CHARACTERISTICS

((Substance)) <u>Contaminant</u>	Secondary MCLs
Color	15 Color Units
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

(b) Compliance with the MCLs, except for nitrate and nitrite, in this subsection is determined by a running annual average at each sampling point. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling and at least one sampling point is in violation of the MCL. If one sampling point is in violation of the MCL, the system is in violation of the MCL.

(i) If any sample will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately.

(ii) If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected.

(iii) If a sample result is less than the detection limit, zero will be used to calculate the running annual average.

(c) Compliance with the MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs as determined under Table 5 of this section. If the levels of nitrate or nitrite exceed the MCLs in the initial sample, a confirmation sample is required under 40 C.F.R. 141.23 (f)(2), and compliance shall be determined based on the average of the initial and confirmation samples.

(4) Disinfection byproducts.

(a) The department shall consider standards under this subsection as primary standards. The MCLs in this subsection apply to monitoring required by WAC 246-290-300(6) and 40 C.F.R. 141.620 - 629.

(b) The MCLs for disinfection byproducts are as follows:

TABLE 7
DISINFECTION BYPRODUCTS

Disinfection Byproduct	MCL (mg/L)
Total Trihalomethanes (TTHMs)	0.080
Haloacetic acids (five) (HAA5)	0.060
Bromate	0.010
Chlorite	1.0

(c) Whether a system has exceeded the disinfection byproduct MCLs shall be determined in accordance with 40 C.F.R. 141.133. Beginning on the dates specified for compliance in 40 C.F.R. 141.620(c), compliance with the TTHMs

and HAA5 MCLs shall be based on the LRAAs as required by 40 C.F.R. 141.64 (b)(2) and 40 C.F.R. 141.620(d). Compliance with the bromate and chlorite MCL will continue to be determined in accordance with 40 C.F.R. 141.133.

(5) Disinfectant residuals.

(a) The department shall consider standards under this subsection primary standards. The MRDLs in this subsection apply to monitoring required by WAC 246-290-300(6).

(b) The MRDL for disinfectants is as follows:

TABLE 8
DISINFECTANT RESIDUAL MRDLs

Disinfectant Residual	MRDL (mg/L)
Chlorine	4.0 (as Cl ₂)
Chloramines	4.0 (as Cl ₂)
Chlorine Dioxide	0.8 (as ClO ₂)

(c) Whether a system has exceeded MRDLs shall be determined in accordance with 40 C.F.R. 141.133.

(6) Radionuclides.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCLs for radium-226 and radium-228, gross alpha particle activity, beta particle and photon radioactivity, and uranium shall be as listed in 40 C.F.R. 141.66.

(7) Organic chemicals.

(a) The department shall consider standards under this subsection primary standards.

(b) VOCs.

(i) The MCLs for VOCs (~~shall be as listed in 40 C.F.R. 141.61(a-)~~) are as follows:

Contaminant	Chemical Abstract Service (CAS) Number	MCL (ppb)
Vinyl chloride	75-01-4	2
Benzene	71-43-2	5
Carbon tetrachloride	56-23-5	5
1,2-Dichloroethane	107-06-2	5
Trichloroethylene	79-01-6	5
para-Dichlorobenzene	106-46-7	75
1,1-Dichloroethylene	75-35-4	7
1,1,1-Trichloroethane	71-55-6	200
cis-1,2-Dichloroethylene	156-59-2	70
1,2-Dichloropropane	78-87-5	5
Ethylbenzene	100-41-4	700
Monochlorobenzene	108-90-7	100
o-Dichlorobenzene	95-50-1	600
Styrene	100-42-5	100
Trichloroethane	127-18-4	5
Toluene	108-88-3	1,000
trans-1,2-Dichloroethylene	156-60-5	100

<u>Contaminant</u>	<u>Chemical Abstract Service (CAS) Number</u>	<u>MCL (ppb)</u>
<u>Xylenes (total)</u>	<u>1330-20-7</u>	<u>10,000</u>
<u>Dichloromethane</u>	<u>75-09-2</u>	<u>5</u>
<u>1,2,4-Trichlorobenzene</u>	<u>120-82-1</u>	<u>70</u>
<u>1,1,2-Trichloroethane</u>	<u>79-00-5</u>	<u>5</u>

(ii) The department shall determine compliance with this subsection based on compliance with 40 C.F.R. 141.24(f).

(c) SOCs.

(i) MCLs for SOCs shall be as listed in 40 C.F.R. 141.61(c).

(ii) The department shall determine compliance with this subsection based on compliance with 40 C.F.R. 141.24(h).

(8) Other (~~(chemicals)~~) contaminants.

~~((a))~~ The state board of health shall determine (~~(maximum contaminant levels)~~) state MCLs for any additional (~~(substances)~~

~~(b) Purveyors may be directed by the department to comply with state advisory levels (SALs) for contaminants that do not have a MCL established in chapter 246-290 WAC. SALs shall be:~~

~~(i) MCLs that have been promulgated by the EPA, but which have not yet been adopted by the state board of health; or~~

~~(ii) State board of health adopted levels for substances recommended by the department and not having an EPA established MCL. A listing of these may be found in the department document titled *Procedures and References for the Determination of State Advisory Levels for Drinking Water Contaminants* dated June 1996, that has been approved by the state board of health and is available)) contaminants as described in WAC 246-290-315 (5) through (8).~~

NEW SECTION

WAC 246-290-315 State action levels (SALs) and state maximum contaminant levels (MCLs). (1) The department shall consider the following criteria to select a contaminant for developing a SAL:

(a) Drinking water contributes to human exposure to the contaminant.

(b) The contaminant is known or likely to occur in public water systems at levels of public health concern. Sources of occurrence information include, but are not limited to:

(i) Washington state department of agriculture;

(ii) Washington state department of ecology; and

(iii) Monitoring results reported in accordance with 40 C.F.R. 141.35.

(c) The contaminant has a possible adverse effect on the health of persons exposed based on peer-reviewed scientific literature or government publications, such as:

(i) An EPA health assessment such as an Integrated Risk Information System assessment;

(ii) Agency for Toxic Substances and Disease Registry toxicological profiles;

(iii) State government science assessment; and

(iv) EPA guidelines for exposure assessment such as the EPA exposure factors handbook.

(d) A certified drinking water lab can accurately and precisely measure the concentration of the contaminant in drinking water at and below the level of public health concern using EPA-approved analytical methods.

(2) After consideration of the criteria in subsection (1) of this section, the department may develop a SAL based on the following:

(a) Evaluation of available peer-reviewed scientific literature and government publications on fate, transport, exposure, toxicity and health impacts of the contaminant and relevant metabolites;

(b) An assessment based on the most sensitive adverse effect deemed relevant to humans and considering susceptibility and unique exposures of the most sensitive subgroup such as pregnant women, fetuses, young children, or overburdened and underserved communities; and

(c) Technical limitations to achieving the SAL such as insufficient analytical detection limit achievable at certified drinking water laboratories.

(3) The state board of health shall consider the department's findings under subsections (1) and (2) of this section when considering adopting a SAL under this chapter.

(4) Contaminants with a SAL.

(a) If a SAL under Table 9 of this section is exceeded, the purveyor shall take follow-up action as required under WAC 246-290-320. For contaminants where the SAL exceedance is determined based upon an RAA, the RAA will be calculated consistent with other organic contaminants per WAC 246-290-320(6) or other inorganic contaminants per WAC 246-290-320(3).

TABLE 9
STATE ACTION LEVELS

Contaminant or Group of Contaminants	SAL	SAL Exceedance Based On:
Per- and polyfluoroalkyl substances (PFAS)		
PFOA	10 ng/L	Confirmed detection
PFOS	15 ng/L	Confirmed detection
PFHxS	65 ng/L	Confirmed detection
PFNA	9 ng/L	Confirmed detection
PFBS	345 ng/L	Confirmed detection

(b) If a system fails to collect and submit a confirmation sample to a certified lab within ten business days of notification of the sample results, or as required by the department, the results of the original sample will be used to determine compliance with the SAL.

(5) The department shall consider the following when developing a state MCL:

- (a) The criteria in subsection (1) of this section;
 - (b) Whether regulating the contaminant presents a meaningful opportunity to reduce exposures of public health concern for persons served by public water systems;
 - (c) The need for an enforceable limit to achieve uniform public health protection in Group A public water systems; and
 - (d) The need for an enforceable limit to support source water investigation and clean-up of a contaminant in drinking water supplies by responsible parties.
- (6) In addition to the requirements in subsection (5) of this section, the department shall:
- (a) Meet the requirements of subsection (2) of this section;
 - (b) Comply with the requirements in RCW 70A.130.010 to establish standards for chemical contaminants in drinking water;
 - (c) Consider the best available treatment technologies and affordability taking into consideration the costs to small water systems; and
 - (d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs.
- (7) The state board of health shall consider the department's findings under subsections (5) and (6) of this section and follow the requirements under chapters 34.05 and 19.85 RCW when adopting a state MCL under this chapter.
- (8) Upon federal adoption of an MCL, the federal MCL will supersede a SAL or a less stringent state MCL, and the associated requirements, including for monitoring and public notice. If the federally adopted MCL is less stringent than a SAL or state MCL, the board may take one of the following actions:

- (a) Adopt the federal MCL; or
- (b) Adopt a state MCL, at least as stringent as the federal MCL, using the process in subsections (6) and (7) of this section.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-320 Follow-up action. (1) General.

- (a) When an MCL or MRDL violation or SAL exceedance occurs, the purveyor shall take follow-up action as described in this section.
- (b) When a primary standard violation occurs~~(s)~~ the purveyor shall:
 - (i) Notify the department under WAC 246-290-480;
 - (ii) Notify the consumers served by the system and the owner or operator of any consecutive system served in accordance with 40 C.F.R. 141.201 through 208, and Part 7, Subpart A of this chapter;
 - (iii) ~~(Determine)~~ Investigate the cause of the contamination, within the purveyor's control; and
 - (iv) Take action as directed by the department.
- (c) When a secondary standard violation occurs, the purveyor shall notify the department and take action as directed by the department.
- (d) When a SAL exceedance under WAC 246-290-315 occurs, the purveyor shall:

(i) Notify the department in accordance with WAC 246-290-480;

(ii) Notify water system users and the owner or operator of any consecutive system served water in exceedance of the SAL in accordance with WAC 246-290-71006;

(iii) Continue monitoring in accordance with subsection (8) or (9) of this section, as applicable;

(iv) Investigate the cause of the contamination within the purveyor's control; and

(v) Take action as directed by the department.

(e) The department may require additional sampling for confirmation of results.

(2) Bacteriological. Coliform treatment technique triggers and assessment requirements for protection against potential fecal contamination.

(a) Treatment technique triggers. Systems shall conduct assessments in accordance with (b) of this subsection after exceeding treatment technique triggers as follows:

(i) Level 1 treatment technique triggers.

(A) For systems taking forty or more routine samples per month, the system exceeds 5.0 percent total coliform-positive samples for the month.

(B) For systems taking fewer than forty routine samples per month, the system has two or more total coliform-positive samples in the same month.

(C) The system fails to take every required repeat sample after any single total coliform-positive routine sample.

(ii) Level 2 treatment technique triggers.

(A) An *E. coli* MCL violation, as specified in WAC 246-290-310 (2)(b).

(B) A second level 1 treatment technique trigger as defined in (a)(i) of this subsection within a rolling twelve-month period, unless the department has determined a likely reason that the samples that caused the first level 1 treatment technique trigger were total coliform-positive and has established that the system has corrected the problem.

(b) Requirements for assessments.

(i) Systems shall conduct level 1 and 2 assessments to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. Level 1 assessments must be conducted by the system operator or purveyor. Level 2 assessments must be conducted by the department or a party approved by the department which may include the system operator.

(ii) When conducting assessments, systems shall direct the assessor to evaluate minimum elements that include:

(A) Review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired;

(B) Changes in distribution operation and maintenance that could affect distributed water quality, including water storage;

(C) Source and treatment considerations that bear on distributed water quality, where appropriate. For example, whether or not a groundwater system is disinfected;

(D) Existing water quality monitoring data;

(E) Inadequacies in sample sites, sampling protocol, and sample processing; and

(F) The system shall conduct the assessment consistent with any department directives that tailor specific assessment

elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

(iii) Level 1 assessments. A system shall conduct a level 1 assessment consistent with the requirements in subsection (2)(b) of this section if the system exceeds one of the treatment technique triggers in (a)(i) of this subsection.

(A) The system shall complete a level 1 assessment as soon as practical after any treatment technique trigger is met in (a)(i) of this subsection. The completed assessment must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment may also note that no sanitary defects were identified. The system shall submit the completed level 1 assessment to the department within thirty days after the system learns that it has exceeded a treatment technique trigger.

(B) Upon completion and submission of the level 1 assessment by the system, the department shall determine if the system has identified a likely cause for the level 1 treatment technique trigger and has corrected the problem. If the system has not corrected the problem, the department shall determine if the proposed timetable for corrective action is sufficient.

(C) If after reviewing the completed level 1 assessment, the department determines the assessment is not sufficient, including any proposed timetable for any corrective actions not already completed, the department may require the system to submit a revised assessment to the department within thirty days from the date of department notification.

(iv) Level 2 assessments. A system shall conduct a level 2 assessment consistent with requirements in subsection (2)(b) of this section if the system exceeds one of the treatment technique triggers in (a)(ii) of this subsection. The system shall comply with any expedited actions or additional actions required by the department in the case of an *E. coli* MCL violation.

(A) A level 2 assessment must be conducted as soon as practical after any treatment technique trigger in (a)(ii) of this subsection and shall be conducted by either a water distribution manager 2, 3, or 4 certified in accordance with chapter 246-292 WAC, a licensed professional engineer that meets the requirements of WAC 246-290-040(1), a local health jurisdiction, or the department. The system shall submit a completed level 2 assessment to the department within thirty days after the system learns that it has exceeded a treatment technique trigger. The completed assessment must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed in accordance with (d) of this subsection. The assessment may also note that no sanitary defects were identified.

(B) Upon completion and submission of the level 2 assessment by the system, the department shall determine if the system has identified a likely cause for the level 2 treatment technique trigger and has corrected the problem. If the system has not corrected the problem, the department shall determine if the proposed timetable for corrective action is sufficient.

(C) If after reviewing the submitted level 2 assessment, the department determines the assessment is not sufficient,

including any proposed timetable for any corrective actions not already completed in accordance with (d) of this subsection, the department may require the system to submit a revised assessment within thirty days from the date of department notification.

(c) To achieve compliance with the MCL for *E. coli* under WAC 246-290-310 (2)(b), the following are identified as the best technology, treatment techniques, or other means available:

(i) Protection of wells from fecal contamination by appropriate placement and construction;

(ii) Maintenance of a disinfectant residual throughout the distribution system;

(iii) Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, cross-connection control, and continual maintenance of positive water pressure in all parts of the distribution system;

(iv) Filtration, disinfection, or both, of surface water, using the proper strength of oxidants such as chlorine, chlorine dioxide, or ozone; and

(v) For systems using groundwater, compliance with a wellhead protection program developed and implemented under WAC 246-290-135(3).

(d) Corrective action. Systems shall correct sanitary defects found through either a level 1 or level 2 assessment conducted under (b) of this subsection. For corrections not completed by the time of submission of the assessment to the department, the system shall complete the corrective actions in compliance with a timetable approved by the department in consultation with the system under (e) of this subsection. The system shall notify the department when each scheduled corrective action is completed.

(e) Consultation. At any time during the assessment or corrective action phase, the water system may request a consultation with the department to determine the appropriate actions to be taken. The system may consult with the department on all relevant information that may impact the system's ability to comply with the requirements of subsection (2) of this section, including the method of accomplishment, an appropriate time frame, and other relevant information.

(f) A treatment technique violation occurs when a system exceeds a treatment technique trigger specified in subsection (2)(a) of this section and then fails to conduct the required assessment or complete corrective actions within the time frame specified in subsection (2)(b) and (d) of this section.

(3) Inorganic chemical and physical follow-up monitoring shall be conducted in accordance with the following:

(a) For nonnitrate/nitrite primary inorganic chemicals, 40 C.F.R. 141.23 (a)(4), 141.23 (b)(8), 141.23 (c)(7), 141.23 (c)(9), 141.23 (f)(1), 141.23(g), 141.23(m) and 141.23(n);

(b) For nitrate, 40 C.F.R. 141.23 (a)(4), 141.23 (d)(2), 141.23 (d)(3), 141.23 (f)(2), 141.23(g), 141.23(m), 141.23 (n), and 141.23(o);

(c) For nitrite, 40 C.F.R. 141.23 (a)(4), 141.23 (e)(3), 141.23 (f)(2), and 141.23(g); or

(d) The purveyor of any public water system providing service that has secondary inorganic MCL exceedances shall take follow-up action as required by the department. Follow-

up action shall be commensurate with the degree of consumer acceptance of the water quality and their willingness to bear the costs of meeting the secondary standard. For new community water systems and new nontransient noncommunity water systems without active consumers, treatment for secondary contaminant MCL exceedances will be required.

(4) Lead and copper follow-up monitoring shall be conducted in accordance with 40 C.F.R. 141.85(c), 141.86 (d)(2), 141.86 (d)(3), 141.87(c), 141.87(d) and 141.88(b) through 141.88(d).

(5) Turbidity.

Purveyors monitoring turbidity in accordance with Part 6 of this chapter shall provide follow-up under WAC 246-290-634.

(6) Organic chemicals. Follow-up monitoring shall be conducted in accordance with the following:

(a) For VOCs, 40 C.F.R. 141.24 (f)(11) through 141.24 (f)(15), and 141.24 (f)(22); or

(b) For SOCs, 40 C.F.R. ((141.24(b), 141.24(e) and) 141.24 (h)(7) through 141.24 (h)(11), and 141.24 (h)(20).

(7) Radionuclide follow-up monitoring shall be conducted under 40 C.F.R. 141.26 (a)(2)(iv), 141.26 (a)(3)(ii) through (v), 141.26 (a)(4), 141.26 (b)(6), and 141.26 (c)(5).

(8) Organic contaminants with a SAL.

(a) All increased monitoring for organic contaminants will be for the test panel on which the contaminant is listed in WAC 246-390-075.

(b) The purveyor shall monitor quarterly as shown in Table 10 of this section. The number of samples required in the three quarters after the first detection will be determined based on the highest detection in the year of monitoring. For public water systems required to sample for PFAS under the federal Unregulated Contaminant Monitoring Rule 5 (UCMR5), if a detection is reported below the minimum detection limit per UCMR5 and is greater than twenty percent of a SAL, then one additional quarter of follow-up monitoring is required. The samples must be taken:

(i) Beginning in the calendar quarter following the first confirmed detection per WAC 246-290-315 (4)(b); and

(ii) At each sampling point from which the result was equal to or greater than the SDRL under chapter 246-390 WAC.

TABLE 10

MONITORING REQUIREMENTS FOLLOWING THE FIRST DETECTION OF AN ORGANIC CONTAMINANT WITH A SAL

<u>If the highest detection in the first year is:</u>	<u>Total number of additional consecutive quarters.</u>
<u>≤ 20% of the SAL.</u>	<u>1</u>
<u>≥ 20% but < 80% of the SAL.</u>	<u>2</u>
<u>≥ 80% of the SAL.</u>	<u>3</u>

(c) Ongoing monitoring is specified in Table 11 of this section, or as directed by the department. Ongoing monitoring is based upon the results of samples collected in the most recent year of monitoring, or the most recent result for samples collected less frequently than annually.

TABLE 11
ONGOING MONITORING REQUIREMENTS FOR SOURCES WITH ORGANIC CONTAMINANTS WITH A SAL

<u>If highest detection being considered is:</u>	<u>Monitoring frequency:</u>
<u>≤ 20% of the SAL.</u>	<u>Every 3 years</u>
<u>> 20% but < 80% of the SAL.</u>	<u>Annually</u>
<u>> 80% of the SAL.</u>	<u>1. Quarterly, if contaminant is Tier 1, or Tier 2 and bioaccumulative per Table 17 in WAC 246-290-71006.</u> <u>2. Annually if the contaminant is Tier 2 and not bioaccumulative per Table 17 in WAC 246-290-71006.</u>

(d) When the monitoring frequency is less often than quarterly, the purveyor shall collect samples during the quarter assigned by the department.

(e) The department may reduce the annual monitoring frequency to one sample every three years after three consecutive years of results that demonstrate the levels are less than eighty percent of the SAL.

(f) The department may increase the monitoring frequency from once every year or once every three years to once every quarter if results of reduced monitoring are equal to or greater than eighty percent of the SAL.

(9) Inorganic contaminants with a SAL.

(a) The purveyor shall collect quarterly samples at each sampling point beginning in the quarter following a detection greater than the SAL under Table 9 of this section. Increased monitoring for inorganic contaminants will be for a specific contaminant which is detected above the SAL.

(b) The department may reduce the quarterly monitoring frequency when results are reliably and consistently below the SAL. When the monitoring frequency is less often than quarterly, the purveyor shall collect samples during the quarter assigned by the department.

(10) If a contaminant has no MCL, MRDL, TT, or SAL, the department may use an EPA health advisory level to determine subsequent monitoring per this section.

(11) The department shall determine the purveyor's follow-up action when a ((substance)) contaminant not included in this chapter is detected.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-415 Operations and maintenance. (1) The purveyor shall ((ensure that)) operate the system ((is operated)) in accordance with the operations and maintenance program as established in the approved water system plan required under WAC 246-290-100 or the small water system management program under WAC 246-290-105.

(2) The operations and maintenance program ((shall)) must include the following elements as applicable:

(a) Water system management and personnel;

- (b) Operator certification;
- (c) Comprehensive monitoring plan for all contaminants under WAC 246-290-300;
- (d) Emergency response program;
- (e) Cross-connection control program; and
- (f) Maintenance of service reliability in accordance with WAC 246-290-420.

(3) Seasonal system startup.

(a) Seasonal systems shall submit a start-up procedure to the department for review and approval.

(b) Seasonal systems shall certify in accordance with WAC 246-290-480 (2)(f)(ii) that a department-approved start-up procedure, which may include a requirement for start-up sampling, was completed prior to serving water to the public.

(c) A treatment technique violation occurs when a seasonal system fails to complete a department-approved start-up procedure prior to serving water to the public.

(4) The purveyor shall ~~((ensure that the system is operated))~~ operate the system in accordance with good operations procedures such as those available in texts, handbooks, and manuals available from the following sources:

- (a) American Water Works Association (AWWA);
- (b) American Society of Civil Engineers (ASCE);
- (c) Ontario Ministry of the Environment;
- (d) The Chlorine Institute;
- (e) California State University;
- (f) Health Research Inc.; and
- (g) Any other standards acceptable to the department.

(5) ~~((The purveyor shall not establish))~~ Establishing or ~~((maintain))~~ maintaining a bypass to divert water around any feature of a treatment process is prohibited, except ~~((by))~~ with written approval from the department.

(6) The purveyor shall take preventive or corrective action as directed by the department when results of an inspection conducted by the department indicate conditions which are currently or may become a detriment to system operation.

(7) The purveyor of a system using surface water or GWI shall meet operational requirements specified in Part 6 of this chapter.

(8) The purveyor shall have a certified operator if required under chapter ~~((70-119))~~ 70A.120 RCW and chapter 246-292 WAC.

(9) The purveyor shall at all times employ reasonable security measures to assure the raw water intake facilities, water treatment processes, water storage facilities, and the distribution system are protected from possible damage or compromise by unauthorized persons, animals, vegetation, or similar intruding agents. Such measures include elements such as locks on hatches, fencing of facilities, screening of reservoir vents or openings, and other recommendations as may be found in the current edition of the *Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers*.

(10) All purveyors utilizing groundwater wells shall monitor well levels from ground level to the static water level on a seasonal basis, including low demand and high demand periods, to document the continuing availability of the source

to meet projected, long-term demands. Purveyors shall maintain this data and provide it to the department upon request.

(11) All operation and maintenance practices ~~((shall))~~ must conform to Part 5 of this chapter.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-453 Corrective action under the GWR. (1) Groundwater systems with significant deficiencies identified under WAC 246-290-416, or source fecal contamination as determined under WAC ~~((246-290-320 (2)(g)(v) (C) or 246-290-300 (3)(e), or as directed by the department under WAC 246-290-320 (2)(g)(v)(B)))~~ 246-290-300 (3)(h) must:

(a) Take one or more of the following corrective actions:

- (i) Correct all significant deficiencies;
- (ii) Provide an alternate source of water;
- (iii) Eliminate the source of contamination; or
- (iv) Provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal) before or at the first customer for the groundwater source.

(b) Consult with the department regarding appropriate corrective action within thirty days unless otherwise directed by the department to implement a specific corrective action.

(c) Complete corrective action as directed by the department or be in compliance with an approved corrective action plan within one hundred twenty days (or earlier if directed by the department) of receiving written notice from the department of a significant deficiency or source fecal contamination under this subsection. Any modifications of a corrective action plan must be approved by the department.

(2) When treatment is installed to provide at least 4-log treatment of viruses under subsection (1)(a)(iv) of this section, compliance monitoring must be conducted and reported as follows:

(a) For chemical disinfection, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(i).

(i) For groundwater systems serving greater than three thousand three hundred people, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(i)(A).

(ii) For groundwater systems serving three thousand three hundred or fewer people, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(i)(B).

(b) For membrane filtration, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(ii).

(c) For alternative treatment, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(3)(iii).

(d) For new sources, conduct compliance monitoring under 40 C.F.R. 141.403 (b)(2)(i) and (ii).

(e) Submit monthly groundwater treatment plant reports to the department using a department-approved form by the tenth day of the following month in accordance with 40 C.F.R. 141.31.

(3) A groundwater system may discontinue 4-log treatment of viruses installed under subsection (1)(a)(iv) of this section or WAC 246-290-451(4) if the department determines and documents in writing that 4-log treatment of

viruses is no longer necessary for that groundwater source. A system that discontinues 4-log treatment of viruses is subject to the triggered source water monitoring requirements under WAC 246-290-320 (2)(g).

(4) Failure to meet the compliance monitoring requirements under subsection (2) of this section is a monitoring violation and requires Tier 3 public notification under Part 7, Subpart A of this chapter.

(5) Failure to submit a monthly groundwater treatment plant report to the department using a department-approved form by the tenth day of the following month is a reporting violation.

(6) Failure to provide 4-log treatment of viruses under subsection (1)(a)(iv) of this section is a treatment technique violation if the failure is not corrected within four hours of the time the purveyor determines that at least 4-log treatment of viruses is not maintained and requires Tier 2 public notification under Part 7, Subpart A of this chapter.

(7) Failure to complete corrective action as directed by the department or be in compliance with an approved corrective action plan within one hundred twenty days (or earlier if directed by the department) of receiving notice from the department of a significant deficiency or an *E. coli* positive groundwater sample that is not invalidated under WAC 246-290-320 (2)(g)(vii) is a treatment technique violation and requires Tier 2 public notification under Part 7, Subpart A of this chapter.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-455 Operation of chemical contaminant treatment facilities. (1) ~~((Purveyors shall ensure))~~ Finished drinking water from chemical contaminant treatment facilities ~~((complies))~~ must comply with the minimum water quality standards established in WAC 246-290-310. This section does not apply to facilities used only for corrosion control treatment purposes.

~~((2))~~ (a) The purveyor shall collect finished drinking water samples at a point directly downstream of the treatment system prior to the first consumer on a monthly basis.

~~((a))~~ (i) Finished drinking water samples from treatment systems utilized for removal of contaminants with established primary MCLs shall be submitted to a certified laboratory for analysis of the specific contaminant(s) of concern.

~~((b))~~ (ii) Finished drinking water samples from treatment systems utilized for removal of contaminants with established secondary MCLs shall be submitted to a certified laboratory for analysis or analyzed for the specific contaminant(s) of concern by the purveyor through department-approved on-site methods.

~~((c))~~ (iii) Additional finished drinking water monitoring may be required by the department based on the complexity or size of the water system.

~~((3))~~ (b) If primary MCLs following treatment are exceeded in four or more months of a consecutive twelve-month compliance period, the purveyor shall submit a project report to the department that addresses the failure to maintain compliance. The project report shall include methods and

schedules to correct the treatment deficiency and/or indicate schedules for implementing an alternate source of supply or an effective treatment technology.

~~((4))~~ (c) If secondary MCLs following treatment are exceeded in four or more months of a consecutive twelve-month compliance period, the purveyor shall take action per WAC 246-290-320 (3)(d).

(2) Purveyors using treatment or blending to remove or reduce a contaminant with a SAL shall:

(a) Collect finished drinking water samples at a point downstream of the treatment system prior to the first consumer on a quarterly basis; and

(b) Submit the samples to a certified lab for analysis or analyze the samples using department-approved on-site methods.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-480 Recordkeeping and reporting. (1) Records. The purveyor shall keep the following records of operation and water quality analyses:

(a) Bacteriological and turbidity analysis results ~~((shall))~~ must be kept for five years. Chemical analysis results ~~((shall))~~ must be kept for as long as the system is in operation. Records of source meter readings ~~((shall))~~ must be kept for ten years. Other records of operation and analyses required by the department shall be kept for three years. All records ~~((shall))~~ must bear the signature of the operator in responsible charge of the water system or his or her representative. Systems ~~((shall))~~ must keep these records available for inspection by the department and ~~((shall))~~ must send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(i) The date, place, and time of sampling, and the name of the person collecting the sample;

(ii) Identification of the sample type (routine distribution system sample, repeat sample, source or finished water sample, or other special purpose sample);

(iii) Date of analysis;

(iv) Laboratory and person responsible for performing analysis;

(v) The analytical method used; and

(vi) The results of the analysis.

(b) The purveyor shall maintain documentation of any level 1 or level 2 assessment regardless of who conducts the assessment, and documentation of corrective actions completed as a result of the assessments, or other summary documentation of the sanitary defects and corrective actions taken under WAC 246-290-320(2) for department review. The documentation must be maintained by the purveyor for a period of not less than five years after completion of the assessment or corrective action.

(c) For consecutive systems, documentation of notification to the wholesale systems of total coliform-positive samples that are not invalidated under WAC 246-290-300 (3)(d) must be kept for a period of not less than five years.

(d) Records of action taken by the system to correct violations of primary drinking water standards and exceedances

of SALs. For each violation of a primary drinking water standard or SAL exceedance, records of actions taken to correct the violations or SAL exceedance, and copies of public notifications ~~((shall))~~ must be kept for a period of no less than ten years after the last corrective action taken.

(e) Copies of any written reports, summaries, or communications relating to sanitary surveys or SPI of the system conducted by system personnel, by a consultant or by any local, state, or federal agency, ~~((shall))~~ must be kept for ten years after completion of the sanitary survey or SPI involved.

(f) Copies of project reports, construction documents and related drawings, inspection reports and approvals ~~((shall))~~ must be kept for the life of the facility.

(g) Where applicable, records of the following ~~((shall))~~ must be kept for a minimum of three years:

- (i) Chlorine residual;
- (ii) Fluoride level;
- (iii) Water treatment plant performance including, but

not limited to:

- (A) Type of chemicals used and quantity;
- (B) Amount of water treated;
- (C) Results of analyses; and
- (iv) Other information as specified by the department.

(h) The purveyor shall retain copies of public notices made under Part 7, Subpart A of this chapter and certifications made to the department under 40 C.F.R. 141.33(e) for a period of at least three years after issuance.

(i) Purveyors using conventional, direct, or in-line filtration that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within their treatment plant shall, beginning no later than June 8, 2004, collect and retain on file the following information for review and evaluation by the department:

(i) A copy of the recycle notification and information submitted to the department under WAC 246-290-660 (4)(a)(i).

(ii) A list of all recycle flows and the frequency with which they are returned.

(iii) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes.

(iv) Typical filter run length and a written summary of how filter run length is determined.

(v) The type of treatment provided for the recycle flow.

(vi) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(j) Purveyors required to conduct disinfection profiling and benchmarking under 40 C.F.R. 141.530 through 141.544 shall retain the results on file indefinitely.

(k) Copies of monitoring plans developed under this chapter shall be kept for the same period of time as the records of analyses taken under the plan are required to be kept under (a) of this subsection.

(l) Purveyors using surface water or GWI sources must keep the records required by 40 C.F.R. 141.722.

(2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours the failure to comply with any national primary drinking water regulation or a SAL (including failure to comply with any monitoring requirements) as set forth in this chapter. For violations assigned to Tier 1 in WAC 246-290-71001 or in Table 17 in WAC 246-290-71006, the ~~((department must be notified))~~ purveyor shall notify the department as soon as possible, but no later than twenty-four hours after the violation or SAL exceedance is known.

(b) The purveyor shall submit to the department reports required by this chapter, including tests, measurements, and analytic reports. Monthly reports are due before the tenth day of the following month, unless otherwise specified in this chapter.

(c) The purveyor shall submit to the department copies of any written summaries or communications relating to the status of monitoring waivers during each monitoring cycle or as directed by the department.

(d) Source meter readings ~~((shall))~~ must be made available to the department.

(e) Water facilities inventory form (WFI).

(i) Purveyors of community and NTNC systems shall submit an annual WFI update to the department;

(ii) Purveyors of TNC systems shall submit an updated WFI to the department as requested;

(iii) Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system, or addition of source or storage facilities; and

(iv) At a minimum the completed WFI shall provide the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system.

(f) Bacteriological.

(i) The purveyor shall notify the department of the presence of total coliform in a sample within ten days of notification by the laboratory;

(ii) Prior to serving water to the public, a seasonal system shall submit a certification to the department demonstrating that the system has complied with the department-approved start-up procedure; and

(iii) The system shall report treatment technique violations identified under WAC 246-290-320 (2)(f) to the department no later than the end of the next business day after the violation is known.

(g) Systems monitoring for disinfection byproducts under WAC 246-290-300(6) shall report information to the department as specified in (a) and (b) of this subsection, and 40 C.F.R. 141.134(b).

(h) Systems monitoring for disinfectant residuals under WAC 246-290-300(6) shall report information to the department as specified in (a) and (b) of this subsection, and 40 C.F.R. 141.134(c).

(i) Systems required to monitor for disinfection byproduct precursor removal under WAC 246-290-300(6) shall report information to the department as specified in (a) and (b) of this subsection, and 40 C.F.R. 141.134(d).

(j) Systems required to monitor for disinfection byproducts under WAC 246-290-300(6) shall report information to

the department as specified in (a) and (b) of this subsection, and 40 C.F.R. 141.600 - 629.

(k) Systems subject to the enhanced treatment requirements for *Cryptosporidium* under WAC 246-290-630(4) shall report information to the department as specified in 40 C.F.R. 141.706 and 141.721.

(l) Systems that use acrylamide and epichlorohydrin in the treatment of drinking water, must certify annually in writing to the department that the combination (or product) of dose and monomer level does not exceed the levels specified in (l)(i) and (ii) of this subsection. Certifications (~~shall~~) must reference maximum use levels established by an ANSI-accredited listing organization approved by the department.

(i) Acrylamide = 0.05 percent dosed at 1 ppm (or equivalent); and

(ii) Epichlorohydrin = 0.01 percent dosed at 20 ppm (or equivalent).

(m) Use of products that exceed the specified levels constitutes a treatment technique violation and the public must be notified under the public notice requirements under Part 7, Subpart A of this chapter.

(n) Systems shall submit to the department, in accordance with 40 C.F.R. 141.31(d), a certification that the system has complied with the public notification regulations (Part 7, Subpart A of this chapter) when a public notification is required. Along with the certification, the system shall submit a representative copy of each type of notice.

AMENDATORY SECTION (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

WAC 246-290-490 Cross-connection control. (1) Applicability, purpose, and responsibility.

(a) All community water systems shall comply with the cross-connection control requirements specified in this section.

(b) All noncommunity water systems shall apply the principles and provisions of this section, including subsection (4)(b) of this section, as applicable to protect the public water system from contamination via cross-connections. Noncommunity systems that comply with subsection (4)(b) of this section and the provisions of WAC 51-56-0600 of the UPC (which addresses the installation of backflow preventers at points of water use within the potable water system) shall be considered in compliance with the requirements of this section.

(c) The purpose of the purveyor's cross-connection control program shall be to protect the public water system, as defined in WAC 246-290-010, from contamination via cross-connections.

(d) The purveyor's responsibility for cross-connection control shall begin at the water supply source, include all the public water treatment, storage, and distribution facilities, and end at the point of delivery to the consumer's water system, which begins at the downstream end of the service connection or water meter located on the public right of way or utility-held easement.

(e) Under this section, purveyors are not responsible for eliminating or controlling cross-connections within the consumer's water system. Under chapter 19.27 RCW, the respon-

sibility for cross-connection control within the consumer's water system, i.e., within the property lines of the consumer's premises, lies with the authority having jurisdiction.

(2) General program requirements.

(a) The purveyor shall develop and implement a cross-connection control program that meets the requirements of this section, but may establish a more stringent program through local ordinances, resolutions, codes, bylaws, or operating rules.

(b) Purveyors shall ensure that good engineering and public health protection practices are used in the development and implementation of cross-connection control programs. Department publications and the most recently published editions of references, such as, but not limited to, those listed below, may be used as guidance for cross-connection program development and implementation:

(i) *Manual of Cross-Connection Control* published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California (USC Manual);

(ii) *Cross-Connection Control Manual, Accepted Procedure and Practice* published by the Pacific Northwest Section of the American Water Works Association (PNWS-AWWA Manual); or

(iii) Guidance document: *Cross-Connection Control for Small Water Systems* published by the department.

(c) The purveyor may implement the cross-connection control program, or any portion thereof, directly or by means of a contract with another agency or party acceptable to the department.

(d) The purveyor shall coordinate with the authority having jurisdiction in all matters concerning cross-connection control. The purveyor shall document and describe the coordination, including delineation of responsibilities, in the written cross-connection control program required in (e) of this subsection.

(e) The purveyor shall include a written description of the cross-connection control program in the water system plan required under WAC 246-290-100 or the small water system management program required under WAC 246-290-105. The cross-connection control program (~~shall~~) must include the minimum program elements described in subsection (3) of this section.

(f) The purveyor shall ensure that cross-connections between the distribution system and a consumer's water system are eliminated or controlled by the installation of an approved backflow preventer commensurate with the degree of hazard. This can be accomplished by implementation of a cross-connection program that relies on:

(i) Premises isolation as defined in WAC 246-290-010;

or

(ii) Premises isolation and in-premises protection as defined in WAC 246-290-010.

(g) Purveyors with cross-connection control programs that rely both on premises isolation and in-premises protection:

(i) Shall comply with the premises isolation requirements specified in subsection (4)(b) of this section; and

(ii) May reduce premises isolation requirements and rely on in-premises protection for premises other than the type

addressed in subsection (4)(b) of this section, only if the following conditions are met:

(A) The in-premises backflow preventers provide a level of protection commensurate with the purveyor's assessed degree of hazard;

(B) Backflow preventers which provide the in-premises backflow protection meet the definition of approved backflow preventers as described in WAC 246-290-010;

(C) The approved backflow preventers are installed, inspected, tested (if applicable), maintained, and repaired in accordance with subsections (6) and (7) of this section;

(D) Records of the backflow preventers are maintained in accordance with subsections (3)(j) and (8) of this section; and

(E) The purveyor has reasonable access to the consumer's premises to conduct an initial hazard evaluation and periodic reevaluations to determine whether the in-premises protection is adequate to protect the purveyor's distribution system.

(h) The purveyor shall take appropriate corrective action as authorized by the legal instrument required by subsection (3)(b) of this section, when:

(i) A cross-connection exists that is not controlled commensurate to the degree of hazard assessed by the purveyor; or

(ii) A consumer fails to comply with the purveyor's requirements regarding the installation, inspection, testing, maintenance or repair of approved backflow preventers required by this chapter.

(i) The purveyor's corrective action may include, but is not limited to:

(i) Denying or discontinuing water service to a consumer's premises until the cross-connection hazard is eliminated or controlled to the satisfaction of the purveyor;

(ii) Requiring the consumer to install an approved backflow preventer for premises isolation commensurate with the degree of hazard; or

(iii) The purveyor installing an approved backflow preventer for premises isolation commensurate with the degree of hazard.

(j) Except in the event of an emergency, purveyors shall notify the authority having jurisdiction prior to denying or discontinuing water service to a consumer's premises for one or more of the reasons listed in (h) of this subsection.

(k) The purveyor shall prohibit the intentional return of used water to the purveyor's distribution system. Used water includes, but is not limited to, water used for heating, cooling, or other purposes within the consumer's water system.

(3) Minimum elements of a cross-connection control program.

(a) To be acceptable to the department, the purveyor's cross-connection control program (~~(shall)~~) must include the minimum elements identified in this subsection.

(b) Element 1: The purveyor shall adopt a local ordinance, resolution, code, bylaw, or other written legal instrument that:

(i) Establishes the purveyor's legal authority to implement a cross-connection control program;

(ii) Describes the operating policies and technical provisions of the purveyor's cross-connection control program; and

(iii) Describes the corrective actions (~~(used to ensure that)~~) required of consumers to comply with the purveyor's cross-connection control requirements.

(c) Element 2: The purveyor shall develop and implement procedures and schedules for evaluating new and existing service connections to assess the degree of hazard posed by the consumer's premises to the purveyor's distribution system and notifying the consumer within a reasonable time frame of the hazard evaluation results. At a minimum, the program shall meet the following:

(i) For connections made on or after April 9, 1999, procedures shall ensure that an initial evaluation is conducted before water service is provided;

(ii) For all other connections, procedures shall ensure that an initial evaluation is conducted in accordance with a schedule acceptable to the department; and

(iii) For all service connections, once an initial evaluation has been conducted, procedures shall ensure that periodic reevaluations are conducted in accordance with a schedule acceptable to the department and whenever there is a change in the use of the premises.

(d) Element 3: The purveyor shall develop and implement procedures and schedules for ensuring that:

(i) Cross-connections are eliminated whenever possible;

(ii) When cross-connections cannot be eliminated, they are controlled by installation of approved backflow preventers commensurate with the degree of hazard; and

(iii) Approved backflow preventers are installed in accordance with the requirements of subsection (6) of this section.

(e) Element 4: The purveyor shall ensure that personnel, including at least one person certified as a CCS, are provided to develop and implement the cross-connection control program.

(f) Element 5: The purveyor shall develop and implement procedures to ensure that approved backflow preventers relied upon to protect the public water system are inspected and/or tested (as applicable) under subsection (7) of this section.

(g) Element 6: The purveyor shall develop and implement a backflow prevention assembly testing quality control assurance program(=) including, but not limited to, documentation of BAT certification and test kit calibration, test report contents, and time frames for submitting completed test reports.

(h) Element 7: The purveyor shall develop and implement (when appropriate) procedures for responding to backflow incidents.

(i) Element 8: The purveyor shall include information on cross-connection control in the purveyor's existing program for educating consumers about water system operation. The public education program may include periodic bill inserts, public service announcements, pamphlet distribution, notification of new consumers and consumer confidence reports.

(j) Element 9: The purveyor shall develop and maintain cross-connection control records including, but not limited to, the following:

(i) A master list of service connections and/or consumer's premises where the purveyor relies upon approved backflow preventers to protect the public water system from contamination, the assessed hazard level of each, and the required backflow preventer(s);

(ii) Inventory information on backflow preventers that protect the public water system including:

(A) Approved air gaps installed in lieu of approved assemblies including exact air gap location, assessed degree of hazard, installation date, history of inspections, inspection results, and person conducting inspections;

(B) Approved backflow assemblies including exact assembly location, assembly description (type, manufacturer, model, size, and serial number), assessed degree of hazard, installation date, history of inspections, tests and repairs, test results, and person performing tests; and

(C) Approved AVBs used for irrigation system applications including location, description (manufacturer, model, and size), installation date, history of inspection(s), and person performing inspection(s).

(iii) Cross-connection program summary reports and backflow incident reports required under subsection (8) of this section.

(k) Element 10: Purveyors who distribute and/or have facilities that receive reclaimed water within their water service area shall meet any additional cross-connection control requirements imposed by the department in a permit issued under chapter 90.46 RCW.

(4) Approved backflow preventer selection.

(a) The purveyor shall ensure that a CCS:

(i) Assesses the degree of hazard posed by the consumer's water system upon the purveyor's distribution system; and

(ii) Determines the appropriate method of backflow protection for premises isolation as described in Table ((8)) 12 of this section.

**TABLE ((8)) 12
APPROPRIATE METHODS OF BACKFLOW PROTECTION
FOR PREMISES ISOLATION**

Degree of Hazard	Application Condition	Appropriate Approved Backflow Preventer
High health cross-connection hazard	Backsiphonage or backpressure backflow	AG, RPBA, or RPDA
Low cross-connection hazard	Backsiphonage or backpressure backflow	AG, RPBA, RPDA, DCVA, or DCDA

(b) Premises isolation requirements.

(i) The purveyor shall ensure that an approved air gap, RPBA, or RPDA is installed for premises isolation for service connections to premises posing a high health cross-connection hazard including, but not limited to, those premises listed in Table ((9)) 13 of this section, except those premises identified as severe in (b)(ii) of this subsection.

(ii) For service connections to premises posing a severe health cross-connection hazard including wastewater treat-

ment plants, radioactive material processing plants, and nuclear reactors, the purveyor shall ensure that either an:

(A) Approved air gap is installed for premises isolation; or

(B) Approved RPBA or RPDA is installed for premises isolation in combination with an in-plant approved air gap.

(iii) If the purveyor's CCS determines that no hazard exists for a connection serving premises of the type listed in Table ((9)) 13 of this section, the purveyor may grant an exception to the premises isolation requirements of (b)(i) of this subsection.

(iv) The purveyor shall document, on a case-by-case basis, the reasons for granting an exception under (b)(i) of this subsection and include the documentation in the cross-connection control program annual summary report required in subsection (8) of this section.

**TABLE ((9)) 13 (formerly codified as TABLE 9)
SEVERE* AND HIGH HEALTH CROSS-CONNECTION HAZARD
PREMISES REQUIRING PREMISES ISOLATION BY AG OR RPBA**

Agricultural (farms and dairies)
Beverage bottling plants
Car washes
Chemical plants
Commercial laundries and dry cleaners
Premises where both reclaimed water and potable water are provided
Film processing facilities
Food processing plants
Hospitals, medical centers, nursing homes, veterinary, medical and dental clinics, and blood plasma centers
Premises with separate irrigation systems using the purveyor's water supply and with chemical addition ⁺
Laboratories
Metal plating industries
Mortuaries
Petroleum processing or storage plants
Piers and docks
Radioactive material processing plants or nuclear reactors*
Survey access denied or restricted
Wastewater lift stations and pumping stations
Wastewater treatment plants*
Premises with an unapproved auxiliary water supply interconnected with the potable water supply

+ For example, parks, playgrounds, golf courses, cemeteries, estates, etc.

* RPBA's for connections serving these premises are acceptable only when used in combination with an in-plant approved air gap; otherwise, the purveyor shall require an approved air gap at the service connection.

(c) Backflow protection for single-family residences.

(i) For single-family residential service connections, the purveyor shall comply with the premises isolation requirements of (b) of this subsection when applicable.

(ii) If the requirements of (b) of this subsection do not apply and the requirements specified in subsection (2)(g)(ii) of this section are met, the purveyor may rely on backflow protection provided at the point of hazard in accordance with WAC 51-56-0600 of the UPC for hazards such as, but not limited to:

- (A) Irrigation systems;
- (B) Swimming pools or spas;
- (C) Ponds; and
- (D) Boilers.

For example, the purveyor may accept an approved AVB on a residential irrigation system, if the AVB is properly installed under the UPC.

(d) Backflow protection for fire protection systems.

(i) Backflow protection is not required for residential flow-through or combination fire protection systems constructed of potable water piping and materials.

(ii) For service connections with fire protection systems other than flow-through or combination systems, the purveyor shall ensure that backflow protection consistent with WAC 51-56-0600 of the UPC is installed. The UPC requires minimum protection as follows:

(A) An RPBA or RPDA for fire protection systems with chemical addition or using unapproved auxiliary water supply; and

(B) A DCVA or DCDA for all other fire protection systems.

(iii) For connections made on or after April 9, 1999, the purveyor shall ensure that backflow protection is installed before water service is provided.

(iv) For existing fire protection systems:

(A) With chemical addition or using unapproved auxiliary supplies, the purveyor shall ensure that backflow protection is installed within ninety days of the purveyor notifying the consumer of the high health cross-connection hazard or in accordance with an alternate schedule acceptable to the purveyor.

(B) Without chemical addition, without on-site storage, and using only the purveyor's water (i.e., no unapproved auxiliary supplies on or available to the premises), the purveyor shall ensure that backflow protection is installed in accordance with a schedule acceptable to the purveyor or at an earlier date if required by the code official administering the State Building Code as defined in chapter 51-04 WAC.

(C) When establishing backflow protection retrofitting schedules for fire protection systems that have the characteristics listed in (d)(iv)(B) of this subsection, the purveyor may consider factors such as, but not limited to, impacts of assembly installation on sprinkler performance, costs of retrofitting, and difficulty of assembly installation.

(e) Purveyors may require approved backflow preventers commensurate with the degree of hazard as determined by the purveyor to be installed for premises isolation for connections serving premises that have characteristics such as, but not limited to, the following:

(i) Complex plumbing arrangements or plumbing potentially subject to frequent changes that make it impracticable to assess whether cross-connection hazards exist;

(ii) A repeated history of cross-connections being established or reestablished; or

(iii) Cross-connection hazards are unavoidable or not correctable, such as, but not limited to, tall buildings.

(5) Approved backflow preventers.

(a) The purveyor shall ensure that all backflow prevention assemblies relied upon by the purveyor are models included on the current list of backflow prevention assemblies approved for use in Washington state. The current approved assemblies list is available from the department upon request.

(b) The purveyor may rely on testable backflow prevention assemblies that are not currently approved by the department, if the assemblies:

(i) Were included on the department (~~and/or~~) or USC list of approved backflow prevention assemblies at the time of installation;

(ii) Have been properly maintained;

(iii) Are commensurate with the purveyor's assessed degree of hazard; and

(iv) Have been inspected and tested at least annually and have successfully passed the annual tests.

(c) The purveyor shall ensure that an unlisted backflow prevention assembly is replaced by an approved assembly commensurate with the degree of hazard, when the unlisted assembly:

(i) Does not meet the conditions specified in (b)(i) through (iv) of this subsection;

(ii) Is moved; or

(iii) Cannot be repaired using spare parts from the original manufacturer.

(d) The purveyor shall ensure that AVBs meet the definition of approved atmospheric vacuum breakers as described in WAC 246-290-010.

(6) Approved backflow preventer installation.

(a) The purveyor shall ensure that approved backflow preventers are installed in the orientation for which they are approved (if applicable).

(b) The purveyor shall ensure that approved backflow preventers are installed in a manner that:

(i) Facilitates their proper operation, maintenance, inspection, in-line testing (as applicable), and repair using standard installation procedures acceptable to the department such as those in the USC Manual or PNWS-AWWA Manual;

(ii) Ensures that the assembly will not become submerged due to weather-related conditions such as flooding; and

(iii) Ensures compliance with all applicable safety regulations.

(c) The purveyor shall ensure that approved backflow assemblies for premises isolation are installed at a location adjacent to the meter or property line or an alternate location acceptable to the purveyor.

(d) When premises isolation assemblies are installed at an alternate location acceptable to the purveyor, the purveyor shall ensure that there are no connections between the point of delivery from the public water system and the approved backflow assembly, unless the installation of the connection meets the purveyor's cross-connection control requirements and is specifically approved by the purveyor.

(e) The purveyor shall ensure that approved backflow preventers are installed in accordance with the following time frames:

(i) For connections made on or after April 9, 1999, the following conditions shall be met before service is provided:

(A) The provisions of subsection (3)(d)(ii) of this section; and

(B) Satisfactory completion of the requirements of subsection (7) of this section.

(ii) For existing connections where the purveyor identifies a high health cross-connection hazard, the provisions of (3)(d)(ii) of this section shall be met:

(A) Within ninety days of the purveyor notifying the consumer of the high health cross-connection hazard; or

(B) In accordance with an alternate schedule acceptable to the purveyor.

(iii) For existing connections where the purveyor identifies a low cross-connection hazard, the provisions of subsection (3)(d)(ii) of this section shall be met in accordance with a schedule acceptable to the purveyor.

(f) The purveyor shall ensure that bypass piping installed around any approved backflow preventer is equipped with an approved backflow preventer that:

(i) Affords at least the same level of protection as the approved backflow preventer that is being bypassed; and

(ii) Complies with all applicable requirements of this section.

(7) Approved backflow preventer inspection and testing.

(a) For backflow preventers that protect the public water system, the purveyor shall ensure that:

(i) A CCS inspects backflow preventer installations (~~to ensure~~) so that protection is provided commensurate with the assessed degree of hazard;

(ii) Either a BAT or CCS inspects:

(A) Air gaps installed in lieu of approved backflow prevention assemblies for compliance with the approved air gap definition; and

(B) Backflow prevention assemblies for correct installation and approval status.

(iii) A BAT tests approved backflow prevention assemblies for proper operation.

(b) The purveyor shall ensure that inspections and/or tests of approved air gaps and approved backflow assemblies that protect the public water system are conducted:

(i) When any of the following occur:

(A) Upon installation, repair, reinstallation, or relocation of an assembly;

(B) Upon installation or replumbing of an air gap;

(C) After a backflow incident involving the assembly or air gap; and

(ii) Annually thereafter, unless the purveyor requires more frequent testing for high hazard premises or for assemblies that repeatedly fail.

(c) The purveyor shall ensure that inspections of AVBs installed on irrigation systems are conducted:

(i) At the time of installation;

(ii) After a backflow incident; and

(iii) After repair, reinstallation, or relocation.

(d) The purveyor shall ensure that approved backflow prevention assemblies are tested using procedures acceptable

to the department, such as those specified in the most recently published edition of the USC Manual. When circumstances, such as, but not limited to, configuration or location of the assembly, preclude the use of USC test procedures, the purveyor may allow, on a case-by-case basis, the use of alternate (non-USC) test procedures acceptable to the department.

(e) The purveyor shall ensure that results of backflow prevention assembly inspections and tests are documented and reported in a manner acceptable to the purveyor.

(f) The purveyor shall ensure that an approved backflow prevention assembly or AVB, whenever found to be improperly installed, defective, not commensurate with the degree of hazard, or failing a test (if applicable) is properly reinstalled, repaired, overhauled, or replaced.

(g) The purveyor shall ensure that an approved air gap, whenever found to be altered or improperly installed, is properly replumbed or, if commensurate with the degree of hazard, is replaced by an approved RPBA.

(8) Recordkeeping and reporting.

(a) Purveyors shall keep cross-connection control records for the following time frames:

(i) Records pertaining to the master list of service connections (~~and/or~~) or consumer's premises required in subsection (3)(j)(i) of this section shall be kept as long as the premises pose a cross-connection hazard to the purveyor's distribution system;

(ii) Records regarding inventory information required in subsection (3)(j)(ii) of this section shall be kept for five years or for the life of the approved backflow preventer whichever is shorter; and

(iii) Records regarding backflow incidents and annual summary reports required in subsection (3)(j)(iii) of this section shall be kept for five years.

(b) Purveyors may maintain cross-connection control records in original form or transfer data to tabular summaries.

(c) Purveyors may maintain records or data in any media, such as paper, film, or electronic format.

(d) The purveyor shall complete the cross-connection control program summary report annually. Report forms and guidance on completing the report are available from the department.

(e) The purveyor shall make all records and reports required in subsection (3)(j) of this section available to the department or its representative upon request.

(f) The purveyor shall notify the department, authority having jurisdiction, and local health jurisdiction as soon as possible, but no later than the end of the next business day, when a backflow incident is known by the purveyor to have:

(i) Contaminated the public water system; or

(ii) Occurred within the premises of a consumer served by the purveyor.

(g) The purveyor shall:

(i) Document details of backflow incidents contaminating the public water system on a backflow incident report form available from the department; and

(ii) Include all backflow incident report(s) in the annual cross-connection program summary report referenced in (d) of this subsection, unless otherwise requested by the department.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-630 General requirements. (1) The purveyor shall ~~((ensure that))~~ provide treatment ~~((is provided))~~ for surface and GWI sources consistent with the treatment technique requirements specified in Part 6 of this chapter ~~((246-290 WAC))~~.

(2) The purveyor shall install and properly operate water treatment processes to ~~((ensure))~~ achieve at least:

(a) 99.9 percent (3-log) removal and/or inactivation of *Giardia lamblia* cysts;

(b) 99.99 percent (4-log) removal and/or inactivation of viruses; and

(c) 99 percent (2-log) removal of *Cryptosporidium* oocysts if required to filter.

(3) The purveyor shall ensure that the requirements of subsection (2) of this section are met between a point where the source water is not subject to contamination by untreated surface water and a point at or before the first consumer.

(4) The department may require higher levels of removal and/or inactivation of *Giardia lamblia* cysts, *Cryptosporidium* oocysts, and viruses than specified in subsection (2) of this section if deemed necessary to protect the health of consumers served by the system.

(5) The purveyor shall ensure that personnel operating a system subject to Part 6 of this chapter ~~((246-290 WAC))~~ meet the requirements under chapter ~~((70.119))~~ 70A.120 RCW and chapter 246-292 WAC.

(6) The purveyor of a Group A community system serving water from a surface or GWI source to the public before January 1, 1991, shall comply with applicable minimum treatment requirements. The purveyor shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662 respectively;

(b) The criteria to remain unfiltered under WAC 246-290-690 and the disinfection requirements under WAC 246-290-692; or

(c) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(7) The purveyor of a Group A noncommunity system serving water from a surface or GWI source, shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(8) The purveyor of a Group A system first serving water from a surface or GWI source to the public after December 31, 1990, shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(9) The purveyor of a system required to install filtration may choose to provide a limited alternative to filtration or abandon the surface or GWI source as a permanent or seasonal source and develop an alternate, department-approved

source. Purveyors that develop alternate groundwater sources or purchase water from a department-approved public water system using a groundwater source shall no longer be subject to Part 6 of chapter 246-290 WAC, once the alternate source is approved by the department and is on line.

(10) A purveyor that chooses to provide a limited alternative to filtration shall submit an application to the department that contains the information necessary to determine whether the source can meet the criteria.

(11) If a limited alternative to filtration is provided, then the purveyor shall install and properly operate treatment processes ~~((to ensure))~~ for greater removal and/or inactivation efficiencies of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern (including *Cryptosporidium* oocysts) than would be achieved by the combination of filtration and chlorine disinfection.

(12) Systems that were required to develop a disinfection profile under 40 C.F.R. 141.172 shall provide that profile and a calculated disinfection benchmark, as described in 40 C.F.R. 141.172 (c)(2) and (3), along with other project information specified in WAC 246-290-110, when proposing any change to the disinfection treatment system. The proposal for change ~~((shall))~~ must include an analysis of how the proposed change will affect the current level of disinfection. The profile must also be available for inspection during routine sanitary surveys conducted under WAC 246-290-416.

(13) Community and nontransient noncommunity systems serving less than ten thousand persons must meet the disinfection profiling and benchmarking provisions required under 40 C.F.R. 141.530 through 141.544.

(14) Systems required to develop a disinfection profile under 40 C.F.R. 141.530 shall provide that profile and a calculated disinfection benchmark, as described in 40 C.F.R. 141.543 along with other project information specified in WAC 246-290-110, when proposing any change to the disinfection treatment system. The proposal for change ~~((shall))~~ must include an analysis of how the proposed change will affect the current level of disinfection. The profile must also be available for inspection during routine sanitary surveys conducted under WAC 246-290-416.

(15) A system using conventional, direct, or in-line filtration that must arrange for the conduct of a CPE, under 40 C.F.R. 141.175 (b)(4) or 40 C.F.R. 141.563, may be required to arrange for CTA. The department will determine the need for CTA on a case-by-case basis.

(16) Water systems subject to the requirements of Part 6 of this chapter must also comply with the enhanced treatment requirements for *Cryptosporidium* under 40 C.F.R. Subpart W. The requirements are in addition to the requirements of Part 6 of this chapter and include:

(a) General requirements under 40 C.F.R. 141.700;

(b) Source monitoring requirements under 40 C.F.R. 141.701-707;

(c) Disinfection profiling and benchmarking requirements under 40 C.F.R. 141.708-709;

(d) Treatment technique requirements under 40 C.F.R. 141.710-714;

(e) Requirements for microbial toolbox components under 40 C.F.R. 141.715-720; and

(f) Reporting and recordkeeping requirements under 40 C.F.R. 141.721-722.

(17) Water systems using UV reactors to obtain treatment credit for *Cryptosporidium* inactivation must:

(a) Validate the reactors using the validation testing procedures specified under 40 C.F.R. 141.720 (d)(2); or

(b) Validate the reactor under Austrian ONORM Standards or German DVGW Standards.

AMENDATORY SECTION (Amending WSR 19-07-063, filed 3/19/19, effective 4/19/19)

WAC 246-290-638 Analytical requirements. (1) The purveyor shall ensure that only qualified persons conduct measurements for pH, temperature, turbidity, and residual disinfectant concentrations. In this section, qualified means:

(a) A person certified under chapter 246-292 WAC;

(b) An analyst, with experience conducting these measurements, from the state public health laboratory or another laboratory certified by the department;

(c) A state or local health jurisdiction professional experienced in conducting these measurements; or

(d) For the purpose of monitoring distribution system residual disinfectant concentration only, a person designated by and under the direct supervision of a waterworks operator certified under chapter 246-292 WAC.

(2) The purveyor shall ensure that measurements for temperature, turbidity, pH, and residual disinfectant concentration are made in accordance with "standard methods," or other EPA approved methods.

(3) The purveyor shall ensure that samples for coliform and HPC analysis are:

(a) Collected and transported in accordance with department-approved methods; and

(b) Submitted to the state public health laboratory or another laboratory certified by the department to conduct the analyses.

(4) Turbidity monitoring.

(a) The purveyor shall equip the system's water treatment facility laboratory with a:

(i) Bench model turbidimeter; and

(ii) Continuous turbidimeter and recorder if required under WAC 246-290-664 or 246-290-694.

(b) The purveyor shall ensure that bench model and continuous turbidimeters are:

(i) Designed to meet the criteria in "standard methods," approved methods under 40 C.F.R. 141.74 (a)(1), or alternative testing methods under Appendix A to Subpart C of 40 C.F.R. Part 141; and

(ii) Properly operated, calibrated, and maintained at all times in accordance with the manufacturer's recommendations.

(c) The purveyor shall validate continuous turbidity measurements for accuracy as follows:

(i) Calibrate turbidity equipment (~~based upon~~) using a primary standard (~~in the expected range of measurements~~) on at least a quarterly basis for instruments using an incandescent light source and on at least an annual basis for instruments using an LED or laser light source; and

(ii) Verify continuous turbidimeter performance on a weekly basis, not on consecutive days, with grab sample measurements made using either a properly calibrated bench model turbidimeter or a secondary standard as specified by the manufacturer.

(d) When continuous turbidity monitoring equipment fails, the purveyor shall measure turbidity on grab samples collected at least every four hours from the combined filter effluent and individual filters while the system serves water to the public and the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment online within five working days of failure.

(5) Purveyors shall verify instruments used for continuous monitoring of free and total chlorine residual with a grab sample measurement at least every five days, or with a protocol approved by the department as required under 40 C.F.R. 141.74 (a)(2).

(6) Purveyors monitoring for *Cryptosporidium* or *E. coli* as required under 40 C.F.R. 141.701 shall collect samples and have them analyzed under 40 C.F.R. 141.704 and 141.705.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-654 Treatment criteria for filtered systems. (1) The purveyor shall operate filters so that maximum flow rates do not exceed those specified in Table ((+)) 14 of this section. The purveyor may operate filters at higher flow rates, if the purveyor demonstrates to the department's satisfaction that filtration at the higher rate consistently achieves at least 99 percent (2-log) removal of *Giardia lamblia* cysts and 99 percent (2-log) removal of *Cryptosporidium* oocysts and meets the turbidity performance requirements of Table ((+)) 15.

**Table ((+)) 14
FILTRATION OPERATION CRITERIA**

FILTRATION TECHNOLOGY/MEDIA	MAXIMUM FILTRATION RATE (gpm/ft ²)
Conventional, Direct and In-Line	
Gravity Filters with Single Media	3
Gravity Filters with Deep Bed, Dual or Mixed Media	6
Pressure Filters with Single Media	2
Pressure Filters with Deep Bed, Dual or Mixed Media	3
Slow Sand	0.1
Diatomaceous Earth	1.0

(2) The purveyor using conventional, direct or in-line filtration shall ensure that effective coagulation is in use at all times the water treatment facility produces water served to the public.

(3) The purveyor using conventional, direct, or in-line filtration shall demonstrate treatment effectiveness for *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal by one of the following methods:

(a) Turbidity reduction method.

(i) The purveyor shall make source and filtered water turbidity measurements in accordance with WAC 246-290-664 (2) and (3) respectively.

(ii) The purveyor shall achieve:

(A) The turbidity performance requirements specified in WAC 246-290-660(1) and at least an eighty percent reduction in source turbidity based on an average of the daily turbidity reductions measured in a calendar month; or

(B) An average daily filtered water turbidity less than or equal to 0.1 NTU.

(b) Particle counting method. The purveyor shall:

(i) Use a particle counting protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of particles in the size range of five to fifteen microns (*Giardia lamblia* cyst-sized particles) and three to five microns (*Cryptosporidium* oocyst-sized particles), as applicable:

(A) 2.5-log reduction in *Giardia lamblia* cyst-sized particles and a 2-log reduction in *Cryptosporidium* particles for systems using conventional filtration; or

(B) 2.0 log reduction for systems using direct or in-line filtration.

(c) Microscopic particulate analysis method. The purveyor shall:

(i) Use a protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of *Giardia lamblia* cysts and *Cryptosporidium* oocysts or *Giardia lamblia* cyst and *Cryptosporidium* oocyst surrogate indicators as applicable:

(A) 2.5-log reduction in *Giardia lamblia* cysts or surrogates and a 2-log reduction in *Cryptosporidium* oocyst or surrogates for systems using conventional filtration; and

(B) 2.0 log reduction for systems using direct or in-line filtration.

(d) Other methods acceptable to the department.

(4) The purveyor shall ~~((ensure))~~ provide continuous disinfection of all water delivered to the public and shall:

(a) Maintain an adequate supply of disinfection chemicals and keep back-up system components and spare parts on hand;

(b) Develop, maintain, and post at the water treatment facility a plan detailing:

(i) How water delivered to the public will be continuously and adequately disinfected; and

(ii) The elements of an emergency notification plan to be implemented whenever the residual disinfectant concentration at entry to distribution falls below 0.2 mg/L for more than one hour.

(c) Implement the plan during an emergency affecting disinfection.

(5) Operations program.

(a) For each water treatment facility treating a surface or GWI source, the purveyor shall develop an operations pro-

gram and make it available to the department for review upon request.

(b) The program shall be submitted to the department as an addendum to the purveyor's water system plan (WAC 246-290-100) or small water system management program (WAC 246-290-105).

(c) The program shall detail how the purveyor will produce optimal filtered water quality at all times the water treatment facility produces water to be served to the public.

(d) The purveyor shall operate the water treatment facility in accordance with the operations program.

(e) The operations program shall include, but not be limited to, a description of:

(i) For conventional, direct or in-line filtration, procedures used to determine and maintain optimized coagulation as demonstrated by meeting the requirements of WAC 246-290-654(3);

(ii) Procedures used to determine chemical dose rates;

(iii) How and when each unit process is operated;

(iv) Unit process equipment maintenance program;

(v) Treatment plant performance monitoring program;

(vi) Laboratory procedures;

(vii) Records;

(viii) Reliability features; and

(ix) Response plans for water treatment facility emergencies, including disinfection failure and watershed emergencies.

(f) The purveyor shall ensure the operations program is:

(i) Readily available at the water treatment facility for use by operators and for department inspection;

(ii) Consistent with department guidelines for operations procedures such as those described in department guidance on surface water treatment and water system planning; and

(iii) Updated as needed to reflect current water treatment facility operations.

(6) Pressure filters. Purveyors using pressure filters shall:

(a) Inspect and evaluate the filters, at least every six months, for conditions that would reduce their effectiveness in removing *Giardia lamblia* cysts;

(b) Maintain, and make available for department review, a written record of pressure filter inspections; and

(c) Be prepared to conduct filter inspections in the presence of a department representative, if requested.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-660 Filtration. (1) Turbidity performance requirements.

(a) The ~~((purveyor shall ensure that the))~~ turbidity level of representative filtered water samples must:

(i) ~~((Complies))~~ Comply with the performance standards in Table ~~((4+))~~ 15 of this section;

(ii) Never exceed~~((s))~~ 5.0 NTU for any system using slow sand, diatomaceous earth;

(iii) Never exceed~~((s))~~ 1.0 NTU for any system using conventional, direct, or in-line filtration; and

(iv) Never exceed~~((s))~~ the maximum allowable turbidity determined by the department on a case-by-case basis for any

system using an alternative filtration technology approved under WAC 246-290-676 (2)(b).

Table ((44)) 15
TURBIDITY PERFORMANCE STANDARDS

Filtration Technology	Filtered water turbidity (in NTUs) shall be less than or equal to this value in at least 95% of the measurements made each calendar month
Conventional, Direct and In-line	0.30
Slow Sand	1.0
Diatomaceous Earth	1.0
Alternative Technology	As determined by the department through case-by-case approval of technology, under WAC 246-290-676 (2)(b).

(b) The department may allow the turbidity of filtered water from a system using slow sand filtration to exceed 1.0 NTU, but never 5.0 NTU, if the system demonstrates to the department's satisfaction that the higher turbidity level will

not endanger the health of consumers served by the system. As a condition of being allowed to produce filtered water with a turbidity exceeding 1.0 NTU, the purveyor may be required to monitor one or more parameters in addition to the parameters specified under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(2) *Giardia lamblia*, *Cryptosporidium*, and virus removal credit.

(a) The department shall notify the purveyor of the removal credit granted for the system's filtration process. The department shall specify removal credit for:

(i) Existing filtration facilities based on periodic evaluations of performance and operation; and

(ii) New or modified filtration facilities based on results of pilot plant studies or full scale operation.

(b) Conventional, direct, and in-line filtration.

(i) The removal credit the department may grant to a system using conventional, direct, or in-line filtration and demonstrating effective treatment is as follows:

Percent Removal Credit (log)

Filtration Technology	<i>Giardia</i>		Virus		<i>Cryptosporidium</i>	
	Percent	log	Percent	log	Percent	log
Conventional	99.7	2.5	99	2.0	99	2.0
Direct and in-line	99	2.0	90	1.0	99	2.0

(ii) A system using conventional, direct, or in-line filtration shall be considered to provide effective treatment, if the purveyor demonstrates to the satisfaction of the department that the system meets the:

(A) Turbidity performance requirements under subsection (1) of this section; and

(B) Operations requirements of WAC 246-290-654.

(iii) The department shall not grant removal credit to a system using conventional, direct, or in-line filtration that:

(A) Fails to meet the minimum turbidity performance requirements under subsection (1) of this section; or

(B) Fails to meet the operating requirements under WAC 246-290-654.

(c) Slow sand filtration.

The department may grant a system using slow sand filtration 99 percent (2-log) *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal credit and 99 percent (2-log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(d) Diatomaceous earth filtration.

The department may grant a system using diatomaceous earth filtration 99 percent (2-log) *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal credit and 90 percent (1 log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(e) Alternative filtration technology.

The department shall grant, on a case-by-case basis, *Giardia lamblia* cyst, *Cryptosporidium* oocyst, and virus removal credit for systems using alternative filtration technology based on results of product testing acceptable to the department.

(f) The purveyor granted no *Giardia lamblia* cyst removal credit and no *Cryptosporidium* oocyst removal credit shall:

(i) Provide treatment under WAC 246-290-662 (2)(d); and

(ii) Within ninety days of department notification regarding removal credit, submit an action plan to the department for review and approval. The plan shall:

(A) Detail how the purveyor plans to comply with the turbidity performance requirements in subsection (1) of this section and operating requirements of WAC 246-290-654; and

(B) Identify the proposed schedule for implementation.

(iii) Be considered in violation of the treatment technique specified in WAC 246-290-632 (2)(a)(i) and shall take follow-up action specified in WAC 246-290-634.

(g) Higher level removal credit.

(i) The department may grant a higher level of *Giardia lamblia*, *Cryptosporidium*, and virus removal credit than listed under (b) through (e) of this subsection, if the purveyor demonstrates to the department's satisfaction that the higher level can be consistently achieved.

(ii) As a condition of maintaining the maximum removal credit, purveyors may be required to periodically monitor one or more parameters not routinely monitored under WAC 246-

290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(3) Disinfection byproduct precursor removal requirements.

(a) Conventional systems using sedimentation shall meet the treatment technique requirements for control of disinfection byproduct precursors specified in 40 C.F.R. 141.135.

(i) Applicability of this requirement shall be determined in accordance with 40 C.F.R. 141.135(a).

(ii) Enhanced coagulation and enhanced softening shall be provided in accordance with 40 C.F.R. 141.135(b), if applicable.

(iii) Compliance with the treatment technique requirements for control of disinfection byproduct precursors shall be determined in accordance with 40 C.F.R. 141.135(c).

(b) For the purposes of compliance with (a) of this subsection, sedimentation shall be considered applicable when:

(i) Surface overflow rates and other design parameters are in conformance with traditionally accepted industry standards and textbook values, such as those prescribed in nationally accepted standards, including the most recent version of the *Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers*; and

(ii) The system has received pathogen removal credit for the sedimentation basin.

(4) Filter backwash recycling requirements.

(a) Purveyors using conventional, direct, or in-line filtration must report to the department, in writing, whether they recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within the treatment plant. Purveyors that do recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes must also report the following information:

(i) A plant schematic showing the origin of all flows that are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance (i.e., pipe, open channel) used to transport them, and the location where they are reintroduced back into the treatment plant.

(ii) Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and the approved operating capacity for the plant.

(b) Purveyors using conventional, direct, or in-line filtration that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within the treatment plant shall:

(i) Return the recycled flow prior to, or concurrent with the location where primary coagulant is introduced into the flow stream.

(ii) By no later than June 8, 2006, complete any capital improvements (physical modifications requiring engineering planning, design, and construction) necessary to meet the requirements of (b)(i) of this subsection.

(iii) On a case-by-case basis, the department may approve an alternate location for the return of recycle flows.

AMENDATORY SECTION (Amending WSR 10-20-068, filed 9/29/10, effective 11/1/10)

WAC 246-290-686 Compliance requirements for unfiltered systems. (1) The purveyor using an unfiltered surface or GWI source shall comply with:

(a) Subparts A and D of Part 6 of chapter 246-290 WAC; and

(b) All other applicable sections of this chapter.

(2) The purveyor purchasing water from a system using a surface or GWI source shall comply with:

(a) The applicable requirements of Subpart A of Part 6 of chapter 246-290 WAC;

(b) The disinfection, monitoring and reporting requirements under WAC 246-290-692 (5)(b), 246-290-694 (8)(b) and 246-290-696(4) respectively when purchasing completely treated surface or GWI water; or

(c) The treatment technique, monitoring and reporting requirements as directed by the department when the purveyor is purchasing incompletely treated surface or GWI water.

(3) The purveyor using an unfiltered GWI source shall be subject to the effective dates, compliance requirements, and violations specified in Table ((12)) 16 of this section.

Table ((12)) 16

COMPLIANCE REQUIREMENTS FOR SYSTEMS USING UNFILTERED GWI SOURCES

REQUIREMENTS BECOME EFFECTIVE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
Six months after GWI determination	Only Analytical, Monitoring and Reporting Requirements (WAC 246-290-638, 246-290-694 and 246-290-696 respectively)	Refer to 40 C.F.R. 141.13 and 141.22	Not in effect yet
Eighteen months after GWI determination	Subparts A and D	No longer in effect	In effect as defined in WAC 246-290-632

(4) Purveyors of community systems using surface water sources had the option to remain unfiltered if they demonstrated compliance with the department's criteria to remain unfiltered by December 30, 1991.

(5) A purveyor that served water to the public before January 1, 1991, using a GWI source may have that source remain unfiltered, if, within eighteen months of GWI determination, the purveyor complies with Part 6 of this chapter and, the source water quality and site-specific conditions under WAC 246-290-690 or 246-290-691 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(6) The purveyor with sources that are approved to remain unfiltered shall comply with the source water quality and site-specific conditions under WAC 246-290-690 or 246-290-691 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(7) The purveyor shall install filtration when the system fails to meet one or more of the source water quality and site-specific conditions under WAC 246-290-690 and 246-290-691, or the department determines that installation of filtration is necessary to protect the health of consumers served by the water system.

(8) The purveyor, in response to a written notification by the department, shall install filtration within eighteen months.

(9) The purveyor may comply with the requirements to install filtration by:

(a) Constructing a water treatment facility that is designed, operated, and maintained in accordance with Subparts A, B, and C of Part 6 of this chapter;

(b) Satisfying the source water quality and site-specific criteria specified in WAC 246-290-691 and constructing treatment facilities that are designed, operated, and maintained to provide a limited alternative to filtration in accordance with WAC 246-290-692; or

(c) Abandoning the surface water or GWI source, and:

(i) Developing an alternate, department-approved groundwater source; or

(ii) Purchasing completely treated water from a department-approved public water system.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

WAC 246-290-71002 Public notice content. (1) Public notices required under WAC 246-290-71001(1) ~~((shall))~~ must contain the elements and standard language required under 40 C.F.R. 141.205 (a), (b), and (d) and be presented in accordance with 40 C.F.R. 141.205 (c), except that notification of the availability of ~~((unregulated contaminant))~~ results required per 40 C.F.R. 141.40 and notification of an exceedance of the secondary MCL for fluoride ~~((shall))~~ must be in accordance with WAC 246-290-71005.

(2) Public notices required under WAC 246-290-71001 (3)(a) and (c) for the issuance of a departmental order or category red operating permit ~~((shall))~~ must include:

(a) A clear, concise, and simple explanation of the violation;

(b) Discussion of potential adverse health effects and any segments of the population that may be at higher risk;

(c) Mandatory health effects information in accordance with WAC 246-290-71004(2);

(d) A list of steps the purveyor has taken or is planning to take to remedy the situation;

(e) A list of steps the consumer should take, including advice on seeking an alternative water supply if necessary;

(f) The purveyor's name and telephone number; and

(g) When appropriate, notices ~~((shall))~~ must be bilingual or multilingual.

Note: The purveyor may provide additional information to further explain the situation.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

WAC 246-290-71004 Public notification mandatory language. (1) Public notice required under WAC 246-290-

71001(1) ~~((shall))~~ must contain any specific health effects language set forth in WAC 246-290-72012 in accordance with 40 C.F.R. 141.205 (d)(1) and other standard language in accordance with 40 C.F.R. 141.205 (d)(2) and (3), except that notification of the availability of ~~((unregulated contaminant))~~ results required per 40 C.F.R. 141.40 and notification of the exceedance of the secondary MCL for fluoride ~~((shall))~~ must be in accordance with WAC 246-290-71005.

(2) The purveyor shall provide specific mandatory language, contained in department guidance, in its notification when the purveyor is issued a category red operating permit.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

WAC 246-290-71006 ~~((Consumer information.))~~ Public notice for contaminants with a SAL and other unregulated contaminants. (1) The purveyor shall provide ~~((consumer information))~~ public notice to the water system users ~~((within twenty one days of receipt of confirmation sample results))~~ when the department determines that a ~~((substance not included in this chapter is confirmed at a level greater than a SAL.))~~

(1) Consumer information shall include:

(a) Name and level of chemical detected;

(b) Location where the chemical was detected;

(c) Any health effects that the chemical could cause at its present concentration;

(d) Plans for follow-up activities; and

(e) The purveyor's name and telephone number.

(2) Consumer information shall be distributed by any of the following methods:

(a) Notice placed in a daily newspaper of general circulation or in a weekly newspaper of general circulation if a daily newspaper does not serve the affected area;

(b) Direct mail to consumers;

(c) Posting for at least one week if a NTNC system; or

(d) Any other method approved by the department.)

contaminant exceeds a SAL listed in WAC 246-290-315, Table 9.

(2) The public notice must be in conformance with the requirements under WAC 246-290-71001 through 246-290-71004 and based upon the public notice tier designation of the contaminant or group of contaminants in Table 17 of this section.

TABLE 17
PUBLIC NOTICE TIER DESIGNATION FOR CONTAMINANTS WITH A SAL

<u>Contaminant or Group of Contaminants</u>	<u>Public Notice Tier</u>	<u>Bioaccumulative</u>
<u>DCPA acid metabolites</u>	<u>Tier 2</u>	<u>No</u>
<u>PFOA</u>	<u>Tier 2</u>	<u>Yes</u>
<u>PFOS</u>	<u>Tier 2</u>	<u>Yes</u>
<u>PFHxS</u>	<u>Tier 2</u>	<u>Yes</u>
<u>PFNA</u>	<u>Tier 2</u>	<u>Yes</u>

<u>Contaminant or Group of Contaminants</u>	<u>Public Notice Tier</u>	<u>Bioaccumulative</u>
<u>PFBS</u>	<u>Tier 2</u>	<u>Yes</u>

(a) The purveyor shall complete public notice for an initial exceedance of a Tier 1 designated SAL within twenty-four hours of confirmation, and for every subsequent quarter in which analytical results exceed a SAL.

(b) The purveyor shall complete public notification for an initial exceedance of a Tier 2 designated SAL as soon as practical, but no less than within thirty days of exceeding the SAL per Table 9 in WAC 246-290-315, and every three months thereafter as long as the results continue to exceed the SAL per Table 9 in WAC 246-290-315, or as directed by the department.

(3) The department may require public notice for other unregulated contaminants that are reported per requirements in WAC 246-390-075.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-72001 Purpose and applicability of the consumer confidence report requirements. WAC 246-290-72001 through 246-290-72012 establishes minimum requirements for the content of annual reports that community water systems must deliver to their customers. WAC 246-290-72013 establishes additional requirements for the content of annual reports that community water systems using groundwater must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(1) This section applies only to community water systems.

(2) For the purpose of WAC 246-290-72001 through 246-290-72013:

(a) "Customers" means billing units or service connections to which water is delivered by a community water system.

(b) "Detected" means at or above the ~~((levels prescribed by WAC 246-290-300(4) for inorganic contaminants, at or above the levels prescribed by WAC 246-290-300(7) for organic contaminants, at or above the levels prescribed by 40 C.F.R. 141.131 (b)(2)(iv) for disinfection byproducts, and at or above the levels prescribed by 40 C.F.R. 141.25(e) for radioactive contaminants))~~ SDRLs under chapter 246-390 WAC.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-72004 Report contents—Definitions.

(1) Each report must include the following definitions:

(a) Maximum contaminant level goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(b) Maximum contaminant level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(2) A report for a community water system operating under a variance or an exemption issued under WAC 246-290-060 must include the following definition: Variances and exemptions: State or EPA permission not to meet an MCL or a treatment technique under certain conditions.

(3) A report that contains data on contaminants that the Environmental Protection Agency regulates using any of the following terms must include the applicable definitions:

(a) Treatment technique: A required process intended to reduce the level of a contaminant in drinking water.

(b) Action level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(c) Maximum residual disinfectant level goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(d) Maximum residual disinfectant level or MRDL: The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(4) A report that contains level 1 or level 2 assessment information must include the applicable definitions:

(a) Level 1 assessment: A level 1 assessment is a study of the water system to identify potential problems and determine, if possible, why total coliform bacteria have been found in our water system.

(b) Level 2 assessment: A level 2 assessment is a very detailed study of the water system to identify potential problems and determine, if possible, why an *E. coli* MCL violation has occurred and, if applicable, why total coliform bacteria have been found in our water system on multiple occasions.

(5) A report that contains information regarding a detection of a contaminant with a SAL must include the following definition: State action level (SAL) means the concentration of a contaminant in drinking water established to protect public health and which, if exceeded, triggers actions a water system must take. SALs are established for contaminants without an MCL, federal action level, or treatment technique.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-72005 Report contents—Information on detected contaminants.

(1) This section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring. It applies to:

(a) Contaminants subject to an MCL, federal action level, ~~((maximum residual disinfectant level or treatment technique))~~ SAL, TT, or MRDL (regulated contaminants); and

(b) Detected ~~((unregulated))~~ contaminants without an MCL, federal action level, SAL, TT, or MRDL for which

monitoring is required (~~(under WAC 246-290-300(10) and 40 C.F.R. 140.40; and~~

~~(e) Disinfection byproducts for which monitoring is required by WAC 246-290-300(6) and 40 C.F.R. 141.142 or microbial contaminants for which monitoring is required by WAC 246-290-300(3) and 40 C.F.R. 141.143, except as provided under WAC 246-290-72006(1), and which are detected in the finished water).~~

(2) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(3) The data must be derived from data collected to comply with EPA and state monitoring and analytical requirements during the previous calendar year except (~~that~~

~~(a))~~ where a system is allowed to monitor for regulated contaminants less than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five years need be included.

~~((b) Results of monitoring in compliance with 40 C.F.R. 141.142 and 40 C.F.R. 141.143 need only be included for five years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.))~~

(4) For detected regulated contaminants listed in WAC 246-290-72012, the table(s) must contain:

(a) The MCL or SAL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in WAC 246-290-72012);

(b) The MCLG for that contaminant expressed in the same units as the MCL;

(c) If there is no MCL or SAL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in WAC 246-290-72004;

(d) For contaminants (~~(subject to an MCL)~~) with a SAL, or contaminants with an established MCL, except turbidity, (~~(total coliforms)~~) and *E. coli*, the highest contaminant level used to determine compliance with a SAL or a National Primary Drinking Water Regulation and the range of results, as follows:

(i) When compliance with the MCL or SAL is determined annually or less frequently: The highest detected level at any sampling (~~(point))~~ location and the range of results expressed in the same units as the MCL or SAL.

(ii) When compliance with the MCL or SAL is determined by calculating a running annual average of all samples taken at a sampling (~~(point))~~ location: The highest average of any of the sampling (~~(points))~~ locations and the range of all sampling (~~(points))~~ locations expressed in the same units as the MCL or SAL. For the TTHM and HAA5 MCLs determined on the basis of the LRAA, systems must include the highest LRAA for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If more than one location

exceeds the TTHM or HAA5 MCL, the system must include the LRAA for all locations that exceed the MCL.

(ii) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: The average and range of detection expressed in the same units as the MCL. The system is required to include individual sample results for the IDSE conducted under WAC 246-290-300 (6)(b)(i)(F) when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken.

(iv) Note to WAC 246-290-72005 (4)(d): When rounding of results to determine compliance with the MCL or SAL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in WAC 246-290-72012;

(e) For turbidity.

(i) When it is reported under chapter 246-290 WAC Part 6, Subpart C: The highest average monthly value.

(ii) When it is reported under the requirements of chapter 246-290 WAC Part 6, Subpart D: The highest monthly value. The report should include an explanation of the reasons for measuring turbidity.

(iii) When it is reported under chapter 246-290 WAC Part 6, Subpart B: The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in chapter 246-290 WAC Part 6, Subpart B for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity;

(f) For lead and copper: The 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level;

(g) For *E. coli* analytical results under WAC 246-290-300 (3)(e) through (g): The total number of positive samples; and

(h) The likely source(s) of detected contaminants to the best of the purveyor's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the purveyor. If the purveyor lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in WAC 246-290-72012 which are most applicable to the system.

(5) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(6) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: The length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of WAC 246-290-72012.

(7) ~~((For detected unregulated))~~ Detected contaminants without a MCL, SAL, federal action level, TT or MRDL for which monitoring is required, the table ~~((s))~~ must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-72012 Regulated contaminants.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL ((units match lab results)) (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Microbiological Contaminants						
Total Coliform Bacteria	TT	-	TT	((N/A)) 0	Naturally present in the environment	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.
<i>E. coli</i>	Routine and repeat samples are total coliform-positive and either is <i>E. coli</i> -positive or system fails to take repeat samples following <i>E. coli</i> -positive routine sample or system fails to analyze total coliform-positive repeat sample for <i>E. coli</i> .	-	Routine and repeat samples are total coliform-positive and either is <i>E. coli</i> -positive or system fails to take repeat samples following <i>E. coli</i> -positive routine sample or system fails to analyze total coliform-positive repeat sample for <i>E. coli</i> .	0	Human and animal fecal waste	<i>E. coli</i> are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely-compromised immune systems.
Fecal indicators (<i>E. coli</i>)	TT	-	TT	((N/A)) 0	Human and animal fecal waste	Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Total organic carbon ((ppm))	TT	-	TT	N/A	Naturally present in the environment	Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalo-methanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.
Turbidity ((NTU))	TT	-	TT	N/A	Soil runoff	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.
<i>Giardia lamblia</i> Viruses <i>Cryptosporidium</i>	TT	-	TT	((N/A)) 0	Human and animal fecal waste	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
Heterotrophic plate count (HPC) bacteria	TT	-	TT	N/A	HPC measures a range of bacteria that are naturally present in the environment	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
Legionella	TT	-	TT	((N/A)) 0	Found naturally in water; multiplies in heating systems	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
Radioactive Contaminants						
Beta/photon emitters ((mrem/yr))	4 mrem/yr	-	4 <u>mrem/yr</u>	((N/A)) 0	Decay of natural and man-made deposits	Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Alpha emitters ((pCi/l)) <u>[gross alpha excluding uranium and radon]</u>	15 pCi/l	-	15 <u>(pCi/L)</u>	((N/A)) 0	Erosion of natural deposits	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Combined radium ((pCi/l)) [226 & 228]	5 pCi/l	-	5 (pCi/L)	((N/A)) 0	Erosion of natural deposits	Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.
Uranium ((pCi/l))	30 ((micro g/l)) ppb	-	30 ppb	0	Erosion of natural deposits	Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.
Inorganic Contaminants						
Antimony ((ppb))	.006 ppm	1000	6 ppb	6 ppb	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder	Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.
Arsenic ((ppb))	0.010 ppm	1000	10 ppb	0	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.
Asbestos ((MFL))	7 MFL	-	7 MFL	7 MFL	Decay of asbestos cement water mains; Erosion of natural deposits	Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.
Barium ((ppm))	2 ppm	-	2 ppm	2 ppm	Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits	Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.
Beryllium ((ppb))	.004 ppm	1000	4 ppb	4 ppb	Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries	Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.
Cadmium ((ppb))	.005 ppm	1000	5 ppb	5 ppb	Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; Runoff from waste batteries and paints	Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.
Chromium ((ppb))	.1 ppm	1000	100 ppb	100 ppb	Discharge from steel and pulp mills; Erosion of natural deposits	Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Copper ((ppm))	TT AL = 1.3 ppm	-	TT AL = 1.3 ppm	1.3 ppm	Corrosion of household plumbing systems; Erosion of natural deposits	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
Cyanide ((ppb))	.2 ppm	1000	200 ppb	200 ppb	Discharge from steel/metal factories; Discharge from plastic and fertilizer factories	Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.
Fluoride ((ppm))	4 ppm	-	4 ppm	4 ppm	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories	Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.
Lead ((ppb))	TT AL = .015 ppm	1000	TT AL = 15 ppb	0	Corrosion of household plumbing systems; Erosion of natural deposits	Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.
Mercury [inorganic] ((ppb))	.002 ppm	1000	2 ppb	2 ppb	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland	Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.
Nitrate ((ppm))	((10))	-	((10)) 10.0 ppm	((10)) 10.0 ppm	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits	Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Nitrite ((ppm))	((1)) 1.0 ppm	-	((1)) 1.0 ppm	((1)) 1.0 ppm	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits	Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Selenium ((ppb))	.05 ppm	1000	50 ppb	50 ppb	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines	Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.
Thallium ((ppb))	.002 ppm	1000	2 ppb	0.5 ppb	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories	Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.
Disinfection Byproducts (DBPs)						
Bromate	.010 ppm	1000	10 ppb	0	Byproduct of drinking water disinfection	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.
Chloramines	MRDL = 4 ppm	-	MRDL = 4 ppm	MRDLG = 4 ppm	Water additive used to control microbes	Some people who use drinking water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.
Chlorine	MRDL = 4 ppm	-	MRDL = 4 ppm	MRDLG = 4 ppm	Water additive used to control microbes	Some people who use drinking water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
Chlorite	1 ppm	-	1 ppm	0.8 ppm	Byproduct of drinking water disinfection	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorite in excess of the MCL. Some people may experience anemia.
Chlorine dioxide	MRDL = .8 ppm	1000	MRDL = 800 ppb	MRDLG = 800 ppb	Water additive used to control microbes	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Haloacetic Acids (HAA5)	60 ppb	=	60 ppb	N/A for combined dichloroacetic acid = 0; monochloroacetic acid = 70 ppb; trichloroacetic acid = 20 ppb	Byproduct of drinking water disinfection	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.
Total Trihalomethanes [TTHMs]	80 ppb	=	80 ppb	N/A (chloroform = 70 ppb; dibromochloromethane = 60 ppb; bromoform = 0; bromodichloromethane = 0)	Byproduct of drinking water disinfection	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.
Synthetic Organic Contaminants including Pesticides and Herbicides						
2,4-D ((ppb))	((.07)) 70 ppb	((+000)) =	70 ppb	70 ppb	Runoff from herbicide used on row crops	Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.
2,4,5-TP [Silvex]((ppb))	((.05)) 50 ppb	((+000)) =	50 ppb	50 ppb	Residue of banned herbicide	Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.
((Acrylamide	TT	-	TT	0	Added to water during sewage/wastewater treatment	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.)
Alachlor ((ppb))	((.002)) 2 ppb	((+000)) =	2 ppb	0	Runoff from herbicide used on row crops	Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.
Atrazine ((ppb))	((.003)) 3 ppb	((+000)) =	3 ppb	3 ppb	Runoff from herbicide used on row crops	Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.
Benzo(a)pyrene [PAH] ((nanograms/l))	((.0002)) .2 ppb	((+000,000)) 1000	200 ppt	0	Leaching from linings of water storage tanks and distribution lines	Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Carbofuran ((ppb))	((.04)) 40 ppb	((1000)) =	40 ppb	40 ppb	Leaching of soil fumigant used on rice and alfalfa	Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.
Chlordane ((ppb))	((.002)) 2 ppb	((1000)) =	2 ppb	0	Residue of banned termiticide	Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.
Dalapon ((ppb))	((.2)) 200 ppb	((1000)) =	200 ppb	200 ppb	Runoff from herbicide used on rights of way	Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.
Di(2-ethylhexyl) adipate ((ppb))	((.4)) 400 ppb	((1000)) =	400 ppb	400 ppb	Discharge from chemical factories	Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience toxic effects or reproductive difficulties.
Di(2-ethylhexyl) phthalate ((ppb))	((.006)) 6 ppb	((1000)) =	6 ppb	0	Discharge from rubber and chemical factories	Some people who drink water containing di (2-ethylhexyl) phthalate well in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.
Dibromochloropropane ((ppt)) [DBCP]	((.0002)) .2 ppb	((1,000,000)) 1000	200 ppt	0	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards	Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive problems and may have an increased risk of getting cancer.
Dinoseb ((ppb))	((.007)) 7 ppb	((1000)) =	7 ppb	7 ppb	Runoff from herbicide used on soybeans and vegetables	Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.
(Diquat (ppb))	.02	1000	20	20	Runoff from herbicide use	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.)
Dioxin [2,3,7,8-TCDD] ((ppt))	((.00000003)) .03 ppt	((1,000,000,000)) 1,000	30 ppt	0	Emissions from waste incineration and other combustion; Discharge from chemical factories	Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
(Endothall (ppb))	.1	1000	100	100	Runoff from herbicide use	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.)
Diquat	.02 ppb	1000	20 ppt	20 ppt	Runoff from herbicide use	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Endothall	100 ppb	=	100 ppb	100 ppb	Runoff from herbicide use	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.
Endrin	((.002)) 2 ppb	((1000)) =	2 ppb	2 ppb	Residue of banned insecticide	Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.
((Epichlorohydrin	FF	-	FF	0	Discharge from industrial chemical factories; An impurity of some water treatment chemicals	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.))
Ethylene dibromide ((ppb))	((.00005)) .05 ppb	((1,000,000)) 1000	50 ppt	0	Discharge from petroleum refineries	Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.
Glyphosate ((ppb))	((.7)) 700 ppb	((1000)) =	700 ppb	700 ppb	Runoff from herbicide use	Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.
Heptachlor ((ppt))	((.0004)) .4 ppb	((1,000,000)) 1000	400 ppt	0	Residue of banned pesticide	Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.
Heptachlor epoxide ((ppt))	((.0002)) .2 ppb	((1,000,000)) 1000	200 ppt	0	Breakdown of heptachlor	Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.
Hexachlorobenzene ((ppb))	((.001)) 1 ppb	((1000)) =	1 ppb	0	Discharge from metal refineries and agricultural chemical factories	Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.
Hexachlorocyclopentadiene ((ppb))	((.05)) 50 ppb	((1000)) =	50 ppb	50 ppb	Discharge from chemical factories	Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.
Lindane ((ppt))	((.0002)) .2 ppb	((1,000,000)) 1000	200 ppt	200 ppt	Runoff/leaching from insecticide used on cattle, lumber, gardens	Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.
Methoxychlor ((ppb))	((.04)) 40 ppb	((1000)) =	40 ppb	40 ppb	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock	Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Oxamyl [Vydate] ((ppb))	((2)) 200 ppb	((1000)) =	200 ppb	200 ppb	Runoff/leaching from insecticide used on apples, potatoes and tomatoes	Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.
PCBs [Polychlorinated biphenyls] ((ppt))	((0.005)) .5 ppb	((1,000,000)) 1000	500 ppt	0	Runoff from landfills; Discharge of waste chemicals	Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.
Pentachlorophenol ((ppb))	((0.1)) 1 ppb	((1000)) =	1 ppb	0	Discharge from wood preserving factories	Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.
PFOA	10 ppt	=	10 ppt	N/A	Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants	Some people who drink water containing PFOA in excess of the SAL over many years may experience problems with their cholesterol, liver, thyroid or immune system; have high blood pressure during pregnancy; have babies with lower birthweights; and be at higher risk of getting certain types of cancers. When water levels of PFOA are much higher than the SAL, shorter periods of exposure are of concern.
PFOS	15 ppt	=	15 ppt	N/A	Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants	Some people who drink water containing PFOS in excess of the SAL over many years may experience problems with their cholesterol, liver, thyroid, kidney, or immune systems; or have children with lower birthweights. When water levels of PFOS are much higher than the SAL, shorter periods of exposure are of concern.
PFHxS	65 ppt	=	65 ppt	N/A	Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants	Some people who drink water containing PFHxS in excess of the SAL over many years may experience liver or immune problems, or thyroid hormone problems during pregnancy and infancy. It is possible that exposed children may have increased risk of abnormal behavior. When water levels of PFHxS are much higher than the SAL, shorter periods of exposure are of concern.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
PFNA	9 ppt	=	9 ppt	N/A	Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants	Some people who drink water containing PFNA in excess of the SAL over many years may experience cholesterol, immune, liver or reproductive problems. Children exposed prenatally may have lower birthweights and increased risk of abnormal development. When water levels of PFNA are much higher than the SAL, shorter periods of exposure are of concern.
PFBS	345 ppt	=	345 ppt	N/A	Run-off or leaching from fire-fighting foam, industrial discharge, and landfills; wastewater treatment plants	Some people who drink water containing PFBS in excess of the SAL may experience higher risk of cholesterol, liver, kidney or thyroid problems. Early life is the most sensitive period for altered thyroid hormone; sensitive populations include persons who are pregnant, nursing or less than a year old.
Picloram ((ppb))	((.5)) 500 ppb	((1000)) =	500 ppb	500 ppb	Herbicide runoff	Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.
Simazine ((ppb))	((.004)) 4 ppb	((1000)) =	4 ppb	4 ppb	Herbicide runoff	Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.
Toxaphene ((ppb))	((.003)) 3 ppb	((1000)) =	3 ppb	0	Runoff/leaching from insecticide used on cotton and cattle	Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.
Volatile Organic Contaminants						
Benzene ((ppb))	((.005)) 5 ppb	((1000)) =	5 ppb	0	Discharge from factories; Leaching from gas storage tanks and landfills	Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.
((Bromate (ppb))	.010	1000	10	0	Byproduct of drinking water disinfection	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.)
Carbon tetrachloride ((ppb))	((.005)) 5 ppb	((1000)) =	5 ppb	0	Discharge from chemical plants and other industrial activities	Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
((Chloramines (ppm))	MRDL=4	-	MRDL=4	MRDLG=4	Water additive used to control microbes	Some people who use drinking water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Chlorine (ppm)	MRDL = 4	-	MRDL = 4	MRDLG = 4	Water additive used to control microbes	Some people who use drinking water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
Chlorite (ppm)	4	-	4	0.8	Byproduct of drinking water disinfection	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorite in excess of the MCL. Some people may experience anemia.
Chlorine dioxide (ppb)	MRDL = .8	1000	MRDL = 800	MRDLG = 800	Water additive used to control microbes	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.)
Chlorobenzene ((ppb))	((1)) 100 ppb	((1000)) 1	100 ppb	100 ppb	Discharge from chemical and agricultural chemical factories	Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.
o-Dichlorobenzene ((ppb))	((6)) 600 ppb	((1000)) 1	600 ppb	600 ppb	Discharge from industrial chemical factories	Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.
p-Dichlorobenzene ((ppb))	((75)) 75 ppb	((1000)) 1	75 ppb	75 ppb	Discharge from industrial chemical factories	Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.
1,2-Dichloroethane ((ppb))	((5)) 5 ppb	((1000)) 1	5 ppb	0	Discharge from industrial chemical factories	Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.
1,1-Dichloroethylene ((ppb))	((7)) 7 ppb	((1000)) 1	7 ppb	7 ppb	Discharge from industrial chemical factories	Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
cis-1,2-Dichloroethylene ((ppb))	((70)) 70 ppb	((1000)) 1	70 ppb	70 ppb	Discharge from industrial chemical factories	Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
trans-1,2-Dichloroethylene ((ppb))	((+) 100 ppb	((+000)) =	100 ppb	100 ppb	Discharge from industrial chemical factories	Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.
Dichloromethane ((ppb))	((-005)) 5 ppb	((+000)) =	5 ppb	0	Discharge from pharmaceutical and chemical factories	Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.
1,2-Dichloropropane ((ppb))	((-005)) 5 ppb	((+000)) =	5 ppb	0	Discharge from industrial chemical factories	Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.
Ethylbenzene ((ppb))	((-7)) 700 ppb	((+000)) =	700 ppb	700 ppb	Discharge from petroleum refineries	Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.
((Haloacetic Acids (HAA) (ppb)	.060	+000	60	n/a	Byproduct of drinking water disinfection	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.)
Styrene ((ppb))	((+) 100 ppb	((+000)) =	100 ppb	100 ppb	Discharge from rubber and plastic factories; Leaching from landfills	Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.
Tetrachloroethylene ((ppb))	((-005)) 5 ppb	((+000)) =	5 ppb	0	Discharge from factories and dry cleaners	Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.
1,2,4-Trichlorobenzene ((ppb))	((-07)) 70 ppb	((+000)) =	70 ppb	70 ppb	Discharge from textile-finishing factories	Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.
1,1,1-Trichloroethane ((ppb))	((-2)) 200 ppb	((+000)) =	200 ppb	200 ppb	Discharge from metal degreasing sites and other factories	Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.
1,1,2-Trichloroethane ((ppb))	((-005)) 5 ppb	((+000)) =	5 ppb	3 ppb	Discharge from industrial chemical factories	Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.
((Trichloroethylene (ppb)	.005	+000	5	0	Discharge from metal degreasing sites and other factories	Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
THMs [Total trihalomethanes] (ppb)	.080	1000	80	N/A	Byproduct of drinking water disinfection	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.)
Toluene (ppm)	((+) 1000 ppm	-	((+) 1000 ppm	((+) 1000 ppm	Discharge from petroleum factories	Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.
Vinyl Chloride (ppb)	((002)) 2 ppb	((1000)) -	2 ppb	0	Leaching from PVC piping; Discharge from plastics factories	Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.
Xylenes (ppm)	((10)) 10,000 ppb	-	((10)) 10,000 ppb	((10)) 10,000 ppb	Discharge from petroleum factories; Discharge from chemical factories	Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

Treatment Technique Violations						
Acrylamide	TT	=	TT	0	Added to water during sewage/wastewater treatment	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.
Epichlorohydrin	TT	=	TT	0	Discharge from industrial chemical factories; an impurity of some water treatment chemicals	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.
Groundwater rule TT violations	TT	-	TT	N/A	-	Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms can cause symptoms such as diarrhea, nausea, cramps, and associated headaches.

Key
AL = Action Level
MCL = Maximum Contaminant Level
MCLG = Maximum Contaminant Level Goal
MFL = million fibers per liter
MRDL = Maximum Residual Disinfectant Level
MRDLG = Maximum Residual Disinfectant Level Goal
mrem/year = millirems per year (a measure of radiation absorbed by the body)
N/A = Not Applicable
NTU = Nephelometric Turbidity Units (a measure of water clarity)
(pCi/L) pCi/L = picocuries per liter (a measure of radioactivity)
ppm = parts per million, or milligrams per liter ((mg/L)) (mg/L)
ppb = parts per billion, or micrograms per liter (ug/L)
ppt = parts per trillion, or nanograms per liter (ng/L)
ppq = parts per quadrillion, or picograms per liter (pg/L)

Contaminant ((units))	((traditional MCL in mg/L)) MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
<p>SAL = state action level TT = Treatment Technique</p>						

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-810 Water use efficiency program. (1) Water system plans and small water system management programs submitted for approval for the first year after ~~((the effective date of this rule))~~ January 22, 2007, must describe the municipal water supplier's existing water use efficiency program. The municipal water supplier must continue existing levels of water use efficiency.

(2) Subsections (3) and (4) of this section apply to:

(a) Water system plans submitted to the department for approval under WAC 246-290-100 one year after the effective date of this rule.

(b) Small water system management programs developed and implemented or submitted to the department for approval one year after the effective date of this rule.

(3) Municipal water suppliers shall develop and implement a water use efficiency program which includes sufficient cost-effective water use efficiency measures to meet the water use efficiency goals developed under WAC 246-290-830.

(4) Municipal water suppliers shall complete the following items in the water use efficiency program:

(a) Describe the current water use efficiency program;

(b) For systems serving one thousand or more total connections, estimate the amount of water saved through implementation of the water use efficiency program over the prior six or more years; the estimate may include the entire

approval period of the most recent water system plan required under WAC 246-290-100;

(c) Describe the chosen water use efficiency goals and document the goals were established in accordance with WAC 246-290-830;

(d) Evaluate water use efficiency measures to determine if they are cost-effective as follows:

(i) Evaluate or implement, at a minimum, the number of water use efficiency measures specified in Table ~~((13))~~ 18 of this section based on the system's total number of connections.

(ii) Evaluate or implement water use efficiency measures from the following categories of measures if they are applicable: Indoor residential, outdoor, and industrial/commercial/institutional.

(iii) For systems serving less than one thousand total connections, describe the evaluation process used to select water use efficiency measures.

(iv) For systems serving one thousand or more total connections, include the following criteria when evaluating water use efficiency measures:

(A) Quantitatively evaluate water use efficiency measures to determine if they are cost-effective from the system's perspective including the marginal costs of producing water.

(B) Address whether the water use efficiency measures are cost-effective if the costs are shared with other entities.

(C) Quantitatively or qualitatively evaluate water use efficiency measures to determine if they are cost-effective from the societal perspective.

Table ~~((13))~~ 18

Number of connections	Less than 500	500-999	1,000-2,499	2,500-9,999	10,000-49,999	50,000 or more
Water use efficiency measures	1	4	5	6	9	12

(e) Describe all water use efficiency measures to be implemented over the next six or more years, including a schedule and a budget that demonstrates how the water use efficiency measures will be funded. Purveyors may submit a schedule and budget for the entire water system plan approval period, if the approval period is longer than six years;

(f) Describe how consumers will be educated on water use efficiency practices;

(g) Estimate projected water savings from selected water use efficiency measures;

(h) Describe how the water use efficiency program will be evaluated for effectiveness;

(i) Evaluate water distribution system leakage as follows:

(i) Include distribution system leakage annual totals in accordance with WAC 246-290-820 for each of the past six or more years. Purveyors shall submit distribution system

leakage annual totals for the entire water system plan approval period if the approval period was longer than six years.

(ii) If necessary, include a copy of the water loss control action plan in accordance with WAC 246-290-820(4).

(iii) If all or portions of transmission lines are excluded when determining distribution system leakage, estimate the amount of leakage from the excluded portion of the transmission mains and describe how it is maintained to minimize leakage.

WSR 21-16-101
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed August 3, 2021, 2:28 p.m.]

August 3, 2021
 Derek Zable
 Records and Government
 Affairs Manager

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-06-113.

Title of Rule and Other Identifying Information: Law Enforcement Training and Community Safety Act—Independent investigations criteria (LETCSA), chapter 139-12 WAC.

Hearing Location(s): On September 8, 2021, at 10:00 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Burien, WA 98148, or virtual meeting at cjtc.wa.gov. Please check the website for the latest update to where the commission meeting will be held.

Date of Intended Adoption: September 8, 2021.

Submit Written Comments to: Derek Zable, 19010 1st Avenue South, Burien, WA 98148, email Dzable@cjtc.wa.gov, by September 7, 2021.

Assistance for Persons with Disabilities: Contact Derek Zable, phone 206-835-7350, TTY 1-800-833-6388, email dzable@cjtc.wa.gov, by September 7, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The LETCSA WAC rules are being updated after WSCJTC reviewed a report from the Washington state attorney general's office. RCW 10.114.011 also mandates WSCJTC to implement these rules. LETCSA was created at WSCJTC knowing that the WAC pertaining to the program would be constantly evolving.

Reasons Supporting Proposal: The proposal is necessary to meet the mandates in the RCW listed above, as well as to keep the WAC language relevant to how independent investigation teams operate and meeting the needs of WSCJTC's stakeholders.

Statutory Authority for Adoption: RCW 10.114.011.

Statute Being Implemented: RCW 10.114.011.

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

Name of Proponent: WSCJTC, governmental.

Name of Agency Personnel Responsible for Drafting: Monica Alexander, 19010 1st Avenue South, Burien, WA 98148, 206-835-7291; Implementation and Enforcement: My-Le Tang, 19010 1st Avenue South, Burien, WA 98148, 206-835-7369.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. No impact to state budget.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

AMENDATORY SECTION (Amending WSR 20-01-023, filed 12/6/19, effective 1/6/20)

WAC 139-12-030 Independent investigation criteria.

There are five principles that are fundamental to enhancing public trust in the integrity of independent investigations involving police use of deadly force:

- Independence;
- Transparency;
- Communication;
- Credible process; and
- Credible investigators.

Standards are necessary for the involved agency and the public to assess whether the actions taken by the IIT are independent, transparent, credible, and communicated in a manner that results in a compliant and complete investigation and builds public trust.

(1) Independence.

(a) Independence is essential to the integrity and objectivity of the investigation. Maintaining independence is achieved through compliance with rules and regulations designed to prohibit undue influence, and the appearance of undue influence, by the involved agency in the investigation.

(b) Standards for an investigation completely independent of the involved agency:

- Once the involved agency personnel and/or other first responders have rendered the scene safe and provided or facilitated life-saving first aid to persons at the scene who have life-threatening injuries, the involved agency will immediately call the IIT. Then the primary focus of the involved agency shifts to the protection and preservation of evanescent evidence in order to maintain the integrity of the scene until the IIT arrives. Once the IIT arrives, and the IIT commander has the appropriate resources on scene, the involved agency will relinquish control of the scene to the IIT.

- No member of the involved agency may participate in any way in the investigation of police use of deadly force conducted by the IIT, with the following exception:

- Specialized equipment belonging to the involved agency may not be used by the IIT unless: 1 - no reasonable alternative exists; 2 - the equipment is critical to carrying out the independent investigation; and 3 - the use is approved by the IIT commander. If the equipment is used, the nonlaw enforcement community representatives on the IIT must be notified about: 1 - why it needs to be used; and 2 - the steps taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment.

- No information about the ongoing independent investigation of police use of deadly force will be shared with any member of the involved agency (~~(, except limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation so that they can manage the internal administrative investigation and communicate with their community about the progress of the)~~). The administra-

tive investigation of the involved agency must remain separate from the independent criminal investigation.

• If the chief or sheriff of the involved agency requests that the IIT release the body cam video or other investigation information of urgent public interest, the IIT commander should honor the request with the agreement of the prosecutor of jurisdiction.

(2) Transparency.

(a) Transparency is the critical element of procedural justice that allows community members to assess whether the process of the investigation is conducted in a trustworthy manner and complies with the standards for the five listed principles.

(b) Standards for the transparency of an independent investigation:

• The policies and operating procedures of the IIT will be available to the public.

• The names of the members, supervisors, commanders, and nonlaw enforcement community representatives on the IIT will be available to the public.

• A minimum of two nonlaw enforcement community representatives from the impacted communities will be assigned to each IIT to:

a. Participate directly in the vetting, interviewing, and/or selection of IIT investigators. (Existing teams will have until January 2021 to provide necessary information about the qualifications of current IIT investigators to the nonlaw enforcement community representatives for review.)

b. Review written conflict of interest statements submitted within seventy-two hours of the commencement of each investigation by the investigators. Agencies may use a standard conflict of interest form developed by the Washington state criminal justice training commission;

c. Be present at the briefings with the involved agency(s) chief or sheriff;

d. Have access to the investigation file when it is completed;

e. Be provided a copy of all press releases and communication to the media prior to release; and

f. Review notification of equipment use of the involved agency.

- The nonlaw enforcement community representatives must sign a binding confidentiality agreement at the beginning of each police use of deadly force investigation that remains in effect until the prosecutor of jurisdiction either declines to file charges or the criminal case is concluded.

- ~~((If the confidentiality agreement is violated, the nonlaw enforcement representative may be subject to prosecution under RCW 9A.76.020 (Obstructing a law enforcement officer) and chapter 10.97 RCW, Washington State Criminal Records Privacy Act. For the purpose of this chapter, "criminal background information" is the same as "criminal history information" as defined in RCW 10.97.030(4).))~~ Any nonlaw enforcement representative or law enforcement officer found to have violated the confidentiality agreement will be subject to immediate removal from the team, as well as any future independent investigation.

• The commander or other representative of the IIT will provide public updates about the investigation at a minimum of once per week, even if there is no new progress to report.

• When an independent investigation is complete the information will be made available to the public in a manner consistent with applicable state law.

(3) Communication.

(a) Communication is key to enhancing the public's perception of police legitimacy and fairness. A lack of open communication leads to suspicion and damages trust.

(b) Standards for communication during an independent investigation:

• A family member of the person against whom deadly force has been used will be notified as soon as they can be located by either the involved agency or the IIT, whichever is faster.

• A member of the IIT will be assigned as a family liaison within the first twenty-four hours and keep the family, or a representative of the family's choice, apprised of all significant developments in the independent investigation and will give the family and the involved agency advance notice of all scheduled press releases.

• Neither the involved agency nor the IIT will provide the media with criminal background information of the person against whom deadly force has been used, unless it is specifically requested, and release of the information is required by the Public Records Act or other applicable laws.

• If the person against whom deadly force is used is, or is believed to be a member of a federally recognized tribe:

- The involved agency will notify the governor's office of Indian affairs (GOIA) in accordance with RCW 10.114.021.

- A member of the IIT will be assigned as a tribal liaison within the first twenty-four hours and keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.

(4) Credibility.

(a) In order for investigations to be viewed as credible it is critical to demonstrate that the procedures followed are consistent, known to the public, and rooted in best practices for homicide investigations, with particular attention focused on those unique areas of evidence relevant to the officer's decision-making process. Equally important is the credibility of the investigators. Training, a history of ethical behavior, and demonstrated impartiality are critical to maintain confidence in the investigation.

(b) Standards for a credible independent investigative process:

• After life-saving first aid has been provided, members of the involved agency and other first responders at the scene will:

- Secure the incident scene and maintain its integrity until the IIT arrives.

• The perimeter must be clearly marked and protected.

• Evanescent evidence must be located and preserved, consistent with best practices published annually by the criminal justice training commission.

• The independent investigation will follow accepted best practices for homicide investigations published and annually updated by the WSCJTC.

• An involved agency conducting a timely internal administrative investigation for compliance with department policy and procedures is critical to maintaining public trust and is separate and distinct from the independent investiga-

tion required by the LETCSA. To allow the involved agency to move forward with the administrative investigation in a timely fashion, the independent investigation required by LETCSA must be conducted in a manner that does not inhibit the involved agency from doing so. To accomplish this:

- The IIT commander must create and enforce firewalls, which is a process to prevent information sharing between the IIT from the involved agency, and train all team members to observe them to ensure no member of the IIT receives any compelled statements of the involved officer(s) or any investigative content that was informed by such compelled statements.

- The firewall system and training must ensure that the involved agency is affirmatively advised not to furnish "prohibited content" to the IIT.

- If any member of the IIT receives prohibited information, the investigator receiving the prohibited information must immediately report it to their supervisor and the member must discontinue participation in the investigation. The information will be removed and/or isolated from the remaining investigation unless the prosecutor of jurisdiction deems such action unnecessary.

(c) The standards for credible investigators include:

(i) Appointed Members.

The chiefs and sheriffs who sign a written agreement to support and participate in the IIT shall appoint:

- The IIT leadership team, which may include an IIT commander, assistant commander, or co-commander.

- At least two nonlaw enforcement community representatives who have credibility with and ties to communities impacted by police use of deadly force. The chiefs (~~and~~), sheriffs, and community members of each regional team shall create a transparent process for soliciting names and creating a roster of individuals willing to serve in this capacity. The IIT community representatives must be chosen from this list by the chief(s) (~~and/or~~), sheriff(s), and community member(s). The Washington state criminal justice training commission will post IIT rosters on the criminal justice training commission website from each region, which will be provided by the IITs. There shall be standardized trainings for nonlaw enforcement community representatives, including training on the requirements of the mandatory nondisclosure agreements.

- All IIT leadership shall be commissioned peace officer(s), with previous experience in criminal investigations.

- The IIT supervisors shall be recommended by their agency to the IIT commander.

(ii) Selection Process for IIT Members.

The IIT leadership shall:

- Ensure all applicants meet all time, rank, and training prerequisites described in (~~chapter xxx WAC [WAC 139-12-030 (4)(e)(v)]~~) (c)(v) of this subsection.

- Ensure that qualified applicants are interviewed by a panel, which includes the nonlaw enforcement community representatives and other members of the IIT selected by the IIT commander.

- All applicants shall be interviewed using criteria pertinent for the position of an IIT investigator. The same questions should be asked of each applicant.

- At the conclusion of the panel the IIT commander shall consider the recommendations of the panel and select those best suited for the needs of the IIT.

(iii) Requirements for IIT Investigators.

- Applicants for the position of investigator must be employed by a member agency of the IIT.

- The applicant shall be a commissioned peace officer in the state of Washington with previous experience as a detective or investigator, or have special skills or experience necessary for the team.

(iv) Periodic Appointment Review.

The chief or sheriff of a member agency, and the IIT commander shall review the appointment of their IIT members who have served three years for possible rotation or replacement.

(v) Training Requirements.

The credibility of an individual assigned to an IIT is grounded in two elements: Training and experience in criminal investigations. Since some IIT members were chosen because of their experience in criminal investigations, it is important to clearly define expectations for both training and experience, and acknowledge the relationship between those two elements.

IIT members who do not meet the training requirement are eligible to participate on the IIT, but not in a lead position.

Civilian IIT members (i.e. crime scene investigators, evidence technicians, etc.) are not required to obtain the qualified lead investigator certificate, but the IIT leadership shall establish reasonable noncommissioned training requirements through their IIT protocol.

The CJTC will issue an "IIT qualified lead investigator certificate" to ensure that those who are assigned to a lead investigator role for an IIT meet the training requirements listed below by the end of 2020.

To obtain an IIT qualified lead investigator certificate, candidates must:

- Provide proof of at least three years of uninterrupted experience as a certified peace officer, crime scene investigator, or related expertise in a discipline relevant to investigations.

- Provide proof of successful completion of the prescribed training classes, (or appropriate equivalent experience), listed in this chapter.

(A) Basic training classes:

- Basic homicide investigation;

- Interviewing and interrogation;

- LETCSA Violence deescalation and mental health training.

IIT members who have two years or more of relevant, full-time criminal investigative work experience may substitute their work experience for the required basic training classes. County sheriffs, police chiefs, and IIT commanders are encouraged to promote continuing education as a best practice for all members assigned to the IIT.

(B) Advanced training classes.

A minimum of eight hours of training annually may include, but is not limited to, the following criminal investigation topics:

- Advanced homicide investigation techniques;

- Advanced interviewing and interrogation;

- Officer-involved shooting investigation;
- In-custody death investigation;
- Excited delirium and positional asphyxia;
- Bloodstain pattern analysis;
- Crime scene photography/videography and
- Other related training, seminars, and conferences or on-going training as offered by WSCJTC or other training venues on an as available basis.

(C) In-service training.

- All IIT members shall receive priority registration to LETCSA training, required homicide investigations training, and recertification every three years.

- The IIT shall train as a unit at least annually.

(vi) Demonstrated History of Honorable Behavior.

Investigators assigned to an IIT are expected to have a work history free of a sustained finding of serious misconduct and/or a pattern of sustained complaints and a personal history free of demonstrable bias or prejudice against community members that may be impacted by the police use of deadly force.

Examples of disqualifying sustained misconduct and/or personal history include, but are not limited to:

- Discrimination of any type, based on protected classes identified under RCW 49.60.030(1).
- Theft, fraud, dishonesty, and abuse of authority including, but not limited to: Theft, falsifying an official police record or making a false statement, serious ACCESS (a centralized computer enforcement service system) violations, obtaining or disclosing confidential information, and excessive use of force.
- Dishonorable behavior including, but not limited to: Harassment, bullying, aggressive or intimidating behavior, or threats of violence, including domestic violence.

(vii) Conflicts of Interest.

Within seventy-two hours of the commencement of each investigation, investigators and nonlaw enforcement community representatives, must complete a "conflict of interest" assessment tool regarding any connection to the officers being investigated. The assessment (created by WSCJTC) will include questions about prior interactions or relationships with officers being investigated, and will address social conflict, work conflict, and bias. The conflict assessment will be reviewed and discussed by the nonlaw enforcement community representatives and the IIT commander. The conflict of interest assessments for investigators and nonlaw enforcement community representatives will be developed at the March 2020 summit and adopted by the commission at the June 2020 meeting.

WSR 21-16-103
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 3, 2021, 4:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-24-062.

Title of Rule and Other Identifying Information: Chapter 296-140 WAC, Clean energy labor standards certification.

Hearing Location(s): On September 7, 2021, at 9:00 a.m., virtual and telephonic hearing only. Please join on your computer or mobile app (Microsoft Teams) https://teams.microsoft.com/l/meetup-join/19%3ameeting_NWNmOTExM2UtOWI3Yy00NzY2LWJiZWQtOTU5ZGQ3OGUyMDQ3%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22d2b1cfc2-5d3b-4cf8-8fbd-a94ce8c92ef1%22%7d, or call (audio only) +1 253-372-2181, Phone Conference ID 532 423 936# (pound sign must be entered). The virtual/telephonic hearing starts at 9 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: October 5, 2021.

Submit Written Comments to: Beverly Clark, P.O. Box 44400, Olympia, WA 98504-4400, email Beverly.Clark@Lni.wa.gov, fax 360-902-5292, by September 7, 2021.

Assistance for Persons with Disabilities: Contact Beverly Clark, phone 360-902-6272, fax 360-902-5292, email Beverly.Clark@Lni.wa.gov, by August 31, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of labor and industries (L&I) is proposing rules to create new chapter 296-140 WAC, Clean energy labor standards certification, in order to implement the legislative changes made within 2019's Clean Energy Transformation Act (sections 18 and 19, chapter 288, Laws of 2019, E2SSB 5116) that will address the following:

- Standards for certification for:
 - Procurement from and contracts with women-owned, minority-owned, and veteran-owned businesses;
 - Procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations;
 - Apprenticeship utilization;
 - Preferred entry for workers living in the area where the project is being constructed;
 - Payment of prevailing wages; and
 - Project labor agreements and community workforce agreements.
- Requirements and processes related to application, records and documentation, and certification.

Reasons Supporting Proposal: 2019's Clean Energy Transformation Act amends RCW 82.08.962 and 82.12.962 related to sales and use tax remittances for machinery and equipment used in generating electricity (sections 18 and 19, chapter 288, Laws of 2019, E2SSB 5116). Under the amendments, the sales and use tax remittances are available for certain clean energy projects when certified by L&I that the developer of the project complied with specific labor standard requirements and the machinery and equipment is installed on or after January 1, 2020, and completed by December 31, 2029. L&I is required to adopt rules to define and set minimum requirements for all labor standards associated with the certification for tax remittance; set requirements for all good faith efforts; and set other requirements to documentation and the certification process.

This rule making is identical to an emergency rule filed on July 16, 2021, as WSR 21-15-078, except a provision was added to clarify that if a clean energy project is done in phases with separate PLAs/CWAs, the department will not issue certification until all PLAs/CWAs have been signed and submitted to L&I.

Statutory Authority for Adoption: RCW 82.08.962 and 82.12.962.

Statute Being Implemented: RCW 82.08.962 and 82.12.962.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Christina Summers, Tumwater, Washington, 360-902-5772.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Beverly Clark, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6272, fax 360-902-5292, email Beverly.Clark@Lni.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule[s] set criteria for voluntary labor standards certification for clean energy project. As such, the proposed rules do not impose any costs on businesses.

August 3, 2021
Joel Sacks
Director

Chapter 296-140 WAC

CLEAN ENERGY LABOR STANDARDS CERTIFICATION

NEW SECTION

WAC 296-140-001 Definitions. (1) "Category 1 clean energy project" means a project to:

(a) Construct a facility capable of generating not less than 1000 watts AC of electricity using any of the following principal sources of power: Fuel cells; wind; biomass energy; geothermal resource; tidal or wave energy; or technology that converts otherwise lost energy from exhaust; or

(b) Construct solar energy systems capable of generating not less than 500 kilowatts AC of electricity.

(2) "Category 2 clean energy project" means a project to construct solar energy systems capable of generating more than 100 kilowatts AC, but no more than 500 kilowatts AC of electricity.

(3) "Community workforce agreement (CWA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f). To establish the terms and conditions for employment on a single construction project, the CWA must be a single agreement cov-

ering all labor organizations representing the building and construction employees involved in the project and covers all contractors and subcontractors working on the project.

(4) "Department" means the department of labor and industries.

(5) "Good faith efforts" means the efforts by the project developer or its designated principle contractor that maximize the likelihood that the project will be built in compliance with the standards for certification. The totality of the circumstances and factors will be reviewed to determine good faith. Good faith efforts are not necessary when the standard requirements have been met.

(6) "Labor hours" means the total hours of laborers, workers, or mechanics receiving an hourly wage who are directly employed by the contractor and all subcontractors working upon the project. Labor hours does not include hours worked by foremen, superintendents, or owners except where the hours worked are counted in satisfying the required apprentice to journey supervision ratio as required by apprenticeship standards.

(7) "Local resident" means Washington laborers, workers, or mechanics receiving an hourly wage who live within fifty miles of the project being constructed unless the project is being constructed in a rural county, then it is defined as Washington workers who live within two hundred miles of the project.

(8) "Minority-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a minority business enterprise (MBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

(9) "Project labor agreement (PLA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f). To establish the terms and conditions for employment on a single construction project, the PLA must be a single agreement covering all labor organizations representing the building and construction employees involved in the project and covers all contractors and subcontractors working on the project.

(10) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapters 49.04 RCW and 296-05 WAC.

(11) "Rural county" has the same definition as RCW 82.14.370(5).

(12) "Women-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a women business enterprise (WBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

(13) "Veteran-owned business" means a business certified by the Washington state department of veteran affairs under RCW 43.60A.190 or a business considered a veteran-owned business under 38 C.F.R. Part 74.

NEW SECTION**WAC 296-140-002 Labor standard certification for Category 1 clean energy projects under RCW 82.08.962 and 82.12.962.**

(1) To qualify for the department certification for the fifty percent tax remittance for a Category 1 clean energy project, the project must meet the following minimum requirements:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses.

(i) Have twenty-one percent of the contracts awarded to women-owned businesses, minority-owned businesses, or veteran-owned businesses; or

(ii) Good faith efforts which include, but are not limited to:

(A) Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms;

(B) Participating in community job fairs, conferences, and trade shows;

(C) Identification of interested women, minority, and veteran-owned businesses that have the capability to perform the work of the contract;

(D) Providing reasonable time for women, minority, and veteran-owned businesses to fully and meaningfully respond to bid solicitations, that includes providing adequate information about the plans, specifications, and requirements of the contract along with timely responses to subcontractor inquiries and proposals;

(E) Apportioning contract work items into economically feasible units to facilitate women, minority, and veteran-owned businesses' participation and where possible, establishing flexible time frames for performance to encourage participation;

(F) Adequately researching interested subcontractors and their capabilities before rejecting their proposals; and

(G) Not relying on price alone in the selection of subcontractors and considering reasonable quotes from women, minority, and veteran-owned businesses, even if other quotes are less expensive.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) Awards contracts to businesses that have no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the twenty-four month period prior to the bid date; or

(ii) Good faith efforts which include, but are not limited to:

(A) Efforts to hire contractors with a history of compliance with wage and hour laws.

(B) Adequately researching interested subcontractors and their wage and hour history before rejecting their proposals.

(C) If the only qualified contractor is one that does not meet the standard, requiring remedial measures that allow for ongoing review of compliance with wage and hour laws.

(c) Standard for apprenticeship utilization.

(i) Have a minimum of fifteen percent of the project's labor hours performed by registered apprentices; or

(ii) Good faith efforts which include, but are not limited to:

(A) The project developer or its designated principle contractor or subcontractors participate in state-approved apprenticeship programs but no apprentices were available or not enough apprentices were available during the project. It is expected that contractors participate in apprenticeship programs for occupations where they have employees being trained;

(B) If apprentices are not available for dispatch at the beginning of the project, it is expected that the contractor check back with the program periodically to see if apprentices are available;

(C) The following situations do not meet the requirements for good faith efforts:

(I) Falling short of the requirement due to subcontractors not using apprentices;

(II) Not using a state-approved apprenticeship program while you are trying to get your own program approved by the Washington state apprenticeship and training council;

(III) Not using a state-approved apprenticeship program due to cost;

(IV) Not using a state-approved apprenticeship program because you are an out-of-state contractor;

(V) Not replacing an apprentice that quit or was fired; or not using enough apprentices because certain work is too dangerous or the apprentices do not have the appropriate skills.

(d) Standard for preferred entry for workers living in the area where the project is being constructed:

(i) Have a minimum of thirty-five percent of total labor work hours performed by local residents except for projects located in rural counties, which may have a minimum of twenty percent of total labor hours by local residents; or

(ii) Good faith efforts which include, but are not limited to:

(A) Listing the job with the local Washington Work-Source office in advance of the start of the project or contract;

(B) Requesting the dispatch of local workers through union halls;

(C) Informing community partners/organizations of opportunities in advance of the start of the project or contract;

(D) Developing an employment hiring plan prior to the start of the project detailing how the local hiring requirements will be met; and

(E) Designating a jobs coordinator to be responsible for the local hire requirements with the experience and qualifications necessary to identify and recruit local workers, and provide referrals as appropriate to comply with local hire requirements.

(2) To qualify for the department certification for the seventy-five percent tax remittance for a Category 1 clean energy project, the project must meet the following minimum requirements:

(a) Meet the standards for certification for the fifty percent tax remittance under WAC 296-140-002(1); and

(b) Pay all workers performing labor hours on the project wages not less than prevailing wages as determined by the department under chapter 39.12 RCW.

(3) To qualify for the department certification for the one hundred percent remittance for a Category 1 clean energy project, the project must have: A signed PLA or CWA for the project prior to construction starting on the project. Separately meeting the standards for certification for the fifty percent and seventy-five percent tax remittance under subsections (1) and (2) of this section are not required.

(4) The inability to meet any of the standards based on conflicts with state or federal law may constitute good faith.

NEW SECTION

WAC 296-140-003 Labor standard certification for Category 2 clean energy projects under RCW 82.08.962 and 82.12.962. To qualify for the department certification for the fifty percent tax remittance for a Category 2 clean energy project, the project must meet the standards for procurement from and contracts with women, minority, or veteran-owned businesses, procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations, apprenticeship utilization, and preferred entry for workers living in the area where the project is being constructed under WAC 296-140-002 (1) and (4).

NEW SECTION

WAC 296-140-004 Application, records and documentation, and certification. (1) Businesses applying for the department certification must complete an application in a form required by the department prior to the start of the project.

(2) Businesses must maintain records and documentation open to review to verify compliance with the labor standards or the good faith efforts. Records and documentation include, but are not limited to:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses:

(i) A list of all businesses that have had contracts on the project, including information about their certifications for the women-owned businesses, minority-owned businesses, or veteran-owned businesses that have been contracted with on the project, including:

(A) A description of the work of the contract;

(B) The dollar amount of the contract;

(ii) Written confirmation from each women-owned business, minority-owned business, or veteran-owned business that it is participating in the contract;

(iii) Documentation and evidence to support good faith efforts as necessary; and

(iv) Other records and documentation requested by the department.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) A list of all the businesses contracted with, including the unified business identifier number, the federal employer identification number, other identifying information requested by the department, and information obtained con-

cerning their federal and state wage and hour laws and regulations compliance history;

(ii) A copy of documents related to the contract invitation or bid such as the contract solicitation, bid request, or request for proposal; a copy of the responding bids, proposals, or offer; and a copy of any final contracts and amendments;

(iii) A description of the process used to determine prospective contractors' compliance with federal and state wage and hour laws and regulations;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(c) Standard for apprenticeship utilization.

(i) The name, occupational title, and registration number for each registered apprentice;

(ii) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(iii) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(iv) Copies of weekly or monthly reporting forms and payroll records used to capture the required information;

(v) A statement affirming the hours reported meeting the definition of "labor hours" as defined by WAC 296-140-001;

(vi) Documentation and evidence to support good faith efforts as necessary; and

(vii) Other records and documentation requested by the department.

(d) Standard for preferred entry by local workers.

(i) The total number of workers performing labor hours on the project;

(ii) The total number of workers performing labor hours hired who meet the definition of a local worker under WAC 296-140-001 for the job category selected;

(iii) Employment records that contain the address of individuals hired to work on the project;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(e) Standard for payment of prevailing wages.

(i) Documentation showing all workers performing labor hours on the project were paid not less than chapter 39.12 RCW prevailing rates of wage; and

(ii) Payroll records. For projects that are also public works, labor and industries public work reporting online system for the project will eliminate the need to maintain documents and is acceptable as the system of record.

(f) Records and documents for a standard PLA or CWA. A signed copy of the PLA or CWA for the project.

(3) The department may require periodic reporting of compliance in a form and method prescribed by the department. Where a project seeking certification under this rule is also a public works project, public works reporting requirements may satisfy reporting requirements.

(4) For Category 1 clean energy projects seeking certification for the fifty and seventy-five percent tax remittance and Category 2 clean energy projects seeking certification for

the fifty percent tax remittance, businesses must submit notice of project completion in a form required by the department. After receiving the notice of competition, the department will determine if the certification standards are met based on a review of the documentation as requested by the department. If the standards were met, the department will issue the certification to the applicant.

(5) For Category 1 clean energy projects seeking certification for the one hundred percent tax remittance, the department will issue certification upon the receipt of the required application for certification and a signed copy of the PLA or CWA for the project. In the event there are separate PLAs or CWAs for different phases of construction, all PLAs and CWAs for the project must be submitted to the department before the start of each phase and the department will not certify the project until the PLAs or CWAs for the construction and installation of the energy producing equipment have all been signed.

WSR 21-16-108
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed August 4, 2021, 8:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-12-062 [21-12-063].

Title of Rule and Other Identifying Information: Chapter 16-302 WAC, General rules for seed certification. In response to a petition submitted by the Washington state crop improvement association (WSCIA), the department is proposing the following amendments to this chapter:

- Changing the requirement for Ascochyta Blight being found anywhere on the plant to just being found on the pod;
- Allowing producers for all classes of chickpea seed to not treat for Ascochyta Blight if they have a waiver for the organic market (and/or research) and no Ascochyta Blight was found during inspection;
- Removing the additional Ascochyta Blight treatment requirement for the certified class of chickpea seed, if a grower has already applied a fungicide during the growing season and Ascochyta Blight was not found during the field inspection. This amendment would also remove the requirement for a second inspection if Ascochyta Blight is found during the field inspection and instead allow the certifying agency to determine if a second inspection is necessary;
- Standardizing how varieties containing the Clearfield and AXigen traits are certified;
- Reducing the tolerance of triticale in wheat to "None Found"; and
- Moving the reference to rye, in regards to triticale tolerance, out of the footnote and into the table.

The department is also proposing to adopt the current hemp seed certification rules established by the Association of Official Seed Certifying Agencies (AOSCA) and replace

references to 'industrial hemp' with 'hemp' to align with the Federal Seed Act (FSA).

Hearing Location(s): On September 7, 2021, at 10:30 a.m., Microsoft Teams conference line, join by link https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTY4MGFIYWYtZWQ3Ni00NWE2LWI3OWEtYzVmNGZhMGmWZjg0%40thread.v2/0?context=%7b%22id%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22oid%22%3a%22838c55c7-c187-44ae-8de0-2be684ce5d4a%22%7d, join by phone +1 564-999-2000, Conference ID 463 341 423#. Due to the ongoing COVID-19 pandemic, the public hearing will be held solely over video and teleconference.

Date of Intended Adoption: September 10, 2021.

Submit Written Comments to: Gloriann Robinson, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, email wdsarulescomments@agr.wa.gov, fax 360-902-2092, by September 7, 2021.

Assistance for Persons with Disabilities: Contact Reanna McNamara, phone 360-902-1931, fax 360-902-2085, TTY 800-833-6388, email rmcnamara@agr.wa.gov, by August 27, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WSCIA is a 501c(5) nonprofit organization that works with Washington State University, Oregon State University and other public and private breeding programs, seed growers and conditioners to develop, produce and distribute certified seed in order to improve crop quality and yields in Washington. WSCIA is designated in WAC 16-302-010 to act as the director's duly authorized agent for the purpose of certifying seed of buckwheat, chickpeas, field peas, lentils, millet, soybeans, small grain, sorghum and forest trees, including conditional plant inspections for these crops. As part of these duties, WSCIA routinely reviews the certification rules for these crops, and petitions for changes that reflect the requirements and conditions of the industry as well as promote the well-being of the purchasers and user of seed and the members of the seed industry. This rule amendment proposes revisions to chapter 16-302 WAC that address requests made in the most recent petition by WSCIA.

This rule proposal also includes amendments to the certification and regulation of hemp seed. The Washington state department of agriculture (WSDA) has been regulating hemp production since 2017 under the industrial hemp research pilot program and more recently, the hemp program. While the hemp program has seen an increase in licensees and acres registered in Washington, none of the licensees are participating in seed certification. With a newly developed crop, there is a need to source quality seed.

The purpose of seed certification is to preserve genetic purity and varietal identity. WSDA is an official AOSCA program enabling seed companies to produce and market genetically pure seed. The mission of AOSCA is to promote and facilitate the movement of seed or plant products in local, national, and international markets through the coordinated efforts of official seed certification agencies acting to evaluate, document, and verify that a seed or plant product meets certain accepted standards. Additionally, AOSCA establishes minimum standards for genetic purity and identity and rec-

ommends minimum standards for seed quality for the classes of certified seed. They standardize seed certification regulations and procedures, as well as operational procedures in interagency seed certification, and they periodically review agency genetic standards and procedures to assure compliance with FSA.

AOSCA's requirements for producing certified hemp seed include special land requirements, planting eligible stock, field inspections, proper seed labeling and meeting standards based on complete lab analysis. The current hemp field certification standards in WAC 16-302-840 through 16-302-865 do not match the standards approved by AOSCA in June 2020. The purpose of the rule proposal is to align WSDA with all AOSCA standards for certified hemp seed.

Reasons Supporting Proposal: The department is proposing to modify the inspection standards, including clarifying language in those standards, regarding the presence, treatment, and inspection of chickpea fields where *Ascochyta Blight* is found because chemistries, management tools, and genetics available to mitigate *Ascochyta Blight* are more available now than in the past. Treating chickpea seed with fungicidal chemicals is a long-accepted practice for stopping the spread of *Ascochyta Blight* in chickpea seed and is employed throughout the industry.

While it continues to be necessary for industry to treat *Ascochyta Blight*, because of progress made by industry, WSDA is proposing to make the following changes to allow for more flexibility.

- **Changing the requirement for *Ascochyta Blight* being found anywhere on the plant to just being found on the pod.** It is well recognized that because this disease is not systemic, seed infection does not occur when lesions are found on stems and leaves. Lesions must be present on pods in order for seed to be infected, and even then it is possible that the pathogen has not breached the pod and reached the seed. Because pod lesions are required for seed infection, the standard will be modified to clearly state that only pod lesions are taken into consideration during certification inspections. Basing inspection criteria on pod lesions parallels new standards enacted for seed certification in Idaho as well.
- **Allowing producers for all classes of chickpea seed to not treat for *Ascochyta Blight* if they have a waiver for the organic market (and/or research) and no *Ascochyta Blight* was found during inspection.** Current *Ascochyta Blight* requirements do not take into consideration organic farming requirements. This proposed change would provide organic producers the ability to continue to produce all classes of seed without interfering with their organic certification. If an organic grower is able to demonstrate that no organically-produced (meaning field was not organic) seed is available, the grower is allowed to use conventionally-produced seed in his or her system, as long as the seed itself is not treated with nonorganic products. In order to make certified seed available to organic producers, an exemption for seed going into organic production systems is being added to the rule.
- **Removing the additional *Ascochyta Blight* treatment requirement for the certified class of chickpea seed, if**

a grower has already applied a fungicide during the growing season and *Ascochyta Blight* was not found during the field inspection. This amendment would also remove the requirement for a second inspection if *Ascochyta Blight* is found during the field inspection and instead allow the certifying agency to determine if a second inspection is necessary. Use of fungicides during the field production period is recognized to control infection from *Ascochyta Blight*. In order to prevent the establishment or spread of *Ascochyta Blight* in their chickpea crops most growers, where *Ascochyta Blight* is common, already apply fungicides regularly to their fields when conditions are conducive to infection. When a grower is managing the disease by applying a fungicide one or more times during the growing season, it is expected that the infection will not establish on seed pods, resulting in a low risk of infected seed. If growers can prove that they have applied fungicide to manage the disease and no symptoms of *Ascochyta Blight* are found, then no additional treatment will be required. Additionally, the required second inspection for all growers is being removed from the rule and instead it will be left up to the discretion of the certifying agency (WSCIA) to determine if a particular grower is in need of a follow-up inspection to verify compliance.

The department is proposing to standardize how varieties containing the Clearfield and AXigen trait are certified. Currently, this rule only references the standards for certifying varieties containing the Clearfield trait, however the department, upon request from the industry, has been certifying both varieties with both Clearfield traits and AXigen traits for a number of years. Both traits have their own standard requirements. Due to the increase in popularity, the department is now moving to include AXigen trait standards in rule as well. Just like seed varieties with the Clearfield trait, seed varieties with the AXigen trait must pass the bioassay or polymerase chain reaction (PCR) test as defined by the trait owner. Including the testing requirement for seed varieties with the AXigen trait in the seed certification rule provides clarification and improves transparency between what is currently being required for certification and ensures that each trait-containing variety is handled in a standardized manner. The department is also removing the unnecessary reference to the herbicide Imazamox in WAC 16-302-685(2), since it only pertains to seed varieties with the Clearfield trait and not the AXigen trait (CoAXium variety). Having generalized verbiage and a standardized description for all varieties without trade names will ensure consistent application of the standards for all small grain seed certification.

The department is proposing to reduce the tolerance for triticale from 1/1000g to "None Found" in certified class wheat seed and to move the reference to rye, in regards to triticale tolerance, out of the footnote and into the table. By reducing the tolerance for triticale in wheat seed to "None Found", the department asserts that certified seed is without triticale contaminants which will improve the seed quality and purity. Triticale is an artificial or man-made hybrid of rye and wheat. It is grown mostly for forage or animal feed. The presence of triticale is problematic because when triticale is harvested in a commercial wheat or rye crop it ends up as

dockage or foreign material and therefore lowers the price the crop can be sold for. Due to its hard-seeded nature, triticale also has the ability to reseed itself in future years, allowing it to become a weedy species in the field. When growers purchase one lot of triticale-contaminated wheat seed, they may be bringing a long lasting problem to their fields. Commercial growers consider ANY amount of triticale in certified wheat seed to be a contamination of the crop and have specifically requested that the allowance for triticale be lowered to "None Found" for all classes. In registered class and foundation class seed, the tolerance for triticale is already "None Found". By reducing the tolerance in the certified seed class, we are able to align the standards between all classes of production. Currently, the tolerance for triticale in certified rye is already "None Found". However, the tolerance is listed in a footnote which is not easily identifiable for industry (WAC 16-302-685 (2)(a)). The rule amendment moves the reference to rye out of the footnote and into the table to improve readability without changing any requirements for rye.

The department is proposing to adopt all of the hemp seed certification rules established by AOSCA. Currently, WSDA's seed certification standards for hemp are more stringent than AOSCA which is the standard most states align with. Given that WSDA is more stringent, there have been no acres of certified, registered, or foundation hemp grown in Washington. This results in Washington hemp licensees having to use certified seed produced in other states, or use common seed that does not have the same seed quality and purity. In the United States Department of Agriculture (USDA) final rule that was published on January 19, 2021, USDA recommended the use of hemp seed from varieties that have undergone varietal certification following the process outlined in FSA regulations and produced by AOSCA standards. Additionally, USDA has encouraged state hemp programs, when adopting a performance-based sampling protocol, to consider seed certification processes that identify varieties that have consistently demonstrated to result in compliant hemp plants. This flexibility could significantly increase the demand for certified seed. It is important that Washington certification standards for hemp fully align with AOSCA in order to provide equal opportunity for Washington seed producers.

The department is proposing to replace references to "industrial hemp" with "hemp" to align with FSA. As a state regulatory agency, WSDA is required to monitor and enforce the standards of FSA. Chapter 15.49 RCW mirrors the labeling requirement of seed found in the FSA. RCW 15.49.005 specifies that, "To the extent possible, the department shall seek to incorporate into the rules provisions from the recommended uniform state seed law in order to attain consistency with other states." Aligning certified seed production language to FSA language is good practice, minimizes confusion and maintains consistency with other states and the seed industry.

Statutory Authority for Adoption: RCW 15.49.005, 15.49.021, 15.49.310, 15.49.370, and 15.140.030.

Statute Being Implemented: Chapters 15.49 and 15.140 RCW.

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

Name of Proponent: WSCIA and WSDA, public.

Name of Agency Personnel Responsible for Drafting: Reanna McNamara, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1997; Implementation and Enforcement: Paula Moore, 21 North 1st Avenue, Suite 203, Yakima, WA 98902, 509-249-6950.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.-328 (5)(a)(i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Replacing references to "industrial hemp" with "hemp" is exempt under RCW 19.85.061 because it adopts terms that align with FSA. RCW 15.49.005 specifies that, "To the extent possible, the department shall seek to incorporate into the rules provisions from the recommended uniform state seed law in order to attain consistency with other states." If the rule is not adopted there will be a difference between the state language and the federal language which can lead to stakeholder confusion.

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: Adopting all of the hemp seed certification rules established by AOSCA is exempt under RCW 19.85.025(3), 34.05.310 (4)(c) because it incorporates standards that align with a national consensus code that generally establishes industry standards. USDA's final rule published on January 19, 2021, recommended the use of hemp seed from varieties that have undergone varietal certification following the process outlined in FSA regulations and produced by AOSCA standards.

In WAC 16-302-685(2), removing the reference to the product Imazomox and moving the reference to rye out of the footnote and into the table are both exempt under RCW 19.85.025(3); 34.05.310 (4)(d) because they clarify the rule without changing its effect.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Changing the requirement of Ascochyta Blight being found anywhere on

the plant to just the pod will allow the producer to spray the crop and continue with the certification process. Whereas now, in current rule the presence of Ascochyta Blight in the form of lesions on the leaves and stems would result in the crop being ineligible for certification. The department does not anticipate any negative impacts as a result of this amendment.

Under the current rule, for all classes of chickpea seed, treating the seed for Ascochyta Blight disqualifies the seed from being sold in organic markets. By providing a waiver of seed treatment, the grower has access to an additional market and sell conventionally grown seed in organic markets. Both tolerant and nontolerant varieties are still protected from high infection. The department does not anticipate any negative impacts as a result of this amendment.

For certified class of chickpea seed, if a grower has already applied fungicide during the growing season, no additional treatment is required if Ascochyta Blight is not found. Additionally, the rule change would remove the requirement for a second inspection if Ascochyta Blight is found during the field inspection. Instead, a second inspection would be at the discretion of the agency. This change will allow for the certification agency to deem Ascochyta Blight controlled using field fungicides, reducing the need for a later inspection and saving growers and the agency money by not conducting unnecessary inspections. The department does not anticipate any negative impacts as a result of this amendment.

Since the department is already certifying seed varieties that contain the AXigen trait, according to this standard and this rule does not impose any additional requirements or costs, it does not anticipate any negative impacts associated with this amendment.

Reducing the tolerance for triticale in wheat seed to "None Found" could result in seed lots being rejected which may have previously met the standard. However, only one lot of wheat tested for certification in the last five years would have been disqualified by the proposed "None Found" tolerance. The seed lot in question held 625,000 pounds, which is less than 0.1% of the more than 660 million pounds of seed certified for Washington planting in the same time period. Wheat grain is sold by the bushel with one bushel being equivalent to 60 US pounds. This one seed lot was the equivalent of 10,416.66 bushels. As certified seed, this lot was able to be sold for \$10.85/bu. If the lot has failed certification because this proposed rule had been in place at that time, the lot would have had to be sold as noncertified seed for only \$7.60/bu for a total cost difference of \$-33,854.17. The North American Industry Classification System code for this producer is 424510. The minor cost threshold for this industry is \$49,430.75. Therefore the department does not anticipate that this proposed amendment would exceed the minor cost threshold. Since customers of certified wheat seed already find the presence of triticale unacceptable, many seed companies will not sell wheat seed known to contain triticale. The certified seed market has been self-regulating the sale and purchase of wheat seed that contains triticale.

A copy of the detailed cost calculations may be obtained by contacting Gloriann Robinson, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092,

TTY 800-833-6388, email wsdarulescomments@agr.wa.gov.

August 4, 2021
Jessica Allenton
Assistant Director

AMENDATORY SECTION (Amending WSR 18-10-055, filed 4/27/18, effective 5/28/18)

WAC 16-302-560 Miscellaneous field and seed inspection standards for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, small grain seed certification. (1) Field inspection timing for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, small grain seed entered in the certification program are:

(a) For field pea and lentil - When seed crop is in full bloom;

(b) For chickpea (garbanzo bean) - When seed crop is mature enough to differentiate leaf type (compound or simple leaf type), with a second inspection occurring between full bloom and late pod stage for registered and foundation class. Certified class (~~requires~~) may be subject to a second inspection at the discretion of the certifying agency at late pod stage if ascochyta blight is observed during the first inspection and the crop has been treated with an EPA-approved fungicide;

(c) For soybean - When seed crop is in full bloom and of mature color;

(d) For open pollinated sorghum - When seed crop is in full bloom, and optionally again when seed crop begins to show mature color;

(e) For hybrid sorghum - Two inspections during bloom and one inspection after seed begins to show mature color;

(f) For small grains - When seed crop is fully headed and of mature color;

(g) For millet - One inspection during bloom and one inspection after seed begins to show mature color; and

(h) For buckwheat - One inspection when seed crop is in full bloom.

(2) Any condition or practice which permits or causes contamination of the seed crop, such as failure to prevent seed formation of prohibited noxious weeds, or excess weeds including excessive objectionable or restricted noxious weeds, or mechanical field mixing, is cause for rejection upon inspection. Fields rejected for jointed goatgrass or jointed goatgrass hybrids are not eligible for reinspection and must remain ineligible for any production of certified classes of small grain seed until a reclamation procedure, as specified in subsection (3) of this section has been completed. Fields rejected for other causes will remain eligible for reinspection.

(3) The jointed goatgrass reclamation procedure includes the following:

(a) Each grower must develop a reclamation plan for his/her affected fields. The plan must be based on the most current recommendations of Pacific Northwest scientists and Washington State University cooperative extension as well as good management practices. The plan may include use of certified seed, spring cropping practices, and late tilling and planting. No particular program is specified or endorsed and compliance with a program does not assure eligibility for the production of certified classes of small grain seed. Eligibility

is based solely upon results of field inspections as provided in (b) through (e) of this subsection.

(b) The rehabilitation and inspection program duration is three years for irrigated land and five years for dryland without production of certified small grain seed and the first year of certified seed production thereafter.

(c) Annual inspections of the affected fields are conducted by the certifying agency during the prescribed rehabilitation period at such time that the jointed goatgrass or jointed goatgrass hybrids would be most visible.

(d) Following the prescribed period of rehabilitation and during the first certified seed production year, a minimum of three field inspections are conducted by the certifying agency.

(e) If jointed goatgrass or jointed goatgrass hybrids are found during any inspection as provided in (c) and (d) of this subsection, the rehabilitation program is determined unsuccessful or the field is declared ineligible and the rehabilitation and inspection program for that field must begin again at year one of the procedure.

(4) Field run lots of seed of the same variety may be commingled to facilitate storage and conditioning.

(5) No prohibited noxious weed seeds are permitted upon inspection for seed standards.

(6) Germination minimum refers to germination when sampled.

(7) If chemically controllable seed-borne diseases are noted upon inspection for field standards and seed standards for small grains, treatment of seed is required.

(8) Wild oat, isolated patches and borders must be removed or clearly marked so as to avoid harvesting with the rest of the field. If rejected, a reinspection is necessary to assure clean-up efforts are satisfactory. Spot checks are conducted on fields where heavy patches or contaminated borders were noted. Harvesting these areas with the rest of the field is cause for rejection of the entire field.

(9) The official laboratory providing seed analysis for the purpose of certification is the department.

(10) For all fields planted with varieties that contain the CLEARFIELD trait as defined in the variety description, documentation will be required to be submitted with the certification application verifying that the production field meets all production guidelines and was sprayed with the appropriate herbicide. CLEARFIELD is a trait that makes a plant resistant to the Imazamox herbicide.

(11) For all fields planted with varieties that contain the AXigen trait as defined in the variety description, documentation will be required to be submitted with the certification application verifying that the production field meets all production guidelines and was sprayed with the appropriate herbicide. AXigen is a trait that makes a plant resistant to Aggressor® (Quizalofop-P-ethyl) brand herbicide.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-302-685 Small grains standards for seed certification. (1) Land, isolation, and field standards for small grains (barley, oat, rye, triticale, and wheat) seed certification are:

LAND, ISOLATION, AND FIELD STANDARDS

CLASS	LAND STANDARDS MINIMUM YEARS	ISOLATION STANDARDS MINIMUM FEET	OFF-TYPE MAXIMUM HEAD RATIO	OTHER CROP MAXIMUM HEAD RATIO	((TRITICALE PLANTS PER ACRE IN BARLEY, WHEAT, AND OAT))	WILD OAT MAXIMUM PLANTS/ACRE
Foundation	2 (a)	50 same genus (b) 3 different genus	None found	None found (c), (d)	((None found (d)))	None found
Registered	1 (a)	10 same genus 3 different genus (b)	1/148,000	1/148,000 (c)	((None found (d)))	5
Certified	1 (a)	10 same genus 3 different genus (b)	1/49,000	1/49,000 (c)	((None found (d)))	5

- (a) Waived if the previous crop is grown from an equal or higher certified class of seed of the same variety.
- (b) Each rye field for certification must be isolated by three feet from fields producing a certified class of the same variety, and by six hundred sixty feet from other rye fields. Each triticale field for certification must be isolated by three feet from fields producing a certified class of the same variety, and by three hundred feet from other triticale, rye and wheat fields for foundation and registered class, and ten feet for certified class, unless otherwise stated by the plant breeder.
- (c) Refers to other small grains, except that no rye or triticale is permitted in barley, oat, or wheat; and no vetch is permitted in barley, oat, rye, triticale, or wheat.
- (d) Only one reinspection is allowed for foundation fields when triticale is found in the first inspection. Additional inspections are allowed if the field is downgraded to the registered or certified class.

(2) Small grains - Seed standards:

For CLEARFIELD and CoAXium varieties: For all classes - Each lot must pass ~~((the CLEARFIELD Confirm test by))~~ bioassay or PCR as defined by the trait owner. ~~((The CLEARFIELD Confirm test verifies that the seed is resistant to the Imazamox herbicide.))~~

Class	Foundation	Registered	Certified
Pure seed % (minimum)	98	98	98
Inert % (maximum)	2	2	2

Class	Foundation	Registered	Certified
Off-type (a) % (maximum)	None found	2/lb	4/lb
Other small grain excluding triticale <u>and rye</u> (a) (maximum)	None found	1/lb	2/lb
Triticale allowed in wheat ((f)) <u>and rye</u>	None found	None found	((1/1000 grams)) <u>None found</u>
Triticale allowed in oats and barley	None found	None found	1/lb
Other crop (b) % (maximum)	None found	0.03	0.05
Weed seed % (maximum)	0.01	0.01	0.03
Objectionable weed seed (c) (maximum)	None found	None found	None found
Wild oat (maximum)	None found	None found	None found (d)
Viability (e) % (minimum)	85	85	85

- (a) The combination of other small grain and off-type must not exceed 2/lb for registered class, and 4/lb for certified class. The tolerance for rye is none found in barley, oat, triticale, or wheat. ~~((The tolerance for rye is none found in triticale. The tolerance for triticale is none found in rye.))~~
 - (b) Excluding off-type and other small grain. No vetch is allowed in small grain seed.
 - (c) Excluding wild oat.
 - (d) 1/lb for certified class oat.
 - (e) A certification certificate is issued upon receipt of either an official AOSA tetrazolium or germination test which meets minimum Washington viability standards. NOTE: State and federal seed laws require seed be labeled based on a germination test.
- ~~((f In wheat, the foundation standard is based on a 1000 gram crop exam. The registered standard is based on a 500 gram crop exam. The certified standard is based on a 500 gram crop exam. If one triticale seed is found in 500 grams, a second 500 gram crop exam is required for a total 1000 gram crop exam. No triticale is allowed in the second 500 grams with the total standard of 1 triticale seed per 1000 grams allowed.))~~

Note: For all classes the purity analysis is based on 100 grams examined. For registered and certified classes, noxious weed, vetch, off-type, and other small grain determinations are based on 500 grams ~~((examined except as allowed in footnote (f) of this subsection))~~. For foundation class, noxious weed, vetch, off-type, and other small grain determinations are based on 1000 grams examined.

AMENDATORY SECTION (Amending WSR 18-10-055, filed 4/27/18, effective 5/28/18)

WAC 16-302-690 Chickpea standards for seed certification. (1) Land, isolation, and field standards for chickpea seed certification are:

FIELD STANDARDS

Land Requirements (a) (minimum years)	Isolation (minimum feet) ((e)) <u>(b)</u>	Off-type (plants/acre)	<u>Inseparable Other Crop</u> ((f)) <u>(plants/acre))</u>	Noxious (c) Weeds (plants/acre)	<u>Pods with Ascochyta Blight</u> (d)
Class					
Foundation	2	none found	none found	(c)	none found
Registered	1	5	none found	(c)	none found
Certified	1	10	none found	(c)	10 plants/acre

- ~~((a) Waived if the previous crop is grown and passes certification field standards of equal or higher certified class of seed of the same variety.~~
- ~~(b) Inseparable other crops.~~
- ~~(c) Prohibited, restricted, and other weeds difficult to separate must be controlled.~~
- ~~(d) None found in all classes of varieties not tolerant to ascochyta.~~
- ~~(e) Reduce to three feet from fields producing a certified class of the same variety. In addition, each chickpea field for certification must be isolated by three feet from small grain fields. To prevent mechanical field mixing of swathed chickpea seed crop, the planting of small grain between fields, except for three feet of isolation, is recommended.))~~
- (a) Waived if the previous crop is grown and passes certification field standards of equal or higher certified class of seed of the same variety.
- (b) Reduce to three feet from fields producing the same variety. In addition, each chickpea field for certification must be isolated by three feet from small grain fields. To prevent mechanical field mixing of swathed chickpea seed crop, the planting of small grain between fields, except for three feet of isolation, is recommended.
- (c) Prohibited, restricted, and other weeds difficult to separate must be controlled.
- (d) If an EPA-approved product for control of Ascochyta rabiei (ascochyta blight) was applied according to labeled rate during the growth cycle, and followed by additional application(s) if infection is found at field inspection, there is no standard to apply in certified class fields.

(2) Seed standards for chickpea seed certification are:

SEED STANDARDS

	Pure seed %	Inert %	Other Crop	Weed Seed	Germination %
Class ((e)) (a)					
Foundation	99	1	none found	none found	85
Registered	99	1	none found	none found	85
Certified ((d))	99	1	2 seeds/lb ((a)) (b)	2 seeds/lb ((b)) (c)	85

~~((a) None found for Austrian pea, rye, or vetch.)~~

(b) None found for nightshade berries or prohibited noxious weed seeds.

(e) All classes of varieties not tolerant to ascochyta must be treated with a fungicide registered to control ascochyta at the labeled rate.

(d) Seed from a field where ascochyta was found at inspection must be treated with a fungicide registered to control ascochyta at the labeled rate.))

(a) All classes must be treated with a fungicide registered to control ascochyta blight at the labeled rate. A seed treatment waiver can be obtained if no ascochyta blight was observed at field inspection. This is an allowance for seed intended for organic markets and/or research.

(b) None found for Austrian pea, rye, or vetch.

(c) None found for nightshade berries or prohibited noxious weed seeds.

Standards for ~~((Industrial))~~ Hemp ~~((Seed))~~ Certification

AMENDATORY SECTION (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

~~WAC 16-302-840 ((Standards for industrial hemp seed production-))~~ Hemp (Cannabis sativa L. subsp. sativa) certification standards. (1) ~~((The general seed certification definitions and standards in this chapter are basic and together with WAC 16-302-845 through 16-302-865 constitute the standards for industrial hemp seed certification.~~

~~(2) Fees for seed certification are assessed as established in chapter 16-303 WAC.~~

~~(3) All growers of industrial hemp certified seed crops are required to be licensed under the department's industrial hemp licensing rules adopted under chapter 15.120 RCW.~~

~~(4)) The general requirements for seed certification found in WAC 16-302-005 through 16-302-130 of the genetic and crop standards apply to (are basic) all crops, and together with the following specific standards, constitute the certified hemp standards.~~

~~(2) The genetic and crop standards are modified as follows:~~

~~(a) All production of hemp crops are subject to license application approval under the department's hemp licensing rules adopted under chapter 15.140 RCW.~~

~~(b) Only varieties of ((industrial)) hemp approved by the ((department)) association of official seed certifying agencies shall be eligible for certification. ((An approved variety must be a variety recognized by an international organization recognized by the department, such as the association of official seed certifying agencies or the organization for economic cooperation and development (OECD) seed scheme.~~

~~(5)) (c) The allowable area of ((an industrial hemp seed crop area or seed production field)) hemp production may be determined ((and limited)) by the department under the terms of rules adopted under chapter ((15.120)) 15.140 RCW.~~

~~((6) All industrial hemp fields established for seed certification shall be planted with thirty inch row spacing to facilitate inspection, roguing, and harvesting.~~

~~(7) Growers must post signage approved by the department on at least four sides, including the main entry point of each authorized field.~~

~~(8)) (d) Growers are required to obtain tetrahydrocannabinol (THC) test results as required by ((rules adopted under)) chapter ((15.120 RCW)) 16-306 WAC.~~

~~(e) Fees for seed certification are assessed as established in chapter 16-303 WAC.~~

AMENDATORY SECTION (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

WAC 16-302-845 Definitions specific to ((industrial)) hemp ((seed production)) certification standards. ("Dioecious type" means a type of industrial hemp that has male and female flowers on separate plants.

"Industrial hemp" means all parts and varieties of the genera Cannabis, cultivated or possessed by a grower, whether growing or not, that contain a THC concentration of 0.3 percent or less by dry weight. Industrial hemp does not include plants of the genera Cannabis that meet the definition of "marijuana" as defined in RCW 69.50.101.

"Industrial hemp seed production" means an industrial hemp seed production field established with an appropriate generation of certified seed intended to produce a subsequent generation of certified seed.

"Monoecious type" means a type of industrial hemp that has male and female flowers on the same plant.

"Too male" means an intersexual plant that exceeds the ratio of male and female flowers as described in the variety description.

"Unisexual female" means a monoecious type of industrial hemp plant that has sterile male and fertile female flowers.

"Unisexual female hybrid" means a hybrid where the A line is a unisexual female type and the B line produces male fertile flowers.) "Approved cultivar" means any variety designated as eligible for production by federal or state regulatory authorities.

"Hemp" (Cannabis sativa L. subsp. sativa) includes varieties of these kinds:

(a) Dioecious type: With male and female flowers on separate plants.

(b) Monoecious type: With male and female flowers on the same plant.

(c) Hybrids (unisexual female): With sterile male and fertile female flowers on the same plant.

Note: Although traditionally a crop with a dioecious plant type, many monoecious varieties of hemp (Cannabis sativa L. subsp. sativa) have been developed. Hemp is sexually polymorphic and often produces many different ratios of intersexual plant types that can increase roguing requirements. Variety descriptions normally define these ratios.

"Hemp seed production" means a hemp seed production field established with an appropriate generation of certified seed intended to produce a subsequent generation of certified seed.

"THC" means delta-nine (Δ9) tetrahydrocannabinol, which is the component of hemp regulated by federal or state regulatory authorities.

"Variety" means a subdivision of a kind that is distinct, uniform, and stable; "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; "uniform" in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.

"Volunteer plant" means an industrial hemp plant that was not intentionally planted and results from a previous crop.

AMENDATORY SECTION (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

WAC 16-302-850 Land requirements for ((~~industrial~~)) hemp ((~~seed~~)) certification standards. Land requirements for the production of ((~~an industrial~~)) a hemp seed crop are as follows:

(1) ~~((Crops must not be planted on land where foreseeable volunteer growth from a previous crop may cause contamination detrimental to certification.~~

(2) ~~Fields for foundation and registered classes must not be planted on land which in the previous five years grew a different crop of industrial hemp or marijuana.~~

(3) ~~Crops for certified class must not be planted on land which in the previous three years produced a crop of industrial hemp or marijuana.)~~ Hemp crops for foundation and registered classes must not be grown on land which in any of the preceding three years produced a crop of hemp.

(2) Hemp crops for certified classes must not be grown on land which:

(a) In the preceding year produced a certified crop of the same variety.

(b) In either of the preceding two years produced a non-certified crop of hemp or a different variety of hemp.

(3) Weeds: The presence of broomrape (Orobanche spp.) in hemp crops is cause for declining certified status.

AMENDATORY SECTION (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

WAC 16-302-855 Isolation requirements for ((~~industrial~~)) hemp ((~~seed~~)) certification standards. ((~~Isolation requirements for industrial hemp seed production are as follows:~~

(1) ~~Isolation areas must be kept free of any harmful plants that can cause contamination. Not more than one plant per eleven square feet of harmful contaminants (species that can cross pollinate with the inspected crop) is permitted within the required isolation distance(s) adjacent to the inspected crop. The conditions of each crop are assessed by the department, which may alter this standard, usually by reducing the number of contaminant plants permitted per square yard, according to identified contamination risks.~~

(2) ~~Foundation, registered and certified industrial hemp must be isolated from any marijuana production licensed by the liquor and cannabis board by a distance of fifteen miles.~~

(3) ~~Industrial hemp seed production crops for certification must be isolated from all other industrial hemp varieties or fields not meeting the varietal purity requirements for certification as follows:~~

Inspected Crop	Isolation Factor	Isolation Distance in Feet
Dioecious type: Foundation and Registered	Different varieties of industrial hemp	16,150
	Noncertified industrial hemp	16,150
	Lower certified class of same variety	6,460
	Same class of same variety	3
Dioecious type: Certified	Different varieties of industrial hemp	16,150
	Noncertified industrial hemp	16,150
	Certified class of the same variety	3
Monoecious type and hybrids: Foundation and Registered	Dioecious variety of industrial hemp	16,150
	Noncertified industrial hemp	16,150
	Different varieties of monoecious or female hybrid	6,460
	Certified class of same variety	3

Inspected Crop	Isolation Factor	Isolation Distance in Feet
Monoecious type and hybrids: Certified	Dioecious variety of industrial hemp	3,230
	Noncertified industrial hemp	3,230
	Different varieties of monoecious or female hybrid	646
	Certified class of same variety	3))

(1) The area, density, stage of maturity and location of any contaminating pollen source is an important factor in cross pollinations, and therefore must be noted on the seed crop inspection report for consideration in determining certification status. There shall not be any Cannabis sativa L. plants within 100m (328.08 feet) of the crop and not more than ten plants/ha beyond 100m within the isolation requirement.

(2) The required isolation must be present prior to flowering and crop inspection.

Table 1: Minimum Isolation Distances Required Between Inspected Hemp and Other Crops

Inspected Crop	Other Crops	Isolation Distance Required (feet)
Dioecious type - Foundation	- Different varieties of hemp - Noncertified crop of hemp	15,748
	- Lower certified class seed crop of same variety	6,460
	- Same class of certified seed crop of same variety	10
	- Different varieties of hemp - Noncertified crop of hemp	15,748
Dioecious type - Registered	- Seed crop of same variety that meets certified standards for varietal purity	5,249
	- Seed crop of same variety that meets registered standards for varietal purity	3
	- Different varieties of hemp - Noncertified hemp	2,624
Dioecious type - Certified	- Planted with certified seed of the same variety that meets certified standards for varietal purity	656
	- Seed crop of same variety that meets certified standards for varietal purity	3
	- Dioecious variety of hemp - Noncertified crop of hemp	15,748
Monoecious type - Foundation	- Other monoecious varieties - Lower certified class seed crop of same variety	9,690
	- Same class of certified seed of same variety	16
	- Dioecious variety of hemp - Noncertified crop of hemp	15,748
	- Different varieties of the same type of hemp (monoecious or female hybrid)	6,460
Monoecious type - Registered	- Seed crop of same variety that meets certified standards for varietal purity	3,230
	- Seed crop of same variety that meets registered standards for varietal purity	3

<u>Inspected Crop</u>	<u>Other Crops</u>	<u>Isolation Distance Required (feet)</u>
<u>Monococious type - Certified</u>	- Dioecious variety of hemp - Noncertified crop of hemp	3,230
	- Different varieties of the same type of hemp (monoecious or female hybrid) - Planted with certified seed of the same variety that meets certified standards for varietal purity	656
	- Seed crop of same variety that meets certified standards for varietal purity	3

AMENDATORY SECTION (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

WAC 16-302-860 Field ((~~inspection~~)) standards ((~~and tolerances~~)) for ((~~industrial~~)) hemp ((~~seed~~)) certification. ((1) Industrial hemp seed production crop fields shall be inspected by the department in three stages:

(a) ~~The first inspection should be conducted before female (pistillate) flowers of the inspected crop are receptive and after the formation of male (staminate) flowers before pollen is shed.~~

(b) ~~The second inspection should be conducted during the receptive stage of the female plants in the inspected field, normally within three weeks of first inspection.~~

(c) ~~The third inspection should be conducted within ten days prior to harvest. The grower must notify the department of anticipated harvest date. Fields not harvested within ten days of the third inspection will require an additional inspection and THC test.~~

(d) ~~Isolation areas will be inspected for volunteer plants and harmful contaminants at each department inspection.~~

(2) ~~Off-type male flowers must be removed by the grower prior to producing pollen and evidence of removal must be identifiable during the department's crop inspection.~~

~~Rogued male flowers must be removed from the field and buried or otherwise destroyed by the grower to prevent pollen production.~~

(3) ~~If dioecious male plants start flowering before removal from field, all plants around them must be destroyed by the grower within a radius of ten feet for foundation seed, six feet for registered seed and three feet for certified seed.~~

~~If dioecious male plants or if other off-type male flowers are found to be shedding pollen during any inspection, an additional inspection will be required within seven days to verify adequate control of detrimental pollen. An additional reinspection fee will be assessed by the department.~~

(4) ~~Plant samples will be taken by the department for THC testing at the third inspection. Test results in excess of 0.3% THC will be cause for rejection and the field may be subject to destruction.~~

~~The seed crop for certification may be harvested after the third inspection and the THC sample has been submitted for testing. However, no seed or other industrial hemp by products may be transported off of the registered land area until THC testing with a result of 0.3% THC or less has been received and a release notice to the grower has been issued by the department.~~

(5) ~~Intersexual plant type ratios shall not exceed the limits when defined in the variety description by the breeder.~~

(6) ~~Excessive weeds or other factors that prevent varietal purity and identity determination shall be cause for the department to reject the affected field for certification purposes.~~

(7) ~~Fields planted in such a manner that prevents inspector access shall be cause for the department to reject the affected field for certification purposes unless the grower remedies the condition in a timely manner as required by the department.~~

(8) ~~Maximum impurity standards must not be exceeded based on six replicated counts of ten thousand plants according to the following table:~~

	Maximum impurity standards per 10,000 plants		
	Maximum number of "too-male" monoecious plants	Maximum number of dioecious male plants shedding pollen	Maximum number of other impurities including other varieties
Dioecious type: Foundation	-	-	3
Dioecious type: Registered and Certified	-	-	10
Monoecious: Foundation	500	1	3
Monoecious: Registered	1000	2	10
Monoecious: Certified	2000	100	10))

(1) Crop inspection:

(a) It is the grower's responsibility to ensure that fields are inspected by an authorized inspector at least once prior to swathing or harvesting, except in the case of foundation, registered, and certified monoecious types and unisexual hybrids and foundation dioecious types, in which two inspections are required.

(b) A field that is cut, swathed, or harvested prior to crop inspection is not eligible for certification.

(c) Fields must be inspected at a stage of growth when varietal purity is best determined. Crops not inspected at the proper stage for best determining varietal purity may be cause for declining certified status.

(i) First inspection for all classes of monoecious types must be made just before or at early flowering. First inspection for all classes of dioecious types must be made after flowering when male plants are beginning to senesce.

(ii) Second inspection for all classes of monoecious types, and the foundation class of dioecious types must be made when seeds are well forming.

(iii) Isolation areas will be inspected for volunteer hemp plants on each inspection.

(iv) Excessive weeds or other factors that prevent varietal purity and identity determination shall be cause for the department to reject the affected field for certification purposes.

(v) Fields planted in such a manner that prevents inspector access shall be cause for the department to reject the affected field for certification purposes unless the grower remedies the condition in a timely manner as required by the department.

(2) Impurity standards:

(a) Impurities should be removed prior to crop inspection.

(b) Any combination of impurities may be reason for declining certified status.

(c) Table 2 indicates the maximum number of impurities permitted in approximately ten thousand plants of the inspected crop. The inspector makes at least six counts (ten thousand plants each) or the equivalent to determine the number of impurities. The resulting average of these counts must not exceed the maximum impurity standards in Table 2.

Table 2: Maximum Impurity Standards

<u>Plot Crop</u>	<u>Maximum Impurity Standards per 10,000 plants in Hemp Seed Crops</u>	
	<u>Maximum Number of Dioecious Male Plants Shedding Pollen</u>	<u>Maximum Number of Off-Types or Other Varieties</u>
<u>Dioecious type - Foundation</u>	=	<u>3</u>
<u>Dioecious type - Registered</u>	=	<u>10</u>
<u>Dioecious type - Certified</u>	=	<u>20</u>
<u>Monoecious type - Foundation</u>	<u>1</u>	<u>3</u>
<u>Monoecious type - Registered</u>	<u>2</u>	<u>10</u>
<u>Monoecious type - Certified</u>	<u>100</u>	<u>20</u>

AMENDATORY SECTION (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

WAC 16-302-865 Seed standards for ((~~industrial~~) hemp ((~~seed~~)) certification. ((~~Seed standards for industrial~~)) Hemp seed ((~~production crops~~)) standards for each class are as follows:

	Foundation	Registered	Certified
Pure seed (minimum)	98.00%	98.00%	98.00%
Inert matter (maximum)*	<u>2.00%</u>	<u>2.00%</u>	<u>2.00%</u>
Weed seed (maximum)	<u>0.10%</u>	<u>0.10%</u>	<u>0.10%</u>

	Foundation	Registered	Certified
Total Other crop (maximum)	0.01%	0.03%	0.08%
((Inert matter (maximum))*	<u>2.00%</u>	<u>2.00%</u>	<u>2.00%</u>
Weed seed (maximum)	<u>0.10%</u>	<u>0.10%</u>	<u>0.10%</u>
Other varieties (maximum)	<u>0.005%</u>	<u>0.01%</u>	<u>0.05%</u>
Other kinds (maximum)**	0.01%	0.03%	0.07%

	Foundation	Registered	Certified
((Other kinds (maximum)	2 per lb.	6 per lb.	10 per lb.
Other varieties (maximum)**	None found	0.01%	0.05%))
Germination (minimum)***	80.00%	80.00%	80.00%

(* Inert matter shall not contain more than 0.50% of material other than seed fragments.

** Other varieties when distinguishable:))

* Inert matter shall not include more than 0.5 percent of material other than seed fragments of the variety under consideration.

** Other kinds shall not exceed 2 per lb. (454 grams) for foundation; 6 per lb for registered; 10 per lb for certified.

***Exclusive of dormancy, firm or hard seed, or any other reference to viability.

(1) Foundation seed production: Any means of processing or conditioning of seed from a foundation production area which may contaminate the varietal purity of the seed is prohibited.

(2) Area of foundation fields:

(a) When unforeseen circumstances do not permit proper maintenance of the entire field, it is recommended that the area be reduced by destroying part of the field or by isolating a part to meet the requirements of a lower status of certified seed. The remainder of the field must meet the requirements for foundation field production.

(b) The area of a foundation field includes the "walkways" provided within the field to facilitate effective roguing.

(3) Recommended production procedures:

(a) Field planting:

(i) Fields should be planted to facilitate inspection, roguing, and harvesting.

(ii) Fields should be planted in areas easily accessible for frequent maintenance and to provide the maximum protection from outside sources of contamination, such as roadways and building sites.

(iii) Regulations for land requirements are minimum standards and caution is necessary in choosing land, as volunteer growth from previous crops may vary according to local conditions.

(iv) The regulations for isolation are minimum standards. It is always to the grower's advantage to provide more isolation than required. When planting foundation fields, specific requirements may influence the location and size of the field. It is a safeguard if adjacent crops are the same variety as the field and are inspected for certified status.

(b) Roguing:

(i) The field must be thoroughly and intensively rogued many times throughout the crop season.

(ii) Off-type male flowers must be removed before the receptive stage of female flowers in the inspected crop.

(iii) The numbers and kinds of plants removed should be recorded and described on the appropriate forms.

(iv) All male flowers rogued from the crop must be removed from the production area and burial is recommended.

(v) Regrowth of rogued flowers or plants must be prevented.

(c) Harvesting, cleaning, and storing:

(i) A seed grower should have access to the necessary equipment for harvesting and cleaning the seed from the field in such a manner as to ensure that the varietal purity of the seed is maintained.

(ii) The seed should be stored, in compliance with federal or state regulations, in a clean, cool, dry area.

(iii) The seed containers should be labeled for identification in compliance with chapter 16-301 WAC.

VEGETATIVELY PROPAGATED HEMP (CANNABIS SATIVA L. SUBSP. SATIVA) CERTIFICATION STANDARDS

NEW SECTION

WAC 16-302-870 General standards specific to vegetatively propagated hemp. The general requirements for seed certification found in WAC 16-302-005 through 16-302-130 of the genetic and crop standards apply to (are basic) all crops, and together with the following specific standards, constitute the certified vegetatively propagated hemp standards.

NEW SECTION

WAC 16-302-875 Definitions specific to vegetatively propagated hemp. "Clones" are asexually propagated progeny genetically identical to the stock plant.

"Cuttings" are portions of stems containing leaves which are rooted to produce clones.

"Micropropagation" is the science of plant multiplication in-vitro.

"Structure or field" is the production area enclosed by natural borders such as ditches, tree lines, buildings, roads, or an enclosed growth facility.

NEW SECTION

WAC 16-302-880 General planting stock certification standards for vegetatively propagated hemp. The general planting stock certification standards are further defined to apply specifically to hemp planting stocks. Classes and sources of certified planting stocks are:

(1) Breeder plant stock (source seed) is propagation material identified by the breeder, or the breeder's representative. The breeder must also declare and document the way parent lines are selected and how the plant stock is maintained.

(2) Mother plant is a plant produced from a breeder plant stock.

(3) Certified plants are plants produced from mother plants. Certified plants may be used to produce certified stock in the growth facility or D1 daughter stock. Certified plants are propagated as follows:

(a) Mother plants may be cut repeatedly to produce D1 daughter plants. D1 daughter plants are produced by cuttings from mother plants.

(b) D1 daughter plants may be cut repeatedly to produce D2 daughter plants. D2 daughter plants are produced by cuttings from D1 daughter plants.

(c) D2 daughter plants may be cut repeatedly to produce D3 daughter plants. D3 daughter plants are produced by cuttings from D2 daughter plants.

(4) The grower shall retain documentation of the parent being used to generate clones.

(5) All grower records and grower developed best management practices (BMPs) related to the production of hemp clones shall be available for inspection by the certifying agency.

NEW SECTION

WAC 16-302-885 Production certification standards for vegetatively propagated hemp. (1) Mother plant production:

(a) All Mother plants are to be inspected by a certifying agency periodically.

(b) Inspection of structures and fields will conform to documented and verifiable production standards listed below.

(2) Growth facilities and field production:

(a) Production requirements for growth facility production:

(i) Facility is to be apparently free of diseases, insects, and other pests.

(ii) Hemp clones are to be handled in such a manner as to prevent co-mingling of varieties or types.

(iii) Facility is to have sufficient physical barriers between growth areas of hemp and other potential contaminating crops prior to flowering and inspection to prevent cross-contamination of type.

(b) Production requirements for open field production:

(i) Field eligibility - Crops should not be grown on land where remnant seed from a previous crop may germinate and produce volunteers that may cause contamination. Crops for mother plants must not be grown on land that produced another crop of hemp within the previous five years. Crops for certified class must not be grown on land that had a hemp crop in the preceding three years.

(ii) Field isolation - Ten feet or an appropriate barrier to alleviate accidental mixing of plants.

NEW SECTION

WAC 16-302-890 Inspection standards for vegetatively propagated hemp. (1) Grower responsibility: Maintain certification standards.

(2) Certifying agency responsibility:

(a) The agency will inspect growth facilities and fields and to audit compliance with the grower developed BMPs and their effectiveness.

(b) Mother plants are inspected within seven days before first cutting of daughters for certification.

(c) Daughter plants are inspected within seven days after planting.

(3) General requirements: Plant increase standards are described in WAC 16-302-880 (1)(c)(i), (ii), and (iii) (General planting stock certification standards for vegetatively propagated hemp).

(4) General inspection standards of plants:

(a) Apparently free of diseases, insects, and other pests.

(b) True-to-type characteristics.

HEMP TRANSPLANTS (CANNABIS SATIVA L. SUBSP. SATIVA) CERTIFICATION STANDARDS

NEW SECTION

WAC 16-302-895 General certification standards specific to hemp transplants. (1) The general requirements for seed certification found in WAC 16-302-005 through 16-302-130 of the genetic and crop standards apply to (are basic) all crops, and together with the following specific standards, constitute the standards for certification of hemp transplants (including seedlings and plugs).

(2) All certified transplants must be grown from a class of certified seed or certified clones. Proof of seed/clone eligibility shall be established by providing either a certified tag/label with invoice showing the lot number and pounds received or documentation of clone propagation under clone standards found in the hemp section of the *AOSCA Seed Certification Handbook* published in June 2020. This section of the handbook will be provided by the department upon request.

(3) Seed coated or pelleted by nonapproved conditioners will not be eligible for certification.

(4) All containers must be labeled in a manner that maintains the source, identity, and certification eligibility of the transplants. All containers offered for sale must be identified by the official seed certification tag/label. The tag/label must be affixed (stapled, for example) to trays so tags/labels are not misplaced.

NEW SECTION

WAC 16-302-900 Definitions specific to hemp transplants (*Cannabis sativa* L. subsp. *sativa*) certification standards. "Clones" are asexually propagated progeny genetically identical to the stock plant.

"Plugs" are young plants raised in small, individual cells, intended for transplanting at another production site.

"Seedlings" are plants grown from seeds.

"Transplants" means hemp plants that originate from either seed or clones that are kept in a vegetative state (before flowering) that will be moved to another production site.

NEW SECTION

WAC 16-302-905 Growth facility, field and transplant standards. (1) Traditional outdoor plant beds (fields) will be inspected at least two times for phenotypic purity, isolation, general physical condition, and appearance of plants.

(2) Growth facility produced plants shall be inspected at least two times for varietal labeling, phenotypic purity, isolation, general physical condition, and appearance of plants.

(3) Maximum off-type or other variety shall not exceed 0.2%, or 20 in 10,000. Nonconforming plants must be removed and destroyed.

(4) At the time of the final inspection, the number of transplants produced must be verified by agency personnel.

(5) Transplants may be rejected for noncompliance with these standards.

(6) Inspectors may also reject transplants due to unsatisfactory appearance such as any plants that are diseased, insect infestation, or otherwise stressed or any condition which prevents thorough inspection.

(7) Unlabeled or inadequately labeled transplants will be ineligible for certification.

(8) At the final inspection, transplants may be collected for post-control grow outs or other identification verification tests if required by agency.

(9) Certifying agency personnel may conduct additional inspections as necessary to ensure certification standards are met.

NEW SECTION

WAC 16-302-910 Growth facility isolation standards. (1) When two or more varieties are being grown in the same greenhouse or traditional outdoor plant bed (field), there must be an eighteen-inch unplanted area between the varieties. The production area, flats, and/or containers for each variety must be clearly labeled in a manner that prevents mixing or misidentification.

(2) Growers must handle transplants throughout the growing, harvesting, and transplant sales in a manner that prevents the accidental or mechanical mixture of containers of different varieties.

NEW SECTION

WAC 16-302-915 Labeling standards for certified transplants. All certified transplants offered for sale must be labeled with official certification tags or labels. Each container of transplants must have an agency certification label firmly attached to be sold as certified transplants. Failure to properly label transplants at the time of sale, will revoke the certification status and will result in not being eligible for sale as certified transplants.

FEMINIZED HEMP SEED (FHS) (CANNABIS SATIVA L. SUBSP. SATIVA) CERTIFICATION STANDARDS

NEW SECTION

WAC 16-302-920 Application of genetic certification standards specific to feminized hemp seed (FHS). (1) The general requirements for seed certification found in WAC 16-302-005 through 16-302-130 of the genetic and crop standards apply (and are basic) to all crops, and together with the following specific standards, constitute the certified feminized hemp seed standards.

(2) The genetic and crop standards are modified as follows:

(a) To be eligible for seed certification under this standard, hemp varieties must have received favorable action by one or more of the following processes recognized by AOSCA, including:

- (i) AOSCA variety review board; or
- (ii) Plant variety protection office or breeder rights statements; or

- (iii) Any individual AOSCA vested member agency; or
- (iv) Acceptance for certification under the OECD seed schemes.

(b) Designation of classes of seed:

(i) Only the certified class is recognized in the production of feminized hemp seed. The foundation class is allowed for the purpose of variety maintenance.

(ii) A feminized seed variety to be certified must be produced from seed or clonal stocks approved by the official certifying agency. These seed and clonal stocks shall consist of female lines and chemically assisted pollen shedding female lines of any class of certified seed or clones.

(c) Growers are required to obtain tetrahydrocannabinol (THC) test results as required by chapter 16-306 WAC.

NEW SECTION

WAC 16-302-925 Definitions and common terms specific to feminized hemp seed (Cannabis sativa L. subsp. sativa) certification standards. "Approved cultivar" is any variety designated as eligible for production by federal or local regulatory authorities.

"Dioecious type" means with male and female flowers on separate plants.

"Feminized hemp seed (FHS)" is the progeny of a dioecious female plant that has been pollinated with pollen derived from the same or another dioecious female plant that has been induced to produce pollen. It is a true female plant with XX chromosomes.

"Hemp" is defined by the U.S. Domestic Hemp Production Program as the plant species *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis or as otherwise defined by federal law.

"Hermaphroditic plants" are plants exhibiting male and female flowers, not true females.

"Monoecious type" means with male and female flowers on the same plant.

"Pollen parent" means a reversed female plant from the female line or another reversed female line to create a hybrid.

"Reversed female" means female plants that are induced to produce pollen in replacement of true male plants.

"Seed parent" means female plants used to produce feminized hemp seed.

"Sporting male" is a female plant that produces sterile male flowers.

"THC" means delta-nine ($\Delta 9$) tetrahydrocannabinol, which is the component of hemp regulated by federal or local regulatory authorities.

"Variety" means a subdivision of a kind that is distinct, uniform, and stable; "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; "uniform" in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity

when reproduced or reconstituted as required by the different categories of varieties.

"Volunteer plant" is a hemp plant that was not intentionally planted and is the result from a previous crop.

NEW SECTION

WAC 16-302-930 Growth facility and land requirements specific to feminized hemp seed (*Cannabis sativa* L. subsp. *sativa*) certification standards. (1) Growth facility must only contain certified hemp production. Multiple FHS varieties may be present but no other hemp plants are allowed except for pollen parent plants that are the pollen source.

(2) Growth facility must be free of all plants for a minimum of six weeks prior to receiving plants at the beginning of the crop year or production season unless the previous crop was the same variety. If sanitation is used to reduce the hemp free period, a sanitation plan must be submitted to the certifying agency. Pollen sanitation is not required if the entire greenhouse facility produces only one pollen source and other female lines are continually rogued to prevent contaminating pollen sources.

(3) Certified feminized hemp seed crops must not be grown on land which:

(a) In either of the preceding two years produced a non-certified crop of hemp or a different variety of hemp.

(b) In the preceding year produced a certified crop of a different variety.

(4) Weeds:

(a) The presence of broomrape (*Orobanche* spp.) in hemp crops is cause for rejection.

(b) Excessive weeds obscuring field inspection shall be grounds for rejection.

NEW SECTION

WAC 16-302-935 Growth facility and field standards specific to feminized hemp seed (*Cannabis sativa* L. subsp. *sativa*) certification standards. (1) Crop inspection:

(a) It is the grower's responsibility to ensure that growth facility and field inspections are conducted by the authorized inspector at least twice prior to swathing or harvesting.

(b) A growth facility or field that is cut, swathed, or harvested prior to crop inspection is not eligible for certification.

(c) Inspections of pollen parent plants and seed parent plants must be at a stage of growth when varietal purity is best determined. Crops not inspected at the proper stage for best determining varietal purity may be cause for rejection. A minimum of two inspections are required.

(i) First inspection for pollen parent and seed parent plants must be made just before or at early flowering. The pollen parent must be inspected prior to pollen collection or dispersal.

(ii) Second inspection for pollen parent and seed parent types must be completed after pollen shed and seed fill.

(iii) Isolation areas will be inspected for any volunteer hemp plants on each inspection.

(2) Specific: For the production of FHS varieties via pollen shedding by the chemically reversed female plants:

(a) Detailed records shall be created and maintained on the pollen parent, such as the chemical application dates, concentration, and the pollen collection date.

(b) Pollen storage containers (if used) must be marked with lot number and source.

(c) Chemically reversed female plants (pollen parent) must be removed and destroyed after pollen collection is complete.

(d) Male, sporting male, and hermaphroditic plants must be removed from the growth facility or field and a record of roguing activities must be maintained.

(3) Isolation:

(a) Certified feminized hemp seed fields must be isolated from all other contaminating pollen sources by the distances provided in Table 1. Roguing to eliminate all possible contaminating pollen must be accomplished prior to visible flower formation.

(b) Greenhouse production of certified feminized seed is allowed if mechanical isolation of pollen sources is provided. Additional greenhouse requirements include:

(i) Method of pollen exclusion must be documented and submitted to the certifying agency.

(ii) Each greenhouse facility is limited to one variety or multiple varieties when one pollen parent is utilized for all varieties.

(iii) Each variety must be clearly labeled and easily identifiable from one another.

(c) Off season greenhouse production when outside pollen sources are not alive may reduce the isolation requirement.

Table 1: Minimum Isolation Distances Required Between Inspected Hemp and Other Crops

Inspected Crop	Other Hemp Crops	Isolation Distance Required (feet)
Feminized hemp seed	- Variety of hemp, or other contaminating pollen source that has pollen shedders present, this includes other greenhouse complexes - Noncertified crop of hemp - Different varieties of the same type of hemp with no male shedders present in field that is not for seed production - Planted with certified seed of the same variety that meets certified standards for varietal purity and no male shedders present in field	15,748
	- Certified seed crop of the same variety that meets certified standards for varietal purity	3

- (4) Impurity standards:
 - (a) Impurities should be removed prior to crop inspection.
 - (b) Any combination of impurities may be reason for declining certified status.
 - (c) Table 2 indicates the maximum number of impurities permitted in approximately ten thousand plants of the inspected crop. The inspector makes at least six counts of a total of at least ten thousand plants to determine the number of impurities. The resulting average of these counts must not exceed the maximum impurity standards in Table 2.

Table 2

Inspected Crop	Maximum Impurity Standards per 10,000 plants in Hemp Seed Crops	
	Maximum Number of Plants Shedding Pollen	Maximum Number of Off-Types or Other Varieties
Feminized hemp seed	0	20

NEW SECTION

WAC 16-302-940 Seed standards for feminized hemp seed (*Cannabis sativa* L. subsp. *sativa*) certification standards.

**Feminized Hemp Seed Standards
Standards for Each Class**

Factor	Foundation	Certified
Pure seed (minimum)	98.00%	98.00%
Inert matter (maximum)*	2.00%	2.00%
Weed seed (maximum)	0.10%	0.10%
Total other crop (maximum)	0.01%	0.08%
Other varieties (maximum)	0.005%	0.05%
Other kinds (maximum)**	0.01%	0.07%
Germination (minimum)***	80.00%	80.00%
Feminized Seed***	99.00%	99.00%

* Inert matter shall not include more than 0.5 percent of material other than seed fragments of the variety under consideration.

** Other kinds shall not exceed 2 per lb. (454 grams) for foundation; 10 for certified.

*** Determined by variety verification trial or approved molecular testing.