

WSR 21-19-017
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed September 7, 2021, 11:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-07-054.

Title of Rule and Other Identifying Information: Chapter 246-15 WAC, Whistleblower complaints in health care settings. The department of health (department) is proposing amendments to sections of this chapter to implement SHB 1049 (chapter 62, Laws of 2019), amending RCW 43.70.075, and to ensure the rules are clear, up to date, and align with best practices.

Hearing Location(s): On November 2, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19), the department 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. Register in advance for this webinar <https://us02web.zoom.us/join/zoom-join-link>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: November 9, 2021.

Submit Written Comments to: Marlee O'Neill, P.O. Box 47850, Olympia, WA 98504-7850, email <https://fortress.wa.gov/doh/policyreview>, by November 2, 2021.

Assistance for Persons with Disabilities: Contact Marlee O'Neill, phone 360-236-4845, TTY 711, email marlee.oneill@doh.wa.gov, by October 25, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will align chapter 246-15 WAC with RCW 43.70.075 and update procedures. RCW 43.70.075 was amended by SHB 1049 (chapter 62, Laws of 2019). The department is proposing amending the definitions in WAC 246-15-010 for health care facility, improper quality of care, whistleblower, and adding a definition for reprisal or retaliatory action. Proposed amendments to WAC 246-15-020 will align the expanded protection provided to the identity of the whistleblower. Amendments to WAC 246-15-030 will clarify department procedures for filing, investigating, and resolving whistleblower complaints. Housekeeping changes are proposed in WAC 246-15-001 as well.

Reasons Supporting Proposal: Rule making is necessary to align rule definitions and criteria with current law, which expanded whistleblower protections. Rule making will also clarify current procedures for filing, investigating, and resolving whistleblower complaints. These rule updates are needed to ensure consistency and enforceability.

Statutory Authority for Adoption: RCW 43.70.075.

Statute Being Implemented: SHB 1049 codified as RCW 43.70.075.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Marlee O'Neill, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4845.

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 proposed rule is exempt from requiring a cost-benefit analysis. RCW 34.05.328 (5)(b)(ii) exempts rules that relate only to internal governmental operations that are not subject to violation by a nongovernment party.

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.

September 6, 2021
 Kristin Peterson, JD
 Deputy Secretary
 Policy and Planning
 for Umair A. Shah, MD, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 97-02-013, filed 12/20/96, effective 1/20/97)

WAC 246-15-001 Purpose and scope. (~~Regulations for whistleblower protection are hereby~~) The rules in this chapter are adopted pursuant to RCW 43.70.075. The purpose of these ((regulations)) rules is to protect the identity of persons who communicate in good faith to the department alleging the improper quality of care by a health care facility or provider as defined in this chapter, and set forth the process the department will use in receiving, investigating, and resolving complaints.

AMENDATORY SECTION (Amending WSR 14-08-046, filed 3/27/14, effective 4/27/14)

WAC 246-15-010 Definitions. The ~~((words and phrases))~~ definitions in this section apply throughout this chapter ((have the following meanings)) unless the context clearly indicates otherwise.

(1) "Consumer" means:

(a) An individual receiving health care or services from a health care facility or health care professional;

(b) A person pursuant to RCW 7.70.065 authorized to provide informed consent to health care on behalf of (a) of this subsection who is not competent to consent.

(2) "Department" means the Washington state department of health.

(3) "Employee" means an individual employed by a health care facility or health care professional at the time the:

(a) Alleged improper quality of care occurred; or

(b) Alleged improper quality of care is discovered.

(4) "Good faith" means an honest and reasonable belief in the truth of the allegation.

(5) "Health care" means any care, service, or procedure provided by a health care facility or a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or function of the human body.

(6) "Health care facility" ~~((includes the following))~~ means the following facilities and includes such facilities if owned and operated by a political subdivision or instrumentality of the state, and such other facilities as required by federal law and implementing regulations:

~~(a) ((Adult residential rehabilitation centers regulated pursuant to chapter 71.12 RCW;~~

~~(b) Alcoholism treatment facilities regulated pursuant to chapter 71.12 RCW;~~

~~(c) Alcoholism hospitals regulated pursuant to chapter 71.12 RCW;~~

~~(d) Ambulance and aid services regulated pursuant to chapter 18.73 RCW;~~

~~(e) Assisted living facilities regulated pursuant to chapter 18.20 RCW;~~

~~(f) Childbirth centers regulated pursuant to chapter 18.46 RCW;~~

~~(g) Home care agencies regulated pursuant to chapter 70.127 RCW;~~

~~(h)) Ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW;~~

~~(b) Ambulatory surgical facilities licensed under chapter 70.230 RCW;~~

~~(c) Behavioral health agencies licensed under chapter 71.05 or 71.24 RCW;~~

~~(d) Home health agencies ((regulated pursuant to) licensed under chapter 70.127 RCW;~~

~~((+)) (e) Hospices ((agencies regulated pursuant to) licensed under chapter 70.127 RCW;~~

~~((+)) (f) Hospitals ((regulated pursuant to) licensed under chapter 70.41 RCW;~~

~~((k) Pharmacies regulated pursuant to chapter 18.64 RCW;~~

~~(h)) (g) Kidney disease treatment centers licensed under chapter 70.41 RCW;~~

~~(h) Nursing homes licensed under chapter 18.51 RCW;~~

~~(i) Private psychiatric hospitals ((regulated pursuant to) licensed under chapter 71.12 RCW; or~~

~~((m) Residential treatment facilities for psychiatrically impaired children and youth regulated pursuant to chapter 71.12 RCW;~~

~~(n)) (j) Rural health care facilities ((regulated pursuant to chapter 70.175 RCW)) as defined in RCW 70.175.020.~~

(7) "Health care provider," "health care professional," "professional" or "provider" mean a person who is licensed, certified, registered or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(8) "Improper quality of care," ~~((as defined in RCW 43.70.075,))~~ means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 RCW or chapters 70.41, ~~((70.96A,))~~ 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Each health

disciplinary authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary coordination provided by the department, further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment. ~~((Good faith personnel action will not prevent investigations of alleged improper quality of care.))~~

(9) "Reprisal" or "retaliatory action" means, but is not limited to:

(a) Denial of adequate staff to perform duties;

(b) Frequent staff changes;

(c) Frequent and undesirable office changes;

(d) Refusal to assign meaningful work;

(e) Unwarranted and unsubstantiated report of misconduct pursuant to Title 18 RCW;

(f) Letters of reprimand or unsatisfactory performance evaluations;

(g) Demotion;

(h) Reduction in pay;

(i) Denial of promotion;

(j) Suspension;

(k) Dismissal;

(l) Denial of employment;

(m) A supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower; or

(n) The revocation, suspension, or reduction of medical staff membership or privileges without following a medical staff sanction process that is consistent with RCW 7.71.050.

(10) "Whistleblower" means a consumer, employee, or health care professional ~~((who in good faith reports alleged quality of care concerns to the department of health))~~ including a health care provider as defined in RCW 7.70.020(1) or member of a medical staff at a health care facility, who in good faith reports alleged quality of care concerns to the department of health or initiates, participates, or cooperates in any investigation or administrative proceeding under RCW 43.70.075.

AMENDATORY SECTION (Amending WSR 97-02-013, filed 12/20/96, effective 1/20/97)

WAC 246-15-020 Rights and responsibilities—Whistleblower and department. (1) ~~((A person who in good faith communicates a complaint or information as defined in this chapter as provided in RCW 43.70.075 is:~~

~~(a) Immune from civil liability on claims based upon that communication to the department under RCW 4.24.510;~~

~~(b) Entitled to recover costs and reasonable attorneys' fees incurred in establishing a defense under RCW 4.24.510 if prevailing upon the defense; and~~

~~(c) Afforded the protections and remedies of the human rights commission pursuant to chapter 49.60 RCW. The department will refer whistleblowers expressing concern about reprisal or retaliatory action to the human rights commission.~~

~~(2) The department will protect))~~ The identity of the whistleblower ((by revealing it)) remains confidential when, in good faith, the whistleblower:

(a) Complains about the improper quality by a health care provider or in a health care facility;

(b) Initiates any investigation or administrative proceeding about a complaint of improper quality of care; or

(c) Submits a notification or report of an adverse event or an incident to the department under RCW 70.56.020 or to the independent entity under RCW 70.56.040.

(2) A whistleblower's identity will be revealed only:

(a) To appropriate ~~((department))~~ government agency staff or disciplining authority member;

(b) By court order; or

(c) If the complaint ~~((is not))~~ initiation, notification, or report was not made or done in good faith.

AMENDATORY SECTION (Amending WSR 97-02-013, filed 12/20/96, effective 1/20/97)

WAC 246-15-030 Procedures for filing, investigation, and resolution of whistleblower complaints. ~~((In filing, investigating and resolving a whistleblower complaint, the department will follow its usual procedures for complaint processing while protecting a whistleblower's identity consistent with WAC 246-15-020.~~

~~(1) Filing.~~

~~(a) Upon receipt of a complaint from a whistleblower alleging improper quality of care, department staff will enter the complaint into the tracking system for complaints against health care providers or facilities and create a file on that complaint.~~

~~(b) Staff will affix a permanent cover to the letter of complaint, or other form of notice, in the complaint file, noting the statutory citation for protection of identity of the complainant.~~

~~(c) Staff will assess priority of the case and conduct the initial case planning based on the complainant information.~~

~~(2) Investigation.~~

~~(a) For cases assigned to an investigation, staff will develop an investigative plan. The investigator will gather pertinent information and perform other functions as appropriate to the allegation. The investigator may interview witnesses or others with information relevant to the investigation, review records and consult with staff of other agencies.~~

~~(b) At the conclusion of the investigation, the investigator will prepare the necessary documents, such as an investigative report summarizing the findings, and other documents necessary for the department to take further action.~~

~~(3) Resolution.)~~ (1) In filing, investigating, and resolving a whistleblower complaint, the department will protect a whistleblower's identity consistent with WAC 246-15-020.

(2) The regulatory authority ((for the health facility or provider)) will:

(a) Assess complaints based on potential imminent danger to the public and prioritize based on the initial determination;

(b) Review investigative findings to determine whether a violation of any statutes or rules occurred; and

~~((b))~~ (c) Take appropriate disciplinary action ((as necessary);

(e) Ensure upon case closure, that the permanent cover affixed in subsection (1)(e) of this section will remain;

~~(d) Will code or obliterate references to the whistleblower complainant in investigative materials or in the investigative report as necessary to protect the whistleblower's identity prior to any public disclosure; and~~

~~(e) Make the case file available to the public upon case closure, subject to public disclosure and other relevant laws)) or close the case.~~

WSR 21-19-045

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 10, 2021, 4:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-13-158.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-474-0020 What can an aged, blind or disabled (ABD) cash assistance client expect when supplemental security income (SSI) benefits begin?

Hearing Location(s): On October 26, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtual. Due to the COVID-19 pandemic hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than October 27, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., October 26, 2021.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6198, fax 360-664-6185, TTY 711 relay service, email Tencza@dshs.wa.gov, by 5:00 p.m., October 12, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These changes are necessary to support a corrective action plan and address errors when an ABD client signs an interim assistance reimbursement authorization. Amendments are also intended to support ABD program outcomes and better align with Social Security Administration policies and procedures.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.057, 74.04.510, 74.04.630, 74.04.655, 74.04.770, 74.04.0052, 74.08.043, 74.08.090, 74.08.335, 74.08A.100.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorraine Peterson, P.O. Box 45470 Olympia, WA 98504-5470, 509-406-3417.

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. These rules are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.["]

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

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These amendments do not impact small businesses. They only impact DSHS clients.

September 10, 2021
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-474-0020 What can an aged, blind, or disabled (ABD) cash assistance client expect when supplemental security income (SSI) benefits begin? You may only receive assistance to meet your basic needs from one government source at a time (WAC 388-449-0210). If you are an ABD cash client who begins getting SSI, you should know that:

(1) If you got advance, emergency, or retroactive SSI cash assistance for any period (~~(where)~~) in which you received (~~(general assistance (GA), disability lifeline (DL), or)~~) aged, blind, or disabled (ABD) cash assistance, you must repay the department the amount of cash assistance paid to you for the matching time period.

(2) When you (~~(apply for)~~) receive ABD cash and have an SSI application pending with the Social Security Administration, you must sign DSHS (~~(48-235(X))~~) 18-235, interim assistance reimbursement (~~(agreement)~~) authorization (IARA), to continue to receive ABD cash assistance.

(3) You cannot use your ABD money to replace money deducted from your SSI check to repay an SSI overpayment.

WSR 21-19-060
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(By the Code Reviser's Office)
[Filed September 14, 2021, 12:11 p.m.]

WAC 220-400-020, 220-413-060, 220-413-090, 220-414-010, 220-414-020, 220-414-040, 220-414-050, 220-414-060, 220-414-070, 220-414-090, 220-414-100, and 220-417-030, proposed by the department of fish and wildlife in WSR 21-05-032, appearing in issue 21-05 of the Washington State Register, which was distributed on March 3, 2021, is with-

drawn 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 21-19-066
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed September 14, 2021, 2:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-09-086.

Title of Rule and Other Identifying Information: WAC 392-121-249 through 392-121-299, Finance—General apportionment—Certificated instructional staff.

Hearing Location(s): October 27, 2021, at 1:00 p.m., webinar via Zoom (call-in option will be available). Due to ongoing public health emergency related to the COVID-19 virus pandemic, this public hearing will be held by webinar via Zoom (with a call-in option). There will be no physical location for the hearing. For information on registering and participating, please visit the office of superintendent of public instruction's (OSPI) website at <https://www.k12.wa.us/policyfunding/ospi-rulemaking-activity>. For questions, please email Kristin.murphy@k12.wa.us.

Date of Intended Adoption: November 1, 2021.

Submit Written Comments to: Ross Bunda, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, email ross.bunda@k12.wa.us, fax 360-664-3683, by October 27, 2021.

Assistance for Persons with Disabilities: Contact Kristen Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email Kristin.murphy@k12.wa.us, by October 20, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OSPI is proposing rule revisions regarding data collection requirements on the S-275 school personnel report after the 2018 Washington legislature made significant changes to how school districts are funded and how educators are compensated. The Washington legislature no longer provides funding to school districts for teacher salary and benefits tied to their education level (degree and credits) and certificated years of experience. Rule revisions are needed to implement those changes while continuing to collect S-275 education and experience data as needed.

Reasons Supporting Proposal: The proposed rule revisions are needed to provide simplified, but accurate data for the Washington legislature to review and rebase state salary allocations that align with the staffing costs for the state's program of basic education pursuant to RCW 28A.150.410.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

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

Name of Agency Personnel Responsible for Drafting: Ross Bunda, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6308; and Implementation: Michelle Matakas, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6019; and Enforcement: T.J. Kelly, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6301.

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. OSPI is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

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

Is exempt under RCW 19.85.030.

Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

September 14, 2021
Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 17-03-025, filed 1/6/17, effective 2/6/17)

WAC 392-121-249 Definition—Accredited institution of higher education. As used in this chapter, "accredited institution of higher education" means an institution of higher education that has been accredited by a national or regional accrediting association recognized by the Washington student achievement council and the secretary of the U.S. Department of Education pursuant to WAC ~~((181-78A-010(7)))~~ 250-61-050.

AMENDATORY SECTION (Amending WSR 11-21-065, filed 10/17/11, effective 11/17/11)

WAC 392-121-250 Definition—Highest degree level. As used in this chapter, the term "highest degree level" means:

(1) The highest degree earned by the employee from an accredited institution of higher education, pursuant to WAC 392-121-249; or

(2) "Nondegreed" for a certificated instructional employee who(~~(:~~

~~((a)))~~ holds no bachelor's or higher level degree(~~(:~~

~~((b)))~~ Holds a bachelor's or higher level degree and a valid vocational/career and technical education certificate, but:

~~((i)))~~ The bachelor's or higher level degree was not a requirement of any past or present education certificate or permit, including the vocational/career and technical education certificate, pursuant to chapter 181-77 or 181-79A WAC; and

~~((ii)))~~ Whose highest placement pursuant to WAC 392-121-270 is as a nondegreed certificated instructional employee).

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-264 Definition—Certificated years of experience. Regardless of the experience factors used by a school district (~~((or))~~), charter school, or tribal compact school for the purposes of its salary schedule(s), as used in this chapter, the term "certificated years of experience" means the number of years of accumulated full-time and part-time (~~((professional education))~~) certificated employment prior to the current reporting school year in the state of Washington, out-of-state, and a foreign country. School districts (~~((and))~~), charter schools, and tribal compact schools shall report all certificated years of experience including those beyond the experience limit of (~~((the school district's or charter school's))~~) their salary schedule(s).

(1) (~~((Professional education))~~) Certificated employment shall be limited to (~~((the following:~~

~~((a)))~~ employment in public or private preschools or elementary and secondary schools in positions which require certification where(~~(:~~

~~((i)))~~ Schools include the Centrum education program, the Pacific Science Center education program, educational centers authorized under chapter 28A.205 RCW, and Seattle Children's Hospital education program;

~~((ii)))~~ certification means the concurrent public professional education licensing requirements established in the state, province, country, or other governmental unit in which employment occurred and which, for the state of Washington, refers to the certificates authorized by WAC 181-79A-140 and 181-79A-142, and temporary permits authorized by WAC 181-79A-128(~~(:~~

~~((b)))~~ Employment in public or private vocational-technical schools, technical colleges, community/junior colleges, colleges, and universities in positions comparable to those which require certification in Washington school districts;

~~((c)))~~ Employment in a governmental educational agency with regional administrative responsibilities for preschool, elementary, and/or secondary education including but not limited to an educational service district, office of superintendent of public instruction, or United States department of education in any professional position including but not limited to C.P.A., architect, business manager, or physician;

~~((d)))~~ Experience in the following areas:

~~((i)))~~ Military, Peace Corps, or Vista service which interrupted professional education employment included in (a), (b), or (c) of this subsection; and

~~((ii)))~~ Sabbatical leave.

~~((e)))~~ For nondegreed vocational/career and technical education instructors, up to a maximum of six years of management experience as defined in WAC 181-77-003(6) acquired after the instructor meets the minimum vocational/career and technical education certification requirements of three years (six thousand hours) established in WAC 181-77-041 (1)(a)(i), regardless of when the initial certificate is issued and regardless of type of vocational/career and technical education certificate held. If a degree is obtained while employed in the state of Washington as a nondegreed vocational/career and technical education instructor, the eligible years of management experience pursuant to this subsection reported on

Report S-275 prior to the awarding of the degree shall continue to be reported but shall not increase.

(f) Beginning in the 2007-08 school year, for occupational therapists, physical therapists, nurses, speech language pathologists, audiologists, counselors, psychologists, and social workers regulated under Title 18 RCW, years of experience may include employment as occupational therapists, physical therapists, nurses, speech language pathologists, audiologists, counselors, psychologists, and social workers, that does not otherwise meet the requirements of (a) through (e) of this subsection, subject to the following conditions and limitations:

(i) Experience included under this subsection shall be limited to a maximum of two years.

(ii) The calculation of years of experience shall be that one year of experience in a school or other nonschool position counts as one year of experience for the purposes of this subsection, per subsection (2)(a) of this section.

(iii) Employment as occupational therapists shall be limited to the following:

(A) In positions requiring licensure as an occupational therapist under Title 18 RCW, or comparable out of state employment; and

(B) While holding a valid occupational therapist license, or other comparable occupational therapist credential.

(iv) Employment as physical therapists shall be limited to the following:

(A) In positions requiring licensure as a physical therapist under Title 18 RCW, or comparable out of state employment; and

(B) While holding a valid physical therapist license, or other comparable physical therapist credential.

(v) Employment as nurses shall be limited to the following:

(A) In positions requiring licensure as a registered nurse under Title 18 RCW, or comparable out of state employment; and

(B) While holding a valid registered nurse license, or other comparable registered nurse credential.

(vi) Employment as speech language pathologists or audiologists shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by speech language pathologists or audiologists regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for conditional certification as a school speech language pathologist or audiologist established in WAC 181-79A-231(1)(c)(iv).

(vii) Employment as counselors shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by counselors regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school counselor established in WAC 181-79A-231(3).

(viii) Employment as psychologists shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by psychologists regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school psychologist established in WAC 181-79A-231(3).

(ix) Employment as social workers shall be limited to the following:

(A) In positions requiring the same or similar duties and responsibilities as are performed by social workers regulated under Title 18 RCW; and

(B) After completion of the minimum requirements for emergency certification as a school social worker established in WAC 181-79A-231(3).

(x) Certificated years of experience as occupational therapists, physical therapists, nurses, speech language pathologists, audiologists, counselors, psychologists, and social workers, determined pursuant to this subsection and reported on Report S-275, by teachers and other certificated staff who are no longer employed as occupational therapists, physical therapists, nurses, speech language pathologists, audiologists, counselors, psychologists, and social workers, shall continue to be reported but shall not increase).

(2) Years of full-time and part-time ((professional education)) certificated employment prior to the current reporting school year are accumulated as follows:

(a) For each ((professional education)) certificated employment which is not employment as a casual substitute pursuant to subsection (1)((a)) of this section;

(i) Determine the total number of hours, or other unit of measure, per year for an employee working full-time with each employer;

(ii) Determine the number of hours, or other unit of measure, per year with each employer, including paid leave and excluding unpaid leave;

(iii) Calculate the quotient of the hours, or other unit of measure, determined in (a)(ii) of this subsection divided by the hours, or other unit of measure, in (a)(i) of this subsection rounded to ((two)) one decimal place((s)) for each year.

(b) For ((professional education)) certificated employment as a casual substitute pursuant to subsection (1)((a)) of this section:

(i) Determine the total number of full-time equivalent substitute days per year;

(ii) Calculate the quotient of full-time equivalent days determined in (b)(i) of this subsection divided by ((480)) one hundred eighty rounded to ((two)) one decimal place((s)) for each year.

(c) No more than 1.0 year may be accumulated in any traditional nine-month academic year or any twelve-month period.

(i) Accumulate, for each year, ((professional education)) certificated employment calculated in (a)(iii) and (b)(ii) of this subsection.

(ii) Determine the smaller of the result in (c)(i) of this subsection or ((1.00)) 1.0 for each year.

(d) Determine certificated years of experience as the accumulation of all years of ((professional education)) certificated employment calculated in (c)(ii) of this subsection and report such years rounded to one decimal place.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-121-255 Definition—Academic credits.
- WAC 392-121-257 Definition—In-service credits.
- WAC 392-121-259 Definition—Nondegree credits.
- WAC 392-121-261 Definition—Total eligible credits.
- WAC 392-121-262 Definition—Additional criteria for all credits.
- WAC 392-121-266 Definition—LEAP salary allocation documents.
- WAC 392-121-270 Placement of certificated instructional employees on LEAP salary allocation documents.
- WAC 392-121-280 Placement on LEAP salary allocation documents—Documentation required.
- WAC 392-121-295 Definition—District average certificated instructional staff mix factor.
- WAC 392-121-299 Determination of district average certificated instructional staff salary for the purpose of apportionment.

WSR 21-19-074

**WITHDRAWAL OF PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

(By the Code Reviser's Office)

[Filed September 15, 2021, 11:23 a.m.]

WAC 392-410-135, proposed by the superintendent of public instruction in WSR 21-05-072, appearing in issue 21-05 of the Washington State Register, which was distributed on March 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 21-19-076

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF TRANSPORTATION**

(By the Code Reviser's Office)

[Filed September 15, 2021, 11:32 a.m.]

WAC 468-19-010, 468-19-020, 468-19-030, and 468-19-040, proposed by the department of transportation in WSR 21-06-043, appearing in issue 21-06 of the Washington State Register, which was distributed on March 17, 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 21-19-105**PROPOSED RULES****HEALTH CARE AUTHORITY**

[Filed September 20, 2021, 8:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-015.

Title of Rule and Other Identifying Information: WAC 182-550-4800 Hospital payment methods—State administered programs.

Hearing Location(s): On October 26, 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 for this public hearing https://zoom.us/webinar/register/WN_Ig_1_lBzQ0Oa2h_0Y6Ak0w. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than October 27, 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 October 26, 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 October 8, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending these rules to update the grouper from AP DRG to APR DRG and remove references to version 23.

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.

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

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: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Melissa Craig, P.O. Box 55687, Olympia, WA 98504-5687, 360-725-0938.

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 proposed rule does not impose any costs on businesses.

September 20, 2021

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-04-004, filed 1/23/19, effective 3/1/19)

WAC 182-550-4800 Hospital payment methods—State-administered programs. This section does not apply to out-of-state hospitals unless they are border hospitals (critical or noncritical).

(1) The medicaid agency:

(a) Pays for services provided to a client eligible for a state-administered program (SAP) based on SAP rates;

(b) Establishes SAP rates independently from the process used in setting the medicaid payment rates;

(c) Calculates a ratable each year to adjust each hospital's SAP rates for their percentage of community-based dollars to the total revenues for all hospitals;

(d) Calculates an equivalency factor (EF) to keep the SAP payment rates at the same level before and after the medicaid rates were rebased.

(2) The agency has established the following:

(a) SAP diagnosis-related group (DRG) conversion factor (CF) for claims grouped under DRG classifications services;

(b) SAP per diem rates for claims grouped under the following specialty service categories:

(i) Chemical-using pregnant (CUP) women;

(ii) Detoxification;

(iii) Physical medicine and rehabilitation (PM&R); and

(iv) Psychiatric.

(c) SAP ratio of costs-to-charges (RCC) for claims grouped under transplant services.

(3) This subsection describes the SAP DRG CF and payment calculation processes used by the agency to pay claims using the DRG payment method. The agency pays for services grouped to a DRG classification provided to clients eligible for a SAP based on the use of a DRG CF, a DRG relative weight, and a maximum service adjustor. This process is similar to the payment method used to pay for medicaid and CHIP services grouped to a DRG classification.

(a) The agency's SAP DRG CF calculation process is as follows:

(i) The hospital's specific DRG CF used to calculate payment for a SAP claim is the medicaid DRG CF multiplied by the applicable EF multiplied by the ratable;

(ii) For hospitals that do not have a ratable or an EF, the SAP CF is the hospital's specific medicaid CF multiplied by the average EF and the average ratable; and

(iii) For noncritical border hospitals, the SAP DRG CF is the lowest in-state medicaid DRG CF multiplied by the average ratable and the average EF.

(b) The agency calculates the SAP DRG EF as follows:

(i) The hospital-specific current SAP DRG CF is divided by the rebased medicaid DRG CF and then divided by the ratable factor to compute the preliminary EF.

(ii) The current SAP DRG payment is determined by multiplying the hospital-specific SAP DRG CF by the ~~((AP-DRG-version-23))~~ APR-DRG relative weight.

(iii) The current aggregate DRG payment is determined by summing the current SAP DRG payments for all hospitals.

(iv) The hospital projected SAP DRG payment is determined by multiplying the hospital-specific current SAP DRG CF by the APR-DRG relative weights and the maximum service adjustor.

(v) The projected aggregate DRG payment is determined by summing the projected SAP program DRG payments for all hospitals.

(vi) The aggregate amounts derived in (b)(iii) and (v) of this subsection are compared to identify a neutrality factor that keeps the projected aggregate SAP DRG payment (based on ~~((DRG-APR))~~ APR-DRG relative weights) at the same level as the previous aggregate SAP DRG payment (based on APR-DRG relative weights ~~((version-23-0))~~).

(vii) The neutrality factor is multiplied by the hospital-specific preliminary EF to determine the hospital-specific final EF that is used to determine the SAP DRG conversion factors for the rebased system implementation.

(c) The agency calculates the DRG payment for services paid under the DRG payment method as follows:

(i) The agency calculates the allowed amount for the inlier portion of the SAP DRG payment by multiplying the SAP DRG CF by the DRG relative weight and the maximum service adjustor.

(ii) SAP claims are also subject to outlier pricing. See WAC 182-550-3700 for details on outlier pricing.

(4) This subsection describes how the agency calculates the SAP per diem rate and payment for CUP, detoxification, PM&R, and psychiatric services.

(a) The agency calculates the SAP per diem rate for in-state and critical border hospitals by multiplying the hospital's specific medicaid per diem by the ratable and the per diem EF.

(b) The agency calculates the SAP per diem rate for non-critical border hospitals by multiplying the lowest in-state medicaid per diem rate by the average ratable and the average per diem EF.

(c) For hospitals with more than twenty nonpsychiatric SAP per diem paid services during SFY 2011, the agency calculates a per diem EF for each hospital using the individual hospital's claims as follows:

(i) The agency calculates a SAP average payment per day by dividing the total current SAP per diem payments by the total number of days associated with the payments.

(ii) The agency calculates a medicaid average payment per day by dividing the aggregate payments based on the rebased medicaid rates by the total number of days associated with the aggregate payments (same claims used in (c)(i) of this subsection).

(iii) The agency divides the hospital estimated SAP average payment per day in (a) of this subsection by the hospital medicaid average payment per day in (b) of this subsection.

(iv) The agency divides the result of (c)(iii) of this subsection by the hospital-specific ratable factor to determine the EF.

(d) For hospitals with twenty or less nonpsychiatric SAP per diem paid services during SFY 2011, the EF is an average for all hospitals. The agency uses the following process to determine the average EF:

(i) The agency calculates a SAP average payment per day by dividing the total current SAP per diem payments for all hospitals by the total number of days associated with the aggregate payments.

(ii) The agency calculates a medicaid average payment per day by dividing the aggregate payments based on the rebased medicaid rates by the total number of days associated with the aggregate payment (same claims used in (d)(i) of this subsection).

(iii) The agency divides the SAP average per day in (a) of this subsection by the medicaid average payment per day in (b) of this subsection.

(iv) The agency divides the result of (d)(iii) of this subsection by the hospital-specific ratable factor to determine the EF. The EF is an average based on claims for all the hospitals in the group.

(e) The agency uses a psychiatric EF to keep SAP psychiatric rates at the level required by the Washington state legislature. The agency's SAP psychiatric rates are eighty-five and four one hundredths of a percent (85.04%) of the agency's medicaid psychiatric rates. The factor is applied to all hospitals.

(f) The agency calculates the SAP per diem allowed amount for CUP, detoxification, PM&R, and psychiatric services by multiplying the hospital's SAP per diem rate by the agency's allowed patient days.

(g) The agency does not apply the high outlier or transfer policy to the payment calculations for CUP, detoxification, PM&R, and psychiatric services.

(5) The agency calculates the SAP RCC by multiplying the medicaid RCC by the hospital's ratable.

(6) The agency annually establishes the hospital-specific ratable factor used in the calculation of SAP payment rate based on the most current hospital revenue data available from the department of health (DOH). The agency uses the following process to determine the hospital ratable factor:

(a) The agency adds the hospital's medicaid revenue, medicare revenue, charity care, and bad debts as reported in DOH data.

(b) The agency determines the hospital's community care dollars by subtracting the hospital's low-income disproportionate share hospital (LIDSH) payments from the amount derived in (a) of this subsection.

(c) The agency calculates the hospital net revenue by subtracting the hospital-based physician revenue (based on information available from the hospital's medicare cost report or provided by the hospitals) from the DOH total hospital revenue report.

(d) The agency calculates the preliminary hospital-specific ratable by dividing the amount derived in (b) of this subsection by the amount derived in (c) of this subsection.

(e) The agency determines a neutrality factor by comparing the hospital-specific medicaid revenue (used in (a) of this subsection) multiplied by the preliminary ratable to the hospital-specific medicaid revenue (used in (a) of this subsection) multiplied by the prior year ratable. The neutrality factor is used to keep the projected SAP payments at the same current payment level.

(f) The agency determines the final hospital-specific ratable by multiplying the hospital-specific preliminary ratable by the neutrality factor.

(g) The agency applies to the allowable for each SAP claim all applicable adjustments for client responsibility, any third-party liability, medicare payments, and any other adjustments as determined by the agency.

(7) The agency does not pay ~~((am))~~ a SAP claim paid by the DRG method at greater than the billed charges.

(8) SAP rates do not apply to the critical access hospital (CAH) program's weighted cost-to-charges, to the long-term acute care (LTAC) program's per diem rate, or to the certified public expenditure (CPE) program's RCC (except as the RCC applies to the CPE hold harmless described under WAC 182-550-4670).

WSR 21-19-106

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed September 20, 2021, 8:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-13-050.

Title of Rule and Other Identifying Information: WAC 182-535-1245 Access to baby and child dentistry (ABCD) program.

Hearing Location(s): On October 26, 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 for this public hearing https://zoom.us/webinar/register/WN_Ig_1_lBzQ0Oa2h_0Y6Ak0w. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than October 27, 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 October 26, 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 October 8, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending these rules [to] align with SSB 5976. Specifically, the agency removed the age limitation of five and younger and added coverage for clients under the age of 13 who have one or more disabilities as defined by RCW 74.09.390. The agency is also clarifying that if the client is enrolled in an agency-contracted managed care organization (MCO), dental providers must bill the agency's directly under the fee-for-service payment system for ABCD services. Medical providers must bill the MCO directly for ABCD program services. If the client is not enrolled in an MCO, dental providers and medical providers must bill the agency directly under the fee-for-service payment system for ABCD program services. Only ABCD-certified dental providers and primary care providers certified in ABCD are paid an enhanced fee.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; SSB 5976, chapter 242, Laws of 2020, Access to baby and child dentistry program—Eligibility.

Statute Being Implemented: RCW 41.05.021, 41.05.160; SSB 5976, chapter 242, Laws of 2020, Access to baby and child dentistry program—Eligibility.

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

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: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Janice Tadeo, P.O. Box 45506, Olympia, WA 98504-5506, 360-725-1583.

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 proposed rule does not impose any costs on businesses.

September 20, 2021

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 21-14-055, filed 7/1/21, effective 8/1/21)

WAC 182-535-1245 Access to baby and child dentistry (ABCD) program. The access to baby and child dentistry (ABCD) program ~~((is a program established to))~~ increases access to dental services for certain medicaid-eligible clients ~~((ages five and younger))~~.

(1) ~~((Client eligibility))~~ A client is eligible for the ABCD program ~~((is as follows))~~ if the client is:

~~(a) ((Clients must be age five and younger. Once enrolled in the ABCD program, eligible clients are covered until their sixth birthday.~~

~~(b) Clients))~~ Eligible ~~((under))~~ for one of the following medical assistance programs ~~((are eligible for the ABCD program))~~:

- (i) Categorically needy program (CNP);
 - (ii) Limited casualty program-medically needy program (LCP-MNP);
 - (iii) Children's health program; or
 - (iv) State children's health insurance program (SCHIP);
- and

(b) Follow the age requirements:

(i) Under age six; or

(ii) Under age 13 and has one or more disabilities as defined by RCW 74.09.390.

(2) If the eligible client is enrolled in an agency-contracted managed care organization (MCO):

(a) Dental providers must bill the agency's fee-for-service payment system for ABCD program services.

(b) Medical providers must bill the MCO for ABCD program services.

(3) If the eligible client is not enrolled in an agency-contracted managed care organization (MCO):

(a) Dental providers must bill the agency's fee-for-service payment system for ABCD program services.

(b) Medical providers must bill the agency's fee-for-service payment system for ABCD program services.

~~((c) ABCD program services provided by a dental provider for eligible clients who are enrolled in an agency-contracted managed care organization (MCO) are paid through the fee-for-service payment system.~~

~~(d) ABCD program services provided by a medical provider for eligible clients who are enrolled in an agency-contracted managed care organization (MCO) must be billed directly through the client's MCO.~~

~~(2))~~ (4) Health care providers and community service programs identify and refer eligible clients to the ABCD program. If ~~((enrolled,))~~ the eligible client is treated by an ABCD certified provider, the client and an adult family member may receive:

(a) Oral health education;

(b) "Anticipatory guidance" (expectations of the client and the client's family members, including the importance of keeping appointments); and

(c) Assistance with transportation, interpreter services, and other issues related to dental services.

~~((3))~~ (5) Only ABCD-certified ~~((dentists and other agency-approved certified))~~ dental providers and primary care providers certified in ABCD are paid an enhanced fee for furnishing ABCD program services. ABCD program services include, when appropriate:

(a) Family oral health education. An oral health education visit:

(i) Is limited to one visit per day per family, up to two visits per ~~((child))~~ client in a ~~((twelve-month))~~ 12-month period, per provider or clinic; and

(ii) Must include ~~((documentation of the following))~~ all of the following services, provision of which must be documented in the client's record:

- (A) "Lift the lip" training;
- (B) Oral hygiene training;
- (C) Risk assessment for early childhood caries;
- (D) Dietary counseling; and
- (E) ~~((Discussion))~~ Benefits of fluoride ~~((supplements; and~~
- ~~(F) Documentation in the client's record to record the activities provided at the oral education visit)).~~
- (b) Comprehensive oral evaluations as defined in WAC 182-535-1050, once per client, per provider or clinic, as an initial examination. The agency covers an additional comprehensive oral evaluation if the client has not been treated by the same provider or clinic within the past five years;
- (c) Periodic oral evaluations as defined in WAC 182-535-1050, once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation;
- (d) Topical application of fluoride varnish;
- (e) Amalgam, resin, and glass ionomer restorations on primary teeth, as specified in the agency's current published documents;
- (f) Interim therapeutic restorations (ITRs) for primary teeth ~~((, only for clients age five and younger)).~~ The agency pays an enhanced rate for these restorations to ABCD-certified, ITR-trained dentists as follows:
- (i) A one-surface, resin-based composite, or glass ionomer restoration with a maximum of five teeth per visit; and
- (ii) Restorations on a tooth can be done every ~~((twelve))~~ 12 months ~~((through age five,))~~ or until the client can be definitively treated for a restoration.
- (g) Therapeutic pulpotomy;
- (h) Prefabricated stainless steel crowns on primary teeth, as specified in the agency's current published documents;
- (i) Resin-based composite crowns on anterior primary teeth; and
- (j) Other dental-related services, as specified in the agency's current published documents.
- ~~((4) The client's record must show documentation of the ABCD program services provided.))~~

WSR 21-19-107**PROPOSED RULES****DEPARTMENT OF HEALTH**

[Filed September 20, 2021, 11:02 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-247-001, 246-247-002, 246-247-010, 246-247-075, 246-247-080, and 246-247-100, Radiation protection—Air emissions. The proposal updates chapter sections that reference the Code of Federal Regulations' most recent publication date and amends chapter sections that reference state statutory references from Title 70 RCW to the newly codified Title 70A RCW per SHB 2246, chapter 20, Laws of 2020.

Hearing Location(s): On October 26, 2021, at 10:00 a.m. In response to the coronavirus (COVID-19) pandemic, the department of health (DOH) will not provide a physical loca-

tion 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. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_N0rE8tmTSgSk5ekeRTXpaQ. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: November 2, 2021.

Submit Written Comments to: Theresa Phillips, DOH, P.O. Box 47820, Olympia, WA 98504-7820, email <https://fortress.wa.gov/doh/policyreview>, by October 26, 2021.

Assistance for Persons with Disabilities: Contact Theresa Phillips, phone 360-236-3147, TTY 711, email theresa.phillips@doh.wa.gov, by October 19, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is necessary to update the publication date of federal rules adopted by reference under 40 C.F.R. Part 61 from 2019 to the most recently adopted 2021 version. The proposed amendments make no changes to any requirements previously adopted. The amendment makes no changes to any requirements previously adopted, but is required for the DOH to receive full delegation of the Radionuclide Air Emissions Program from the United States Environmental Protection Agency (EPA). In addition, this proposal updates several other rule sections to update outdated RCW citations for the purpose of reorganizing laws related to environmental health without making any substantive or policy changes per SHB 2246, Laws of 2020.

Reasons Supporting Proposal: The intent of RCW 70A.388.040 is to safely regulate the possession and use of radioactive material within the state of Washington. The intent of RCW 70A.388.050(5) is to reduce redundant licensing requirements. The rule meets the intent of the statutes by adopting requirements as stringent as the federal requirements in order for DOH to have full delegation authority from EPA and to refer to the correct state statutory references.

Statutory Authority for Adoption: RCW 70A.388.040, 70A.388.050(5); and SHB 2246.

Statute Being Implemented: RCW 70A.388.040, 70A.388.050(5); and SHB 2246.

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

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting: Theresa Phillips, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3147; Implementation and Enforcement: John Martell, 309 Bradley Boulevard, Suite 201, Richland, WA 99352, 509-946-3798.

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 agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or

national consensus codes that generally establish industry standards.

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: 40 C.F.R. Part 61 from 2021. The proposed changes are necessary for consistency between federal and state rules and as a primary condition for delegation of the National Emission Standard for Hazardous Air Pollutants authority from EPA to DOH. If Washington does not adopt the proposed changes, DOH would not receive full delegation as required by EPA.

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.

September 20, 2021
Lauren Jenks
Assistant Secretary

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-001 Purpose. The purpose of this chapter is to establish application requirements and procedures for the issuance of a radioactive air emissions license and for the regulation of those emissions by the department of health (hereinafter referred to as "the department") to assure compliance with the standards for radioactive air emissions set by the department of ecology pursuant to RCW ((70.94.331)) 70A.15.3000, promulgated in chapter 173-480 WAC, and with the rules and regulations of this chapter.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-002 Authority. (1) Rules and regulations set forth herein are adopted and enforced by the department pursuant to the provisions of chapter ((70.98)) 70A.388 RCW which:

(a) Designate the department as the state's radiation control agency having sole responsibility for the administration of the regulatory, licensing, and radiation control provisions of chapter ((70.98)) 70A.388 RCW;

(b) Vest in the department the authority to formulate, adopt, promulgate, and repeal codes, rules, and regulations related to the control of sources of ionizing radiation;

(c) Authorize the department to implement an independent statewide program to monitor radioactive air emissions from sources within the state;

(d) Authorize the department to conduct inspections of facilities, both private and public, to determine whether or not there is compliance with or violation of the provisions of chapter ((70.98)) 70A.388 RCW and rules and regulations issued thereunder; and

(e) Authorize the department to require registration of sources of ionizing radiation.

(2) In addition, RCW ((70.94.422)) 70A.15.3130 (Washington Clean Air Act) grants to the department the enforcement powers contained in that chapter.

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

WAC 246-247-010 Applicability. (1) The standards and requirements of this chapter apply statewide at the following types of facilities that emit radionuclides to the air:

(a) Facilities licensed by the department or by the United States Nuclear Regulatory Commission (NRC);

(b) United States Department of Energy (DOE) facilities;

(c) Non-DOE federal facilities;

(d) Uranium fuel cycle facilities;

(e) Uranium mills that are processing material; and

(f) Any other facility that the department determines emits or has the potential to emit radionuclides to the ambient air.

(2) The standards and requirements of this chapter apply to point sources, nonpoint sources, and fugitive emissions.

(3) The standards and requirements of this chapter apply to stationary and mobile emission units, whether temporary or permanent.

(4) The control technology standards and requirements of this chapter apply to the abatement technology and indication devices of facilities and emission units subject to this chapter. Control technology requirements apply from entry of radionuclides into the ventilated vapor space to the point of release to the environment.

(5) In accordance with RCW ((70.94.161)) 70A.15.2260 (10), air operating permits issued under chapter 173-401 WAC shall incorporate all applicable requirements of this chapter. Therefore, all facilities listed in subsection (1) of this section that are also subject to the operating permit regulations in chapter 173-401 WAC shall be considered in compliance with the requirements of this chapter if they comply with all the applicable requirements of the air operating permit issued under chapter 173-401 WAC. These applicable requirements shall be contained in the radioactive air emissions license which shall be incorporated as part of the air operating permit. In accordance with RCW ((70.94.422)) 70A.15.3130(1), the department shall enforce all the requirements contained in the radioactive air emissions license.

(6) Should any of the federal regulations that have been adopted by reference in this chapter be rescinded, the affected

facilities shall nonetheless comply with all other applicable requirements of this chapter.

(7) An applicant may view any document referenced in this chapter by contacting the department's office of radiation protection, radioactive air emissions section at 509-946-0363. Mail reports, applications, and other written correspondence to the Radioactive Air Emissions Section at 309 Bradley Boulevard, Suite 201, Richland, Washington, 99352. An applicant may send reports, applications, and other written correspondence to AIRRichland@doh.wa.gov.

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

WAC 246-247-020 Exemptions. (1) The following types of facilities or sources of radiation are exempt from the requirements of this chapter because they release no airborne radioactivity, or they prima facie comply with the standards in WAC 246-247-040, or they are already adequately regulated under other requirements:

- (a) Users of only sealed sources;
- (b) Sealed sources;
- (c) Accelerators less than 200 MeV;
- (d) Nuclear-powered vessels underway or moored dock-side unless under a maintenance condition with a potential-to-emit;

(e) Uranium mill tailings piles disposed of under 40 C.F.R. Part 192 (effective July 1, ~~((2017))~~ 2021).

(2) Exemption determinations.

(a) Any exemptions shall be consistent with 40 C.F.R. 61. No exemptions from the standards in WAC 246-247-040 will be granted.

(b) A nonfederal facility may request exemption from some of the requirements of WAC 246-247-060 and 246-247-075 if the potential-to-emit, for the emission unit(s) under consideration, results in compliance at level I of the COMPLY computer code or level I of the NCRP's Commentary No. 3, or equivalent as approved by the department.

(c) A federal facility may request exemption from some of the requirements of WAC 246-247-060 and 246-247-075 if the potential-to-emit, for the emission unit(s) under consideration, results in a TEDE to the MEI from all pathways less than 0.1 mrem/yr.

(d) The facility shall submit all the data necessary to make the exemption determinations of (b) and (c) of this subsection. The department shall determine if any exemptions apply.

(e) Commercial nuclear power plants may request exemption from some of the requirements of this chapter in order to minimize dual regulation with the NRC.

(3) The department may require a facility with exempt emission units to submit a radioactive air emissions report to confirm compliance with applicable standards. The department reserves the right to conduct inspections and audits of the facility to confirm the status of its exempt emission units.

(4) Naturally occurring airborne radionuclides are exempt from the requirements of this chapter unless the concentrations or rates of emissions have been enhanced by industrial processes.

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

WAC 246-247-030 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section and WAC 246-220-010, apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Abatement technology" means any mechanism, process or method that has the potential to reduce public exposure to radioactive air emissions. Abatement control features include automatic mechanisms and administrative controls used in the operation and control of abatement technology from entry of radionuclides into the ventilated vapor space to release to the environment.

(2) "Administrative control" means any policy or procedure that limits the emission of radionuclides.

(3) "ALARA" means as low as reasonably achievable making every reasonable effort to maintain exposures to radiation as far below the dose standards in this chapter as is practical, consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other socioeconomic considerations, and in relation to the utilization of nuclear energy, ionizing radiation, and radioactive materials in the public interest. See WAC 246-220-007.

(4) "As low as reasonably achievable control technology" (ALARACT) means the use of radionuclide emission control technology that achieves emission levels that are consistent with the philosophy of ALARA. ALARACT compliance is demonstrated by evaluating the existing control system and proposed nonsignificant modifications in relation to applicable technology standards and other control technologies operated successfully in similar applications. In no event shall application of ALARACT result in emissions of radionuclides that could cause exceedance of the applicable standards of WAC 246-247-040. See the definition of ALARA in this section. Note that ALARACT is equivalent to, but replaces, RACT in the ~~((May 7, 1986))~~ June 23, 2007, version of chapter 173-480 WAC.

(5) "Annual possession quantity" means the sum of the quantity of a radionuclide on hand at the beginning of the calendar year and the quantity of that radionuclide received or produced during the calendar year.

(6) "Best available radionuclide control technology" (BARCT) means technology that will result in a radionuclide emission limitation based on the maximum degree of reduction for radionuclides from any proposed newly constructed or significantly modified emission units that the licensing authority determines is achievable on a case-by-case basis. A BARCT compliance demonstration must consider energy, environmental, and economic impacts, and other costs through examination of production processes, and available methods, systems, and techniques for the control of radionuclide emissions. A BARCT compliance demonstration is the conclusion of an evaluative process that results in the selection of the most effective control technology from all known feasible alternatives. In no event shall application of BARCT result in emissions of radionuclides that could exceed the applicable standards of WAC 246-247-040. Control technol-

ogy that meets BARCT requirements also meets ALARACT requirements. See WAC 173-480-030 and 246-247-120.

(7) "Committed effective dose equivalent" (CEDE) means the sum of the products of absorbed dose from internally deposited radionuclides and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man over a fifty-year period.

(8) "Construction" means fabrication, erection, or installation of a new building, structure, plant, process, or operation within a facility that has the potential to emit airborne radionuclides. Construction includes activities of a permanent nature aimed at completion of the emission unit, such as pouring concrete, putting in a foundation, or installing utilities directly related to the emission unit. It does not include preliminary activities such as tests to determine site suitability, equipment procurement and storage, site clearing and grading, and the construction of ancillary buildings.

(9) "Decommissioning" means actions taken to reduce or eliminate the potential public health and safety impacts of a building, structure, or plant that has permanently ceased operations, including, but not limited to, actions such as decontamination, demolition, and disposition.

(10) "Emission unit" means any single location that emits or has the potential to emit airborne radioactive material. This may be a point source, nonpoint source, or source of fugitive emissions.

(11) "Facility" means all buildings, structures, plants, processes, and operations on one contiguous site under control of the same owner or operator.

(12) "Fugitive emissions" are radioactive air emissions which do not and could not reasonably pass through a stack, vent, or other functionally equivalent structure, and which are not feasible to directly measure and quantify.

(13) "Indication device" means any method or apparatus used to monitor, or to enable monitoring, the operation of abatement controls or the potential or actual radioactive air emissions.

(14) "License" means a radioactive air emissions license issued by the department with requirements and limitations listed therein. Compliance with the license requirements are determined and enforced by the department. The license will be incorporated as an applicable requirement in the air operating permit issued by the department of ecology or a local air pollution control authority when the department of ecology or a local air pollution control authority issues an air operating permit.

(15) "Maximally exposed individual" (MEI) means any member of the public (real or hypothetical) who abides or resides in an unrestricted area, and may receive the highest TEDE from the emission unit(s) under consideration, taking into account all exposure pathways affected by the radioactive air emissions.

(16) "Modification" means any physical change in, or change in the method of operation of, an emission unit that could increase the amount of radioactive materials emitted or may result in the emission of any radionuclide not previously emitted. This definition includes the cleanup of land contaminated with radioactive material, the decommissioning of buildings, structures, or plants where radioactive contamination

exists, and changes that will cause an increase in the emission unit's operating design capacity. This definition excludes routine maintenance, routine repair, replacement-in-kind, any increases in the production rate or hours of operation, provided the emission unit does not exceed the release quantities specified in the license application or the operating design capacity approved by the department, addition of abatement technology as long as it is not less environmentally beneficial than existing, approved controls, and changes that result in an increase in the quantity of emissions of an existing radionuclide that will be offset by an equal or greater decrease in the quantity of emissions of another radionuclide that is deemed at least as hazardous with regard to its TEDE to the MEI.

(17) "Monitoring" means the measurement of radioactive material released to the ambient air by means of an in-line radiation detector, or by the withdrawal of representative samples from the effluent stream. Ambient air measurements may be acceptable for nonpoint sources and fugitive emissions.

(18) "Nonpoint source" is a location at which radioactive air emissions originate from an area, such as contaminated ground above a near-surface waste disposal unit, whose extent may or may not be well-defined.

(19) "Notice of construction" (NOC) is an application submitted to the department by an applicant that contains information required by WAC 246-247-060 for proposed construction or modification of a registered emission unit(s), or for modification of an existing, unregistered emission unit(s).

(20) "Point source" is a discrete, well-defined location from which radioactive air emissions originate, such as a stack, vent, or other functionally equivalent structure.

(21) "Potential-to-emit" means the rate of release of radionuclides from an emission unit based on the actual or potential discharge of the effluent stream that would result if all abatement control equipment did not exist, but operations are otherwise normal. Determine the potential-to-emit by one of the following methods:

(a) Multiply the annual possession quantity of each radionuclide by the release fraction for that radionuclide, depending on its physical state. Use the following release fractions:

- (i) 1 for gases;
- (ii) 10^{-3} for liquids or particulate solids; and
- (iii) 10^{-6} for solids.

Determine the physical state for each radionuclide by considering its chemical form and the highest temperature to which it is subjected. Use a release fraction of one if the radionuclide is subjected to temperatures at or above its boiling point; use a release fraction of 10^{-3} if the radionuclide is subjected to temperatures at or above its melting point, but below its boiling point. If the chemical form is not known, use a release fraction of one for any radionuclide that is heated to a temperature of one hundred degrees Celsius or more, boils at a temperature of one hundred degrees Celsius or less, or is intentionally dispersed into the environment. Other release fractions may be used only with the department's approval; or

(b) Perform a back-calculation using measured emission rates and *in situ* measurements of the control equipment efficiencies, as approved by the department; or

(c) Measure the quantities of radionuclides captured in each control device, coupled with *in situ* measurements of the control equipment efficiencies, as approved by the department; or

(d) Sample the effluent upstream from all control devices, as approved by the department; or

(e) Use an alternative method approved by the department.

(22) "Replacement-in-kind" means the substitution of existing systems, equipment, components, or devices of an emission unit's control technology with systems, equipment, components, or devices with equivalent, or better, performance specifications that will perform the same function(s).

(23) "Routine" means:

(a) Maintenance, repair, or replacement-in-kind performed on systems, equipment, components, or devices of an emission unit's abatement technology as a planned part of an established inspection, maintenance, or quality assurance program that does not increase the emission unit's operating design capacity; or

(b) Normal, day-to-day operations of a facility.

(24) "Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix, or radioactive material in airtight containers, designed to prevent release and dispersal of the radioactive material under the most severe conditions encountered in normal use and handling.

(25) "Significant" means the potential-to-emit airborne radioactivity at a rate that could increase the TEDE to the MEI by at least 1.0 mrem/yr as a result of a proposed modification.

(26) "Total effective dose equivalent" (TEDE) means the sum of the dose equivalent due to external exposures and the CEDE due to internal exposures.

(27) "Uranium fuel cycle" means the operations of milling uranium ore, chemical conversion of uranium, isotopic enrichment of uranium, fabrication of uranium fuel, generation of electricity in a nuclear power plant that uses uranium fuel, and reprocessing of spent uranium fuel, to the extent that these operations solely support the production of electrical power for public use. Excluded are mining operations, waste disposal sites, transportation of any radioactive material, and the reuse of recovered nonuranium special nuclear and by-product materials from the cycle.

AMENDATORY SECTION (Amending WSR 19-23-039, filed 11/12/19, effective 12/13/19)

WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions. (1) In addition to other requirements of this chapter, the following federal standards, as in effect on July 1, (~~2019~~) 2021, are adopted by reference except as provided in subsection (2) of this section.

(a) For federal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 C.F.R. Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 C.F.R. Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 C.F.R. Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 C.F.R. Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.

(v) 40 C.F.R. Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 C.F.R. Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 C.F.R. Part 61 include the department of health except in any section of 40 C.F.R. Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

AMENDATORY SECTION (Amending WSR 19-04-042, filed 1/29/19, effective 3/1/19)

WAC 246-247-075 Monitoring, testing, and quality assurance. (1) The department may, upon request by a nonfederal licensee, authorize provisions specific to that nonfederal licensee, other than those already set forth in WAC 246-247-075 for nonfederal emission unit monitoring, testing, or quality assurance, so long as the department finds reasonable assurance of compliance with the performance objectives of this chapter.

(2) Equipment and procedures used for the continuous monitoring of radioactive air emissions shall conform, as applicable, to the guidance contained in ANSI N13.1, ANSI N42.18, ANSI N323, ANSI N317, reference methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17 of 40 C.F.R. Part 60 (effective July 1, 2021), Appendix A, 40 C.F.R. Part 52 (effective July 1, 2021), Appendix E, and any other methods approved by the department.

(3) The operator of an emission unit with a potential-to-emit of less than 0.1 mrem/yr TEDE to the MEI may estimate those radionuclide emissions, in lieu of monitoring, in accordance with 40 C.F.R. Part 61, Appendix D (effective July 1, 2021), or other procedure approved by the department. The department may require periodic confirmatory measurements (e.g., grab samples) during routine operations to verify the low emissions. Methods to implement periodic confirmatory monitoring shall be approved by the department.

(4) The department may allow a nonfederal facility to use alternative monitoring procedures or methods if continuous monitoring is not a feasible or reasonable requirement.

(5) The following types of facilities shall determine radionuclide emissions in accordance with either a methodology referenced in subsections (1) through (4) of this section or the respective document referenced below:

(a) Nuclear power reactors licensed by the NRC: Offsite Dose Calculation Manual;

(b) Fuel fabrication plants licensed by the NRC: NRC's Regulatory Guide 4.16, dated December 1985;

(c) Uranium mills that are processing material: NRC's Regulatory Guide 4.14, dated April 1980.

(6) Licensed facilities shall conduct and document a quality assurance program. Except for those types of facilities specified in subsection (5) of this section, the quality assurance program shall be compatible with applicable national standards such as ANSI/ASME NQA-1-1988, ANSI/ASME NQA-2-1986, QA/R-2, and QA/R-5.

(7) Those types of facilities specified in subsection (5) of this section shall conduct and document a quality assurance program compatible with either the applicable national standards referenced in subsection (6) of this section or the NRC's Regulatory Guide 4.15, dated February 1979.

(8) Facilities shall monitor nonpoint and fugitive emissions of radioactive material.

(9) The department may conduct an environmental surveillance program to ensure that radiation doses to the public from emission units are in compliance with applicable standards. The department may require the operator of any emission unit to conduct stack sampling, ambient air monitoring, or other testing as necessary to demonstrate compliance with the standards in WAC 246-247-040.

(10) The department may require the owner or operator of an emission unit to make provision, at existing emission unit sampling stations, for the department to take split or collocated samples of the emissions.

(11) The planning for any proposed new construction or significant modification of the emission unit must address accidental releases with a probability of occurrence during the expected life of the emission unit of greater than one percent.

(12) All facilities must be able to demonstrate that appropriate supervisors and workers are adequately trained in the use and maintenance of emission control and monitoring systems, and in the performance of associated test and emergency response procedures.

(13) All facilities must be able to demonstrate the reliability and accuracy of the radioactive air emissions monitoring data.

(14) A facility owner or operator, or any other person may not render inaccurate any monitoring device or method required under chapter ~~((70.98))~~ 70A.388 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

WAC 246-247-080 Inspections, reporting, and recordkeeping. (1) The department reserves the right to inspect and audit all construction activities, equipment, operations, documents, data, and other records related to compliance with the requirements of this chapter. The department may require a demonstration of ALARACT at any time.

(2) All reporting and recordkeeping requirements of 40 C.F.R. 61(~~(-subparts H and I,))~~ (effective July 1, 2021) are adopted by reference, as applicable as specified by the referenced subparts. The department may, upon request by a nonfederal licensee, authorize provisions specific to that nonfederal licensee, other than those already set forth in WAC 246-247-080 for nonfederal emission unit inspections, reporting, or recordkeeping, so long as the department finds reasonable assurance of compliance with the performance objectives of this chapter.

(3) The facility shall annually submit to the department the information requirements adopted in subsection (2) of this section, as applicable, along with the following additional information, as applicable:

(a) The results of emission measurements for those emission units subject only to periodic confirmatory measurements;

(b) Wind rose or joint frequency table;

(c) Annual average ambient temperature;

(d) Annual average emission unit gas temperature, if available;

(e) Annual total rainfall;

(f) Annual average emission unit flow rate and total volume of air released during the calendar year.

If this additional information is available in another annual report, the facility may instead provide a copy of that report along with the information requirements in this subsection. Annual reports are due by June 30th for the previous calendar year's operations.

(4) Any report or application that contains proprietary or procurement-sensitive information shall be submitted to the department with those portions so designated. The department shall hold this information confidential, unless required to release the information pursuant to laws, regulations, or court order.

(5) The facility shall notify the department within twenty-four hours of any shutdown, or of any transient abnormal condition lasting more than four hours or other change in facility operations which, if allowed to persist, would result in emissions of radioactive material in excess of applicable standards or license requirements. If requested by the department, the facility shall submit a written report within ten days including known causes, corrective actions taken, and any preventive measures taken or planned to minimize or eliminate the chance of recurrence.

(6) The facility shall file a report of closure with the department whenever operations producing emissions of radioactive material are permanently ceased at any emission unit (except temporary emission units) regulated under this chapter. The closure report shall indicate whether, despite cessation of operations, there is still a potential for radioactive air emissions and a need for an active or passive ventila-

tion system with either an emission control or monitoring devices. If decommissioning is planned and will constitute a modification, a NOC is required, as applicable, in accordance with WAC 246-247-060.

(7) The facility shall maintain a log for each emission unit that has received categorical approval under WAC 246-247-060(8). The log shall contain records of important operations parameters including the date, location, and duration of the release, measured or calculated radionuclide concentrations, the type of emissions (liquid, gaseous, solid), and the type of emission control and monitoring equipment.

(8) The facility shall maintain readily retrievable storage areas for all records and documents related to, and which may help establish compliance with, the requirements of this chapter. The facility shall keep these records available for department inspection for at least five years.

(9) The facility shall ensure all emission units are fully accessible to department inspectors. In the event the hazards associated with accessibility to a unit require training, restrictions, or other requirements for entry, the facility owner or operator shall inform the department, prior to arrival, of those restrictions or requirements. The owner or operator shall be responsible for providing the necessary training, escorts, and support services to allow the department to inspect the facility.

(10) The facility shall make available, in a timely manner, all documents requested by the department for review. The facility shall allow the department to review documents in advance of an inspection. The facility shall allow access to classified documents by representatives of the department with the appropriate security clearance and a demonstrable need-to-know.

(11) The facility shall respond in writing in a timely manner, or within a time limit set by the department, to inspection results which require the facility to implement corrective actions or any other actions so directed by the department.

(12) A facility owner or operator, or any other person may not make any false material statement, representation, or certification in any form, notice, or report required under chapter ~~((70-98))~~ 70A.388 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

WAC 246-247-085 Compliance determination for existing emission units and facilities. (1) All procedures for determining compliance with the dose equivalent standards of 40 C.F.R. 61(~~(-subparts H and I,))~~ (effective July 1, 2021) are adopted by reference, as applicable as specified by the referenced subparts. The department may, upon request of a nonfederal licensee, authorize provisions specific to that nonfederal licensee, other than those already set forth in WAC 246-247-085 for determining compliance with appropriate dose equivalent standards by nonfederal emission units, so long as the department finds reasonable assurance of compliance with the performance objectives of this chapter.

(2) Facilities subject to 40 C.F.R. 61 shall use computer codes or procedures approved by the EPA to determine the

TEDE to the MEI; all other facilities shall use computer codes or procedures approved by the department.

(3) The determination of compliance with the dose equivalent standard of WAC 246-247-040 shall include all radioactive air emissions resulting from routine and nonroutine operations for the past calendar year.

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

WAC 246-247-100 Enforcement actions. (1) In accordance with RCW (~~((70-94.422))~~) 70A.15.3130, the department may take any of the following actions to enforce compliance with the provisions of this chapter:

(a) Notice of violation and compliance order (RCW (~~((70-94.332))~~) 70A.15.3010).

(b) Restraining order or temporary or permanent injunction (RCW (~~((70-94.425))~~) 70A.15.3140; also RCW (~~((70-98-440))~~) 70A.388.160).

(c) Penalty: Either fine or imprisonment, or both, for each separate violation (RCW (~~((70-94.430))~~) 70A.15.3150).

(d) Civil penalty: Up to ten thousand dollars for each day of continued noncompliance (RCW (~~((70-94.434))~~) 70A.15.3160 (1) through (7)).

(e) Assurance of discontinuance (RCW (~~((70-94.435))~~) 70A.15.3170).

(2) The department, in accordance with RCW (~~((70-98-050))~~) 70A.388.040 (4)(1), may issue subpoenas in order to compel either the attendance of witnesses or production of records, or both, in connection with any adjudicative or other administrative proceeding.

(3) The department, in accordance with RCW (~~((70-98-460))~~) 70A.388.180, may impound sources of ionizing radiation.

(4) The secretary of the department, in accordance with RCW 43.70.190, is authorized to bring an action to prohibit a violation or a threatened violation of any department rules or regulation, or to bring any legal proceeding authorized by law to a county superior court.

(5) Any party, against which an enforcement action is brought by the department, has the right to submit an application for the adjudicative process in accordance with chapter 246-10 WAC and chapter 34.05 RCW.

WSR 21-19-119

PROPOSED RULES

BIG BEND

COMMUNITY COLLEGE

[Filed September 20, 2021, 4:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-11-053.

Title of Rule and Other Identifying Information: WAC 132R-190-035 Availability of directory information.

Hearing Location(s): On October 26, 2021, at 2:00 p.m., at ATEC Building, Hardin Room 7662, Chanutte Street N.E., Moses Lake, WA.

Date of Intended Adoption: October 29, 2021.

Submit Written Comments to: Melinda Dourte, 7662 Chanute Street N.E., Moses Lake, WA 98837, email melindad@bigbend.edu, fax 509-766-6355, by October 19, 2021.

Assistance for Persons with Disabilities: Contact Rebecca Leavell, phone 509-793-2027, fax 509-766-6355, TTY 509-793-2325, email Rebeccal@bigbend.edu, by October 19, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates to process.

Reasons Supporting Proposal: Updating process.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: Not applicable.

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

Name of Agency Personnel Responsible for Drafting: Melinda Dourte, 7662 Chanute Street N.E., Moses Lake, WA, 509-793-2001; Implementation and Enforcement: Starr Bernhardt [Bernhardt], 7662 Chanute Street N.E., Moses Lake, WA, 509-793-2065.

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 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.

September 20, 2021

Melinda Dourte

Executive Assistant

to the President

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-190-035 Availability of directory information. The following personally identifiable information contained in a student's education record shall be deemed "directory information" and unless restricted by the student may be disclosed without a student's prior written consent: Student's name, (~~address, electronic mail address, telephone listing, date of birth, enrollment status (full-time or part-time)~~) major field of study, participation in officially recognized (~~(activities and)~~) sports, (~~(weight and height of members of athletic teams)~~) enrollment status, dates of attendance, honors (~~(ROH)~~), degrees (~~(and awards received)~~) or certificates earned, and (~~(the most recent previous educational agency or institution attended by the student)~~) term degree or certificate awarded. The college will give public notice to students annually of the matters contained in the above-designated "directory information." Each student will have ten days from the day of registration to decide if he or she wishes to have directory information released without written consent.

WSR 21-19-123

PROPOSED RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed September 21, 2021, 8:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-13-138.

Title of Rule and Other Identifying Information: 2022 Industrial insurance premium rates. Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance, and chapter 296-17B WAC, Retrospective rating for workers' compensation insurance.

Hearing Location(s): On October 26, 2021, at 10 a.m., Zoom hearing. Join Zoom meeting at <https://zoom.us/j/88980694211>, Meeting ID 889 8069 4211, Passcode Rates1026!; join by phone +1-253-215-8782 US (Tacoma), Meeting ID 889 8069 4211, Passcode 7743625339.

Date of Intended Adoption: November 30, 2021.

Submit Written Comments to: Jo Anne Attwood, P.O. Box 44148, Olympia, WA 98504-4148, email JoAnne.Attwood@Lni.wa.gov, fax 360-902-4988, by October 29, 2021, by 5 p.m.

Assistance for Persons with Disabilities: Contact Jo Anne Attwood, phone 360-902-4777, fax 360-902-4988, TTY 360-902-5797, email JoAnne.Attwood@Lni.wa.gov, by October 15, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amends the tables of classification base premium rates, experience rating plan parameters, and experience modification factor calculation limitations for the workers' compensation insurance program for calendar year 2022. Classification base rates were updated to align with expected losses. The department proposes a 3.1 percent overall average premium rate change.

The proposed rule also amends the experience rating and retrospective rating rules (WAC 296-17-870 Evaluation of actual losses and 296-17B-530 Determining case incurred losses) to explain that all accepted claim losses resulting from a public health emergency will not be included in the determination of an employer's experience modification factor or in an employer's retrospective rating adjustment calculation. An employer will not lose their claim free discount as a result of an allowed public health emergency injury claim.

In addition, the proposal repeals WAC 296-17-89509 Classification 2103 Fulfillment centers rate and add that classification rate into the base rate rule WAC 296-17-895 Base rates.

Lastly, this proposal is also notice that the director intends to transfer the amount of the accident and medical-aid funds combined that exceed 10 percent of funded liabilities as required by RCW 51.44.023.

Amending WAC 296-17-855 Experience modification, 296-17-870 Evaluation of actual losses, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund,

September 21, 2021
 Joel Sacks
 Director

stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing rates, 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class, 296-17-920 Assessment for supplemental pension fund, 296-17B-530 Determining case incurred losses and 296-17B-540 Determining loss incurred for each claim; and repealing WAC 296-17-89509 Classification 2103.

Reasons Supporting Proposal: Washington law provides that rates should be adjusted annually to reflect the hazards of each industry and in accordance with recognized workers' compensation insurance principles.

In an attempt to minimize the economic burden on Washington employers who continue to deal with uncertainties associated with the pandemic and the global economy, the department is proposing an overall average rate increase of 3.1 percent to ensure adequate premiums to cover expected losses for 2022 claims. This increase is far below the indicated break-even rate. This average rate increase is required to address a projected shortfall in the supplemental pension fund (a "pay as you go" fund) that pays for cost of living adjustments for all pensions. The department is able to hold rates down for this upcoming year as a result of an ongoing effort to gradually increase the system's contingency reserve (surplus).

Statutory Authority for Adoption: RCW 51.16.035 Base rates, 51.32.073 Supplemental pension, 51.18.010 Retrospective rating, and 51.04.020(1) General authority.

Statute Being Implemented: RCW 51.16.035, 51.32.073, and 51.18.010.

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

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

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

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, 360-902-4777; Implementation: Mike Ratko, Tumwater, Washington, 360-902-6369; and Enforcement: Victoria Kennedy, Tumwater, Washington, 360-902-4997.

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. A cost-benefit analysis is not required per RCW 34.05.328 (5)(b)(vi), as the proposed rules are adjusting rates pursuant to legislative standards.

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 rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\text{EXPERIENCE MODIFICATION FACTOR} = \frac{\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss}}{\text{Expected Loss}}$$

Where

$$\text{Credible Actual Primary Loss} = \text{Actual Primary Loss} \times \text{Primary Credibility}$$

$$+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility})$$

$$\text{Credible Actual Excess Loss} = \text{Actual Excess Loss} \times \text{Excess Credibility}$$

$$+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility})$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of ~~((\\$20,743))~~ \\$21,280 the actual primary loss shall be determined from the formula:

$$\text{Primary Loss} = \frac{((51,857)) \underline{53,210}}{(\text{Total Loss} + ((31,114)) \underline{31,930})} \times \text{Total Loss}$$

For each claim, less than ~~((\\$20,743))~~ \\$21,280 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of ~~((\\$3,340))~~ \\$3,450 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
300	Medical Only	0	0	0
4,000	Medical Only	((660)) <u>550</u>	((660)) <u>550</u>	0
4,000	Timeloss	4,000	4,000	0
30,000	Medical Only	((26,660)) <u>26,550</u>	((23,930)) <u>24,157</u>	((2,730)) <u>2,393</u>
30,000	Timeloss	30,000	((25,456)) <u>25,776</u>	((4,544)) <u>4,224</u>
130,000	PPD	130,000	((41,842)) <u>42,718</u>	((88,158)) <u>87,282</u>
500,000	TPD Pension	((331,662)) <u>341,650</u>	((47,409)) <u>48,662</u>	((284,253)) <u>292,988</u>
2,000,000	TPD Pension	((331,662)) <u>341,650</u>	((47,409)) <u>48,662</u>	((284,253)) <u>292,988</u>

Note: The deduction, ((~~\$3,340~~)) \$3,450, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-870 Evaluation of actual losses. (1) Except as provided in subsections (3) through (13) of this section, the actual losses for claims with a date of injury during the experience period will be evaluated on the "valuation date." Losses on claims occurring outside the experience period will not be included. The actual losses for closed claims must include:

- (a) Accident and medical aid payments; and
- (b) Pension reserve amounts paid by the accident fund; and

(c) Accident and medical aid benefits or payments that are scheduled to be paid; and

(d) Reserve for other accident and medical aid benefits accessible by the worker while the claim is closed.

The actual losses for claims that are open may, in addition, also include a reserve for future payments. Actual losses do not include wage subsidies or reimbursements paid by the stay-at-work program.

(2) **Valuation date.** The valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(3) **Retroactive adjustments - Revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (5)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(4) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(5) **Third-party recovery - Effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both pri-

mary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) Definitions:

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(6) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(7) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," solely for the purpose of experience rating, will be the date the claim for benefits was received by the department. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(8) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(9) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(10) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(11) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-150.

(12) **Life and rescue phase of emergencies:** This provision applies to "emergency workers" of nongovernmental employers assigned to report in classification 7205 (WAC 296-17A-7205) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

(13) ~~((2019 Coronavirus (COVID-19)))~~ **Public health emergency claims:** All accepted ~~((COVID-19))~~ claim losses resulting from a public health emergency will not be included in the determination of an employer's experience modification factor. An employer will not lose their claim free discount as a result of an allowed ~~((COVID-19))~~ claim caused by a public health emergency during a declared public health emergency.

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-875 Table I.

Primary Losses for Selected Claim Values Effective January 1, ~~((2021))~~ 2022

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
((20,743))	20,743
<u>28,963</u>	<u>25,000</u>
42,706	30,000
64,602	35,000
100,000	39,551
104,964	40,000
200,000	44,876
331,662 ^{**}	47,409))
<u>21,280</u>	<u>21,280</u>
<u>28,297</u>	<u>25,000</u>
<u>41,271</u>	<u>30,000</u>
<u>61,370</u>	<u>35,000</u>
<u>96,684</u>	<u>40,000</u>

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS	Expected Losses		Primary Credibility	Excess Credibility
<u>175,012</u>	<u>45,000</u>	19,808	- 20,470	41%	7%
<u>265,617</u>	<u>47,500</u>	20,471	- 21,156	42%	7%
<u>341,650</u> **	<u>48,662</u>	21,157	- 21,865	43%	7%

** Maximum claim value

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-880 Table II.

PRIMARY AND EXCESS CREDIBILITY VALUES

Effective January 1, (~~2021~~) 2022

Maximum Claim Value = ((~~\$331,662~~)) \$341,650

Average Death Value = ((~~\$331,662~~)) \$341,650

Expected Losses	Primary Credibility	Excess Credibility					
(0 - 5,943	12%	7%	30,082	-	31,397	53%	7%
5,944 - 6,345	13%	7%	31,398	-	31,532	54%	7%
6,346 - 6,751	14%	7%	31,533	-	32,915	54%	8%
6,752 - 7,160	15%	7%	32,916	-	34,769	55%	8%
7,161 - 7,576	16%	7%	34,770	-	52,622	56%	8%
7,577 - 7,996	17%	7%	52,623	-	57,998	57%	8%
7,997 - 8,422	18%	7%	57,999	-	82,843	57%	9%
8,423 - 8,854	19%	7%	82,844	-	85,326	57%	10%
8,855 - 9,289	20%	7%	85,327	-	107,840	58%	10%
9,290 - 9,733	21%	7%	107,841	-	118,030	58%	11%
9,734 - 10,182	22%	7%	118,031	-	132,994	59%	11%
10,183 - 10,639	23%	7%	132,995	-	150,737	59%	12%
10,640 - 11,100	24%	7%	150,738	-	158,298	60%	12%
11,101 - 11,571	25%	7%	158,299	-	183,443	60%	13%
11,572 - 12,050	26%	7%	183,444	-	183,764	61%	13%
12,051 - 12,533	27%	7%	183,765	-	209,387	61%	14%
12,534 - 13,028	28%	7%	209,388	-	216,147	61%	15%
13,029 - 13,529	29%	7%	216,148	-	235,170	62%	15%
13,530 - 14,039	30%	7%	235,171	-	248,853	62%	16%
14,040 - 14,563	31%	7%	248,854	-	261,115	63%	16%
14,564 - 15,091	32%	7%	261,116	-	281,559	63%	17%
15,092 - 15,634	33%	7%	281,560	-	287,225	64%	17%
15,635 - 16,189	34%	7%	287,226	-	313,498	64%	18%
16,190 - 16,755	35%	7%	313,499	-	314,262	64%	19%
16,756 - 17,333	36%	7%	314,263	-	339,941	65%	19%
17,334 - 17,926	37%	7%	339,942	-	346,968	65%	20%
17,927 - 18,539	38%	7%	346,969	-	366,546	66%	20%
18,540 - 19,163	39%	7%	366,547	-	379,675	66%	21%
19,164 - 19,807	40%	7%	379,676	-	393,323	67%	21%
			393,324	-	412,381	67%	22%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
412,382	-	420,273	68%	22%	1,060,028	-	1,066,487	87%	45%
420,274	-	445,082	68%	23%	1,066,488	-	1,091,415	88%	45%
445,083	-	447,395	69%	23%	1,091,416	-	1,099,192	88%	46%
447,396	-	474,690	69%	24%	1,099,193	-	1,123,020	89%	46%
474,691	-	477,788	69%	25%	1,123,021	-	1,131,896	89%	47%
477,789	-	502,162	70%	25%	1,131,897	-	1,154,846	90%	47%
502,163	-	510,496	70%	26%	1,154,847	-	1,164,603	90%	48%
510,497	-	529,812	71%	26%	1,164,604	-	1,186,892	91%	48%
529,813	-	543,201	71%	27%	1,186,893	-	1,197,306	91%	49%
543,202	-	557,642	72%	27%	1,197,307	-	1,219,162	92%	49%
557,643	-	575,906	72%	28%	1,219,163	-	1,230,014	92%	50%
575,907	-	585,653	73%	28%	1,230,015	-	1,251,659	93%	50%
585,654	-	608,612	73%	29%	1,251,660	-	1,262,719	93%	51%
608,613	-	613,846	74%	29%	1,262,720	-	1,284,386	94%	51%
613,847	-	641,317	74%	30%	1,284,387	-	1,295,423	94%	52%
641,318	-	642,227	75%	30%	1,295,424	-	1,317,344	95%	52%
642,228	-	670,793	75%	31%	1,317,345	-	1,328,128	95%	53%
670,794	-	674,022	75%	32%	1,328,129	-	1,350,535	96%	53%
674,023	-	699,548	76%	32%	1,350,536	-	1,360,834	96%	54%
699,549	-	706,728	76%	33%	1,360,835	-	1,383,963	97%	54%
706,729	-	728,491	77%	33%	1,383,964	-	1,393,539	97%	55%
728,492	-	739,433	77%	34%	1,393,540	-	1,417,629	98%	55%
739,434	-	757,631	78%	34%	1,417,630	-	1,426,245	98%	56%
757,632	-	772,138	78%	35%	1,426,246	-	1,451,537	99%	56%
772,139	-	786,962	79%	35%	1,451,538	-	1,458,949	99%	57%
786,963	-	804,844	79%	36%	1,458,950	-	1,485,689	100%	57%
804,845	-	816,490	80%	36%	1,485,690	-	1,520,089	100%	58%
816,491	-	837,547	80%	37%	1,520,090	-	1,554,738	100%	59%
837,548	-	846,218	81%	37%	1,554,739	-	1,589,638	100%	60%
846,219	-	870,254	81%	38%	1,589,639	-	1,624,794	100%	61%
870,255	-	876,145	82%	38%	1,624,795	-	1,660,207	100%	62%
876,146	-	902,961	82%	39%	1,660,208	-	1,695,882	100%	63%
902,962	-	906,275	83%	39%	1,695,883	-	1,731,818	100%	64%
906,276	-	935,666	83%	40%	1,731,819	-	1,768,022	100%	65%
935,667	-	936,607	84%	40%	1,768,023	-	1,804,494	100%	66%
936,608	-	967,148	84%	41%	1,804,495	-	1,841,241	100%	67%
967,149	-	968,369	84%	42%	1,841,242	-	1,878,261	100%	68%
968,370	-	997,894	85%	42%	1,878,262	-	1,915,560	100%	69%
997,895	-	1,001,074	85%	43%	1,915,561	-	1,953,141	100%	70%
1,001,075	-	1,028,856	86%	43%	1,953,142	-	1,991,008	100%	71%
1,028,857	-	1,033,781	86%	44%	1,991,009	-	2,029,163	100%	72%
1,033,782	-	1,060,027	87%	44%	2,029,164	-	2,067,608	100%	73%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility
<u>2,067,609</u>	- <u>2,106,349</u>	100%	74%	<u>19,610</u>	= <u>20,265</u>	41%	7%
<u>2,106,350</u>	- <u>2,145,386</u>	100%	75%	<u>20,266</u>	= <u>20,944</u>	42%	7%
<u>2,145,387</u>	- <u>2,184,727</u>	100%	76%	<u>20,945</u>	= <u>21,646</u>	43%	7%
<u>2,184,728</u>	- <u>2,224,371</u>	100%	77%	<u>21,647</u>	= <u>22,373</u>	44%	7%
<u>2,224,372</u>	- <u>2,264,325</u>	100%	78%	<u>22,374</u>	= <u>23,131</u>	45%	7%
<u>2,264,326</u>	- <u>2,304,591</u>	100%	79%	<u>23,132</u>	= <u>23,923</u>	46%	7%
<u>2,304,592</u>	- <u>2,345,174</u>	100%	80%	<u>23,924</u>	= <u>24,751</u>	47%	7%
<u>2,345,175</u>	- <u>2,386,079</u>	100%	81%	<u>24,752</u>	= <u>25,626</u>	48%	7%
<u>2,386,080</u>	- <u>2,427,302</u>	100%	82%	<u>25,627</u>	= <u>26,554</u>	49%	7%
<u>2,427,303</u>	- <u>2,468,857</u>	100%	83%	<u>26,555</u>	= <u>27,541</u>	50%	7%
<u>2,468,858</u>	- <u>2,510,738</u>	100%	84%	<u>27,542</u>	= <u>28,610</u>	51%	7%
<u>2,510,739</u>	- <u>2,552,960</u>	100%	85%	<u>28,611</u>	= <u>29,780</u>	52%	7%
<u>2,552,961</u>	and higher	100%	86%))	<u>29,781</u>	= <u>31,083</u>	53%	7%
<u>0</u>	= <u>5,884</u>	12%	7%	<u>31,084</u>	= <u>31,217</u>	54%	7%
<u>5,885</u>	= <u>6,282</u>	13%	7%	<u>31,218</u>	= <u>32,586</u>	54%	8%
<u>6,283</u>	= <u>6,683</u>	14%	7%	<u>32,587</u>	= <u>34,421</u>	55%	8%
<u>6,684</u>	= <u>7,088</u>	15%	7%	<u>34,422</u>	= <u>52,096</u>	56%	8%
<u>7,089</u>	= <u>7,500</u>	16%	7%	<u>52,097</u>	= <u>57,418</u>	57%	8%
<u>7,501</u>	= <u>7,916</u>	17%	7%	<u>57,419</u>	= <u>82,015</u>	57%	9%
<u>7,917</u>	= <u>8,338</u>	18%	7%	<u>82,016</u>	= <u>84,473</u>	57%	10%
<u>8,339</u>	= <u>8,765</u>	19%	7%	<u>84,474</u>	= <u>106,762</u>	58%	10%
<u>8,766</u>	= <u>9,196</u>	20%	7%	<u>106,763</u>	= <u>116,850</u>	58%	11%
<u>9,197</u>	= <u>9,636</u>	21%	7%	<u>116,851</u>	= <u>131,664</u>	59%	11%
<u>9,637</u>	= <u>10,080</u>	22%	7%	<u>131,665</u>	= <u>149,230</u>	59%	12%
<u>10,081</u>	= <u>10,533</u>	23%	7%	<u>149,231</u>	= <u>156,715</u>	60%	12%
<u>10,534</u>	= <u>10,989</u>	24%	7%	<u>156,716</u>	= <u>181,609</u>	60%	13%
<u>10,990</u>	= <u>11,455</u>	25%	7%	<u>181,610</u>	= <u>181,926</u>	61%	13%
<u>11,456</u>	= <u>11,929</u>	26%	7%	<u>181,927</u>	= <u>207,293</u>	61%	14%
<u>11,930</u>	= <u>12,408</u>	27%	7%	<u>207,294</u>	= <u>213,986</u>	61%	15%
<u>12,409</u>	= <u>12,898</u>	28%	7%	<u>213,987</u>	= <u>232,818</u>	62%	15%
<u>12,899</u>	= <u>13,394</u>	29%	7%	<u>232,819</u>	= <u>246,364</u>	62%	16%
<u>13,395</u>	= <u>13,899</u>	30%	7%	<u>246,365</u>	= <u>258,504</u>	63%	16%
<u>13,900</u>	= <u>14,417</u>	31%	7%	<u>258,505</u>	= <u>278,743</u>	63%	17%
<u>14,418</u>	= <u>14,940</u>	32%	7%	<u>278,744</u>	= <u>284,353</u>	64%	17%
<u>14,941</u>	= <u>15,478</u>	33%	7%	<u>284,354</u>	= <u>310,363</u>	64%	18%
<u>15,479</u>	= <u>16,027</u>	34%	7%	<u>310,364</u>	= <u>311,119</u>	64%	19%
<u>16,028</u>	= <u>16,587</u>	35%	7%	<u>311,120</u>	= <u>336,542</u>	65%	19%
<u>16,588</u>	= <u>17,160</u>	36%	7%	<u>336,543</u>	= <u>343,498</u>	65%	20%
<u>17,161</u>	= <u>17,747</u>	37%	7%	<u>343,499</u>	= <u>362,881</u>	66%	20%
<u>17,748</u>	= <u>18,354</u>	38%	7%	<u>362,882</u>	= <u>375,878</u>	66%	21%
<u>18,355</u>	= <u>18,971</u>	39%	7%	<u>375,879</u>	= <u>389,390</u>	67%	21%
<u>18,972</u>	= <u>19,609</u>	40%	7%	<u>389,391</u>	= <u>408,257</u>	67%	22%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>408,258</u>	=	<u>416,070</u>	<u>68%</u>	<u>22%</u>	<u>1,049,428</u>	=	<u>1,055,822</u>	<u>87%</u>	<u>45%</u>
<u>416,071</u>	=	<u>440,631</u>	<u>68%</u>	<u>23%</u>	<u>1,055,823</u>	=	<u>1,080,501</u>	<u>88%</u>	<u>45%</u>
<u>440,632</u>	=	<u>442,921</u>	<u>69%</u>	<u>23%</u>	<u>1,080,502</u>	=	<u>1,088,200</u>	<u>88%</u>	<u>46%</u>
<u>442,922</u>	=	<u>469,943</u>	<u>69%</u>	<u>24%</u>	<u>1,088,201</u>	=	<u>1,111,790</u>	<u>89%</u>	<u>46%</u>
<u>469,944</u>	=	<u>473,010</u>	<u>69%</u>	<u>25%</u>	<u>1,111,791</u>	=	<u>1,120,577</u>	<u>89%</u>	<u>47%</u>
<u>473,011</u>	=	<u>497,140</u>	<u>70%</u>	<u>25%</u>	<u>1,120,578</u>	=	<u>1,143,298</u>	<u>90%</u>	<u>47%</u>
<u>497,141</u>	=	<u>505,391</u>	<u>70%</u>	<u>26%</u>	<u>1,143,299</u>	=	<u>1,152,957</u>	<u>90%</u>	<u>48%</u>
<u>505,392</u>	=	<u>524,514</u>	<u>71%</u>	<u>26%</u>	<u>1,152,958</u>	=	<u>1,175,023</u>	<u>91%</u>	<u>48%</u>
<u>524,515</u>	=	<u>537,769</u>	<u>71%</u>	<u>27%</u>	<u>1,175,024</u>	=	<u>1,185,333</u>	<u>91%</u>	<u>49%</u>
<u>537,770</u>	=	<u>552,066</u>	<u>72%</u>	<u>27%</u>	<u>1,185,334</u>	=	<u>1,206,970</u>	<u>92%</u>	<u>49%</u>
<u>552,067</u>	=	<u>570,147</u>	<u>72%</u>	<u>28%</u>	<u>1,206,971</u>	=	<u>1,217,714</u>	<u>92%</u>	<u>50%</u>
<u>570,148</u>	=	<u>579,796</u>	<u>73%</u>	<u>28%</u>	<u>1,217,715</u>	=	<u>1,239,142</u>	<u>93%</u>	<u>50%</u>
<u>579,797</u>	=	<u>602,526</u>	<u>73%</u>	<u>29%</u>	<u>1,239,143</u>	=	<u>1,250,092</u>	<u>93%</u>	<u>51%</u>
<u>602,527</u>	=	<u>607,708</u>	<u>74%</u>	<u>29%</u>	<u>1,250,093</u>	=	<u>1,271,542</u>	<u>94%</u>	<u>51%</u>
<u>607,709</u>	=	<u>634,904</u>	<u>74%</u>	<u>30%</u>	<u>1,271,543</u>	=	<u>1,282,469</u>	<u>94%</u>	<u>52%</u>
<u>634,905</u>	=	<u>635,805</u>	<u>75%</u>	<u>30%</u>	<u>1,282,470</u>	=	<u>1,304,171</u>	<u>95%</u>	<u>52%</u>
<u>635,806</u>	=	<u>664,085</u>	<u>75%</u>	<u>31%</u>	<u>1,304,172</u>	=	<u>1,314,847</u>	<u>95%</u>	<u>53%</u>
<u>664,086</u>	=	<u>667,282</u>	<u>75%</u>	<u>32%</u>	<u>1,314,848</u>	=	<u>1,337,030</u>	<u>96%</u>	<u>53%</u>
<u>667,283</u>	=	<u>692,553</u>	<u>76%</u>	<u>32%</u>	<u>1,337,031</u>	=	<u>1,347,226</u>	<u>96%</u>	<u>54%</u>
<u>692,554</u>	=	<u>699,661</u>	<u>76%</u>	<u>33%</u>	<u>1,347,227</u>	=	<u>1,370,123</u>	<u>97%</u>	<u>54%</u>
<u>699,662</u>	=	<u>721,206</u>	<u>77%</u>	<u>33%</u>	<u>1,370,124</u>	=	<u>1,379,604</u>	<u>97%</u>	<u>55%</u>
<u>721,207</u>	=	<u>732,039</u>	<u>77%</u>	<u>34%</u>	<u>1,379,605</u>	=	<u>1,403,453</u>	<u>98%</u>	<u>55%</u>
<u>732,040</u>	=	<u>750,055</u>	<u>78%</u>	<u>34%</u>	<u>1,403,454</u>	=	<u>1,411,983</u>	<u>98%</u>	<u>56%</u>
<u>750,056</u>	=	<u>764,417</u>	<u>78%</u>	<u>35%</u>	<u>1,411,984</u>	=	<u>1,437,022</u>	<u>99%</u>	<u>56%</u>
<u>764,418</u>	=	<u>779,092</u>	<u>79%</u>	<u>35%</u>	<u>1,437,023</u>	=	<u>1,444,360</u>	<u>99%</u>	<u>57%</u>
<u>779,093</u>	=	<u>796,796</u>	<u>79%</u>	<u>36%</u>	<u>1,444,361</u>	=	<u>1,470,832</u>	<u>100%</u>	<u>57%</u>
<u>796,797</u>	=	<u>808,325</u>	<u>80%</u>	<u>36%</u>	<u>1,470,833</u>	=	<u>1,504,888</u>	<u>100%</u>	<u>58%</u>
<u>808,326</u>	=	<u>829,172</u>	<u>80%</u>	<u>37%</u>	<u>1,504,889</u>	=	<u>1,539,191</u>	<u>100%</u>	<u>59%</u>
<u>829,173</u>	=	<u>837,756</u>	<u>81%</u>	<u>37%</u>	<u>1,539,192</u>	=	<u>1,573,742</u>	<u>100%</u>	<u>60%</u>
<u>837,757</u>	=	<u>861,551</u>	<u>81%</u>	<u>38%</u>	<u>1,573,743</u>	=	<u>1,608,546</u>	<u>100%</u>	<u>61%</u>
<u>861,552</u>	=	<u>867,384</u>	<u>82%</u>	<u>38%</u>	<u>1,608,547</u>	=	<u>1,643,605</u>	<u>100%</u>	<u>62%</u>
<u>867,385</u>	=	<u>893,931</u>	<u>82%</u>	<u>39%</u>	<u>1,643,606</u>	=	<u>1,678,923</u>	<u>100%</u>	<u>63%</u>
<u>893,932</u>	=	<u>897,212</u>	<u>83%</u>	<u>39%</u>	<u>1,678,924</u>	=	<u>1,714,500</u>	<u>100%</u>	<u>64%</u>
<u>897,213</u>	=	<u>926,309</u>	<u>83%</u>	<u>40%</u>	<u>1,714,501</u>	=	<u>1,750,342</u>	<u>100%</u>	<u>65%</u>
<u>926,310</u>	=	<u>927,241</u>	<u>84%</u>	<u>40%</u>	<u>1,750,343</u>	=	<u>1,786,449</u>	<u>100%</u>	<u>66%</u>
<u>927,242</u>	=	<u>957,477</u>	<u>84%</u>	<u>41%</u>	<u>1,786,450</u>	=	<u>1,822,829</u>	<u>100%</u>	<u>67%</u>
<u>957,478</u>	=	<u>958,685</u>	<u>84%</u>	<u>42%</u>	<u>1,822,830</u>	=	<u>1,859,478</u>	<u>100%</u>	<u>68%</u>
<u>958,686</u>	=	<u>987,915</u>	<u>85%</u>	<u>42%</u>	<u>1,859,479</u>	=	<u>1,896,404</u>	<u>100%</u>	<u>69%</u>
<u>987,916</u>	=	<u>991,063</u>	<u>85%</u>	<u>43%</u>	<u>1,896,405</u>	=	<u>1,933,610</u>	<u>100%</u>	<u>70%</u>
<u>991,064</u>	=	<u>1,018,567</u>	<u>86%</u>	<u>43%</u>	<u>1,933,611</u>	=	<u>1,971,098</u>	<u>100%</u>	<u>71%</u>
<u>1,018,568</u>	=	<u>1,023,443</u>	<u>86%</u>	<u>44%</u>	<u>1,971,099</u>	=	<u>2,008,871</u>	<u>100%</u>	<u>72%</u>
<u>1,023,444</u>	=	<u>1,049,427</u>	<u>87%</u>	<u>44%</u>	<u>2,008,872</u>	=	<u>2,046,932</u>	<u>100%</u>	<u>73%</u>

Expected Losses	Primary Credibility	Excess Credibility	((Class	2017	2018	2019	Primary- Ratio
<u>2,046,933</u> = <u>2,085,286</u>	<u>100%</u>	<u>74%</u>	308	0.4652	0.4224	0.3638	0.515
<u>2,085,287</u> = <u>2,123,932</u>	<u>100%</u>	<u>75%</u>	403	1.3286	1.1954	1.0128	0.486
<u>2,123,933</u> = <u>2,162,880</u>	<u>100%</u>	<u>76%</u>	502	0.6913	0.6193	0.5207	0.468
<u>2,162,881</u> = <u>2,202,127</u>	<u>100%</u>	<u>77%</u>	504	1.4947	1.3563	1.1689	0.409
<u>2,202,128</u> = <u>2,241,682</u>	<u>100%</u>	<u>78%</u>	507	2.1186	1.9338	1.6836	0.401
<u>2,241,683</u> = <u>2,281,545</u>	<u>100%</u>	<u>79%</u>	508	0.8573	0.7707	0.6525	0.361
<u>2,281,546</u> = <u>2,321,722</u>	<u>100%</u>	<u>80%</u>	509	0.6272	0.5619	0.4718	0.369
<u>2,321,723</u> = <u>2,362,218</u>	<u>100%</u>	<u>81%</u>	510	1.7101	1.5566	1.3487	0.414
<u>2,362,219</u> = <u>2,403,029</u>	<u>100%</u>	<u>82%</u>	511	0.9681	0.8724	0.7406	0.460
<u>2,403,030</u> = <u>2,444,168</u>	<u>100%</u>	<u>83%</u>	512	0.9268	0.8392	0.7195	0.455
<u>2,444,169</u> = <u>2,485,631</u>	<u>100%</u>	<u>84%</u>	513	0.6384	0.5752	0.4887	0.448
<u>2,485,632</u> = <u>2,527,430</u>	<u>100%</u>	<u>85%</u>	514	0.9120	0.8250	0.7050	0.467
<u>2,527,431</u> and higher	<u>100%</u>	<u>86%</u>	516	1.0725	0.9683	0.8263	0.446

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-885 Table III.

**Expected Loss Rates and Primary Ratios
by Risk Classification and Fiscal Year**

**Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, (~~2021~~) 2022**

((Class	2017	2018	2019	Primary- Ratio
101	0.7485	0.6747	0.5739	0.417
103	0.9666	0.8764	0.7541	0.421
104	0.6700	0.6032	0.5120	0.415
105	0.8109	0.7340	0.6285	0.494
106	1.8604	1.6904	1.4603	0.465
107	0.6967	0.6280	0.5339	0.417
108	0.6700	0.6032	0.5120	0.415
112	0.5068	0.4608	0.3980	0.403
201	1.4681	1.3206	1.1188	0.366
202	1.3730	1.2338	1.0434	0.371
210	0.6135	0.5540	0.4724	0.410
212	0.6227	0.5615	0.4778	0.429
214	1.1910	1.0690	0.9014	0.414
217	0.8693	0.7837	0.6668	0.454
219	0.6124	0.5484	0.4606	0.463
301	0.6696	0.6087	0.5257	0.463
302	1.4908	1.3360	1.1241	0.406
303	1.3693	1.2341	1.0502	0.412
306	0.5495	0.4943	0.4184	0.447
307	0.6495	0.5846	0.4954	0.477
517	1.2906	1.1714	1.0101	0.382
518	0.8269	0.7446	0.6311	0.420
519	0.9500	0.8543	0.7234	0.457
521	0.4467	0.4059	0.3503	0.453
601	0.3811	0.3430	0.2904	0.468
602	0.4873	0.4346	0.3620	0.405
603	0.5539	0.4969	0.4184	0.389
604	0.8061	0.7310	0.6286	0.443
606	0.4287	0.3851	0.3251	0.540
607	0.5812	0.5201	0.4368	0.507
608	0.3201	0.2858	0.2385	0.450
701	1.4681	1.3206	1.1188	0.366
803	0.4669	0.4189	0.3530	0.523
901	0.8269	0.7446	0.6311	0.420
1002	0.6140	0.5539	0.4719	0.436
1003	0.5296	0.4767	0.4044	0.492
1004	0.3114	0.2778	0.2315	0.477
1005	6.2942	5.6512	4.7781	0.417
1006	0.1667	0.1499	0.1268	0.528
1007	0.2357	0.2124	0.1806	0.452
1101	0.8929	0.8047	0.6847	0.471
1102	1.2289	1.1050	0.9366	0.412
1103	0.7955	0.7139	0.6026	0.472
1104	0.4789	0.4348	0.3743	0.481
1105	0.6170	0.5543	0.4684	0.495
1106	0.2927	0.2653	0.2276	0.538
1108	0.3485	0.3168	0.2732	0.500
1109	1.2721	1.1477	0.9790	0.443
1301	0.4882	0.4376	0.3684	0.492

((Class	2017	2018	2019	Primary- Ratio	((Class	2017	2018	2019	Primary- Ratio
1303	0.3082	0.2758	0.2314	0.539	3105	0.6847	0.6242	0.5407	0.495
1304	0.0162	0.0146	0.0124	0.506	3303	0.3069	0.2775	0.2371	0.521
1305	0.4126	0.3695	0.3105	0.487	3304	0.5563	0.5055	0.4361	0.514
1401	0.2174	0.1998	0.1763	0.472	3309	0.3402	0.3080	0.2641	0.502
1404	0.6156	0.5546	0.4719	0.512	3402	0.3902	0.3526	0.3008	0.506
1405	0.5290	0.4768	0.4051	0.506	3403	0.1123	0.1014	0.0862	0.490
1407	0.5343	0.4805	0.4073	0.528	3404	0.3728	0.3362	0.2857	0.531
1501	0.6503	0.5822	0.4891	0.490	3405	0.2345	0.2119	0.1806	0.492
1507	0.3889	0.3515	0.2999	0.517	3406	0.2339	0.2106	0.1786	0.566
1701	0.6012	0.5422	0.4618	0.442	3407	0.5908	0.5332	0.4545	0.459
1702	0.9373	0.8432	0.7142	0.322	3408	0.2031	0.1814	0.1518	0.544
1703	0.6434	0.5774	0.4874	0.400	3409	0.1489	0.1345	0.1150	0.550
1704	0.6012	0.5422	0.4618	0.442	3410	0.1489	0.1345	0.1150	0.550
1801	0.3401	0.3063	0.2600	0.418	3411	0.4186	0.3762	0.3180	0.472
1802	0.5441	0.4900	0.4160	0.418	3412	0.5104	0.4572	0.3843	0.448
2002	0.6175	0.5593	0.4798	0.470	3414	0.6158	0.5533	0.4682	0.488
2004	0.4401	0.3959	0.3346	0.552	3415	0.7434	0.6705	0.5713	0.477
2007	0.5783	0.5249	0.4523	0.456	3501	0.4588	0.4182	0.3622	0.495
2008	0.2979	0.2707	0.2337	0.511	3503	0.2597	0.2346	0.2003	0.518
2009	0.3105	0.2816	0.2419	0.522	3506	0.6425	0.5805	0.4957	0.444
2101	0.5008	0.4559	0.3944	0.501	3509	0.3523	0.3179	0.2707	0.540
2102	0.5599	0.5069	0.4345	0.481	3510	0.2936	0.2673	0.2311	0.499
2103	0.9189	0.8197	0.6847	0.563	3511	0.6319	0.5740	0.4949	0.463
2104	0.3180	0.2915	0.2548	0.555	3512	0.2959	0.2683	0.2298	0.565
2105	0.5345	0.4788	0.4021	0.527	3513	0.3682	0.3351	0.2894	0.514
2106	0.4602	0.4164	0.3566	0.502	3602	0.0853	0.0770	0.0655	0.533
2201	0.2875	0.2606	0.2242	0.523	3603	0.4042	0.3671	0.3163	0.483
2202	0.4658	0.4218	0.3614	0.467	3604	0.5747	0.5232	0.4523	0.473
2203	0.4343	0.3948	0.3404	0.525	3605	0.3902	0.3526	0.3008	0.506
2204	0.2875	0.2606	0.2242	0.523	3701	0.2285	0.2057	0.1740	0.461
2401	0.3739	0.3354	0.2831	0.453	3702	0.3007	0.2724	0.2334	0.502
2903	0.5528	0.5035	0.4362	0.508	3708	0.4795	0.4361	0.3768	0.469
2904	0.5663	0.5130	0.4398	0.425	3802	0.1691	0.1540	0.1334	0.482
2905	0.3874	0.3509	0.3009	0.515	3808	0.3233	0.2921	0.2494	0.474
2906	0.4135	0.3784	0.3296	0.483	3901	0.1238	0.1123	0.0963	0.581
2907	0.3759	0.3406	0.2920	0.531	3902	0.3951	0.3584	0.3080	0.537
2908	0.7728	0.7004	0.6001	0.524	3903	0.3081	0.2795	0.2403	0.537
2909	0.3367	0.3093	0.2722	0.455	3905	0.1130	0.1029	0.0890	0.566
3101	0.6317	0.5692	0.4833	0.490	3906	0.4060	0.3688	0.3180	0.521
3102	0.2285	0.2057	0.1740	0.461	3909	0.2234	0.2024	0.1735	0.555
3103	0.2970	0.2695	0.2320	0.438	4101	0.2075	0.1874	0.1600	0.519
3104	0.5190	0.4698	0.4022	0.517	4103	0.4630	0.4206	0.3629	0.497

((Class	2017	2018	2019	Primary- Ratio	((Class	2017	2018	2019	Primary- Ratio
4107	0.1648	0.1482	0.1255	0.502	5003	1.6646	1.4985	1.2734	0.394
4108	0.1326	0.1198	0.1024	0.533	5004	0.7760	0.7132	0.6289	0.402
4109	0.1649	0.1510	0.1320	0.496	5005	0.7130	0.6424	0.5463	0.382
4201	0.6307	0.5635	0.4714	0.443	5006	0.8863	0.7993	0.6811	0.360
4301	0.7521	0.6844	0.5919	0.525	5101	0.7391	0.6624	0.5576	0.443
4302	0.6180	0.5597	0.4799	0.501	5103	0.6605	0.5997	0.5161	0.503
4304	0.8942	0.8201	0.7199	0.505	5106	0.6605	0.5997	0.5161	0.503
4305	0.9181	0.8217	0.6901	0.497	5108	0.6685	0.5991	0.5041	0.534
4401	0.3069	0.2775	0.2371	0.521	5109	0.4075	0.3658	0.3079	0.491
4402	0.5520	0.4959	0.4190	0.522	5201	0.2495	0.2245	0.1897	0.547
4404	0.3571	0.3235	0.2773	0.496	5204	0.7556	0.6783	0.5730	0.423
4501	0.1486	0.1337	0.1134	0.578	5206	0.3409	0.3094	0.2664	0.416
4502	0.0521	0.0472	0.0403	0.485	5207	0.1270	0.1154	0.0994	0.547
4504	0.0965	0.0872	0.0744	0.589	5208	0.5469	0.4955	0.4247	0.482
4802	0.3687	0.3356	0.2906	0.507	5209	0.5095	0.4586	0.3882	0.492
4803	0.3432	0.3134	0.2721	0.557	5300	0.0813	0.0731	0.0617	0.559
4804	0.5007	0.4575	0.3984	0.518	5301	0.0268	0.0242	0.0208	0.490
4805	0.3307	0.3017	0.2619	0.525	5302	0.0071	0.0064	0.0054	0.528
4806	0.0978	0.0893	0.0775	0.588	5305	0.0377	0.0340	0.0289	0.545
4808	0.3888	0.3535	0.3054	0.463	5306	0.0362	0.0326	0.0277	0.582
4809	0.2323	0.2114	0.1828	0.490	5307	0.5701	0.5099	0.4278	0.500
4810	0.2048	0.1865	0.1614	0.559	5308	0.0778	0.0705	0.0604	0.570
4811	0.4203	0.3850	0.3365	0.517	6103	0.0799	0.0726	0.0624	0.585
4812	0.3904	0.3542	0.3047	0.506	6104	0.3379	0.3051	0.2601	0.545
4813	0.2007	0.1840	0.1607	0.559	6105	0.4142	0.3718	0.3135	0.480
4814	0.1112	0.1024	0.0903	0.557	6107	0.1138	0.1040	0.0898	0.637
4815	0.2287	0.2110	0.1869	0.571	6108	0.2375	0.2157	0.1853	0.576
4816	0.3113	0.2876	0.2551	0.513	6109	0.0897	0.0804	0.0675	0.519
4900	0.0921	0.0829	0.0701	0.452	6110	0.3512	0.3150	0.2652	0.520
4901	0.0337	0.0303	0.0255	0.476	6120	0.2498	0.2245	0.1898	0.514
4902	0.0833	0.0750	0.0637	0.524	6121	0.3333	0.2980	0.2496	0.525
4903	0.1388	0.1244	0.1049	0.535	6201	0.3870	0.3484	0.2955	0.493
4904	0.0137	0.0124	0.0105	0.556	6202	0.6428	0.5798	0.4929	0.521
4905	0.3162	0.2886	0.2509	0.551	6203	0.0951	0.0871	0.0759	0.620
4906	0.0923	0.0827	0.0695	0.543	6204	0.1294	0.1169	0.0999	0.571
4907	0.0523	0.0477	0.0411	0.599	6205	0.1606	0.1452	0.1240	0.526
4908	0.0765	0.0696	0.0598	0.578	6206	0.1822	0.1642	0.1393	0.576
4909	0.0306	0.0279	0.0239	0.578	6207	0.8689	0.7875	0.6774	0.489
4910	0.3862	0.3484	0.2966	0.496	6208	0.2261	0.2059	0.1782	0.594
4911	0.0452	0.0410	0.0350	0.442	6209	0.2433	0.2224	0.1934	0.539
5001	5.9922	5.4424	4.7016	0.358	6301	0.1059	0.0953	0.0808	0.473
5002	0.4835	0.4341	0.3661	0.523	6303	0.0425	0.0384	0.0325	0.520

((Class	2017	2018	2019	Primary- Ratio	((Class	2017	2018	2019	Primary- Ratio
6305	0.0828	0.0748	0.0636	0.578	6809	3.3970	3.0978	2.6741	0.564
6306	0.2847	0.2559	0.2162	0.554	6901	0.0175	0.0174	0.0166	0.787
6308	0.0485	0.0437	0.0371	0.495	6902	0.6801	0.6161	0.5296	0.411
6309	0.1723	0.1559	0.1333	0.535	6903	4.0915	3.7086	3.1895	0.343
6402	0.2271	0.2057	0.1761	0.571	6904	0.8427	0.7526	0.6291	0.473
6403	0.1252	0.1130	0.0962	0.577	6905	0.6377	0.5691	0.4744	0.509
6404	0.2731	0.2488	0.2155	0.533	6906	0.2495	0.2390	0.2247	0.619
6405	0.4830	0.4347	0.3686	0.501	6907	0.7113	0.6425	0.5478	0.539
6406	0.1254	0.1132	0.0962	0.577	6908	0.2901	0.2622	0.2238	0.483
6407	0.2397	0.2165	0.1847	0.528	6909	0.1013	0.0916	0.0780	0.528
6408	0.4742	0.4292	0.3678	0.478	7100	0.0170	0.0151	0.0127	0.537
6409	0.5203	0.4682	0.3969	0.490	7101	0.0185	0.0167	0.0142	0.461
6410	0.2731	0.2451	0.2067	0.539	7103	0.7816	0.6960	0.5791	0.498
6411	0.0408	0.0371	0.0321	0.538	7104	0.0197	0.0178	0.0152	0.500
6501	0.0921	0.0824	0.0692	0.564	7105	0.0149	0.0136	0.0116	0.517
6502	0.0235	0.0212	0.0180	0.507	7106	0.2552	0.2296	0.1947	0.582
6503	0.0670	0.0596	0.0495	0.536	7107	0.3151	0.2846	0.2427	0.564
6504	0.2478	0.2265	0.1968	0.592	7108	0.2190	0.1973	0.1675	0.603
6505	0.1475	0.1333	0.1136	0.640	7109	0.0861	0.0778	0.0665	0.520
6506	0.1127	0.1017	0.0866	0.552	7110	0.3404	0.3093	0.2673	0.412
6509	0.2172	0.1975	0.1701	0.577	7111	0.2822	0.2511	0.2083	0.476
6510	0.3003	0.2706	0.2302	0.385	7112	0.6411	0.5812	0.4992	0.539
6511	0.2383	0.2161	0.1858	0.544	7113	0.3686	0.3328	0.2839	0.547
6512	0.0765	0.0690	0.0590	0.471	7114	0.6813	0.6154	0.5250	0.585
6601	0.1552	0.1411	0.1218	0.511	7115	0.4734	0.4305	0.3716	0.557
6602	0.4895	0.4456	0.3861	0.509	7116	0.3673	0.3325	0.2851	0.456
6603	0.2571	0.2316	0.1964	0.555	7117	0.9906	0.8974	0.7694	0.511
6604	0.0682	0.0616	0.0525	0.556	7118	1.4155	1.2775	1.0893	0.500
6605	0.2249	0.2028	0.1718	0.549	7119	1.4197	1.2754	1.0793	0.489
6607	0.0869	0.0791	0.0684	0.536	7120	4.5901	4.1084	3.4501	0.497
6608	0.4075	0.3640	0.3044	0.400	7121	6.3024	5.7193	4.9320	0.352
6620	2.5436	2.2688	1.8865	0.572	7122	0.3328	0.3033	0.2632	0.514
6704	0.1217	0.1092	0.0920	0.592	7200	1.5951	1.4168	1.1738	0.477
6705	0.5904	0.5382	0.4661	0.573	7201	1.2905	1.1514	0.9619	0.494
6706	0.2113	0.1933	0.1685	0.512	7202	0.0219	0.0196	0.0165	0.527
6707	12.9247	11.6029	9.7842	0.664	7203	0.0873	0.0802	0.0699	0.586
6708	8.1066	7.5046	6.6810	0.485	7204	0.0000	0.0000	0.0000	0.500
6709	0.2098	0.1900	0.1625	0.548	7205	0.0000	0.0000	0.0000	0.500
6801	0.5706	0.5017	0.4073	0.557	7301	0.5527	0.5079	0.4470	0.465
6802	0.7085	0.6341	0.5324	0.552	7302	0.6644	0.6101	0.5366	0.437
6803	0.4198	0.3752	0.3141	0.374	7307	0.4695	0.4235	0.3609	0.555
6804	0.2387	0.2153	0.1830	0.557	7308	0.2313	0.2105	0.1816	0.581

<u>Class</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Primary Ratio</u>
7309	0.2294	0.2083	0.1791	0.585	<u>602</u>	0.4930	0.4353	0.3447	0.408
7400	1.8343	1.6293	1.3498	0.477))	<u>603</u>	0.5801	0.5152	0.4130	0.407
					<u>604</u>	0.7987	0.7165	0.5865	0.444
					<u>606</u>	0.4228	0.3754	0.3006	0.541
					<u>607</u>	0.5720	0.5075	0.4063	0.495
					<u>608</u>	0.3170	0.2804	0.2228	0.461
					<u>701</u>	1.3057	1.1640	0.9405	0.372
					<u>803</u>	0.4693	0.4166	0.3335	0.522
					<u>901</u>	0.8355	0.7440	0.5995	0.427
					<u>1002</u>	0.5999	0.5364	0.4359	0.430
					<u>1003</u>	0.5061	0.4504	0.3627	0.485
					<u>1004</u>	0.3205	0.2832	0.2246	0.468
					<u>1005</u>	6.3853	5.6789	4.5694	0.418
					<u>1006</u>	0.1721	0.1529	0.1228	0.531
					<u>1007</u>	0.2395	0.2135	0.1726	0.457
					<u>1101</u>	0.9395	0.8343	0.6688	0.497
					<u>1102</u>	1.2456	1.1092	0.8943	0.398
					<u>1103</u>	0.8256	0.7327	0.5865	0.479
					<u>1104</u>	0.4933	0.4422	0.3612	0.489
					<u>1105</u>	0.6563	0.5822	0.4654	0.502
					<u>1106</u>	0.2968	0.2660	0.2171	0.538
					<u>1108</u>	0.3555	0.3192	0.2618	0.503
					<u>1109</u>	1.3799	1.2349	1.0059	0.429
					<u>1301</u>	0.4819	0.4287	0.3445	0.470
					<u>1303</u>	0.3049	0.2697	0.2142	0.528
					<u>1304</u>	0.0152	0.0135	0.0109	0.505
					<u>1305</u>	0.3958	0.3512	0.2811	0.478
					<u>1401</u>	0.2477	0.2244	0.1874	0.495
					<u>1404</u>	0.6067	0.5414	0.4384	0.518
					<u>1405</u>	0.5591	0.4972	0.3997	0.523
					<u>1407</u>	0.5350	0.4761	0.3832	0.522
					<u>1501</u>	0.6846	0.6063	0.4832	0.497
					<u>1507</u>	0.3850	0.3434	0.2777	0.523
					<u>1701</u>	0.6107	0.5463	0.4446	0.425
					<u>1702</u>	0.9116	0.8119	0.6549	0.318
					<u>1703</u>	0.6565	0.5832	0.4677	0.410
					<u>1704</u>	0.6107	0.5463	0.4446	0.425
					<u>1801</u>	0.3489	0.3110	0.2512	0.416
					<u>1802</u>	0.5583	0.4976	0.4019	0.416
					<u>2002</u>	0.5917	0.5297	0.4319	0.470
					<u>2004</u>	0.4557	0.4058	0.3267	0.560
					<u>2007</u>	0.5430	0.4891	0.4035	0.443

<u>Class</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Primary</u> <u>Ratio</u>	<u>Class</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Primary</u> <u>Ratio</u>
<u>2008</u>	<u>0.3050</u>	<u>0.2735</u>	<u>0.2238</u>	<u>0.519</u>	<u>3503</u>	<u>0.2639</u>	<u>0.2356</u>	<u>0.1908</u>	<u>0.522</u>
<u>2009</u>	<u>0.3033</u>	<u>0.2727</u>	<u>0.2242</u>	<u>0.519</u>	<u>3506</u>	<u>0.6322</u>	<u>0.5640</u>	<u>0.4564</u>	<u>0.441</u>
<u>2101</u>	<u>0.4918</u>	<u>0.4430</u>	<u>0.3654</u>	<u>0.487</u>	<u>3509</u>	<u>0.3773</u>	<u>0.3357</u>	<u>0.2701</u>	<u>0.548</u>
<u>2102</u>	<u>0.5322</u>	<u>0.4778</u>	<u>0.3914</u>	<u>0.472</u>	<u>3510</u>	<u>0.2981</u>	<u>0.2685</u>	<u>0.2214</u>	<u>0.502</u>
<u>2103</u>	<u>1.1392</u>	<u>1.0046</u>	<u>0.7931</u>	<u>0.580</u>	<u>3511</u>	<u>0.6492</u>	<u>0.5837</u>	<u>0.4798</u>	<u>0.470</u>
<u>2104</u>	<u>0.3381</u>	<u>0.3062</u>	<u>0.2553</u>	<u>0.552</u>	<u>3512</u>	<u>0.2975</u>	<u>0.2665</u>	<u>0.2172</u>	<u>0.555</u>
<u>2105</u>	<u>0.5348</u>	<u>0.4734</u>	<u>0.3769</u>	<u>0.533</u>	<u>3513</u>	<u>0.3638</u>	<u>0.3264</u>	<u>0.2672</u>	<u>0.508</u>
<u>2106</u>	<u>0.4704</u>	<u>0.4206</u>	<u>0.3418</u>	<u>0.508</u>	<u>3602</u>	<u>0.0844</u>	<u>0.0754</u>	<u>0.0612</u>	<u>0.526</u>
<u>2201</u>	<u>0.2956</u>	<u>0.2660</u>	<u>0.2188</u>	<u>0.526</u>	<u>3603</u>	<u>0.3859</u>	<u>0.3465</u>	<u>0.2841</u>	<u>0.477</u>
<u>2202</u>	<u>0.5297</u>	<u>0.4728</u>	<u>0.3829</u>	<u>0.499</u>	<u>3604</u>	<u>0.6209</u>	<u>0.5571</u>	<u>0.4560</u>	<u>0.479</u>
<u>2203</u>	<u>0.4639</u>	<u>0.4149</u>	<u>0.3375</u>	<u>0.550</u>	<u>3605</u>	<u>0.3721</u>	<u>0.3329</u>	<u>0.2709</u>	<u>0.507</u>
<u>2204</u>	<u>0.2956</u>	<u>0.2660</u>	<u>0.2188</u>	<u>0.526</u>	<u>3701</u>	<u>0.2215</u>	<u>0.1973</u>	<u>0.1591</u>	<u>0.467</u>
<u>2401</u>	<u>0.3679</u>	<u>0.3275</u>	<u>0.2638</u>	<u>0.459</u>	<u>3702</u>	<u>0.3118</u>	<u>0.2786</u>	<u>0.2261</u>	<u>0.520</u>
<u>2903</u>	<u>0.5488</u>	<u>0.4943</u>	<u>0.4079</u>	<u>0.507</u>	<u>3708</u>	<u>0.4981</u>	<u>0.4481</u>	<u>0.3688</u>	<u>0.458</u>
<u>2904</u>	<u>0.5550</u>	<u>0.4986</u>	<u>0.4090</u>	<u>0.410</u>	<u>3802</u>	<u>0.1754</u>	<u>0.1576</u>	<u>0.1294</u>	<u>0.494</u>
<u>2905</u>	<u>0.4326</u>	<u>0.3870</u>	<u>0.3150</u>	<u>0.533</u>	<u>3808</u>	<u>0.3284</u>	<u>0.2942</u>	<u>0.2400</u>	<u>0.487</u>
<u>2906</u>	<u>0.4342</u>	<u>0.3927</u>	<u>0.3265</u>	<u>0.472</u>	<u>3901</u>	<u>0.1300</u>	<u>0.1164</u>	<u>0.0949</u>	<u>0.585</u>
<u>2907</u>	<u>0.3781</u>	<u>0.3382</u>	<u>0.2749</u>	<u>0.544</u>	<u>3902</u>	<u>0.3975</u>	<u>0.3563</u>	<u>0.2910</u>	<u>0.552</u>
<u>2908</u>	<u>0.7723</u>	<u>0.6912</u>	<u>0.5628</u>	<u>0.530</u>	<u>3903</u>	<u>0.4171</u>	<u>0.3739</u>	<u>0.3053</u>	<u>0.552</u>
<u>2909</u>	<u>0.3413</u>	<u>0.3096</u>	<u>0.2592</u>	<u>0.461</u>	<u>3905</u>	<u>0.1157</u>	<u>0.1042</u>	<u>0.0857</u>	<u>0.565</u>
<u>3101</u>	<u>0.6281</u>	<u>0.5605</u>	<u>0.4537</u>	<u>0.489</u>	<u>3906</u>	<u>0.4089</u>	<u>0.3678</u>	<u>0.3026</u>	<u>0.529</u>
<u>3102</u>	<u>0.2215</u>	<u>0.1973</u>	<u>0.1591</u>	<u>0.467</u>	<u>3909</u>	<u>0.2230</u>	<u>0.1998</u>	<u>0.1631</u>	<u>0.560</u>
<u>3103</u>	<u>0.2876</u>	<u>0.2583</u>	<u>0.2119</u>	<u>0.433</u>	<u>4101</u>	<u>0.2011</u>	<u>0.1797</u>	<u>0.1459</u>	<u>0.529</u>
<u>3104</u>	<u>0.5421</u>	<u>0.4858</u>	<u>0.3965</u>	<u>0.526</u>	<u>4103</u>	<u>0.4597</u>	<u>0.4134</u>	<u>0.3401</u>	<u>0.489</u>
<u>3105</u>	<u>0.6890</u>	<u>0.6227</u>	<u>0.5174</u>	<u>0.481</u>	<u>4107</u>	<u>0.1643</u>	<u>0.1463</u>	<u>0.1180</u>	<u>0.491</u>
<u>3303</u>	<u>0.3122</u>	<u>0.2792</u>	<u>0.2268</u>	<u>0.522</u>	<u>4108</u>	<u>0.1443</u>	<u>0.1290</u>	<u>0.1046</u>	<u>0.544</u>
<u>3304</u>	<u>0.5898</u>	<u>0.5301</u>	<u>0.4354</u>	<u>0.507</u>	<u>4109</u>	<u>0.1713</u>	<u>0.1547</u>	<u>0.1284</u>	<u>0.501</u>
<u>3309</u>	<u>0.3425</u>	<u>0.3061</u>	<u>0.2484</u>	<u>0.507</u>	<u>4201</u>	<u>0.6313</u>	<u>0.5576</u>	<u>0.4418</u>	<u>0.438</u>
<u>3402</u>	<u>0.3721</u>	<u>0.3329</u>	<u>0.2709</u>	<u>0.507</u>	<u>4301</u>	<u>0.7524</u>	<u>0.6777</u>	<u>0.5588</u>	<u>0.525</u>
<u>3403</u>	<u>0.1081</u>	<u>0.0965</u>	<u>0.0781</u>	<u>0.487</u>	<u>4302</u>	<u>0.6013</u>	<u>0.5383</u>	<u>0.4385</u>	<u>0.486</u>
<u>3404</u>	<u>0.3765</u>	<u>0.3362</u>	<u>0.2722</u>	<u>0.517</u>	<u>4304</u>	<u>0.8882</u>	<u>0.8058</u>	<u>0.6743</u>	<u>0.502</u>
<u>3405</u>	<u>0.2346</u>	<u>0.2094</u>	<u>0.1696</u>	<u>0.492</u>	<u>4305</u>	<u>0.8491</u>	<u>0.7527</u>	<u>0.6011</u>	<u>0.493</u>
<u>3406</u>	<u>0.2418</u>	<u>0.2153</u>	<u>0.1737</u>	<u>0.557</u>	<u>4401</u>	<u>0.3122</u>	<u>0.2792</u>	<u>0.2268</u>	<u>0.522</u>
<u>3407</u>	<u>0.6066</u>	<u>0.5409</u>	<u>0.4373</u>	<u>0.468</u>	<u>4402</u>	<u>0.5433</u>	<u>0.4824</u>	<u>0.3864</u>	<u>0.515</u>
<u>3408</u>	<u>0.2258</u>	<u>0.1993</u>	<u>0.1576</u>	<u>0.546</u>	<u>4404</u>	<u>0.3651</u>	<u>0.3272</u>	<u>0.2672</u>	<u>0.489</u>
<u>3409</u>	<u>0.1610</u>	<u>0.1436</u>	<u>0.1162</u>	<u>0.560</u>	<u>4501</u>	<u>0.1496</u>	<u>0.1329</u>	<u>0.1067</u>	<u>0.578</u>
<u>3410</u>	<u>0.1610</u>	<u>0.1436</u>	<u>0.1162</u>	<u>0.560</u>	<u>4502</u>	<u>0.0526</u>	<u>0.0471</u>	<u>0.0383</u>	<u>0.484</u>
<u>3411</u>	<u>0.4146</u>	<u>0.3684</u>	<u>0.2957</u>	<u>0.479</u>	<u>4504</u>	<u>0.0998</u>	<u>0.0890</u>	<u>0.0718</u>	<u>0.590</u>
<u>3412</u>	<u>0.5234</u>	<u>0.4649</u>	<u>0.3729</u>	<u>0.425</u>	<u>4802</u>	<u>0.3676</u>	<u>0.3309</u>	<u>0.2726</u>	<u>0.500</u>
<u>3414</u>	<u>0.6803</u>	<u>0.6034</u>	<u>0.4822</u>	<u>0.500</u>	<u>4803</u>	<u>0.3682</u>	<u>0.3319</u>	<u>0.2741</u>	<u>0.550</u>
<u>3415</u>	<u>0.9122</u>	<u>0.8114</u>	<u>0.6527</u>	<u>0.509</u>	<u>4804</u>	<u>0.5020</u>	<u>0.4527</u>	<u>0.3742</u>	<u>0.524</u>
<u>3501</u>	<u>0.3583</u>	<u>0.3239</u>	<u>0.2691</u>	<u>0.481</u>	<u>4805</u>	<u>0.3295</u>	<u>0.2972</u>	<u>0.2457</u>	<u>0.536</u>

<u>Class</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Primary</u> <u>Ratio</u>	<u>Class</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Primary</u> <u>Ratio</u>
<u>4806</u>	<u>0.1123</u>	<u>0.1008</u>	<u>0.0825</u>	<u>0.597</u>	<u>5305</u>	<u>0.0347</u>	<u>0.0310</u>	<u>0.0251</u>	<u>0.536</u>
<u>4808</u>	<u>0.4090</u>	<u>0.3675</u>	<u>0.3018</u>	<u>0.470</u>	<u>5306</u>	<u>0.0369</u>	<u>0.0329</u>	<u>0.0265</u>	<u>0.591</u>
<u>4809</u>	<u>0.2124</u>	<u>0.1913</u>	<u>0.1579</u>	<u>0.488</u>	<u>5307</u>	<u>0.5863</u>	<u>0.5186</u>	<u>0.4124</u>	<u>0.505</u>
<u>4810</u>	<u>0.2150</u>	<u>0.1937</u>	<u>0.1596</u>	<u>0.553</u>	<u>5308</u>	<u>0.0757</u>	<u>0.0679</u>	<u>0.0555</u>	<u>0.559</u>
<u>4811</u>	<u>0.4383</u>	<u>0.3966</u>	<u>0.3301</u>	<u>0.519</u>	<u>6103</u>	<u>0.0814</u>	<u>0.0731</u>	<u>0.0598</u>	<u>0.588</u>
<u>4812</u>	<u>0.3781</u>	<u>0.3396</u>	<u>0.2783</u>	<u>0.493</u>	<u>6104</u>	<u>0.3237</u>	<u>0.2890</u>	<u>0.2341</u>	<u>0.540</u>
<u>4813</u>	<u>0.2159</u>	<u>0.1950</u>	<u>0.1615</u>	<u>0.562</u>	<u>6105</u>	<u>0.4460</u>	<u>0.3956</u>	<u>0.3161</u>	<u>0.486</u>
<u>4814</u>	<u>0.1103</u>	<u>0.1004</u>	<u>0.0843</u>	<u>0.558</u>	<u>6107</u>	<u>0.1315</u>	<u>0.1182</u>	<u>0.0969</u>	<u>0.644</u>
<u>4815</u>	<u>0.2271</u>	<u>0.2070</u>	<u>0.1745</u>	<u>0.572</u>	<u>6108</u>	<u>0.2292</u>	<u>0.2056</u>	<u>0.1681</u>	<u>0.582</u>
<u>4816</u>	<u>0.3093</u>	<u>0.2823</u>	<u>0.2389</u>	<u>0.514</u>	<u>6109</u>	<u>0.0912</u>	<u>0.0809</u>	<u>0.0648</u>	<u>0.504</u>
<u>4900</u>	<u>0.0974</u>	<u>0.0867</u>	<u>0.0700</u>	<u>0.460</u>	<u>6110</u>	<u>0.3560</u>	<u>0.3155</u>	<u>0.2515</u>	<u>0.527</u>
<u>4901</u>	<u>0.0334</u>	<u>0.0297</u>	<u>0.0237</u>	<u>0.478</u>	<u>6120</u>	<u>0.2746</u>	<u>0.2436</u>	<u>0.1947</u>	<u>0.522</u>
<u>4902</u>	<u>0.0748</u>	<u>0.0669</u>	<u>0.0542</u>	<u>0.504</u>	<u>6121</u>	<u>0.3803</u>	<u>0.3353</u>	<u>0.2646</u>	<u>0.532</u>
<u>4903</u>	<u>0.1407</u>	<u>0.1248</u>	<u>0.0995</u>	<u>0.528</u>	<u>6201</u>	<u>0.4261</u>	<u>0.3785</u>	<u>0.3036</u>	<u>0.511</u>
<u>4904</u>	<u>0.0132</u>	<u>0.0118</u>	<u>0.0095</u>	<u>0.550</u>	<u>6202</u>	<u>0.6491</u>	<u>0.5795</u>	<u>0.4696</u>	<u>0.519</u>
<u>4905</u>	<u>0.3166</u>	<u>0.2848</u>	<u>0.2344</u>	<u>0.559</u>	<u>6203</u>	<u>0.0935</u>	<u>0.0845</u>	<u>0.0701</u>	<u>0.623</u>
<u>4906</u>	<u>0.0906</u>	<u>0.0803</u>	<u>0.0641</u>	<u>0.547</u>	<u>6204</u>	<u>0.1240</u>	<u>0.1110</u>	<u>0.0905</u>	<u>0.562</u>
<u>4907</u>	<u>0.0509</u>	<u>0.0459</u>	<u>0.0379</u>	<u>0.610</u>	<u>6205</u>	<u>0.1575</u>	<u>0.1408</u>	<u>0.1144</u>	<u>0.525</u>
<u>4908</u>	<u>0.0815</u>	<u>0.0733</u>	<u>0.0604</u>	<u>0.592</u>	<u>6206</u>	<u>0.1766</u>	<u>0.1576</u>	<u>0.1276</u>	<u>0.565</u>
<u>4909</u>	<u>0.0326</u>	<u>0.0294</u>	<u>0.0241</u>	<u>0.592</u>	<u>6207</u>	<u>0.8400</u>	<u>0.7537</u>	<u>0.6173</u>	<u>0.484</u>
<u>4910</u>	<u>0.3870</u>	<u>0.3451</u>	<u>0.2791</u>	<u>0.495</u>	<u>6208</u>	<u>0.2143</u>	<u>0.1927</u>	<u>0.1584</u>	<u>0.589</u>
<u>4911</u>	<u>0.0458</u>	<u>0.0409</u>	<u>0.0334</u>	<u>0.443</u>	<u>6209</u>	<u>0.2500</u>	<u>0.2256</u>	<u>0.1866</u>	<u>0.547</u>
<u>5001</u>	<u>6.1433</u>	<u>5.5201</u>	<u>4.5355</u>	<u>0.362</u>	<u>6301</u>	<u>0.1087</u>	<u>0.0970</u>	<u>0.0786</u>	<u>0.446</u>
<u>5002</u>	<u>0.4844</u>	<u>0.4301</u>	<u>0.3444</u>	<u>0.522</u>	<u>6303</u>	<u>0.0435</u>	<u>0.0387</u>	<u>0.0313</u>	<u>0.520</u>
<u>5003</u>	<u>1.8231</u>	<u>1.6282</u>	<u>1.3211</u>	<u>0.392</u>	<u>6305</u>	<u>0.0816</u>	<u>0.0729</u>	<u>0.0592</u>	<u>0.574</u>
<u>5004</u>	<u>0.8090</u>	<u>0.7364</u>	<u>0.6205</u>	<u>0.405</u>	<u>6306</u>	<u>0.2879</u>	<u>0.2561</u>	<u>0.2060</u>	<u>0.552</u>
<u>5005</u>	<u>0.7622</u>	<u>0.6794</u>	<u>0.5489</u>	<u>0.397</u>	<u>6308</u>	<u>0.0501</u>	<u>0.0448</u>	<u>0.0362</u>	<u>0.493</u>
<u>5006</u>	<u>0.9158</u>	<u>0.8174</u>	<u>0.6625</u>	<u>0.374</u>	<u>6309</u>	<u>0.1834</u>	<u>0.1640</u>	<u>0.1334</u>	<u>0.527</u>
<u>5101</u>	<u>0.7685</u>	<u>0.6813</u>	<u>0.5442</u>	<u>0.453</u>	<u>6402</u>	<u>0.2241</u>	<u>0.2009</u>	<u>0.1640</u>	<u>0.571</u>
<u>5103</u>	<u>0.7160</u>	<u>0.6418</u>	<u>0.5242</u>	<u>0.507</u>	<u>6403</u>	<u>0.1263</u>	<u>0.1127</u>	<u>0.0912</u>	<u>0.582</u>
<u>5106</u>	<u>0.7160</u>	<u>0.6418</u>	<u>0.5242</u>	<u>0.507</u>	<u>6404</u>	<u>0.2533</u>	<u>0.2282</u>	<u>0.1885</u>	<u>0.519</u>
<u>5108</u>	<u>0.7019</u>	<u>0.6218</u>	<u>0.4959</u>	<u>0.538</u>	<u>6405</u>	<u>0.5279</u>	<u>0.4695</u>	<u>0.3775</u>	<u>0.506</u>
<u>5109</u>	<u>0.4000</u>	<u>0.3551</u>	<u>0.2844</u>	<u>0.494</u>	<u>6406</u>	<u>0.1301</u>	<u>0.1160</u>	<u>0.0936</u>	<u>0.577</u>
<u>5201</u>	<u>0.2587</u>	<u>0.2303</u>	<u>0.1852</u>	<u>0.553</u>	<u>6407</u>	<u>0.2470</u>	<u>0.2205</u>	<u>0.1786</u>	<u>0.538</u>
<u>5204</u>	<u>0.7832</u>	<u>0.6948</u>	<u>0.5558</u>	<u>0.431</u>	<u>6408</u>	<u>0.5097</u>	<u>0.4565</u>	<u>0.3724</u>	<u>0.479</u>
<u>5206</u>	<u>0.3450</u>	<u>0.3101</u>	<u>0.2549</u>	<u>0.417</u>	<u>6409</u>	<u>0.5314</u>	<u>0.4737</u>	<u>0.3826</u>	<u>0.484</u>
<u>5207</u>	<u>0.1250</u>	<u>0.1123</u>	<u>0.0920</u>	<u>0.540</u>	<u>6410</u>	<u>0.2675</u>	<u>0.2378</u>	<u>0.1909</u>	<u>0.539</u>
<u>5208</u>	<u>0.5222</u>	<u>0.4679</u>	<u>0.3819</u>	<u>0.476</u>	<u>6411</u>	<u>0.0370</u>	<u>0.0334</u>	<u>0.0276</u>	<u>0.526</u>
<u>5209</u>	<u>0.5156</u>	<u>0.4598</u>	<u>0.3718</u>	<u>0.487</u>	<u>6501</u>	<u>0.0914</u>	<u>0.0809</u>	<u>0.0643</u>	<u>0.562</u>
<u>5300</u>	<u>0.0831</u>	<u>0.0738</u>	<u>0.0592</u>	<u>0.550</u>	<u>6502</u>	<u>0.0231</u>	<u>0.0206</u>	<u>0.0165</u>	<u>0.509</u>
<u>5301</u>	<u>0.0271</u>	<u>0.0242</u>	<u>0.0198</u>	<u>0.488</u>	<u>6503</u>	<u>0.0700</u>	<u>0.0616</u>	<u>0.0484</u>	<u>0.537</u>
<u>5302</u>	<u>0.0070</u>	<u>0.0062</u>	<u>0.0049</u>	<u>0.524</u>	<u>6504</u>	<u>0.2478</u>	<u>0.2236</u>	<u>0.1848</u>	<u>0.593</u>

<u>Class</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Primary Ratio</u>
<u>6505</u>	<u>0.1447</u>	<u>0.1294</u>	<u>0.1050</u>	<u>0.640</u>	<u>7109</u>	<u>0.0828</u>	<u>0.0740</u>	<u>0.0600</u>	<u>0.506</u>
<u>6506</u>	<u>0.1093</u>	<u>0.0975</u>	<u>0.0789</u>	<u>0.547</u>	<u>7110</u>	<u>0.3681</u>	<u>0.3304</u>	<u>0.2708</u>	<u>0.429</u>
<u>6509</u>	<u>0.2165</u>	<u>0.1943</u>	<u>0.1589</u>	<u>0.578</u>	<u>7111</u>	<u>0.2544</u>	<u>0.2244</u>	<u>0.1773</u>	<u>0.469</u>
<u>6510</u>	<u>0.3130</u>	<u>0.2784</u>	<u>0.2240</u>	<u>0.401</u>	<u>7112</u>	<u>0.5812</u>	<u>0.5225</u>	<u>0.4293</u>	<u>0.522</u>
<u>6511</u>	<u>0.2467</u>	<u>0.2210</u>	<u>0.1802</u>	<u>0.554</u>	<u>7113</u>	<u>0.3892</u>	<u>0.3469</u>	<u>0.2799</u>	<u>0.552</u>
<u>6512</u>	<u>0.0763</u>	<u>0.0682</u>	<u>0.0555</u>	<u>0.455</u>	<u>7114</u>	<u>0.7032</u>	<u>0.6273</u>	<u>0.5070</u>	<u>0.586</u>
<u>6601</u>	<u>0.1666</u>	<u>0.1495</u>	<u>0.1222</u>	<u>0.519</u>	<u>7115</u>	<u>0.5064</u>	<u>0.4550</u>	<u>0.3732</u>	<u>0.560</u>
<u>6602</u>	<u>0.4985</u>	<u>0.4487</u>	<u>0.3698</u>	<u>0.499</u>	<u>7116</u>	<u>0.4160</u>	<u>0.3712</u>	<u>0.3007</u>	<u>0.478</u>
<u>6603</u>	<u>0.2451</u>	<u>0.2193</u>	<u>0.1783</u>	<u>0.552</u>	<u>7117</u>	<u>0.9334</u>	<u>0.8380</u>	<u>0.6870</u>	<u>0.498</u>
<u>6604</u>	<u>0.0636</u>	<u>0.0569</u>	<u>0.0461</u>	<u>0.549</u>	<u>7118</u>	<u>1.4329</u>	<u>1.2780</u>	<u>1.0335</u>	<u>0.497</u>
<u>6605</u>	<u>0.2469</u>	<u>0.2193</u>	<u>0.1758</u>	<u>0.564</u>	<u>7119</u>	<u>1.4906</u>	<u>1.3254</u>	<u>1.0655</u>	<u>0.482</u>
<u>6607</u>	<u>0.0880</u>	<u>0.0791</u>	<u>0.0650</u>	<u>0.538</u>	<u>7120</u>	<u>4.2459</u>	<u>3.7638</u>	<u>3.0058</u>	<u>0.493</u>
<u>6608</u>	<u>0.3956</u>	<u>0.3501</u>	<u>0.2787</u>	<u>0.392</u>	<u>7121</u>	<u>6.1170</u>	<u>5.4953</u>	<u>4.5123</u>	<u>0.350</u>
<u>6620</u>	<u>2.8352</u>	<u>2.4937</u>	<u>1.9578</u>	<u>0.579</u>	<u>7122</u>	<u>0.3219</u>	<u>0.2907</u>	<u>0.2410</u>	<u>0.511</u>
<u>6704</u>	<u>0.1135</u>	<u>0.1010</u>	<u>0.0813</u>	<u>0.583</u>	<u>7200</u>	<u>1.7445</u>	<u>1.5337</u>	<u>1.2035</u>	<u>0.476</u>
<u>6705</u>	<u>0.6226</u>	<u>0.5623</u>	<u>0.4659</u>	<u>0.579</u>	<u>7201</u>	<u>1.3706</u>	<u>1.2088</u>	<u>0.9551</u>	<u>0.502</u>
<u>6706</u>	<u>0.2172</u>	<u>0.1961</u>	<u>0.1624</u>	<u>0.519</u>	<u>7202</u>	<u>0.0211</u>	<u>0.0188</u>	<u>0.0149</u>	<u>0.527</u>
<u>6707</u>	<u>11.2987</u>	<u>10.0420</u>	<u>8.0498</u>	<u>0.667</u>	<u>7203</u>	<u>0.0852</u>	<u>0.0771</u>	<u>0.0640</u>	<u>0.583</u>
<u>6708</u>	<u>8.0379</u>	<u>7.3520</u>	<u>6.2503</u>	<u>0.485</u>	<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>6709</u>	<u>0.2369</u>	<u>0.2114</u>	<u>0.1712</u>	<u>0.560</u>	<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>6801</u>	<u>0.5865</u>	<u>0.5102</u>	<u>0.3911</u>	<u>0.552</u>	<u>7301</u>	<u>0.5811</u>	<u>0.5280</u>	<u>0.4434</u>	<u>0.473</u>
<u>6802</u>	<u>0.6889</u>	<u>0.6097</u>	<u>0.4851</u>	<u>0.547</u>	<u>7302</u>	<u>0.6820</u>	<u>0.6189</u>	<u>0.5182</u>	<u>0.456</u>
<u>6803</u>	<u>0.4158</u>	<u>0.3678</u>	<u>0.2923</u>	<u>0.393</u>	<u>7307</u>	<u>0.4573</u>	<u>0.4084</u>	<u>0.3310</u>	<u>0.551</u>
<u>6804</u>	<u>0.2394</u>	<u>0.2132</u>	<u>0.1718</u>	<u>0.558</u>	<u>7308</u>	<u>0.2248</u>	<u>0.2023</u>	<u>0.1665</u>	<u>0.580</u>
<u>6809</u>	<u>3.2949</u>	<u>2.9642</u>	<u>2.4384</u>	<u>0.556</u>	<u>7309</u>	<u>0.2223</u>	<u>0.1997</u>	<u>0.1638</u>	<u>0.587</u>
<u>6901</u>	<u>0.0192</u>	<u>0.0185</u>	<u>0.0171</u>	<u>0.808</u>	<u>7400</u>	<u>2.0062</u>	<u>1.7638</u>	<u>1.3840</u>	<u>0.476</u>
<u>6902</u>	<u>0.6662</u>	<u>0.5977</u>	<u>0.4893</u>	<u>0.420</u>	Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed				
<u>6903</u>	<u>3.6438</u>	<u>3.2724</u>	<u>2.6842</u>	<u>0.331</u>					
<u>6904</u>	<u>0.8938</u>	<u>0.7881</u>	<u>0.6223</u>	<u>0.482</u>					
<u>6905</u>	<u>0.6427</u>	<u>0.5683</u>	<u>0.4511</u>	<u>0.499</u>	((Class	2017	2018	2019	Primary-Ratio
<u>6906</u>	<u>0.2491</u>	<u>0.2355</u>	<u>0.2121</u>	<u>0.618</u>	540	<u>0.0161</u>	<u>0.0145</u>	<u>0.0124</u>	<u>0.458</u>
<u>6907</u>	<u>0.7274</u>	<u>0.6488</u>	<u>0.5245</u>	<u>0.545</u>	541	<u>0.0068</u>	<u>0.0061</u>	<u>0.0053</u>	<u>0.438</u>
<u>6908</u>	<u>0.2951</u>	<u>0.2638</u>	<u>0.2141</u>	<u>0.481</u>	550	<u>0.0264</u>	<u>0.0238</u>	<u>0.0205</u>	<u>0.385</u>
<u>6909</u>	<u>0.0954</u>	<u>0.0853</u>	<u>0.0693</u>	<u>0.523</u>	551	<u>0.0103</u>	<u>0.0093</u>	<u>0.0080</u>	<u>0.403))</u>
<u>7100</u>	<u>0.0165</u>	<u>0.0145</u>	<u>0.0115</u>	<u>0.532</u>					
<u>7101</u>	<u>0.0186</u>	<u>0.0165</u>	<u>0.0134</u>	<u>0.450</u>	Class	2018	2019	2020	Primary Ratio
<u>7103</u>	<u>0.8743</u>	<u>0.7711</u>	<u>0.6091</u>	<u>0.490</u>	540	<u>0.0145</u>	<u>0.0130</u>	<u>0.0105</u>	<u>0.459</u>
<u>7104</u>	<u>0.0205</u>	<u>0.0183</u>	<u>0.0148</u>	<u>0.503</u>	541	<u>0.0069</u>	<u>0.0062</u>	<u>0.0050</u>	<u>0.428</u>
<u>7105</u>	<u>0.0139</u>	<u>0.0124</u>	<u>0.0102</u>	<u>0.504</u>	550	<u>0.0267</u>	<u>0.0240</u>	<u>0.0197</u>	<u>0.367</u>
<u>7106</u>	<u>0.2612</u>	<u>0.2324</u>	<u>0.1867</u>	<u>0.580</u>	551	<u>0.0097</u>	<u>0.0087</u>	<u>0.0072</u>	<u>0.407</u>
<u>7107</u>	<u>0.3621</u>	<u>0.3218</u>	<u>0.2583</u>	<u>0.571</u>					
<u>7108</u>	<u>0.2432</u>	<u>0.2163</u>	<u>0.1739</u>	<u>0.610</u>					

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-890 Table IV.

**Maximum Experience Modifications
For Firms with No Compensable Accidents:
Effective January 1, (~~2021~~) 2022**

Expected Loss Range	Maximum Experience Modification
(1 - 5,383	0.90
5,384 - 6,572	0.89
6,573 - 7,249	0.88
7,250 - 7,925	0.87
7,926 - 8,602	0.86
8,603 - 9,279	0.85
9,280 - 9,956	0.84
9,957 - 10,632	0.83
10,633 - 11,309	0.82
11,310 - 12,010	0.81
12,011 - 12,741	0.80
12,742 - 13,500	0.79
13,501 - 14,288	0.78
14,289 - 15,105	0.77
15,106 - 15,951	0.76
15,952 - 16,826	0.75
16,827 - 17,730	0.74
17,731 - 18,663	0.73
18,664 - 19,625	0.72
19,626 - 20,615	0.71
20,616 - 21,635	0.70
21,636 - 22,684	0.69
22,685 - 23,762	0.68
23,763 - 24,869	0.67
24,870 - 26,004	0.66
26,005 - 27,169	0.65
27,170 - 28,916	0.64
28,917 - 31,536	0.63
31,537 - 35,467	0.62
35,468 - 41,363	0.61
41,364 and higher	0.60))
<u>1</u> = <u>5,329</u>	<u>0.90</u>
<u>5,330</u> = <u>6,506</u>	<u>0.89</u>
<u>6,507</u> = <u>7,177</u>	<u>0.88</u>
<u>7,178</u> = <u>7,847</u>	<u>0.87</u>
<u>7,848</u> = <u>8,517</u>	<u>0.86</u>
<u>8,518</u> = <u>9,187</u>	<u>0.85</u>

Expected Loss Range

<u>9,188</u> = <u>9,857</u>	<u>0.84</u>
<u>9,858</u> = <u>10,528</u>	<u>0.83</u>
<u>10,529</u> = <u>11,198</u>	<u>0.82</u>
<u>11,199</u> = <u>11,893</u>	<u>0.81</u>
<u>11,894</u> = <u>12,617</u>	<u>0.80</u>
<u>12,618</u> = <u>13,369</u>	<u>0.79</u>
<u>13,370</u> = <u>14,150</u>	<u>0.78</u>
<u>14,151</u> = <u>14,959</u>	<u>0.77</u>
<u>14,960</u> = <u>15,797</u>	<u>0.76</u>
<u>15,798</u> = <u>16,664</u>	<u>0.75</u>
<u>16,665</u> = <u>17,559</u>	<u>0.74</u>
<u>17,560</u> = <u>18,483</u>	<u>0.73</u>
<u>18,484</u> = <u>19,436</u>	<u>0.72</u>
<u>19,437</u> = <u>20,417</u>	<u>0.71</u>
<u>20,418</u> = <u>21,426</u>	<u>0.70</u>
<u>21,427</u> = <u>22,464</u>	<u>0.69</u>
<u>22,465</u> = <u>23,531</u>	<u>0.68</u>
<u>23,532</u> = <u>24,626</u>	<u>0.67</u>
<u>24,627</u> = <u>25,750</u>	<u>0.66</u>
<u>25,751</u> = <u>26,903</u>	<u>0.65</u>
<u>26,904</u> = <u>28,632</u>	<u>0.64</u>
<u>28,633</u> = <u>31,225</u>	<u>0.63</u>
<u>31,226</u> = <u>35,115</u>	<u>0.62</u>
<u>35,116</u> = <u>40,950</u>	<u>0.61</u>
<u>40,951</u> and higher	<u>0.60</u>

Maximum Experience Modification

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry. Industrial insurance accident fund, stay at work and medical aid fund base rates by class of industry shall be as set forth below.

Class	Base Rates Effective January 1, (2021) 2022		
	Accident Fund	Stay at Work	Medical Aid Fund
((101	1.4036	0.0217	0.5564
103	1.6664	0.0256	0.8141
104	1.2781	0.0198	0.4907
105	1.2504	0.0190	0.7289
106	2.8185	0.0428	1.7145
107	1.3290	0.0205	0.5180
108	1.2781	0.0198	0.4907

Base Rates Effective January 1, ((2021)) 2022				Base Rates Effective January 1, ((2021)) 2022			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
112	0.9049	0.0139	0.4370	1002	1.1055	0.0170	0.4749
201	3.0790	0.0479	0.9632	1003	0.8634	0.0132	0.4217
202	2.8843	0.0449	0.9036	1004	0.5871	0.0091	0.2192
210	1.1667	0.0180	0.4737	1005	11.8650	0.1837	4.4426
212	1.1412	0.0176	0.4833	1006	0.2594	0.0040	0.1407
214	2.3836	0.0370	0.7918	1007	0.4089	0.0063	0.1844
217	1.5176	0.0233	0.6853	1101	1.4773	0.0227	0.7010
219	1.1342	0.0175	0.4335	1102	2.3317	0.0361	0.8575
301	1.0423	0.0159	0.6093	1103	1.3713	0.0211	0.5884
302	3.0173	0.0469	0.9669	1104	0.7468	0.0113	0.4477
303	2.5466	0.0393	1.0121	1105	1.0320	0.0159	0.4755
306	1.0139	0.0156	0.4177	1106	0.4092	0.0062	0.2844
307	1.1181	0.0172	0.5170	1108	0.5201	0.0079	0.3428
308	0.6589	0.0100	0.4398	1109	2.1915	0.0337	0.9911
403	2.2339	0.0343	1.0480	1301	0.8407	0.0130	0.3594
502	1.2511	0.0193	0.4925	1303	0.4884	0.0075	0.2314
504	2.6132	0.0401	1.2286	1304	0.0269	0.0004	0.0129
507	3.5714	0.0545	1.9359	1305	0.7041	0.0109	0.2943
508	1.8144	0.0282	0.5632	1401	0.2768	0.0041	0.2359
509	1.3773	0.0215	0.3852	1404	0.9178	0.0140	0.5054
510	2.8667	0.0438	1.5018	1405	0.8384	0.0128	0.4420
511	1.7280	0.0266	0.7712	1407	0.7971	0.0122	0.4288
512	1.5541	0.0238	0.7930	1501	1.1235	0.0173	0.4614
513	1.1391	0.0175	0.4961	1507	0.5872	0.0089	0.3407
514	1.5492	0.0237	0.7958	1701	1.0516	0.0162	0.4628
516	1.8588	0.0286	0.8561	1702	2.1243	0.0332	0.5753
517	2.3709	0.0365	1.0348	1703	1.2895	0.0200	0.4317
518	1.6024	0.0248	0.6173	1704	1.0516	0.0162	0.4628
519	1.6829	0.0259	0.7170	1801	0.6457	0.0100	0.2501
521	0.7158	0.0109	0.3984	1802	1.0331	0.0160	0.4001
601	0.6794	0.0105	0.3013	2002	0.9914	0.0151	0.5337
602	1.0453	0.0163	0.2835	2004	0.6655	0.0101	0.3871
603	1.1619	0.0181	0.3562	2007	0.9196	0.0140	0.5143
604	1.3510	0.0207	0.6988	2008	0.4106	0.0062	0.2873
606	0.6560	0.0100	0.3561	2009	0.4507	0.0068	0.3034
607	0.9624	0.0148	0.4166	2101	0.7178	0.0108	0.4904
608	0.6288	0.0098	0.2096	2102	0.8772	0.0134	0.4864
701	3.0790	0.0479	0.9632	2104	0.3783	0.0056	0.3691
803	0.7507	0.0115	0.3623	2105	0.8668	0.0133	0.4145
901	1.6024	0.0248	0.6173	2106	0.6910	0.0105	0.4064

Class	Base Rates Effective January 1, ((2021)) 2022			Class	Base Rates Effective January 1, ((2021)) 2022		
	Accident Fund	Stay at Work	Medical Aid Fund		Accident Fund	Stay at Work	Medical Aid Fund
2201	0.3939	0.0059	0.2661	3513	0.5306	0.0080	0.3804
2202	0.7706	0.0118	0.4031	3602	0.1277	0.0019	0.0753
2203	0.6037	0.0091	0.4239	3603	0.6157	0.0093	0.3770
2204	0.3939	0.0059	0.2661	3604	0.8990	0.0136	0.5573
2401	0.6769	0.0105	0.2701	3605	0.6070	0.0092	0.3435
2903	0.7589	0.0114	0.5567	3701	0.4164	0.0064	0.1780
2904	1.0168	0.0156	0.4750	3702	0.4610	0.0070	0.2768
2905	0.5679	0.0086	0.3576	3708	0.7478	0.0114	0.4404
2906	0.6222	0.0094	0.4518	3802	0.2523	0.0038	0.1632
2907	0.5377	0.0081	0.3593	3808	0.5340	0.0082	0.2727
2908	1.1469	0.0173	0.7608	3901	0.1557	0.0023	0.1246
2909	0.4679	0.0070	0.3727	3902	0.5431	0.0082	0.3786
3101	1.0408	0.0160	0.5089	3903	0.4236	0.0064	0.2953
3102	0.4164	0.0064	0.1780	3905	0.1399	0.0021	0.1217
3103	0.4983	0.0076	0.2609	3906	0.5613	0.0085	0.3871
3104	0.7654	0.0116	0.4662	3909	0.3036	0.0046	0.2205
3105	0.9970	0.0150	0.7015	4101	0.3129	0.0048	0.1812
3303	0.4502	0.0068	0.2708	4103	0.6672	0.0101	0.4325
3304	0.7759	0.0117	0.5291	4107	0.2695	0.0041	0.1316
3309	0.5110	0.0078	0.2997	4108	0.1887	0.0029	0.1161
3402	0.6070	0.0092	0.3435	4109	0.2315	0.0035	0.1852
3403	0.1917	0.0029	0.0984	4201	1.2306	0.0191	0.3961
3404	0.5685	0.0087	0.3298	4301	1.0025	0.0151	0.7404
3405	0.3844	0.0059	0.2048	4302	0.9385	0.0143	0.5555
3406	0.3231	0.0049	0.2021	4304	1.1022	0.0164	0.9506
3407	0.9991	0.0153	0.4734	4305	1.5587	0.0240	0.6659
3408	0.3177	0.0049	0.1542	4401	0.4502	0.0068	0.2708
3409	0.1999	0.0030	0.1350	4402	0.8727	0.0134	0.4382
3410	0.1999	0.0030	0.1350	4404	0.5587	0.0085	0.3288
3411	0.7284	0.0112	0.3158	4501	0.2042	0.0031	0.1344
3412	0.9582	0.0148	0.3519	4502	0.0841	0.0013	0.0458
3414	1.0213	0.0157	0.4672	4504	0.1286	0.0019	0.0968
3415	1.2073	0.0185	0.5934	4802	0.5077	0.0077	0.3545
3501	0.6680	0.0101	0.4699	4803	0.4192	0.0062	0.3681
3503	0.3894	0.0059	0.2342	4804	0.6524	0.0098	0.5183
3506	1.1400	0.0175	0.5228	4805	0.4375	0.0065	0.3436
3509	0.5014	0.0076	0.3074	4806	0.1108	0.0016	0.1077
3510	0.4305	0.0065	0.2913	4808	0.6074	0.0092	0.3568
3511	0.9996	0.0152	0.5773	4809	0.3459	0.0052	0.2243
3512	0.4024	0.0060	0.3025	4810	0.2498	0.0037	0.2096

Base Rates Effective January 1, ((2021)) 2022				Base Rates Effective January 1, ((2021)) 2022			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
4811	0.5371	0.0080	0.4626	6104	0.4808	0.0073	0.3043
4812	0.5785	0.0088	0.3569	6105	0.7307	0.0113	0.3123
4813	0.2345	0.0035	0.2296	6107	0.1332	0.0019	0.1498
4900	0.1699	0.0026	0.0701	6108	0.3188	0.0048	0.2572
4901	0.0607	0.0009	0.0263	6109	0.1515	0.0023	0.0699
4902	0.1262	0.0019	0.0695	6110	0.5715	0.0088	0.2769
4903	0.2197	0.0034	0.1115	6120	0.4073	0.0062	0.2026
4904	0.0193	0.0003	0.0128	6121	0.5516	0.0085	0.2489
4905	0.3826	0.0057	0.3317	6201	0.6345	0.0097	0.3159
4906	0.1423	0.0022	0.0731	6202	0.9876	0.0150	0.5673
4907	0.0667	0.0010	0.0619	6203	0.1013	0.0015	0.1180
4908	0.1041	0.0015	0.0925	6204	0.1694	0.0026	0.1196
4909	0.0416	0.0006	0.0370	6205	0.2358	0.0036	0.1471
4910	0.6124	0.0094	0.3213	6206	0.2496	0.0038	0.1662
4911	0.0814	0.0012	0.0394	6207	1.2684	0.0193	0.7764
5001	11.2701	0.1738	4.7411	6208	0.2538	0.0037	0.2426
5002	0.7710	0.0118	0.3889	6209	0.3088	0.0046	0.2665
5003	3.2016	0.0496	1.1534	6301	0.1805	0.0028	0.0819
5004	1.1860	0.0179	0.7743	6303	0.0670	0.0010	0.0367
5005	1.4130	0.0219	0.4948	6305	0.1109	0.0017	0.0779
5006	1.7961	0.0279	0.6108	6306	0.4190	0.0064	0.2395
5101	1.3748	0.0213	0.5126	6308	0.0782	0.0012	0.0398
5103	0.9952	0.0151	0.6366	6309	0.2468	0.0037	0.1591
5106	0.9952	0.0151	0.6366	6402	0.3021	0.0045	0.2235
5108	1.0402	0.0159	0.5269	6403	0.1652	0.0025	0.1169
5109	0.7288	0.0112	0.3228	6404	0.3528	0.0053	0.2701
5201	0.3903	0.0059	0.2237	6405	0.7843	0.0120	0.3922
5204	1.4318	0.0222	0.5076	6406	0.1674	0.0025	0.1139
5206	0.6048	0.0093	0.2932	6407	0.3582	0.0054	0.2134
5207	0.1685	0.0025	0.1272	6408	0.7580	0.0116	0.4133
5208	0.8832	0.0135	0.4899	6409	0.8580	0.0132	0.4128
5209	0.8668	0.0133	0.4160	6410	0.4207	0.0064	0.2213
5300	0.1192	0.0018	0.0685	6411	0.0538	0.0008	0.0421
5301	0.0421	0.0006	0.0242	6501	0.1353	0.0021	0.0716
5302	0.0113	0.0002	0.0061	6502	0.0377	0.0006	0.0194
5305	0.0572	0.0009	0.0347	6503	0.1163	0.0018	0.0482
5306	0.0489	0.0007	0.0337	6504	0.2881	0.0042	0.2920
5307	0.9641	0.0149	0.4012	6505	0.1688	0.0025	0.1524
5308	0.1061	0.0016	0.0790	6506	0.1593	0.0024	0.1018
6103	0.0985	0.0015	0.0833	6509	0.2790	0.0042	0.2354

Base Rates Effective January 1, (2021) <u>2022</u>				Base Rates Effective January 1, (2021) <u>2022</u>			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6510	0.5890	0.0091	0.2114	7110	0.5791	0.0089	0.2885
6511	0.3178	0.0048	0.2289	7111	0.5321	0.0083	0.1774
6512	0.1245	0.0019	0.0626	7112	0.8673	0.0131	0.5999
6601	0.2138	0.0032	0.1497	7113	0.5073	0.0077	0.3250
6602	0.6587	0.0099	0.4675	7114	0.8570	0.0129	0.6360
6603	0.3775	0.0057	0.2332	7115	0.5869	0.0088	0.4755
6604	0.0955	0.0014	0.0640	7116	0.5997	0.0092	0.3115
6605	0.3476	0.0053	0.2114	7117	1.4666	0.0222	0.9268
6607	0.1188	0.0018	0.0905	7118	2.1989	0.0336	1.1804
6608	0.8603	0.0134	0.2452	7119	2.3137	0.0355	1.0812
6620	4.0897	0.0627	2.0253	7120	7.7935	0.1201	3.3295
6704	0.1680	0.0025	0.1067	7121	12.2022	0.1886	4.8007
6705	0.7027	0.0104	0.6296	7122	0.4414	0.0066	0.3372
6706	0.2874	0.0043	0.2248	7200	2.9834	0.0464	0.9284
6707	14.0761	0.2101	11.4756	7201	2.2410	0.0347	0.8445
6708	9.7896	0.1436	10.0015	7202	0.0341	0.0005	0.0177
6709	0.2939	0.0044	0.2020	7203	0.1088	0.0016	0.1158
6801	1.0093	0.0157	0.3136	7204	0.0000	0.0000	0.0000
6802	1.0678	0.0163	0.5439	7205	0.0000	0.0000	0.0000
6803	0.9244	0.0144	0.2379	7301	0.7631	0.0114	0.6095
6804	0.3430	0.0052	0.2195	7302	0.9734	0.0147	0.6903
6809	4.6235	0.0687	3.9823	7307	0.6305	0.0095	0.4056
6901	0.0000	0.0000	0.0602	7308	0.2847	0.0042	0.2545
6902	1.1890	0.0183	0.5370	7309	0.2806	0.0042	0.2368
6903	8.2534	0.1279	2.9400	7400	3.4309	0.0534	1.0676))
6904	1.7873	0.0277	0.6802	<u>101</u>	<u>1.3687</u>	<u>0.0234</u>	<u>0.5372</u>
6905	1.3775	0.0214	0.4906	<u>103</u>	<u>1.5726</u>	<u>0.0266</u>	<u>0.8086</u>
6906	0.0000	0.0000	0.4429	<u>104</u>	<u>1.2083</u>	<u>0.0207</u>	<u>0.4562</u>
6907	1.0270	0.0156	0.6426	<u>105</u>	<u>1.2229</u>	<u>0.0206</u>	<u>0.7000</u>
6908	0.4855	0.0074	0.2529	<u>106</u>	<u>2.5426</u>	<u>0.0425</u>	<u>1.6376</u>
6909	0.1540	0.0023	0.0935	<u>107</u>	<u>1.2607</u>	<u>0.0216</u>	<u>0.4925</u>
7100	0.0285	0.0004	0.0128	<u>108</u>	<u>1.2083</u>	<u>0.0207</u>	<u>0.4562</u>
7101	0.0326	0.0005	0.0162	<u>112</u>	<u>0.9012</u>	<u>0.0153</u>	<u>0.4396</u>
7103	1.3868	0.0215	0.4972	<u>201</u>	<u>3.0533</u>	<u>0.0526</u>	<u>0.9878</u>
7104	0.0308	0.0005	0.0181	<u>202</u>	<u>2.6980</u>	<u>0.0464</u>	<u>0.9298</u>
7105	0.0226	0.0003	0.0139	<u>210</u>	<u>1.1763</u>	<u>0.0201</u>	<u>0.4728</u>
7106	0.3321	0.0050	0.2178	<u>212</u>	<u>1.0529</u>	<u>0.0179</u>	<u>0.4957</u>
7107	0.4243	0.0064	0.2936	<u>214</u>	<u>2.3037</u>	<u>0.0396</u>	<u>0.7653</u>
7108	0.2719	0.0041	0.1985	<u>217</u>	<u>1.4242</u>	<u>0.0243</u>	<u>0.6252</u>
7109	0.1300	0.0020	0.0787	<u>219</u>	<u>1.0152</u>	<u>0.0173</u>	<u>0.4151</u>

Base Rates Effective January 1, ((2021)) 2022				Base Rates Effective January 1, ((2021)) 2022			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>301</u>	<u>1.0640</u>	<u>0.0179</u>	<u>0.6227</u>	<u>1103</u>	<u>1.3918</u>	<u>0.0237</u>	<u>0.5976</u>
<u>302</u>	<u>2.9267</u>	<u>0.0503</u>	<u>0.9897</u>	<u>1104</u>	<u>0.7645</u>	<u>0.0128</u>	<u>0.4528</u>
<u>303</u>	<u>2.3404</u>	<u>0.0399</u>	<u>0.9860</u>	<u>1105</u>	<u>1.0830</u>	<u>0.0184</u>	<u>0.4853</u>
<u>306</u>	<u>0.9661</u>	<u>0.0165</u>	<u>0.4163</u>	<u>1106</u>	<u>0.4082</u>	<u>0.0068</u>	<u>0.2833</u>
<u>307</u>	<u>1.0332</u>	<u>0.0175</u>	<u>0.4973</u>	<u>1108</u>	<u>0.5222</u>	<u>0.0087</u>	<u>0.3446</u>
<u>308</u>	<u>0.6385</u>	<u>0.0106</u>	<u>0.4389</u>	<u>1109</u>	<u>2.3828</u>	<u>0.0406</u>	<u>1.0706</u>
<u>403</u>	<u>2.1251</u>	<u>0.0362</u>	<u>0.9576</u>	<u>1301</u>	<u>0.8315</u>	<u>0.0142</u>	<u>0.3581</u>
<u>502</u>	<u>1.1778</u>	<u>0.0202</u>	<u>0.4612</u>	<u>1303</u>	<u>0.4939</u>	<u>0.0084</u>	<u>0.2207</u>
<u>504</u>	<u>2.4361</u>	<u>0.0414</u>	<u>1.1460</u>	<u>1304</u>	<u>0.0246</u>	<u>0.0004</u>	<u>0.0125</u>
<u>507</u>	<u>3.5520</u>	<u>0.0599</u>	<u>1.9418</u>	<u>1305</u>	<u>0.6693</u>	<u>0.0114</u>	<u>0.2816</u>
<u>508</u>	<u>1.9483</u>	<u>0.0336</u>	<u>0.5921</u>	<u>1401</u>	<u>0.3107</u>	<u>0.0051</u>	<u>0.2577</u>
<u>509</u>	<u>1.3605</u>	<u>0.0235</u>	<u>0.3814</u>	<u>1404</u>	<u>0.8773</u>	<u>0.0147</u>	<u>0.5100</u>
<u>510</u>	<u>2.8124</u>	<u>0.0476</u>	<u>1.4515</u>	<u>1405</u>	<u>0.8605</u>	<u>0.0145</u>	<u>0.4576</u>
<u>511</u>	<u>1.6717</u>	<u>0.0285</u>	<u>0.7327</u>	<u>1407</u>	<u>0.7993</u>	<u>0.0135</u>	<u>0.4208</u>
<u>512</u>	<u>1.4782</u>	<u>0.0250</u>	<u>0.7512</u>	<u>1501</u>	<u>1.1438</u>	<u>0.0195</u>	<u>0.4791</u>
<u>513</u>	<u>1.1139</u>	<u>0.0190</u>	<u>0.4956</u>	<u>1507</u>	<u>0.5760</u>	<u>0.0097</u>	<u>0.3296</u>
<u>514</u>	<u>1.4276</u>	<u>0.0241</u>	<u>0.7717</u>	<u>1701</u>	<u>1.0681</u>	<u>0.0182</u>	<u>0.4726</u>
<u>516</u>	<u>1.8299</u>	<u>0.0311</u>	<u>0.8383</u>	<u>1702</u>	<u>2.0528</u>	<u>0.0356</u>	<u>0.5429</u>
<u>517</u>	<u>2.2504</u>	<u>0.0384</u>	<u>0.9738</u>	<u>1703</u>	<u>1.2774</u>	<u>0.0220</u>	<u>0.4333</u>
<u>518</u>	<u>1.5866</u>	<u>0.0272</u>	<u>0.6103</u>	<u>1704</u>	<u>1.0681</u>	<u>0.0182</u>	<u>0.4726</u>
<u>519</u>	<u>1.8512</u>	<u>0.0316</u>	<u>0.7692</u>	<u>1801</u>	<u>0.6549</u>	<u>0.0112</u>	<u>0.2520</u>
<u>521</u>	<u>0.7663</u>	<u>0.0129</u>	<u>0.4170</u>	<u>1802</u>	<u>1.0478</u>	<u>0.0179</u>	<u>0.4032</u>
<u>601</u>	<u>0.6988</u>	<u>0.0119</u>	<u>0.2855</u>	<u>2002</u>	<u>0.9499</u>	<u>0.0160</u>	<u>0.5033</u>
<u>602</u>	<u>1.0324</u>	<u>0.0179</u>	<u>0.2841</u>	<u>2004</u>	<u>0.6560</u>	<u>0.0110</u>	<u>0.4091</u>
<u>603</u>	<u>1.1585</u>	<u>0.0199</u>	<u>0.3871</u>	<u>2007</u>	<u>0.8575</u>	<u>0.0144</u>	<u>0.4934</u>
<u>604</u>	<u>1.3315</u>	<u>0.0225</u>	<u>0.6895</u>	<u>2008</u>	<u>0.4153</u>	<u>0.0069</u>	<u>0.2828</u>
<u>606</u>	<u>0.6331</u>	<u>0.0107</u>	<u>0.3385</u>	<u>2009</u>	<u>0.4270</u>	<u>0.0071</u>	<u>0.3065</u>
<u>607</u>	<u>0.9385</u>	<u>0.0160</u>	<u>0.4170</u>	<u>2101</u>	<u>0.7141</u>	<u>0.0119</u>	<u>0.4754</u>
<u>608</u>	<u>0.5936</u>	<u>0.0102</u>	<u>0.2107</u>	<u>2102</u>	<u>0.8211</u>	<u>0.0138</u>	<u>0.4721</u>
<u>701</u>	<u>2.6563</u>	<u>0.0458</u>	<u>0.8594</u>	<u>2103</u>	<u>1.6013</u>	<u>0.0271</u>	<u>0.7920</u>
<u>803</u>	<u>0.7404</u>	<u>0.0126</u>	<u>0.3609</u>	<u>2104</u>	<u>0.3944</u>	<u>0.0064</u>	<u>0.3874</u>
<u>901</u>	<u>1.5866</u>	<u>0.0272</u>	<u>0.6103</u>	<u>2105</u>	<u>0.8452</u>	<u>0.0143</u>	<u>0.4061</u>
<u>1002</u>	<u>1.0671</u>	<u>0.0182</u>	<u>0.4660</u>	<u>2106</u>	<u>0.6974</u>	<u>0.0117</u>	<u>0.4051</u>
<u>1003</u>	<u>0.8288</u>	<u>0.0141</u>	<u>0.3910</u>	<u>2201</u>	<u>0.3847</u>	<u>0.0064</u>	<u>0.2828</u>
<u>1004</u>	<u>0.5966</u>	<u>0.0102</u>	<u>0.2197</u>	<u>2202</u>	<u>0.8244</u>	<u>0.0139</u>	<u>0.4374</u>
<u>1005</u>	<u>11.8281</u>	<u>0.2028</u>	<u>4.4298</u>	<u>2203</u>	<u>0.6285</u>	<u>0.0105</u>	<u>0.4343</u>
<u>1006</u>	<u>0.2633</u>	<u>0.0044</u>	<u>0.1432</u>	<u>2204</u>	<u>0.3847</u>	<u>0.0064</u>	<u>0.2828</u>
<u>1007</u>	<u>0.4088</u>	<u>0.0070</u>	<u>0.1861</u>	<u>2401</u>	<u>0.6387</u>	<u>0.0109</u>	<u>0.2772</u>
<u>1101</u>	<u>1.5114</u>	<u>0.0257</u>	<u>0.6953</u>	<u>2903</u>	<u>0.7505</u>	<u>0.0124</u>	<u>0.5485</u>
<u>1102</u>	<u>2.4043</u>	<u>0.0413</u>	<u>0.8363</u>	<u>2904</u>	<u>0.9972</u>	<u>0.0169</u>	<u>0.4724</u>

Base Rates Effective January 1, ((2021)) 2022				Base Rates Effective January 1, ((2021)) 2022			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>2905</u>	<u>0.6050</u>	<u>0.0101</u>	<u>0.3953</u>	<u>3708</u>	<u>0.7837</u>	<u>0.0132</u>	<u>0.4476</u>
<u>2906</u>	<u>0.6541</u>	<u>0.0109</u>	<u>0.4626</u>	<u>3802</u>	<u>0.2582</u>	<u>0.0043</u>	<u>0.1638</u>
<u>2907</u>	<u>0.5275</u>	<u>0.0088</u>	<u>0.3570</u>	<u>3808</u>	<u>0.5111</u>	<u>0.0086</u>	<u>0.2885</u>
<u>2908</u>	<u>1.1101</u>	<u>0.0185</u>	<u>0.7335</u>	<u>3901</u>	<u>0.1586</u>	<u>0.0026</u>	<u>0.1295</u>
<u>2909</u>	<u>0.4734</u>	<u>0.0078</u>	<u>0.3680</u>	<u>3902</u>	<u>0.5202</u>	<u>0.0086</u>	<u>0.3815</u>
<u>3101</u>	<u>1.0147</u>	<u>0.0172</u>	<u>0.5145</u>	<u>3903</u>	<u>0.5458</u>	<u>0.0090</u>	<u>0.4003</u>
<u>3102</u>	<u>0.3895</u>	<u>0.0066</u>	<u>0.1749</u>	<u>3905</u>	<u>0.1424</u>	<u>0.0023</u>	<u>0.1236</u>
<u>3103</u>	<u>0.4793</u>	<u>0.0081</u>	<u>0.2486</u>	<u>3906</u>	<u>0.5416</u>	<u>0.0090</u>	<u>0.4020</u>
<u>3104</u>	<u>0.7637</u>	<u>0.0127</u>	<u>0.4975</u>	<u>3909</u>	<u>0.2915</u>	<u>0.0048</u>	<u>0.2185</u>
<u>3105</u>	<u>0.9866</u>	<u>0.0163</u>	<u>0.7169</u>	<u>4101</u>	<u>0.2904</u>	<u>0.0049</u>	<u>0.1773</u>
<u>3303</u>	<u>0.4493</u>	<u>0.0075</u>	<u>0.2720</u>	<u>4103</u>	<u>0.6650</u>	<u>0.0111</u>	<u>0.4276</u>
<u>3304</u>	<u>0.8206</u>	<u>0.0137</u>	<u>0.5491</u>	<u>4107</u>	<u>0.2676</u>	<u>0.0045</u>	<u>0.1294</u>
<u>3309</u>	<u>0.5129</u>	<u>0.0086</u>	<u>0.2899</u>	<u>4108</u>	<u>0.1960</u>	<u>0.0033</u>	<u>0.1241</u>
<u>3402</u>	<u>0.5645</u>	<u>0.0095</u>	<u>0.3329</u>	<u>4109</u>	<u>0.2408</u>	<u>0.0040</u>	<u>0.1870</u>
<u>3403</u>	<u>0.1832</u>	<u>0.0031</u>	<u>0.0942</u>	<u>4201</u>	<u>1.2331</u>	<u>0.0213</u>	<u>0.3762</u>
<u>3404</u>	<u>0.5773</u>	<u>0.0097</u>	<u>0.3316</u>	<u>4301</u>	<u>0.9764</u>	<u>0.0161</u>	<u>0.7381</u>
<u>3405</u>	<u>0.3805</u>	<u>0.0064</u>	<u>0.2015</u>	<u>4302</u>	<u>0.9390</u>	<u>0.0158</u>	<u>0.5248</u>
<u>3406</u>	<u>0.3325</u>	<u>0.0056</u>	<u>0.2064</u>	<u>4304</u>	<u>1.0833</u>	<u>0.0177</u>	<u>0.9319</u>
<u>3407</u>	<u>1.0079</u>	<u>0.0171</u>	<u>0.4720</u>	<u>4305</u>	<u>1.4213</u>	<u>0.0242</u>	<u>0.6144</u>
<u>3408</u>	<u>0.3502</u>	<u>0.0060</u>	<u>0.1624</u>	<u>4401</u>	<u>0.4493</u>	<u>0.0075</u>	<u>0.2720</u>
<u>3409</u>	<u>0.2123</u>	<u>0.0035</u>	<u>0.1417</u>	<u>4402</u>	<u>0.8645</u>	<u>0.0147</u>	<u>0.4159</u>
<u>3410</u>	<u>0.2123</u>	<u>0.0035</u>	<u>0.1417</u>	<u>4404</u>	<u>0.5706</u>	<u>0.0096</u>	<u>0.3311</u>
<u>3411</u>	<u>0.7057</u>	<u>0.0120</u>	<u>0.3080</u>	<u>4501</u>	<u>0.2050</u>	<u>0.0034</u>	<u>0.1311</u>
<u>3412</u>	<u>0.9971</u>	<u>0.0171</u>	<u>0.3562</u>	<u>4502</u>	<u>0.0837</u>	<u>0.0014</u>	<u>0.0459</u>
<u>3414</u>	<u>1.1101</u>	<u>0.0189</u>	<u>0.4892</u>	<u>4504</u>	<u>0.1333</u>	<u>0.0022</u>	<u>0.0990</u>
<u>3415</u>	<u>1.3994</u>	<u>0.0237</u>	<u>0.6965</u>	<u>4802</u>	<u>0.5135</u>	<u>0.0086</u>	<u>0.3482</u>
<u>3501</u>	<u>0.5130</u>	<u>0.0085</u>	<u>0.3728</u>	<u>4803</u>	<u>0.4561</u>	<u>0.0075</u>	<u>0.3874</u>
<u>3503</u>	<u>0.3901</u>	<u>0.0065</u>	<u>0.2313</u>	<u>4804</u>	<u>0.6450</u>	<u>0.0106</u>	<u>0.5074</u>
<u>3506</u>	<u>1.1278</u>	<u>0.0192</u>	<u>0.4874</u>	<u>4805</u>	<u>0.4198</u>	<u>0.0069</u>	<u>0.3454</u>
<u>3509</u>	<u>0.5334</u>	<u>0.0090</u>	<u>0.3137</u>	<u>4806</u>	<u>0.1292</u>	<u>0.0021</u>	<u>0.1170</u>
<u>3510</u>	<u>0.4263</u>	<u>0.0071</u>	<u>0.2970</u>	<u>4808</u>	<u>0.6290</u>	<u>0.0106</u>	<u>0.3694</u>
<u>3511</u>	<u>0.9928</u>	<u>0.0167</u>	<u>0.5979</u>	<u>4809</u>	<u>0.3111</u>	<u>0.0052</u>	<u>0.2065</u>
<u>3512</u>	<u>0.4053</u>	<u>0.0067</u>	<u>0.2936</u>	<u>4810</u>	<u>0.2624</u>	<u>0.0043</u>	<u>0.2190</u>
<u>3513</u>	<u>0.5337</u>	<u>0.0089</u>	<u>0.3507</u>	<u>4811</u>	<u>0.5506</u>	<u>0.0090</u>	<u>0.4709</u>
<u>3602</u>	<u>0.1255</u>	<u>0.0021</u>	<u>0.0751</u>	<u>4812</u>	<u>0.5639</u>	<u>0.0095</u>	<u>0.3418</u>
<u>3603</u>	<u>0.5952</u>	<u>0.0100</u>	<u>0.3555</u>	<u>4813</u>	<u>0.2564</u>	<u>0.0042</u>	<u>0.2380</u>
<u>3604</u>	<u>0.9721</u>	<u>0.0163</u>	<u>0.5709</u>	<u>4900</u>	<u>0.1710</u>	<u>0.0029</u>	<u>0.0756</u>
<u>3605</u>	<u>0.5645</u>	<u>0.0095</u>	<u>0.3329</u>	<u>4901</u>	<u>0.0594</u>	<u>0.0010</u>	<u>0.0256</u>
<u>3701</u>	<u>0.3895</u>	<u>0.0066</u>	<u>0.1749</u>	<u>4902</u>	<u>0.1158</u>	<u>0.0020</u>	<u>0.0625</u>
<u>3702</u>	<u>0.4622</u>	<u>0.0077</u>	<u>0.2801</u>	<u>4903</u>	<u>0.2251</u>	<u>0.0038</u>	<u>0.1095</u>

Base Rates Effective January 1, (2021) 2022				Base Rates Effective January 1, (2021) 2022			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>4904</u>	<u>0.0188</u>	<u>0.0003</u>	<u>0.0120</u>	<u>6121</u>	<u>0.6271</u>	<u>0.0107</u>	<u>0.2653</u>
<u>4905</u>	<u>0.3846</u>	<u>0.0063</u>	<u>0.3222</u>	<u>6201</u>	<u>0.6791</u>	<u>0.0115</u>	<u>0.3381</u>
<u>4906</u>	<u>0.1357</u>	<u>0.0023</u>	<u>0.0709</u>	<u>6202</u>	<u>0.9753</u>	<u>0.0164</u>	<u>0.5739</u>
<u>4907</u>	<u>0.0630</u>	<u>0.0010</u>	<u>0.0660</u>	<u>6203</u>	<u>0.0985</u>	<u>0.0016</u>	<u>0.1170</u>
<u>4908</u>	<u>0.1047</u>	<u>0.0017</u>	<u>0.1022</u>	<u>6204</u>	<u>0.1602</u>	<u>0.0027</u>	<u>0.1165</u>
<u>4909</u>	<u>0.0419</u>	<u>0.0007</u>	<u>0.0408</u>	<u>6205</u>	<u>0.2298</u>	<u>0.0038</u>	<u>0.1428</u>
<u>4910</u>	<u>0.6088</u>	<u>0.0103</u>	<u>0.3147</u>	<u>6206</u>	<u>0.2424</u>	<u>0.0040</u>	<u>0.1658</u>
<u>4911</u>	<u>0.0810</u>	<u>0.0014</u>	<u>0.0388</u>	<u>6207</u>	<u>1.2195</u>	<u>0.0204</u>	<u>0.7399</u>
<u>5001</u>	<u>11.5021</u>	<u>0.1965</u>	<u>4.7005</u>	<u>6208</u>	<u>0.2468</u>	<u>0.0040</u>	<u>0.2304</u>
<u>5002</u>	<u>0.7612</u>	<u>0.0129</u>	<u>0.3837</u>	<u>6209</u>	<u>0.3080</u>	<u>0.0050</u>	<u>0.2675</u>
<u>5003</u>	<u>3.4014</u>	<u>0.0583</u>	<u>1.2767</u>	<u>6301</u>	<u>0.1886</u>	<u>0.0032</u>	<u>0.0837</u>
<u>5004</u>	<u>1.2040</u>	<u>0.0201</u>	<u>0.8106</u>	<u>6303</u>	<u>0.0678</u>	<u>0.0011</u>	<u>0.0365</u>
<u>5005</u>	<u>1.4580</u>	<u>0.0250</u>	<u>0.5189</u>	<u>6305</u>	<u>0.1060</u>	<u>0.0018</u>	<u>0.0783</u>
<u>5006</u>	<u>1.7929</u>	<u>0.0308</u>	<u>0.6201</u>	<u>6306</u>	<u>0.4144</u>	<u>0.0070</u>	<u>0.2445</u>
<u>5101</u>	<u>1.3850</u>	<u>0.0237</u>	<u>0.5192</u>	<u>6308</u>	<u>0.0791</u>	<u>0.0013</u>	<u>0.0413</u>
<u>5103</u>	<u>1.0668</u>	<u>0.0179</u>	<u>0.6669</u>	<u>6309</u>	<u>0.2634</u>	<u>0.0044</u>	<u>0.1662</u>
<u>5106</u>	<u>1.0668</u>	<u>0.0179</u>	<u>0.6669</u>	<u>6402</u>	<u>0.2893</u>	<u>0.0048</u>	<u>0.2264</u>
<u>5108</u>	<u>1.0694</u>	<u>0.0181</u>	<u>0.5377</u>	<u>6403</u>	<u>0.1611</u>	<u>0.0027</u>	<u>0.1167</u>
<u>5109</u>	<u>0.6970</u>	<u>0.0119</u>	<u>0.3169</u>	<u>6404</u>	<u>0.3365</u>	<u>0.0056</u>	<u>0.2533</u>
<u>5201</u>	<u>0.3866</u>	<u>0.0065</u>	<u>0.2317</u>	<u>6405</u>	<u>0.8387</u>	<u>0.0142</u>	<u>0.4162</u>
<u>5204</u>	<u>1.4608</u>	<u>0.0251</u>	<u>0.5037</u>	<u>6406</u>	<u>0.1710</u>	<u>0.0028</u>	<u>0.1165</u>
<u>5206</u>	<u>0.5986</u>	<u>0.0101</u>	<u>0.2974</u>	<u>6407</u>	<u>0.3541</u>	<u>0.0059</u>	<u>0.2179</u>
<u>5207</u>	<u>0.1670</u>	<u>0.0028</u>	<u>0.1244</u>	<u>6408</u>	<u>0.7968</u>	<u>0.0134</u>	<u>0.4419</u>
<u>5208</u>	<u>0.8503</u>	<u>0.0143</u>	<u>0.4640</u>	<u>6409</u>	<u>0.8619</u>	<u>0.0146</u>	<u>0.4190</u>
<u>5209</u>	<u>0.8527</u>	<u>0.0144</u>	<u>0.4270</u>	<u>6410</u>	<u>0.4017</u>	<u>0.0068</u>	<u>0.2217</u>
<u>5300</u>	<u>0.1222</u>	<u>0.0021</u>	<u>0.0684</u>	<u>6411</u>	<u>0.0485</u>	<u>0.0008</u>	<u>0.0385</u>
<u>5301</u>	<u>0.0424</u>	<u>0.0007</u>	<u>0.0239</u>	<u>6501</u>	<u>0.1335</u>	<u>0.0023</u>	<u>0.0695</u>
<u>5302</u>	<u>0.0108</u>	<u>0.0002</u>	<u>0.0058</u>	<u>6502</u>	<u>0.0363</u>	<u>0.0006</u>	<u>0.0189</u>
<u>5305</u>	<u>0.0528</u>	<u>0.0009</u>	<u>0.0325</u>	<u>6503</u>	<u>0.1192</u>	<u>0.0020</u>	<u>0.0489</u>
<u>5306</u>	<u>0.0477</u>	<u>0.0008</u>	<u>0.0343</u>	<u>6504</u>	<u>0.2851</u>	<u>0.0046</u>	<u>0.2889</u>
<u>5307</u>	<u>0.9725</u>	<u>0.0166</u>	<u>0.4025</u>	<u>6505</u>	<u>0.1603</u>	<u>0.0026</u>	<u>0.1528</u>
<u>5308</u>	<u>0.1040</u>	<u>0.0017</u>	<u>0.0790</u>	<u>6506</u>	<u>0.1533</u>	<u>0.0026</u>	<u>0.0963</u>
<u>6103</u>	<u>0.0973</u>	<u>0.0016</u>	<u>0.0849</u>	<u>6509</u>	<u>0.2792</u>	<u>0.0046</u>	<u>0.2321</u>
<u>6104</u>	<u>0.4609</u>	<u>0.0077</u>	<u>0.2876</u>	<u>6510</u>	<u>0.6030</u>	<u>0.0104</u>	<u>0.2058</u>
<u>6105</u>	<u>0.7730</u>	<u>0.0132</u>	<u>0.3255</u>	<u>6511</u>	<u>0.3210</u>	<u>0.0053</u>	<u>0.2331</u>
<u>6107</u>	<u>0.1504</u>	<u>0.0024</u>	<u>0.1663</u>	<u>6512</u>	<u>0.1253</u>	<u>0.0021</u>	<u>0.0617</u>
<u>6108</u>	<u>0.3019</u>	<u>0.0049</u>	<u>0.2545</u>	<u>6601</u>	<u>0.2270</u>	<u>0.0038</u>	<u>0.1545</u>
<u>6109</u>	<u>0.1532</u>	<u>0.0026</u>	<u>0.0715</u>	<u>6602</u>	<u>0.6798</u>	<u>0.0113</u>	<u>0.4650</u>
<u>6110</u>	<u>0.5664</u>	<u>0.0096</u>	<u>0.2721</u>	<u>6603</u>	<u>0.3406</u>	<u>0.0057</u>	<u>0.2367</u>
<u>6120</u>	<u>0.4423</u>	<u>0.0075</u>	<u>0.2135</u>	<u>6604</u>	<u>0.0891</u>	<u>0.0015</u>	<u>0.0594</u>

Base Rates Effective January 1, (2021) 2022				Base Rates Effective January 1, (2021) 2022			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6605	0.3725	0.0062	0.2269	7117	1.3602	0.0227	0.8744
6607	0.1185	0.0020	0.0912	7118	2.2303	0.0377	1.1628
6608	0.8288	0.0143	0.2324	7119	2.4177	0.0411	1.1075
6620	4.4416	0.0754	2.1299	7120	7.1065	0.1212	3.0718
6704	0.1530	0.0025	0.1027	7121	11.8028	0.2021	4.5366
6705	0.7044	0.0114	0.7009	7122	0.4190	0.0069	0.3307
6706	0.2880	0.0047	0.2248	7200	3.2292	0.0557	0.9720
6707	11.9160	0.1944	10.5239	7201	2.3223	0.0398	0.8636
6708	9.6752	0.1558	9.8167	7202	0.0327	0.0006	0.0162
6709	0.3220	0.0054	0.2143	7203	0.1058	0.0017	0.1100
6801	1.0296	0.0178	0.3030	7204	0.0000	0.0000	0.0000
6802	1.0340	0.0175	0.5129	7205	0.0000	0.0000	0.0000
6803	0.8745	0.0151	0.2339	7301	0.7736	0.0127	0.6313
6804	0.3417	0.0057	0.2141	7302	0.9579	0.0159	0.7061
6809	4.4187	0.0725	3.6843	7307	0.6028	0.0101	0.3922
6901	0.0000	0.0000	0.0670	7308	0.2704	0.0044	0.2498
6902	1.1296	0.0192	0.5239	7309	0.2665	0.0043	0.2377
6903	7.3824	0.1269	2.5581	7400	3.7135	0.0641	1.1178
6904	1.8754	0.0322	0.6760				
6905	1.3846	0.0238	0.4990				
6906	0.0000	0.0000	0.4513				
6907	1.0289	0.0172	0.6362				
6908	0.4864	0.0082	0.2549				
6909	0.1454	0.0024	0.0895				
7100	0.0277	0.0005	0.0119				
7101	0.0331	0.0006	0.0157				
7103	1.5366	0.0264	0.5442				
7104	0.0317	0.0005	0.0180				
7105	0.0207	0.0003	0.0131				
7106	0.3382	0.0056	0.2177				
7107	0.4918	0.0082	0.3060				
7108	0.2963	0.0049	0.2175				
7109	0.1278	0.0022	0.0726				
7110	0.6091	0.0103	0.3004				
7111	0.4726	0.0081	0.1602				
7112	0.7800	0.0130	0.5501				
7113	0.5321	0.0089	0.3292				
7114	0.8828	0.0146	0.6422				
7115	0.6127	0.0101	0.4934				
7116	0.6595	0.0112	0.3312				

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

**Base Rates Effective
January 1, ((2021)) 2022**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund
((540	0.0281	0.0004	0.0126	0.0011
541	0.0115	0.0002	0.0058	0.0011
550	0.0498	0.0008	0.0197	0.0011
551	0.0184	0.0003	0.0081	0.0011))
<u>540</u>	<u>0.0248</u>	<u>0.0004</u>	<u>0.0116</u>	<u>0.0013</u>
<u>541</u>	<u>0.0118</u>	<u>0.0002</u>	<u>0.0057</u>	<u>0.0013</u>
<u>550</u>	<u>0.0510</u>	<u>0.0009</u>	<u>0.0199</u>	<u>0.0013</u>
<u>551</u>	<u>0.0171</u>	<u>0.0003</u>	<u>0.0076</u>	<u>0.0013</u>

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-89507 Horse racing rates. Horse racing industry industrial insurance accident fund, stay at work fund, medical aid fund, supplemental pension fund and composite rate by class.

**Base Rates Effective
January 1, ((2021)) 2022**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund	Composite Rate
((6618	74.00*	1.00*	74.00*	1.00*	150.00*
6625	76.95**	1.32**	71.84**	13.72**	163.83**
6626	0.5888***	0.0101***	0.6139***	0.1372***	1.3500***
6627	10.5590****	0.1810****	8.2610****	1.0290****	20.0300****))
<u>6618</u>	<u>74.00*</u>	<u>1.00*</u>	<u>74.00*</u>	<u>1.00*</u>	<u>150.00*</u>
<u>6625</u>	<u>76.67**</u>	<u>1.48**</u>	<u>74.66**</u>	<u>15.64**</u>	<u>168.45**</u>
<u>6626</u>	<u>0.6102***</u>	<u>0.0118***</u>	<u>0.6316***</u>	<u>0.1564***</u>	<u>1.4100***</u>
<u>6627</u>	<u>11.0140****</u>	<u>0.2130****</u>	<u>8.7400****</u>	<u>1.1730****</u>	<u>21.1400****</u>

*This rate is calculated on a percentage of ownership in a horse or horses.

**This rate is calculated per month.

***This rate is calculated per horse per day.

****This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class.

**Base Rates Effective
January 1, ((2021)) 2022**

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund
((4814	0.1175	0.0017	0.1330	0.1372
4815	0.2176	0.0031	0.2776	0.1372

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund
4816	0.3514	0.0051	0.3725	0.1372))
4814	0.1163	0.0019	0.1309	0.1564
4815	0.2157	0.0034	0.2739	0.1564
4816	0.3480	0.0056	0.3676	0.1564

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ~~((68.6 mils (\$0.0686)))~~ 78.2 mils (\$0.0782) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July, and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-229. All such moneys shall be deposited in the supplemental pension fund.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-89509 Classification 2103.

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17B-530 Determining case incurred losses. If a claim is closed, we will use the actual losses for the claim as defined in WAC 296-17-870(1). If the claim is open, we will use either the case reserve amounts or the actual losses, whichever are higher.

Where not in conflict with these rules, we will use the rules for valuing claims for experience rating found in WAC 296-17-870 (1), (5) through (7), and (10) through (13).

Employer reimbursements from the Washington stay-at-work program will not be included in the case incurred costs of claims.

~~((2019 Novel coronavirus (COVID-19)))~~ **Public health emergency claims:** All accepted ~~((COVID-19))~~ claim losses resulting from a declared public health emergency with a date of injury or last injurious exposure on or after January 1, 2020, will not be included in the retrospective rating adjustment calculations.

AMENDATORY SECTION (Amending WSR 20-24-094, filed 11/30/20, effective 1/1/21)

WAC 296-17B-540 Determining loss incurred for each claim. (1) Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use ~~((four hundred forty-seven thousand two hundred dollars (\$447,200)))~~ \$474,400 as the claim's initial incurred loss for the claim, with ~~((four hundred seventeen thousand one hundred dollars (\$417,100)))~~ \$440,900 for accident fund incurred loss and ~~((thirty thousand one hundred dollars (\$30,100)))~~ \$33,500 for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

**WSR 21-19-124
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**
[Filed September 21, 2021, 8:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-17-071.

Title of Rule and Other Identifying Information: Proposed changes to the factory assembled structures (FAS) rules under chapter 296-150I WAC, Manufactured home installer training and certification program, and chapter 296-150M WAC, Manufactured Homes.

Hearing Location(s): On October 27, 2021, at 9:00 a.m., virtual and telephonic hearing only. Please join on your computer or mobile app (Microsoft Teams), or visit https://teams.microsoft.com/j/zoom-join/19%3ameeting_NGRhOGMyMTU0M2I0My00M2Y4LTg5NzUtM2NhMDQ4NjEwNzkw%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%22

3a%22acb1df6f-3588-43aa-b503-63aebce21ddc%22%7d; or call in (audio only), 1-253-372-2181, Phone Conference ID 616 416 458# (pound sign must be entered). The virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: December 21, 2021.

Submit Written Comments to: Alicia Curry, Department of Labor and Industries (L&I), Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, email Alicia.Curry@Lni.wa.gov, fax 360-902-5292, by 5 p.m., on October 27, 2021.

Assistance for Persons with Disabilities: Contact Alicia Curry, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, by October 13, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: L&I is proposing amendments to the FAS rules that apply to manufactured homes, installations, and installer training and certification. The purpose of this rule making is to update the existing rules for consistency with United States Department of Housing and Urban Development (HUD) regulations.

In 2017, SEBA Professional Services, LLC (SEBA), a contractor for HUD Office of Manufactured Housing, reviewed and audited the FAS installer program rules and standards to ensure the state's compliance with HUD regulations. The SEBA report identified six findings in the FAS rules and standards for manufactured homes, three of which require changes to the rules for L&I to meet its contractual obligations and be fully compliant with HUD regulations. This rule making addresses those findings to ensure the rules are consistent with the federal regulations.

In addition, L&I is proposing updates, clarification, housekeeping, and other changes to the rules under chapter 296-150I WAC, to bring the rules up-to-date and improve public safety.

The proposed rules will:

- Amend rules to address HUD findings from the 2017 audit report. This includes, but is not limited to:
 - Adds requirements that homeowners installing their own manufactured or mobile home must become an "approved homeowner" and meet other requirements to do their own installation work in the state of Washington. This also includes, but is not limited to:
 - Making homeowners attend and pass an installer training class to become "approved" prior to starting the installation work;
 - Making homeowners purchase "installer certification tags" for use on their home and responsible for complying with security, use, and reporting requirements;
 - Adding a new definition to define the meaning of "approved homeowner"; and
 - Adding homeowners to the fees payable to L&I for testing and approval.
 - Adds requirements that certified installers must verify and acknowledge site preparations for new manufactured homes before commencing any installation work; and
 - Replaces the American National Standards Institute (ANSI) A225.1 standard with the Model Manufactured Home Installation 24 Code of Federal Regulations (C.F.R.) Part 3285 standards that are used to federally regulate all manufactured home installations in the United States.
- Amend rules to adopt new 2021 HUD codes for mobile and manufactured housing and to align with state building codes, for example:
 - Adds requirements that carbon monoxide detectors must be installed in some relocated manufactured homes and allowing the devices to be battery operated;
 - Eliminates the ability of local jurisdictions to impose regulations on carbon monoxide detectors, as this is regulated by the federal standards; and
 - Adds requirements for manufactured homes designed to support an "attached accessory building or structure."
- Amend rules for general updates, for example:
 - Adds requirements that manufactured homes in storage or on display for more than ninety days must have support under the floor to prevent damage to the home prior to installation;
 - Adds requirements that installers must provide an affidavit to L&I when the federal installation standard is used in lieu of the manufacturer's installation manual to assist building inspectors with installation inspections;
 - Clarifies that local jurisdictions can impose the installation of fire sprinklers for manufactured homes if they require sprinklers for all homes in their jurisdiction;
 - Adds requirements that Design Approval Primary Inspection Agency (DAPIA) design plans used for repairs must be submitted to L&I for plan review to verify the repair work is being done correctly;
 - Adds requirements that drainage systems must be installed to divert groundwater from the underside of the home if a home is pit set; and
 - Allows an alternative location to place installer certification tags where the tag will be better protected from long-term weather exposure.
- Amend rules pertaining to permit requirements, for example:
 - Prohibits manufactured home installation work without the issuance of a permit by the local building department to allow for consistency with building code requirements and for process improvement; and
 - Eliminates the requirement for L&I permits when re-leveling a home, installing new skirting and other work for inspections that is the jurisdiction of the local building department.
- Amend the fees payable to L&I, for example:
 - Creates a new fee for L&I manufactured home installation inspection permits that applies to local enforcement agencies and cities and counties with L&I inspection contracts;

- Removes "training" from the existing fees to allow for online training that is now available to the public free of charge; and
 - Clarifies the existing fees that apply to manufactured home installers and inspectors for testing and certification.
 - Amend rules to incorporate L&I's existing policies and practices into rule, for example:
 - Removes the ability for local enforcement agencies to sell installer certification tags, as this process is no longer in use;
 - Removes the ability of manufactured home retailers to issue installer certification tags to certified manufactured home installers, as this process is no longer in use;
 - Clarifies that L&I may investigate complaints about "installer certification tag" usage, when enforcing compliance with the installer certification rules;
 - Clarifies that relocated manufactured homes must be installed according to the manufacturer's installation instructions; and
 - Clarifies that installer certification tags must be placed on a home upon completion of each installer's portion of the work, so it is available to local authorities having jurisdiction (AHJ) when doing inspections.
 - Amend rules for consistency with statute, for example:
 - Clarifies that L&I has the discretion to revoke installer certification based on the severity of infractions;
 - Creates new definitions for clarity of terms used throughout the chapter, such as "notice of infraction," "mobile homes," and "local enforcement agency"; and
 - Creates a new section to clarify that L&I monitors the installation and inspection of manufactured homes in Washington state to assure [ensure] compliance with statute and federal regulations.
 - Amend, repeal, and create new definitions to the chapter, for example:
 - Defines "approved homeowner" for consistency with federal regulations;
 - Defines "DAPIA," "HUD," and "IBTS" for clarity of acronyms used throughout the chapter;
 - Defines "installation" to provide clarity on the process of installation;
 - Amends "manufactured/mobile home dealer" for consistency with department of licensing (DOL) law;
 - Repeals "compliance inspector," as this is one of several persons who may be issuing corrections and infractions; and
 - Repeals "extension of the pressure relief valve for the water heater" and "mobile or manufactured home installation," as these are requirements and not definitions.
 - Amend rules for clarity, simplicity, and to streamline the rules, for example:
 - Replaces "mobile or manufactured home" with "manufactured or mobile home" and "manufactured home" throughout the chapter for consistency with current industry terminology;
 - Replaces "on-site work and equipment installation" for use of the newly defined term of "installation" under the definitions, which serves as a global term that is clearer;
 - Eliminates the "Washington installer code" throughout the chapter, as the installation requirements are not installation code; and
 - Clarifies that on-site structures are only those that are adjacent structures.
 - Amend rules for general housekeeping, such as punctuation, amending the chapter title, eliminating the question and answer format in section titles, relocating requirements to other rules, typographical and reference corrections, formatting, removal of obsolete language, etc.
- Reasons Supporting Proposal: L&I contracts with HUD to administer several parts of the federal manufactured home program within Washington state. In addition to installer and factory inspection functions, L&I also administers the consumer complaint program for Washington manufactured home owners. As part of L&I's contract with HUD, their subcontractors regularly audit the various functions of the FAS program. This rule making is necessary to address HUD's findings from the 2017 audit that required revisions to the rules to ensure consistency with the federal standards. This rule making is also necessary to update rules to improve public safety.
- Statutory Authority for Adoption: Chapter 43.22 RCW, Department of labor and industries, and chapter 43.22A RCW, Mobile and manufactured home installation.
- Statute Being Implemented: Chapter 43.22 RCW, Department of labor and industries, and chapter 43.22A RCW, Mobile and manufactured home installation.
- Rule is necessary because of federal law, Titles 24 C.F.R. 3282, 3285 and 3286.
- Name of Proponent: L&I, governmental.
- Name of Agency Personnel Responsible for Drafting: Shane Daugherty, Program Manager, Tumwater, Washington, 360-902-5218; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.
- 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 Alicia Curry, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.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 19.85.061 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: Titles 24 C.F.R. 3282, 3285 and 3286. If these rules are not adopted, then Washington state

will not be in conformance with preemptive federal regulations regarding manufactured housing and its installation.

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 state-wide 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; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045; 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.

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. Most of the proposed rule changes are exempt from the small business economic impact analysis [statement] (SBEIS) requirements under RCW 19.85.025. For those changes that are not exempt, L&I assessed those significant legislative rule amendments for their potential cost implication to impacted businesses. This includes:

- Adding a new definition for "approved homeowner";
- Requiring a homeowner to pass the installer training class to become "approved" to install their own manufactured home;
- Requiring certified manufactured home installers to verify and acknowledge the adequacy of site preparations for new manufactured homes prior to installation of the home;
- Removing the allowance for local cities and counties to sell installer certification tags;
- Making "approved homeowners" purchase an "installer certification tag" for use on their home;
- Making "approved homeowners" who purchase an "installer certification tag" responsible for complying with security, use, and reporting requirements;
- Requiring "approved homeowners" to send an application to L&I in order to purchase an installer certification tag;
- Removing the allowance for applications for installer certification tags to be sent to cities and counties;
- Clarifying that manufactured home retailers do not issue certification tags to certified installers;
- Revising the locations for placement of installer tags;
- Adding "approved homeowners" to the requirements that local building departments cannot issue final

approval of an installation until the installer certification tags have been affixed to the home;

- Requiring "approved homeowners" to send a monthly report to L&I of installer certification tag usage;
- Clarifying that L&I may investigate complaints about "installer certification tag" usage;
- Adding fire sprinklers to the list of requirements that jurisdictions can impose on manufactured homes;
- Replacing the American National Standards Institute (ANSI) A225.1 standard for manufactured home installations with the Model Manufactured Home Installation Standards (MMHI) Title 24 C.F.R. Part 3285;
- Requiring the installation of carbon monoxide (CO) alarms in some relocated manufactured homes in accordance with HUD requirements and allowing CO alarms to be battery operated;
- Requiring that manufactured homes being stored or displayed for longer than 90 days to have additional support under the floor;
- Requiring homeowners to be "approved" in order to install their own manufactured home;
- Disallowing manufactured home installation work to start until the local building department has issued the permit;
- Requiring an installer provide an affidavit to the local building inspector stating which installation instructions have been used when the original instructions are not available for a secondary installation;
- Requiring that repair plans approved by the manufacturer's DAPIA be sent to L&I plan review for verification when a home is damaged during transit or setup;
- Making the installer "training" fee applicable to "installer testing and certification";
- Making the fee for "training only for 10 hours" applicable to "homeowner testing and approval"; and
- Making the "manufactured/mobile home installation inspector training" fee applicable to "manufactured home installation inspector testing and certification."

To calculate costs, the cost to small businesses were first estimated for the cost of site verification by determining the number of installations, and the time and cost required to complete a site verification. Second, L&I estimated the cost to support homes on display and homes in storage for 90 days or more by determining the number of homes that would be subject to this requirement and the cost to support each home. Third, L&I allocated the assumed share of each cost to the respective industries. Currently, there is a lack of specific information on how many installations are completed by businesses within NAICS 321991 and those in NAICS 453930. In addition, there is some overlap in installations where some manufactured home dealers also engage in installation work. Without knowing this exact ratio, L&I relies upon best knowledge and reasonable assumptions to estimate the per-business-cost to businesses in these cost-bearing industries. When compared to the minor-cost threshold (one percent of annual payroll), this clearly indicates the average per-business cost of the proposed rule amendments (for each respective industry) is far below the threshold for businesses in any of the affected industries identified in the

SBEIS as potentially impacted by the rule. As such, L&I is exempt from conducting an SBEIS for this rule making.

September 21, 2021
Joel Sacks
Director

Chapter 296-150I WAC

MANUFACTURED ((HOME INSTALLER TRAINING AND CERTIFICATION PROGRAM)) AND MOBILE HOME INSTALLATION

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0010 Authority, purpose, scope. This chapter is authorized by chapter 43.22A RCW, (~~Mobile and manufactured home installation;~~) which requires the department to train and certify manufactured home installers and by chapter 43.22 RCW which authorizes the director of L&I to set installation standards for manufactured and mobile homes. For the purposes of this chapter references to manufactured homes include mobile homes.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0020 ((What)) Definitions that apply to this chapter((?)). (1) "Administrative law judge" is any person appointed by the chief administrative law judge (as defined in RCW 34.12.020((2)) (1)) to preside at a notice of infraction appeal hearing convened under chapter 43.22A RCW.

(2) "Appeal hearing" is any proceeding in which an administrative law judge is empowered to determine legal rights, duties or privileges of specific parties on behalf of the director.

(3) "Appellant" means any person, contractor, firm, partnership, corporation, or other entity that has filed an appeal.

(4) "Approved homeowner" is an individual person who owns a manufactured home and who also has passed the departments' installer training class and test, with the intention of installing their home and residing in that home upon completion of the installation work.

(5) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.

(6) "Bottom board" means the close up material on the bottom side of the manufactured home floor that protects it from rodents and transportation damage and meets the requirements of 24 C.F.R. Part 3280.305 (g)(6).

(7) "Certified manufactured home installer" means a person who is in the business of installing manufactured or mobile (~~or manufactured~~) homes and who has been issued a certificate by the department as provided in this chapter.

((5)) "Compliance inspector" refers to the departmental staff responsible for investigating potential violations of chapter 43.22A RCW.

~~((6))~~ (8) "Contractor" is as defined in chapters 18.27, 18.106, and 19.28 RCW.

((7)) (9) "DAPIA" is a design approval primary inspection agency as approved by the United States Department of Housing and Urban Development and defined by 24 C.F.R. Part 3286.3.

(10) "Dealer" is the same as "manufactured/mobile home dealer" below.

(11) "Department" refers to the department of labor and industries.

((8)) "Extension of the pressure relief valve for the water heater" means extension to the outside of the home as described in the Uniform Plumbing Code.

((9)) (12) "Final infraction" means an infraction that was not appealed during the time period required by RCW 43.22A.200, or was affirmed by an administrative law judge or any court.

(13) "HUD" is the U.S. Department of Housing and Urban Development, Office of Manufactured Housing Programs, Washington D.C. 20140-8000.

(14) "IBTS" is the Institute for Building Technology and Safety, 45207 Research Place, Ashburn, VA 20147.

(15) "Infraction" means a violation of chapter 43.22A RCW ((as cited by the department's compliance inspectors.

((10)) (16) "Installation" means all on-site work necessary for the setting up and completion of a manufactured or mobile home, starting with the preparation of the building site through final permit approval by the local enforcement agency.

(17) "Local enforcement agency" means any agency of the governing body of any city, county, or state which enforces laws or ordinances governing the construction of buildings.

(18) "Manufactured home" means a single-family dwelling built in accordance with the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code.

((11)) (19) "Manufactured/mobile home dealer" is a vehicle dealer as defined in ((chapter 46.70)) RCW 46.70.-011.

((12)) (20) "Manufacturer" refers to a manufacturer of single-family dwellings built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code.

((13)) "Mobile or manufactured home installation" as defined in RCW 43.22A.010 does not include installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home, and does not include the ground crossover. Installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home must be performed by a journeyman or specialty electrician as defined in chapter 19.28 RCW. Equipment does not include plug-in household appliances.

((14)) (21) "Mobile home" means a factory-built dwelling built before June 15, 1976, to standards other than the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), and accept-

able under applicable state codes in effect at the time of construction or introduction of the home into this state.

(22) **"Notice of infraction"** means a form used by the department to notify contractors or homeowners that an infraction under this chapter has been filed against them.

(23) **"Other equivalent experience"** means six months of hands-on experience installing manufactured homes under the guidance of a reputable, recognized manufactured home installer; or two years experience in residential or commercial construction.

~~((15))~~ (24) **"Retailer"** means the same as "dealer" for the purposes of this section.

(25) **"Site"** means the parcel of land ~~((designed))~~ approved by the local enforcement agency to accommodate the dwelling and auxiliary structures.

(26) **"Vapor retarder"** means a ground cover material of 6 mil black polyethylene sheeting or equivalent.

MANUFACTURED HOME INSTALLER REQUIREMENTS

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0030 ~~((What should))~~ **The manufactured home installer training program ~~((include?))~~ requirements.** The training program must contain instruction and a written examination. The program curriculum includes, but is not ~~((be))~~ limited to, the following topics:

- Relevant federal, state and local laws and standards;
- Supports, footings, anchors, site preparation, placement, closing in, plumbing, electrical, combustion appliances, skirting, interior, and exterior finishing;
- Operational checks and adjustments;
- Auxiliary or adjacent structures; and
- Alterations.

As part of the training program, the department will provide a training manual to each applicant ~~((as part of the training program))~~, with the contents of ~~((which will include, but not be limited to,))~~ the above ~~((topics))~~ curriculum.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0040 Examination—Failure—Retaking. The examination ~~((must))~~ will only include topics covered in the training program. In order to pass the examination, applicants must answer seventy percent of the questions correctly. An applicant who fails the examination will be permitted to retake the training course and/or the examination as often as is necessary to secure a passing rate of seventy percent.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-1501-0050 ~~((What is the))~~ **Manufactured home installer certification—Application process** ~~((?))~~. A person ~~((desiring))~~ wanting to be certified as a manufactured home installer under chapter 43.22A RCW must submit a signed application form and the fee specified in WAC 296-

1501-3000 to the department ~~((, which))~~. The application must contain ~~((s))~~ the following information:

(1) The applicant's full name, date of birth, driver's license number or other government identification number, and Social Security number. Social Security numbers are required on applications for professional licenses pursuant to RCW 26.23.150 and federal law PL 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) Written affidavit documenting evidence of experience as required under RCW 43.22A.040.

(3) Business name, phone number, and contractor registration number, if applicable. Status of applicant, i.e., owner or employee.

(4) Training/examination location and date preference.

(5) If the application is denied by the department as a result of the applicant's failure to meet the requirements of chapter 43.22A RCW and this chapter, the department will attempt to notify the applicant prior to the date the applicant is scheduled to attend the training and examination.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-1501-0070 Manufactured home installer certification renewal—Application process. (1) A certified ~~((manufactured home))~~ installer ~~((desiring to))~~ may renew their certification as a manufactured home installer under chapter 43.22A RCW ~~((must file))~~ by filing a certification renewal application with the department.

(2) The application must:

(a) Be received by the department on or before the installer's certification expiration date.

(b) Be accompanied by the certification renewal fee specified in WAC 296-1501-3000.

(3) If a certified installer fails to apply for renewal and provide proof of continuing education within ninety days prior to the expiration of the installer's current certification, the installer must reapply for installer certification and meet all requirements for installer certification as set forth in chapter 43.22A RCW and this chapter.

(4) Before a ~~((new))~~ certification ~~((is))~~ renewal will be issued, the certified installer must provide proof to the department that the certified installer has met the continuing education requirements set forth in this chapter.

(5) The department will attempt to notify installers prior to expiration; however, it is the installer's responsibility to ensure timely renewal.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-1501-0080 Installer certification—Revocation. (1) The department ~~((will))~~ may revoke an installer's certification if they receive three or more "final infractions" during their current three-year certification period. The department ~~((will))~~ may judge the installer to be incompetent due to multiple infractions of the state manufactured home installer requirements and the manufactured home installation ~~((code))~~ requirements. Revocation of the installer certifi-

cation will be valid for two years from the effective date of the revocation.

(2) Where applicable, the department must send notice to the certificate holder's employer regarding revocation of an installer certification.

(3) A person may reapply for a manufactured home installer certification two years after the effective date of the revocation by submitting a completed application and payment for training and examination. Upon passing the written examination, a ~~((certificate of))~~ new manufactured home ~~((installation))~~ installer certification will be issued.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0090 Requirement for applicable licenses and registrations. The issuance of a ~~((certificate of))~~ manufactured home ~~((installation))~~ installer certification by the department under chapter 43.22A RCW and these rules does not exempt the certified installer from compliance with any local, state, or federal requirements relative to any business or occupational licenses or registrations.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0100 Manufactured home ~~((on-site work and equipment))~~ installation—Manufactured home installer certification required. ~~((On-site work or equipment))~~ Manufactured home installation work which falls within the scope ~~((of installation as))~~ set forth in RCW 43.22A.010(6) shall not be performed on a manufactured home ~~((at any time after the initial installation of a manufactured home))~~ without the on-site supervision of a certified manufactured home installer~~((:~~

~~On-site work and equipment installation work shall not be performed until a permit for such work has been issued by the local enforcement agency. On-site work and equipment installation work must be inspected upon completion by the local enforcement agency in the same manner initial home installations are inspected.~~

~~On-site work and equipment installation work include, but are not limited to:~~

- ~~(1) Releveling a home such as installing all new pier blocks or footings;~~
- ~~(2) Complete skirting replacement;~~
- ~~(3) Installing earthquake resistant bracing systems; and~~
- ~~(4) Any other work described in RCW 43.22A.010(6).~~

~~On-site work and equipment installation work does not include routine maintenance or other routine repairs such as periodic adjustments to piers, replacement of a damaged pier, or skirting repair). Some categories of installation work are exempt from certification requirements in accordance with RCW 43.22A.120, WAC 296-150I-0105 and 296-150I-0110.~~

NEW SECTION

WAC 296-150I-0105 Manufactured home installation—Specialty work by licensed electricians and plumbers. Specialty work performed within the scope of their

licenses by licensed plumbers and electricians is exempt from the installer certification requirements of this chapter.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0110 Manufactured home installation~~((on-site work or equipment installation))~~—Homeowner performing work on their own home—Exceptions. (1) The owner of a ~~((mobile or))~~ manufactured home may install or perform ~~((on-site work or equipment))~~ installation work on his or her own home without obtaining certification from the department as a certified manufactured home installer if the home is intended for use as the homeowner's primary residence. For the installation of a manufactured home the homeowner must attend and pass an installer training class prior to starting the work.

(2) The installation~~((on-site work or equipment installation))~~ work must be performed in compliance with this chapter~~((Washington installation code))~~ and be permitted and inspected by the local enforcement agency.

(3) If the owner of a manufactured home hires any individual or business to assist the owner in the installation~~((on-site work, or equipment installation))~~ work, a certified installer is required to be on-site supervising such work and must meet all the requirements of this chapter.

(4) For the purposes of this chapter, an "owner" of a manufactured home does not include a manufactured/mobile home dealer, distributor, park owner or manager, contractor, or developer who installs or performs ~~((on-site work or equipment))~~ installation work on a manufactured home intended for resale or rental.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-150I-0120 Manufactured home installation permit and inspections—Obligation of the dealer and certified installer. (1) ~~((H))~~ A certified installer ~~((obtains))~~ must assure that a placement permit for the manufactured home installation ~~((or placement permit))~~ has been purchased from the local enforcement agency~~((:)).~~ The certified installer shall ensure that all required installation inspections, relative to the work performed by the certified installer, are completed.

(2) Installer certification ~~((requirements do))~~ does not eliminate any contractor registration requirements of chapter 18.27 RCW ~~((to become a registered contractor)).~~

(3) An out-of-state ~~((mobile/manufactured))~~ manufactured/mobile home dealer who performs ~~((the set-up,))~~ installation~~((or repair))~~ work must ~~((be an active registered))~~ comply with the contractor registration requirements of chapter 18.27 RCW. The ~~((mobile/manufactured))~~ manufactured/mobile home dealer must employ at least one certified installer to supervise the installation.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0130 Manufactured home installer—Responsibilities to the consumer. A certified manufactured home installer shall:

(1) Verify the acceptability of the site preparation before beginning any installation work;

(2) Ensure all phases of the installation work performed by the installer or crew being supervised are complete and in compliance with this chapter~~(, Washington installation code;~~
~~(2))~~;

(3) Notify the local enforcement agency upon completion of the installation work; and

~~((3))~~ (4) Correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-150I-0140 Manufactured home installation—Installer certification tags required. Prior to installing~~(s)~~ or performing ~~((on-site work or equipment))~~ installation work on a manufactured home, certified manufactured home installers or the retailers by whom they are employed must obtain an "installer certification tag" from the department ~~((or from the local enforcement agency who participates in tag sales)).~~ The installer certification tag shall be in the form approved by the department.

No manufactured home may be installed by a certified installer without ~~((an))~~ the installer affixing their certification tag ~~((affixed))~~ thereto. The certified installer must indicate the installation work they have performed or supervised on the installer tag.

Only currently certified manufactured home installers ~~((shall))~~ will be issued installer certification tags.

Approved homeowners performing the installation~~((on-site work or equipment installation))~~ work on their own manufactured home ~~((are not required to acquire and affix))~~ are required to purchase an installer certification tag for use on their home.

(1) Installer certification tags may only be purchased by a certified manufactured home installer, an approved homeowner, or by a manufactured home retailer licensed by the Washington state department of licensing.

(a) The certified manufactured home installer, approved homeowner, or manufactured home retailer purchasing the installer certification tag is responsible for complying with the security, use, and reporting requirements of this chapter.

(b) Manufactured home retailers may purchase installer certification tags ~~((in bulk))~~ and issue them to certified manufactured home installers employed by the manufactured home retailer.

(2) In order to purchase installer certification tags, the certified manufactured home installer, approved homeowner, or manufactured home retailer ~~((shall))~~ must submit an application to the department ~~((or local enforcement agency))~~ on a form approved by the department. The application shall be

accompanied by the appropriate installer certification tag fee as set forth in WAC 296-150I-3000.

(3) The department ~~((or manufactured home retailer))~~ may issue a maximum of thirty certification tags to a certified manufactured home installer. A certified manufactured home installer may not have more than thirty installer certification tags issued at any one time for which the reporting requirements of this section have not been met.

(4) Installer certification tags cannot be transferred or assigned without the written approval of the department. Fees paid for installer certification tags are not refundable.

(a) If a certified manufactured home installer's certification is suspended, revoked, or expires, all unused installer certification tags assigned to the certified manufactured home installer must be returned to the department.

(b) If a certified manufactured home installer or manufactured home retailer ceases to do business, all unused installer certification tags must be returned to the department.

(c) If a manufactured home retailer changes ownership, unused installer certification tags may be transferred to the new ownership if the department approves the transfer following receipt of a written request for transfer from the manufactured home retailer.

(5) Issuance of installer certification tags may be denied if:

(a) The certified manufactured home installer's certification has been revoked or suspended pursuant to chapter 43.22A RCW;

(b) The certified manufactured home installer has failed to comply with the reporting requirements of this chapter;

(c) The department has evidence that the certified manufactured home installer has misused the installer certification tag by not complying with the requirements of this chapter;

(d) The certified manufactured home installer possesses installer certification tags in excess of the quantity authorized by subsection (3) of this section for which the reporting requirements of this chapter have not been met; or

(e) The certified manufactured home installer is not an active registered contractor or an employee of a manufactured home retailer or active registered contractor licensed in Washington.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0160 Installer certification tag—Placement—Removal. (1) The installer certification tag must be placed on the home upon completion of ~~((the installation))~~ each installer's portion of the work and prior to inspection by the local enforcement agency.

(2) The installer certification tags must be placed on the end of a home section directly above or below the HUD certification tag or ~~((temporarily located in plain sight within three feet of the home's front entry))~~ placed on the chassis main I-beam directly adjacent to and visible from the crawl space access.

(3) The local enforcement agency may not issue final approval of a home installation until one or more installer certification tags have been affixed to the home indicating all

installation work was performed by a certified manufactured home installer or approved homeowner.

~~((EXCEPTION: Installation work performed by a homeowner on his or her own residence does not require an installer certification tag.))~~

(4) The installer certification tag (~~((must))~~) may only be removed (~~((only))~~) by the owner of the home following final approval of the installation of the home by the local enforcement agency.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0170 Monthly certification tag report. Certified manufactured home installers, approved homeowners, and manufactured home retailers who purchase installer certification tags from the department must submit a monthly report to the department on a form approved by the department relative to all installer certification tags issued.

(1) The report is due no later than the **15th day of each month** following the month of installation work being performed on a home. A certification tag report is not required for those months in which no installation work was performed.

(2) A manufactured home retailer who assigns tags to a certified manufactured home installer is responsible for ensuring completion of the monthly report. The manufactured home retailer must file a separate report for each certified manufactured home installer to whom the manufactured home retailer assigned installer certification tag(s).

(3) The installer certification tag report must contain the following information for each installation:

- (a) The installer certification tag number;
- (b) The address of the installation;
- (c) The date of the installation;
- (d) The name and certification number of the certified manufactured home installer; and
- (e) Any other information required by the department.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-150I-0200 ~~((How does the department ensure))~~ **Departmental assurance of installer compliance with the requirements of chapter 43.22A RCW** ~~((?))~~. The department of labor and industries will ensure installers comply with the requirements of RCW 43.22A.130 which requires a certified ~~((manufactured/mobile))~~ manufactured home installer to be present for each phase of the installation being performed by all members of the installation crew by:

(1) Random site inspections of manufactured home installations and verification of installer certification and supervision; ~~((and))~~

(2) Investigations of complaints and violations reported to the department; and

(3) Audit of installers certification tag reports and usage.
~~((The certified installer must enter their Washington installer certification number on the installer tag for each element they are supervising.))~~

AMENDATORY SECTION (Amending WSR 17-23-173, filed 11/21/17, effective 1/1/18)

WAC 296-150I-0210 ~~((What))~~ **Violations of RCW 43.22A.130 that can result in the issuance of a notice of infraction** ~~((?))~~. (1) Under RCW 43.22A.130, the department can issue a notice of infraction to a person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent for:

(a) Failure to have a certified installer on the installation site whenever installation work is being performed;

(b) Failure to correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same;

(c) Failure by a certified installer to affix a certification tag to an installed ~~((manufactured/mobile))~~ manufactured home;

(d) Transfer of certification tag(s) from a certified installer to another certified installer without prior written approval of the department;

(e) Transfer of certification tag(s) from a certified installer to a noncertified installer ~~((?))~~

~~((f) Transfer of unused installer certification tags by a manufactured home retailer to a new ownership without prior written approval of the department.))~~

(2) Each worksite and day at which a violation occurs constitutes a separate infraction.

(3) Once a violation of chapter 43.22A RCW or this chapter becomes final, any additional violations within three years become a "second," "third," or "additional" violation subject to an increased penalty as set forth in WAC 296-150I-3000.

(4) See WAC 296-150I-3000 for the specific monetary penalties associated with each of the violations discussed in this section.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0220 ~~((What))~~ **Information that must be included in a notice of infraction** ~~((?))~~. When an installer violates chapter 43.22A RCW, the department may issue a notice of infraction ~~((which must contain the following:))~~.

(1) The department shall prescribe the form of the notice of infraction issued under this chapter.

(2) The notice of infraction must include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of a monetary penalty that has been established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that, at a hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the person may subpoena witnesses including the authorized representative who issued and served the notice of the infraction; and

(g) A statement that failure to respond to a notice of infraction is a misdemeanor and may be punished by a fine or imprisonment in jail.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0230 ~~((Who can be issued))~~ **Issuance of a notice of infraction**~~((?))~~. A person, firm, contractor, partnership, or corporation may be issued a notice of infraction for violations of chapter 43.22A RCW and this chapter.

The department must send the written notice, by certified mail, of civil penalties imposed under chapter 43.22A RCW and this chapter to the last known address of the party named in the notice.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0240 ~~((How does a person, firm, contractor, partnership, corporation or certified installer appeal))~~ **Appealing a notice of infraction**~~((?))~~. A person, firm, contractor, partnership, corporation or certified installer may appeal a notice of infraction by:

(1) ~~((File))~~ **Filing** two copies of an appeal notice, specifying the reasons for the appeal, at the office designated on the notice of infraction; and

(2) ~~((File))~~ **Filing** the appeal notice within twenty days of the date the infraction is mailed.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0250 ~~((Who presides over an))~~ **Appeal hearings** ~~((and where is it held?))~~. An administrative law judge from the office of administrative hearings will preside over the hearing and give a decision. The hearing shall be conducted in the county where the infraction occurred. However, both the appellant and the department have a right to ask the administrative law judge to change the hearing's location.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0260 ~~((Who will represent the appellant and the department))~~ **Representation at the appeal hearings**~~((?))~~. Appellants may either represent themselves or be represented by an attorney. The department will be represented by the office of the attorney general.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0270 ~~((How is the))~~ **Appeal hearing** ~~((conducted?))~~ **process**. The hearing process shall be conducted according to chapter 34.05 RCW, Administrative Procedure Act and chapter 10-08 WAC. All appeals of the hearing decision shall be to the superior court according to chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0280 ~~((What does the department do with the))~~ **Departmental review and consideration of appeal notices** ~~((that they receive?))~~. (1) Appeal notices that are received timely are first reviewed by the department for purposes of reconsideration.

(2) Appeal notices that are not received timely will be returned to the appellant with appeal rights stated.

(3) Appeal notices that are received timely and are not reconsidered according to subsection (1) of this section are recorded and forwarded to the office of the attorney general, then to the office of administrative hearings.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0290 ~~((When must a person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent pay))~~ **Payment of assessed monetary penalties**~~((?))~~. (1) If a person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent named in a notice of infraction does not choose to appeal the notice, then ~~((the person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent))~~ **they** must pay the department the amount of the penalty prescribed for the infraction.

(2) After an administrative law judge decides that an infraction has been committed, a person, contractor, manufactured/mobile home dealer, manufacturer, or home dealer's or manufacturer's agent who does not appeal the decision to a superior court has thirty days to pay any outstanding monetary penalties.

MANUFACTURED HOME INSTALLATION REQUIREMENTS

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0300 ~~((Who establishes standards for))~~ **Installation** ~~((of))~~ **standards for manufactured homes**~~((?))~~. (1) The director of labor and industries is responsible for establishing uniform ~~((installation))~~ standards ~~((where possible and practical for persons or entities engaged in performing))~~ **and requirements for** the installation of manufactured homes within the state.

(2) Local jurisdictions may adopt additional installation requirements only for those installation situations not cov-

ered by federal standards. For example, local jurisdictions may impose fire sprinkler requirements, noise control construction ordinances, prescribe the frost depth and soil bearing capacity at the installation site, and adopt requirements to protect manufactured homes in hazardous areas (see WAC ((296-1501-0310)) 296-1501-0340).

Also, local jurisdictions may impose their requirements for snow loads as long as all structures within their jurisdiction are required to comply with the same standard and provided those installing the manufactured home are given options in satisfying that standard. Such an option might include, but not be limited to, allowing an installer to erect an additional structure, which meets local standards, and protects the manufactured home. For example, an installer could erect a ((free standing ramada)) freestanding roof structure over a manufactured home to protect it from local snow loads.

Local jurisdictions **may not**:

(a) Dictate alternate foundation design and construction ((which)) when a foundation is built according to either the manufacturer's installation instructions or a design created by an engineer or architect licensed in Washington state.

(b) Impose regulations on smoke detectors and carbon monoxide detectors because they are regulated by federal standards.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-1501-0310 ((What)) Instructions ((are used)) for ((a)) manufactured home installation((?)). ((To the extent that the installation of a manufactured home is not covered by a manufacturer's, engineer's, or architect's instructions;)) The installation of all manufactured homes shall comply with the ((installation)) requirements of this section.

(1) Installation of a new manufactured home.

(a) The ((initial)) installation of a new manufactured home ((installation)) must be conducted according to the manufacturer's instructions.

(b) If the manufacturer's instructions do not address an aspect of the installation, you may request:

(i) Specific instructions from the manufacturer; or

(ii) Specific instructions from a professional engineer or architect licensed in Washington state.

For example:

- A manufactured home is installed over a basement and the manufacturer's instructions do not address this application;

- A manufactured home is installed on a site where the specific soil bearing capacity is not addressed in the manufacturer's instructions.

(c) All manufactured homes installed in Washington state must be permanently anchored except for those installed on dealer lots. On dealer lots, temporary sets are permitted without anchoring being installed. A manufactured home must be anchored according to the manufacturer's installation instructions or according to the design of a professional engineer or architect licensed in Washington state. Local jurisdictions **may not** prescribe anchoring methods.

(d) A manufactured home must have a skirting around its entire perimeter. ((It)) Skirting must be installed ((per)) in accordance with the manufacturer's installation instructions or if the manufacturer is not specific, to the standards in this section. Do not enclose with skirting, areas under recessed entries, porches or decks, (whether constructed as part of the home or added ((on-site)) on site) unless skirting is of the fully vented type and installed so as to allow water to freely flow out from under the home. Porch areas open to the crawl space area of the home must have ((ground cover)) the vapor retarder removed((?)) and the ground directly below the porch must slope away from the home. ((It)) Skirting must be vented and allow access to the under floor area ((per)) in accordance with the manufacturer's installation instructions or ((per the standards)) as required below if the manufacturer's instructions are not available.

If the manufacturer's skirting and access instructions are not specific, skirting, ventilation and access shall be installed as follows:

(i) Skirting:

- Must be made of materials suitable for ground contact.
- Metal fasteners must be made of galvanized, stainless steel or other corrosion-resistant material.
- Ferrous metal members in contact with the earth, except those made of galvanized or stainless steel, must be coated with an asphaltic emulsion.
- Must not trap water between the skirting and siding or trim.
- Must be recessed behind the siding or trim.

(ii) Ventilation:

For homes sited in a flood plain, contact the local jurisdiction regarding proper skirting ventilation. Except for those manufactured homes sited in a flood plain, all skirting and vent openings must:

- Be covered with corrosion-resistant wire mesh to prevent the entrance of rodents. The size of the mesh opening cannot exceed 1/4 inch.
- Have a net area of not less than one square foot for each one hundred fifty square feet of under floor area.
- Be located as close to corners and as high as practical and ((they must)) provide cross ventilation on at least two opposite sides.

(iii) Access:

- The under floor area of a manufactured home must have a finished opening at least eighteen inches by twenty-four inches in size.
- Opening must be located so that all areas under a manufactured home are available for inspection.
- Opening must be covered ((and that)). The cover must be made of ((metal, pressure treated wood or vinyl)) material suitable for skirting or venting as required in this chapter.

(e) A manufactured home site must be prepared ((per)) in accordance with the manufacturer's installation manual or ((per ANSI A225.1, 1994 edition, section 3)) to the requirements of the Model Manufactured Home Installation Standards 24 C.F.R. Part 3285, Subpart C.

(f) If the home is pit set, a drainage system must be installed to divert groundwater from the underside of the home.

~~(g)~~ Heat duct crossovers must be installed ~~((per))~~ in accordance with the manufacturer's installation instruction manual or ~~((per ANSI A225.1 or the following instructions if the manufacturer's instructions are not available:))~~ if the manufacturer's instructions are not available, to the requirements in the Model Manufactured Home Installation Standards 24 C.F.R. Part 3285.606.

Heat duct crossovers ~~((must be supported at least one inch above the ground by strapping or blocking. They))~~ must be installed to avoid standing water~~((Also, they must be))~~ and installed to prevent compression, sharp bends, and to minimize stress at the connections. In all cases, the duct must be supported at least one inch off the ground (exception to the Model Manufactured Home Installation Standards 24 C.F.R. Part 3285).

~~((g))~~ (h) Dryer vents must exhaust to the exterior side of the wall or skirting. Dryer ducts outside the manufactured home shall comply with the dryer manufacturer's specifications or shall be made of metal with smooth interior surfaces.

~~((h))~~ Hot water tank pressure relief lines must exhaust to the exterior side of the exterior wall or skirting and must exhaust downward. The end of the pipe must be at least six inches but not more than two feet above the ground.)

(i) Water heater pans are only required where the installation instructions ~~((are specific))~~ specifically require a pan for warranty or the home was produced after ~~((June 2006))~~ May 31, 2006. The ~~((pressure relief))~~ water heater pan drain line must ~~((exit the skirting))~~ drain to the exterior of the home ~~((as well as the relief line for any pan installed and not to))~~. The water heater pan drain line and the PRV drain line must not be interconnected.

~~((i))~~ (j) Water heater expansion tanks are not required by the department; however, you ~~((may want to))~~ should check with your local jurisdiction for their requirements prior to installation ((of your water heater)).

~~((j))~~ (k) Water piping must be protected against freezing ~~((as per))~~ in accordance with the manufacturer's installation instructions or by use of a heat tape listed for use with manufactured homes and installed ~~((per))~~ as required by the heat tape manufacturer's installation instructions.

~~((j))~~ (l) The testing of water lines, waste lines, gas lines, and electrical systems must ~~((be as per))~~ comply with the manufacturer's installation instructions. If the manufacturer's installation instructions require testing of any of these systems, the local jurisdiction is responsible for verifying that the tests have been performed and passed. Electrical connections and testing are the responsibility of the electrical section of labor and industries except where a city has assumed the electrical inspection responsibilities for their jurisdiction. In that case, the city's electrical inspectors are responsible for the electrical connections and testing.

~~((k))~~ During the installation process, a ground cover) (m) A vapor retarder must be installed under all manufactured homes. ~~((The ground cover must be a minimum of six mil black polyethylene sheeting or its equivalent (exception to ANSI A225.1 (3.5.2)). The ground cover may be omitted if the under floor area of the home has a concrete slab floor with a minimum thickness of three and one half inches.~~

~~((h))~~ Joints in vapor retarders must overlap a minimum of twelve inches. Voids, cuts, and tears in the vapor retarder must be patched or repaired with an approved method.

(n) Clearances underneath manufactured homes must be maintained at a minimum of eighteen inches beneath at least seventy-five percent of the lowest member of the main frame (I-beam or channel beam) and the ground or footing. ~~((No more than twenty five percent of the lowest member of the main frame of the home shall be less than eighteen inches above the ground or footing.))~~ In no case shall clearance be less than twelve inches anywhere under the home ~~((exception to ANSI A225.1 (4.1.3.3)))~~ and eighteen inches at the heat duct cross over locations.

~~((m))~~ (o) Heat pump and air conditioning condensation lines must be extended to the exterior of the manufactured home.

(p) Roof ridge cap or ridge vent must be installed as required by the manufacturer's installation instructions.

(2) Installation of a relocated manufactured ~~((mobile))~~ home.

(a) A relocated manufactured home ~~((installation should be conducted))~~ must be installed according to the manufacturer's installation instructions.

(b) If the manufacturer's instructions are ~~((unavailable))~~ not available, you may use either:

(i) The ~~((American National Standard Institute (ANSI) standard ANSI A225.1 — Manufactured Homes Installation, 1994 edition instructions))~~ Model Manufactured Home Installation Standards 24 C.F.R. Part 3285; or

(ii) The instructions of a professional engineer or architect licensed in Washington state.

(c) ~~((If either (b)(i) or (ii) of this subsection is used))~~ For the installation of a relocated manufactured home, all of the requirements of subsection (1)(c) through ~~((m))~~ (p) of this section must also be followed.

(d) Hot water tank pressure relief valve (PRV) drain lines must be installed in accordance with Sec. 3280.609 of the Manufactured Home Construction and Safety Standards Act (Title 24 C.F.R. Part 3280).

(e) Carbon monoxide alarms shall be installed in accordance with Sec. 3280.211 of the Manufactured Home Construction and Safety Standards Act (Title 24 C.F.R. Part 3280). Carbon monoxide detectors installed in relocated homes are permitted to be battery operated.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0320 How ((may I)) to obtain a copy of the ((American National Standards Institute (ANSI) A225.1—)) **Model Manufactured Home((s)) Installation((?)) Standards 24 C.F.R. Part 3285.** ((Contact the department at 1-800-647-0982.)) The standard may be obtained from the Institute for Building Technology and Safety (IBTS) or the U.S. Government Publishing Office (GPO).

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0330 ~~((What are the))~~ **Requirements for temporary placement of manufactured ~~((mobile))~~ homes~~((?))~~**, Manufactured ~~((mobile))~~ homes placed on temporary display or in storage by a manufacturer, dealer or distributor in excess of thirty days shall be:

(1) Supported under each main frame beam by supports located within two feet of each end and within four feet of the front and rear axle and other supports so that no span shall exceed sixteen feet; ~~((and))~~

(2) Made weather tight at any marriage line joint at the roof and wall lines; and

(3) In addition to subsections (1) and (2) of this section, manufactured homes in storage or on display longer than ninety days must also be supported at each centerline column and along each rim joist at the manufacturer's identified support points.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0340 ~~((Do))~~ **Special requirements of local enforcement agencies ~~((have special requirements))~~ for installing manufactured homes in hazardous areas~~((?))~~**, (1) Local enforcement agencies may have special installation requirements for manufactured homes installed in hazardous areas.

(2) A hazardous area is:

(a) An area recognized as a flood plain by the local jurisdiction; or

(b) An area considered hazardous due to the probability of earthquake. In such areas, local jurisdictions may require an earthquake resistant bracing system designed for the earthquake zone in which the home is located by the home manufacturer or by a registered professional engineer or architect.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-1501-0350 ~~((Who may install))~~ **Certification requirements for installing a manufactured home~~((?))~~**, (1) A manufactured home may be installed by:

- ~~((A))~~ An approved homeowner;
- A certified installer;
- An individual who is supervised by an on-site certified installer; or
- A specialty trades person~~((, such as a plumber or electrician, for certain aspects of installation))~~ as specified in WAC 296-1501-0105.

(2) A certified installer must be a registered contractor, an employee of a registered contractor, or an employee of a ~~((registered))~~ licensed dealership. ~~((See chapter 43.22A RCW for details about which aspects of installation require the presence of a certified installer.))~~

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0360 ~~((Does a person who installs a))~~ **Manufactured home ~~((need an))~~ installation permit~~((?))~~ requirements.** (1) A dealer, owner or agent must not deliver a manufactured home to its site without verifying that an installation permit has been obtained; ~~((and))~~

(2) Manufactured home installation work shall not be performed until a permit for such work has been issued by the local enforcement agency; and

(3) Any permit fees set by the local enforcement agency must be paid in full and included with the permit application.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-1501-0370 ~~((Does a))~~ **Manufactured home installation ~~((require an))~~ inspections~~((?))~~**, All manufactured home installations must be inspected and approved by the local enforcement agency as required by regulations established by HUD for manufactured housing.

Local enforcement agencies may enter into interagency agreements with the department to perform ~~((on-site))~~ installation inspections on their behalf ~~((of the authority having jurisdiction (AHJ)))~~. A permit must be purchased with the department for these inspections.

NEW SECTION

WAC 296-1501-0375 State monitoring of manufactured home installations and inspections. The department monitors the installation and inspection of manufactured homes within the state to assure compliance with the regulations established by HUD, for manufactured housing.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-1501-0380 ~~((How does the local enforcement agency gain access to the))~~ **Manufacturer's installation instructions~~((?))~~**, A manufacturer's installation manual must be provided for the inspecting jurisdiction ~~((whenever any portions of the manufacturer's installation instructions have been used for any portion of the installation))~~ When the manufacturer's original installation instructions are not available for a secondary installation, the installer shall provide an affidavit in lieu of the installation instruction manual, that the home is installed to the provisions of this chapter.

(1) The installation instructions must be located between the I-beam and the bottom board within five feet of the main electrical feeder when the skirting has not been installed.

(2) When the skirting has been installed, the installation instructions shall be located between the I-beam and the bottom board within five feet of the access opening.

(3) Instructions must be returned to ~~((such))~~ this location when the inspection is completed.

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0390 (~~What are the~~) **Requirements for ((on-site)) structures adjacent to manufactured homes and who regulates them((?))**. ((On-site)) Adjacent structures ((, sometimes referred to as auxiliary structures,)) such as, but not limited to, ((carports)) additions, decks, porches, and ((steps)) awnings should be self-supporting, unless the manufacturer has designed the manufactured home to support an "attached accessory building or structure" as indicated on the HUD data plate posted in the home.

(1) Local enforcement agency jurisdiction.

(a) ((On-site)) Adjacent self-supporting structures that do not use any of the systems in the manufactured home are ((inspected by)) under the authority of the local enforcement agency ((and they should be contacted for specific on-site structure requirements.

(b) Awnings and carports that are self-supported by a beam next to a manufactured (mobile) home are inspected by the local enforcement agency.

Note: The awning or carport may be flashed to the manufactured (mobile) home.)

for all permitting, review and inspections.

Adjacent self-supporting structures may be attached and flashed to the manufactured home and do not require an L&I permit.

(b) Accessory structure ready homes:

(i) When a manufactured home is designed to support an "attached accessory building or structure," typically a garage or carport, the manufacturer's installation instructions will address the requirements for fire separation, protection of openings, duct penetrations, allowable loads, attachment points, support and anchorage requirements. The garage or carport may be either site built or built in the factory. The design and construction of a site built accessory structure is subject to regulation by the local enforcement agency.

(ii) Extension of one or more of the systems of the manufactured home, and other alterations to the home not covered by the installation instructions require a permit and inspection by the department in accordance with chapter 296-150M WAC.

(2) Department of labor and industries jurisdiction.

((a) On-site)) Adjacent structures that are ((not self-supporting or)) supported by the manufactured home, use one or more of the systems of the manufactured home, or have other structural alterations to the home, require ((an)) a permit and inspection by the department ((and)) in accordance with chapter 296-150M WAC. They may also require permits, review and inspection by the local enforcement agency.

((b) Awnings and carports that are attached to the manufactured (mobile) home without the benefit of a self-supported beam require approval and inspection by the department.

Note: This attachment must be designed and approved by an engineer or an architect licensed in Washington state. Furthermore, these stamped plans must be submitted to the department and approved before an inspection can be conducted.

(c) Attached garages:

(i) ~~If the manufactured (mobile) home is built "garage ready" (one hour fire wall, dormer, etc.) at the factory and is installed by the manufacturer, an alteration inspection may not be required.~~

(ii) ~~If the manufactured (mobile) home is not built "garage ready" at the factory, an alteration inspection is required for all changes made to it.)~~

AMENDATORY SECTION (Amending WSR 08-12-040, filed 5/30/08, effective 6/30/08)

WAC 296-150I-0400 (~~What happens if a~~) **Dispute ((arises)) concerning an installation requirement((?))**. (1) If a dispute arises between any person, business, or local enforcement agency concerning an installation requirement of ((ANSI A225-1)) the Model Manufactured Home Installation Standards 24 C.F.R. Part 3285 or this chapter, the issue may be submitted to the factory assembled structures advisory (FAS) board.

(2) The board may provide an opinion on the requirement.

AMENDATORY SECTION (Amending WSR 10-06-043, filed 2/23/10, effective 4/1/10)

WAC 296-150I-0410 (~~What are the~~) **Requirements if a home is damaged ((during transit)) prior to, or during ((set-up?)) installation.** (1) Manufactured ((and mobile)) homes that are ((structurally)) damaged ((during transportation or when being set up on a new or secondary set-up)) prior to, or during installation and are repaired at a location other than the manufacturer's facility ((shall)) require ((an)) permits, inspections, and approval ((with)) of the repairs from labor and industries. Permits are not required for the repair of minor damage such as shingle repairs, broken window(s), paint damage, minor siding damage and damaged bottom board or similar.

Electrical and plumbing repairs to the damaged home shall be performed by a Washington state licensed electrician and/or plumber, except as exempted by RCW 18.27.090 and 18.106.150.

The repair and inspection shall be performed to either:

(a) Plans approved by the manufacturer's ((design approval primary inspection agency)) DAPIA and verified by the FAS plan review section; or

(b) Plans approved by an engineer or architect licensed in Washington and ((have the plans)) approved by the FAS plan review section((;)).

(2) ((Electrical and plumbing alterations to the damaged manufactured/mobile home shall be performed by a Washington state licensed electrician and/or plumber.

EXCEPTIONS: Damaged home is taken back to the factory.

Minor damage such as shingles, broken window(s), paint damage, minor siding damage, torn bottom paper etc., would not require a permit.)

Manufactured homes that are repaired at the manufacturer's facility do not require an L&I permit.

AMENDATORY SECTION (Amending WSR 21-07-126, filed 3/23/21, effective 4/23/21)

WAC 296-150I-3000 Penalties, fees, and refunds.

Penalties

(1) Monetary penalties for infractions listed in WAC 296-150I-0210 ~~((shall))~~ may be assessed for each violation of chapter 43.22A RCW in the following amount:

(a) Failure to have a certified installer on the installation site whenever installation work is being performed:

First Final Violation	\$250.00
Each Additional Final Violation	\$1,000.00

(b) Failure to correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same:

First Final Violation	Warning
Second Final Violation	\$250.00
Third Final Violation	\$500.00
Each Additional Final Violation	\$1,000.00

(c) Failure by a certified installer to affix a certification tag to an installed ~~((manufactured/mobile))~~ manufactured or mobile home:

First Final Violation	Warning
Second Final Violation	\$250.00
Third Final Violation	\$500.00
Each Additional Final Violation	\$1,000.00

(d) Transfer of certification tag(s) from a certified installer to another certified installer without prior written approval of the department:

First Final Violation	Warning
Each Additional Final Violation	\$250.00

(e) Transfer of certification tag(s) from a certified installer to a noncertified installer:

First Final Violation to Each Contractor in Violation	\$250.00
Each Additional Final Violation to Each Contractor in Violation	\$1,000.00

~~**((f) Transfer of unused installer certification tags by a manufactured home retailer to a new ownership without prior written approval of the department:**~~

First Final Violation	Warning
Each Additional Final Violation	(\$250.00)

Fees and Refunds

The following fees are payable to the department in advance:

((Training)) <u>Installer test and certification</u>	\$286.30
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((Training only 10 hours)) <u>Home-owner test and approval</u>	\$143.10
((Manufactured/mobile)) <u>Manufactured home installation inspector ((training)) test and certificate</u>	\$143.10
Refund	\$28.50
Certification renewal	\$143.10
Continuing education class	\$57.10
Retake failed examination and training <u>at scheduled class</u>	\$42.80
Manufactured home installer training manual <u>(on thumb drive)</u>	\$14.20
Installer certification tag	\$9.90
<u>L&I manufactured home installation inspection permit*</u>	<u>See WAC 296-150M-3000 for fee</u>

* Only available when L&I has an interagency agreement with the local enforcement agency in accordance with WAC 296-150I-0370.

(2) The department shall refund fees paid for training and certification or certification renewal as a manufactured home installer if the application is denied for failure of the applicant to comply with the requirements of chapter 43.22A RCW or these rules.

(3) If an applicant has paid fees to attend training or to take an examination and is unable to attend the scheduled training or examination, the applicant may:

- (a) Change to another scheduled training and examination; or
 - (b) Request a refund.
- (4) An applicant who fails the examination shall not be entitled to a refund.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-150I-0150 Installer certification tag—Issuance by local enforcement agency.

AMENDATORY SECTION (Amending WSR 16-01-163, filed 12/22/15, effective 2/1/16)

WAC 296-150M-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, planning considerations, fire safety, or the plumbing, mechanical, and electrical systems of a manufactured home. The installation of whole-house water treatment equipment that requires cutting into the existing plumbing is considered an alteration and requires a permit, an inspection and an alteration insignia.

"**Alteration insignia**" is an insignia issued by the department of labor and industries to verify that an alteration to a manufactured home meets the requirements of federal law 24 C.F.R. 3280 and this chapter.

"Anchoring system" is the means used to secure a mobile home to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, and other components.

"ANSI" is the American National Standards Institute, Inc., ~~((and the institute's rules applicable to manufactured homes, ANSI A225.1 Manufactured Homes Installation, 1994 edition, except section 3.5.2 — Ground Cover and section 4.1.3.3 — Clearance))~~ 1899 L Street, N.W., 11th Floor, Washington D.C. 20036.

"Authority having jurisdiction" means that either the department of labor and industries or the local jurisdiction is responsible for establishing specific manufactured home standards. The authority for specific manufactured home standards is divided as follows:

- The department of labor and industries establishes standards for manufactured home installation and alterations and performs alteration inspections;
- The local jurisdiction establishes standards for manufactured homes governing the building site and performs installation inspections.

"Building site" is a tract, parcel, or subdivision of land on which a manufactured home is installed.

"DAPIA" is a Design Approval Primary Inspection Agency as approved by the United States Department of Housing and Urban Development.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Factory Assembled Structures, P.O. Box ((44440)) 44430, Olympia, WA 98504-((4440)) 4430.

"Design plan" is a design submitted to the department for approval of a manufactured home structural alteration. This also includes other types of work and installations (plumbing, electrical, etc.) that are incidental to the structural alteration.

"Equipment" means the appliances used in the alteration or installation of a manufactured home.

Examples that require an alteration inspection include:

- Furnace;
- Water heater;
- Air conditioner;
- Heat pump; and
- New and extended electrical circuits.

Examples that do not require an alteration inspection include:

- Washer;
- Dryer; and
- Dishwasher and range that are connected to their source of power by a plug-in cord.

"Equivalent air conditioning/heat pump components" is equipment that performs the same function and is compatible with the equipment of another manufacturer, sometimes referred to as mix and match.

"Footing" is the portion of a support system that transmits loads from the manufactured home to the ground.

"Foundation skirting" or **"skirting"** is the material that surrounds and encloses the space under the manufactured home.

"Homeowner" is an individual who owns a manufactured home. Dealers, distributors, and developers are not regarded as homeowners.

"HUD" is the United States Department of Housing and Urban Development with headquarters located in Washington, D.C.

"Indigent" means a person receiving an annual income, after taxes, of one hundred twenty-five percent or less of the most recently published federal poverty level.

"Installation" is the activity needed to prepare a building site and to set a manufactured home within that site. Site means a tract, parcel, or subdivision of land including a mobile home park.

"Installed manufactured or mobile home" is a manufactured or mobile home that has been placed on either private property or in a park and has been installed for occupancy. Installation includes the approval of the blocking of the home, and the connection of the home to all of the utilities, including water, sewer and electrical.

"IPIA" is a manufactured home production Inspection Primary Inspection Agency approved by the United States Department of Housing and Urban Development. The department of labor and industries is the IPIA for Washington state.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the building site and installation of a manufactured home.

"Manufactured home" is a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code. A manufactured home also:

- Includes plumbing, heating, air conditioning, and electrical systems;
- Is built on a permanent chassis; and
- Can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported; or when installed on the site is three hundred twenty square feet or greater (see RCW 46.04.302).

Note: Total square feet is based on exterior dimensions measured after installation using the longest horizontal projections. Dimensions may not include bay windows but may include projections containing interior space such as cabinets and expandable rooms.

Exception: A structure that meets the requirements of a manufactured home as set out in 24 C.F.R. 3282.7(u), except the size requirements is considered a manufactured home, if the manufacturer files with the secretary of HUD a certificate noted in C.F.R. 3282.13.

"Mobile home" is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD Manufactured Home Construction and Safety Stan-

dards Act. For the purposes of this chapter references to manufactured homes include mobile homes.

"Park site" is the installation location of a manufactured home within a residential area for manufactured homes.

"Repair" is to restore an item to sound condition, to fix.

"Replacement" is the act or process of replacing, to substitute.

"State administrative agency (SAA)" the department of labor and industries shall perform all the consumer complaint and related functions that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing including the preparation and submission of the state administrative plan.

"Structural alteration-custom design" is a design that can only be used once.

"Structural alteration-master design" is a design plan that can be used more than once. The master plan expires when there is a code change applicable to the design.

"System" is part of a manufactured home designed to serve a particular function such as structural, plumbing, mechanical, or electrical functions.

AMENDATORY SECTION (Amending WSR 97-16-043, filed 7/31/97, effective 12/1/97)

WAC 296-150M-0100 What happens if I disagree with your decision regarding my compliance with the federal standards, ((ANSI)) or this chapter? (1) If we determine that you are in violation with the federal standards, ((ANSI A225.1,)) or this chapter, you will receive a notice of noncompliance.

(2) If you disagree with our decision, you can submit a written request for a hearing, stating why you disagree.

(3) After we receive your hearing request, we will:

(a) Schedule a hearing within thirty days after we receive your request.

(b) Notify you of the time, date, and place for the hearing. If you fail to appear, your case will be dismissed.

(c) Hear your case.

(d) Send you written notice of our decision.

If you disagree with our decision, you may appeal it under the Administrative Procedure Act (chapter 34.05 RCW).

AMENDATORY SECTION (Amending WSR 21-07-126, filed 3/23/21, effective 4/23/21)

WAC 296-150M-3000 Manufactured/mobile home fees.

DESIGN PLAN FEES:	
STRUCTURAL ALTERATION	\$192.20
RESUBMITTAL FEE	\$84.90
ADDENDUM (Approval expires on the same date as original plan.)	\$84.90
ELECTRONIC PLAN SUBMITTAL FEE \$5.90 per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT INSPECTION FEES:	
Combination permit - Mechanical and electrical inspections	\$210.00
Heat pump	\$210.00
Air conditioning	\$210.00
Air conditioning with replacement furnace	\$210.00
Gas furnace installation includes gas piping	\$210.00
Fire safety inspection	\$210.00
MECHANICAL	
Gas*** piping	\$93.30
Wood stove	\$93.30
Pellet stove	\$93.30
Gas*** Room heater	\$93.30
Gas*** Decorative appliance	\$93.30
Range: Changing from electric to gas***	\$93.30
Gas*** Water heater replacement	\$69.90
ELECTRICAL	
Electric water heater replacement	\$116.80
Electric water heater replacing gas*** water heater	\$116.80
Each added or modified 120 volt circuit (maximum charge is two circuits)	\$116.80
Each added 240 volt circuit (for other than heat pumps, air conditioners, furnaces, water heaters, ranges, hot tubs or spas)	\$116.80
Hot tub or spa (power from home electrical panel)	\$116.80
Replace main electrical panel/permanently installed transfer equipment	\$116.80
Low voltage fire/intrusion alarm	\$116.80
Any combination of furnace, range and water heater changing from electric to gas***	\$116.80

PLUMBING	
Fire sprinkler system	\$262.40
Each added fixture	\$69.90
Replacement of water piping system (this includes two inspections)	\$234.20
STRUCTURAL	
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)	\$104.70
Reroofs (may require a plan review)	\$187.10
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)	\$187.10
Other structural changes (may require a plan review)	\$187.10
MISCELLANEOUS	
OTHER REQUIRED INSPECTIONS (per hour*)	\$76.60
ALL REINSPECTIONS (per hour*)	\$76.60
Manufactured home installation inspection permit (only available in cities and counties with L&I inspection contract)	\$536.20
Refund	\$23.10
INSIGNIA FEES:	
REISSUED - LOST/DAMAGED	\$23.10
IPIA	
DEPARTMENT AUDIT FEES	
REGULARLY SCHEDULED IPIA AUDIT:	
First inspection on each section (one time only)	\$38.40
Second and succeeding inspections of unlabeled sections (per hour*)	\$84.90
OTHER IPIA FEES:	
Red tag removal during a regularly scheduled IPIA audit (per hour* separate from other fees)	\$84.90
Red tag removal at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	\$84.90
Increased frequency surveillance (per hour* plus travel time* and mileage**)	\$84.90
Attendance at manufacturers training classes (per hour* only)	\$84.90
Subpart "I" investigations (per hour* plus travel time* and mileage**)	\$84.90
Alterations to a labeled unit (per hour* plus travel time* and mileage**)	\$84.90
IPIA Issues/Responses (per hour* plus travel time* and mileage**)	\$84.90
Monthly surveillance during a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	\$84.90
Monthly surveillance at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	\$84.90
Plant certifications, recertifications and addenda updates (per hour* plus travel time* and mileage** per each inspector)	\$84.90
Response to HBT audit during a regularly scheduled IPIA audit (per hour*)	\$84.90
Response to HBT audit at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	\$84.90
Alternative construction (AC) letter inspections at placement site (per hour* plus travel time* and mileage**)	\$84.90
Replacement of HUD labels (per hour* plus travel time* and mileage**)	\$84.90
State administrative agency (SAA) inspection fee (per hour* plus travel time* and mileage**)	\$84.90
State administrative agency (SAA) dispute resolution filing fee	\$84.90
State administrative agency (SAA) dispute resolution (per hour*)	\$84.90
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour plus travel time* and mileage**)	\$78.90
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (one free copy per year upon request)	\$15.40
VARIANCE INSPECTION FEE	\$187.10
HOMEOWNER REQUESTED INSPECTION	\$187.10
DECERTIFICATION OF A MOBILE/MANUFACTURED HOME	\$187.10
DEMOLITION OF A MOBILE/MANUFACTURED HOME	\$187.10
ENERGY CONSERVATION PERMIT	\$31.80

NOTE: Local jurisdictions may have other fees that apply.

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Gas means all gases; natural, propane, etc.

WSR 21-19-125
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 21, 2021, 8:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-03-077.

Title of Rule and Other Identifying Information: Amendments to chapter 296-05 WAC, Apprenticeship rules, affecting WAC 296-05-008 Meetings and adjudicative proceedings.

Hearing Location(s): On October 28, 2021, at 10:00 a.m., virtual and telephonic hearing only. Please join on your computer or mobile app (Microsoft Teams). Click here to join the meeting or visit https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZjEzZTZlYjUtNGMwYS00NzVjLTg4NTEtYjBkZWYyYWFiYzlj%40thread.v2/0?context=%7b%22id%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22oid%22%3a%22d2b1cfc2-5d3b-4cf8-8fbd-a94ce8c92ef1%22%7d; or call in (audio only), phone +1 253-372-2181, Conference ID 734 594 763# (pound sign must be entered). The virtual/telephonic hearing starts at 10 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: November 2, 2021.

Submit Written Comments to: Beverly Clark, Department of Labor and Industries (L&I), Fraud Prevention and Labor Standards/Apprenticeship, P.O. Box 44530, Olympia, WA 98504-4530, email Beverly.Clark@Lni.wa.gov, fax 360-902-4248, by 5:00 p.m., on October 28, 2021.

Assistance for Persons with Disabilities: Contact Beverly Clark, phone 360-902-6272, fax 360-902-4248, email Beverly.Clark@Lni.wa.gov, by 5:00 p.m., on October 25, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: L&I with approval of the Washington state apprenticeship and training council (WSATC) is proposing to allow the use of special meetings to consider records and enter final orders following adjudication processes. ESHB 1817 (2019) requires owners of petroleum refining or petrochemical manufacturing facilities to use a skilled and trained workforce when contracting for construction, alteration, demolition, installation, repair, or maintenance work. A skilled and trained workforce means a workforce where all the workers are either registered apprentices in a WSATC-approved apprenticeship program or skilled journeypersons as defined by the statute. WSATC is currently limited to adjudicating and issuing final orders at four regularly scheduled meetings. Not only does this delay the decision for programs and make it more difficult to comply with the law, but also WSATC may not have enough time at the regularly scheduled meeting to conduct all needed business and address these adjudicated matters.

Reasons Supporting Proposal: In 2019, the legislature passed ESHB 1817, ensuring a skilled and trained workforce in high hazard facilities, codified under chapter 49.80 RCW, requires owners of petroleum refining or petrochemical manufacturing facilities use a skilled and trained workforce when contracting for construction, alteration, demolition, installation, repair, or maintenance work. A skilled and trained workforce means a workforce where all the workers are either registered apprentices in a WSATC-approved apprenticeship program or skilled journeypersons as defined by the statute. The law also requires a percentage of skilled journeypersons be graduates of a WSATC-approved apprenticeship program beginning January 1, 2021. The percentage starts at 20 percent in 2021 and increases each year and caps out at 60 percent in 2024.

RCW 49.80.050 requires L&I, in consultation with WSATC, to prioritize consideration of new apprenticeship programs for workers in high hazard facilities and for WSATC to make a decision within six months of the acceptance of a completed application for consideration of a new state registered apprenticeship program for workers in high hazard facilities. Several employers turned in apprenticeship program applications, which garnered objections. WSATC made decisions to send each program application that received objections to the adjudication process through WSATC or the office of administrative hearings for the issuance of initial orders. Initial orders may be reviewed by WSATC either by its own motion or upon petition from a party, with final orders issued by WSATC. However, there have been delays in the adjudication process due to COVID-19 and no initial orders were issued in 2020, which delayed the issuance of final orders. Under the current rule, WAC 296-05-008, the approval or disapproval of programs can only occur at regularly scheduled quarterly meetings. Not only does this delay the decision for programs and make it more difficult to comply with the law, but also WSATC may not have enough time at the regularly scheduled meeting to conduct all needed business and address these adjudicated matters.

Specifically, the rule language amends WAC 296-05-008 as follows:

(1)(d) The approval or disapproval of committee programs, plant programs, or amendments to those programs can only occur at regular quarterly meetings unless the council is responding to a court mandate, which can occur at a special meeting. The approval or disapproval of committee programs, plant programs, or amendments to those programs can also occur at a special meeting when the council considers the record and enters a final order following an adjudication conducted under subsection (6) of this section.

There is an emergency rule in place to address issues raised while implementing ESHB 1817 through permanent rule making.

Statutory Authority for Adoption: Chapter 49.04 RCW; chapter 306, Laws of 2019, ESHB 1817.

Statute Being Implemented: Chapter 306, Laws of 2019, ESHB 1817.

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: Jody Robbins, Tumwater, Washington, 360-902-5321.

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. A cost-benefit analysis is not required in accordance with RCW 34.05.328 (5)(b)(ii), as these rules are only making changes to internal government operations by allowing for special meetings to occur and RCW 34.05.328 (4)(d) by making housekeeping changes.

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 only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

September 21, 2021
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 18-17-149, filed 8/21/18, effective 10/10/18)

WAC 296-05-008 Meetings and adjudicative proceedings. (1) Regular meetings: Convened on the third Thursday of January, April, July, and October, held at locations within Washington, and open to the general public. Members of the public cannot be required to register their name, give any information, or fulfill any condition prior to attending council meetings. All council meetings must be conducted according to the provisions of chapter 42.30 RCW, Open Public Meetings Act and chapter 34.05 RCW, Administrative Procedure Act.

(a) Notice of regular meetings: The supervisor must distribute notice not later than (~~thirty~~) 30 calendar days prior to the meeting date to anyone who has requested notice of the regular meetings.

(b) The supervisor must send notices to all WSATC members, including ex officio members, and approved program sponsors.

(c) The following WSATC activities must take place in open public meetings:

- (i) All transactions of official business;
- (ii) All commitments or promises;
- (iii) All collective discussions;
- (iv) All collective decisions; and
- (v) All council actions.

(d) The approval or disapproval of committee programs, plant programs, or amendments to those programs can only occur at regular quarterly meetings unless the council is responding to a court mandate, which can occur at a special

meeting. The approval or disapproval of committee programs, plant programs, or amendments to those programs can also occur at a special meeting when the council considers the record and enters a final order following an adjudication conducted under subsection (6) of this section.

(2) Special meetings: Called at the request of the chair or by a majority of the WSATC members, and open to the general public.

(a) Procedure for special meetings: To call a special meeting, the calling members must:

(i) Mail a written notice with the date, time, and location of the meeting that specifies the business to be transacted at the meeting, either personally or by mail, at least seven calendar days before the specified date of the meeting, to each member of the WSATC, all approved program sponsors, and those who have requested prior notice of special meetings.

(ii) Waiver: The notice requirements to WSATC members may be waived in writing at or prior to the meeting, but all members must agree to waive notice and file the waiver with the supervisor.

(b) Content of special meetings: The subject matter of the special meeting must not exceed the scope of the written notice. If the WSATC takes action on a matter exceeding the scope of the written notice, the action is not final even if the members waive notice.

(c) Special meetings for rule changes: To call a special meeting to consider rule changes, the WSATC must:

(i) Mail a written notice with the date, time, and location of the meeting that specifies the rules to be changed at the meeting, either personally or by mail, at least (~~twenty~~) 20 calendar days before the meeting.

(ii) Waiver: The notice requirements may not be waived for special meetings when rule changes are contemplated.

(3) Registered apprenticeship standards actions: When a party requests specific action from the WSATC related to apprenticeship standards, such request must:

(a) Be in writing; and

(b) Signed by the committee's elected chair and secretary, or by an authorized signer approved by the petitioning sponsor;

(c) Sent to the apprenticeship supervisor at least (~~forty-five~~) 45 days prior to the date of the regular quarterly meeting.

Requests that are untimely are deferred to the next quarterly meeting.

(4) Other actions: When a party requests specific action or consideration from the WSATC on other issues, such requests must:

(a) Be in writing; and

(b) Sent to the apprenticeship supervisor at least (~~fifteen~~) 15 business days prior to the date of the regular quarterly meeting.

Requests that are untimely are deferred to the next quarterly meeting unless waived by the supervisor.

(5) Voting: All council members, except ex officio members, appointed by the director of the department of labor and industries are voting members of the council.

(a) A quorum is two-thirds of the WSATC members entitled to vote.

(b) The chair shall establish a standing tie-breaker committee comprised of three WSATC members entitled to vote:

- (i) An employer representative;
- (ii) An employee representative; and
- (iii) A public member.

(c) The apprenticeship supervisor or designee shall act as secretary to the tie-breaker committee and furnish all information necessary for a decision.

(d) In case of a tie vote on any proposed standards brought before the WSATC, the tie-breaker committee shall meet or confer, review the record, and render a decision within ~~((thirty))~~ 30 calendar days.

(6) Adjudicative proceedings: All hearings and adjudication, under chapter 49.04 RCW and these rules, shall be conducted according to chapters 34.05 RCW and 10-08 WAC. The chair (or designee) is the presiding officer for adjudicative proceedings held before the WSATC. The WSATC may either adjudicate matter(s) itself, or refer matter(s) to the office of administrative hearings for initial adjudication.

If the initial adjudication is before the WSATC, the WSATC will enter a final order. If the initial adjudication is held at the office of administrative hearings, the administrative hearings judge shall issue an initial order. The WSATC, upon review of the initial order shall enter the final order. An initial order shall become final without further WSATC action five business days after the next regular quarterly meeting unless:

(a) The WSATC upon its own motion determines that the initial order should be reviewed; or

(b) A party to the proceedings files a petition for review of the initial order.

(7) Final WSATC orders or decisions affecting registration and oversight of apprenticeship programs and agreements for federal purposes may be appealed within ~~((thirty))~~ 30 calendar days to the director of the department pursuant to the following:

(a) An appellant must file with the director an original and four copies of the notice of appeal.

(i) The notice of appeal must specify findings and conclusions at issue in the appeal;

(ii) The director or designee shall serve notice of receipt of the appeal, including copies of the appeal on all parties within five business days from date of receipt;

(iii) The respondent parties may file with the director or designee written arguments within ~~((thirty))~~ 30 calendar days after the date the notice of receipt of appeal was served upon them.

(b) The director or designee shall review the record in accordance with the Administrative Procedure Act, chapter 34.05 RCW. The director or designee shall issue a final decision affirming, modifying, or reversing the WSATC final order or decision or may remand the matter to the WSATC for further proceedings.

(c) With respect to cancellation of programs only, any aggrieved party may appeal, for federal purposes, a final decision by the director (or director's designee) by following the procedures in 29 C.F.R. 29.8 (b)(5).

(d) Any aggrieved party may appeal the final decision to superior court pursuant to chapter 34.05 RCW. If no party

appeals within the period set by RCW 34.05.542, the director's decision is final and binding on all parties.

(8) Limitations: Nothing in this part or in any apprenticeship agreement will operate to invalidate:

(a) Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or

(b) Any special provision for veterans, minority person, or women in the standards, apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by law, executive order, or authorized regulation.

(9) Retroactivity: The WSATC may make any action or decision which it takes retroactive to the date of the previous business session.

WSR 21-19-129

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed September 21, 2021, 9:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-118.

Title of Rule and Other Identifying Information: Chapter 392-194 WAC, School personnel certificate fees.

Hearing Location(s): On October 26, 2021, at 9:00 a.m., webinar via Zoom (call-in option will be available). Due to ongoing public health emergency related to the COVID-19 virus pandemic, this public hearing will be held by webinar via Zoom (with a call-in option). There will be no physical location for the hearing. For information on registering and participating, please visit office of superintendent of public instruction's (OSPI) website at <https://www.k12.wa.us/policy/funding/ospi-rulemaking-activity>. For questions, please email Kristin.murphy@k12.wa.us.

Date of Intended Adoption: October 29, 2021.

Submit Written Comments to: David E. Kinnunen, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, email david.kinnunen@k12.wa.us, fax 360-586-0145, TTY 360-664-3631, by October 26, 2021.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email Kristin.murphy@k12.wa.us, by October 19, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OSPI is considering rule making concerning fees for processing initial educator, paraprofessional certificate applications, and subsequent actions. The new proposed processing fee will be \$51.

Reasons Supporting Proposal: The proposed revisions being considered are needed to adjust the processing fee to adequately support and maintain the operations of OSPI's professional certification office. The current fee is not sufficient to adequately run the operations and staffing to meet the needs of constituents, school districts, and educators in a timely manner.

Statutory Authority for Adoption: RCW 28A.410.062.

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

Name of Proponent: OSPI, [governmental].

Name of Agency Personnel Responsible for Drafting and Implementation: David E. Kinnunen, OSPI, 600 South Washington Street, Olympia, WA, 360-725-6400; Enforcement: OSPI, 600 South Washington Street, Olympia, WA, 360-725-6400.

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

Is exempt under RCW 19.85.030.

Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

September 21, 2021

Chris P. S. Reykdal
State Superintendent
of Public Instruction

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

WAC 392-194-001 Purpose and authority. The purpose of this chapter is to establish the fee for processing (~~initial~~) educator and paraeducator certificate applications and subsequent actions. The authority for this chapter is (~~chapter 23 (ESHB 1449), Laws of 2011~~) RCW 28A.410.062. OSPI will review every two years to assure the fee is at a sufficient level to defray the costs of administering the educator certification program under RCW 28A.300.040(9) and the paraeducator certificate program under chapter 28A.413 RCW.

AMENDATORY SECTION (Amending WSR 15-16-077, filed 7/31/15, effective 8/31/15)

WAC 392-194-002 Fee for processing initial educator certificate applications and subsequent actions. (~~Effective October 1, 2011,~~) The superintendent of public instruction will charge a nonrefundable fee of (~~thirty-nine dollars~~) \$51 for processing any certificate application or requests for administrative action which results in the issuance, renewal, or reissuance of a permit or certificate (~~pursuant to RCW 28A.410.010, 28A.410.025, 28A.410.210, and chapters 181-85 and 181-77 WAC; for issuance of a letter authorizing internship/student teaching pursuant to WAC 181-78A-130; and any subsequent action upon any certificate or permit referred to within this chapter. Educator certificates governed under this chapter include:~~

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

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

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

(4) ~~Administrator.~~

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

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

(a) ~~Conditional certificate.~~

(b) ~~Substitute certificate.~~

(c) ~~Emergency certificate.~~

(d) ~~Emergency substitute certificate.~~

(e) ~~Nonimmigrant alien exchange teacher.~~

(f) ~~Intern substitute teacher certificate.~~

(g) ~~Transitional certificate.~~

(h) ~~Provisional alternative administrative certificate.)~~ in accordance with chapters 28A.410 and 28A.413 RCW.

(1) Educator certificates issued under chapter 181-79A WAC will be charged a fee of \$51 for processing educator certificates and subsequent actions.

(2) Paraeducator certificates issued under Title 179 WAC will be charged a fee of \$39 for processing paraeducator certificates and subsequent actions.

WSR 21-19-130

PROPOSED RULES

NOXIOUS WEED

CONTROL BOARD

[Filed September 21, 2021, 9:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-11-059.

Title of Rule and Other Identifying Information: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties. The Washington state noxious weed control board (WSNWCB) is proposing to amend the state noxious weed list for 2022.

Hearing Location(s): On November 3, 2021, at 1:00 p.m., WebEx, phone 1-415-655-0001, Toll Free 1-855-929-3239, Meeting Access Code 2463 999 4243. "Due to the mandated social distancing requirements in place during the current COVID-19 pandemic, the public hearings will be held solely over video and teleconference."

Date of Intended Adoption: December 1, 2022 [2021].

Submit Written Comments to: Mary Fee, WSNWCB, P.O. Box 42560, Olympia, WA 98504-2560, email mfee@agr.wa.gov or noxiousweeds@agr.wa.gov, fax 360-902-2053, by November 2, 2021.

Assistance for Persons with Disabilities: Contact Deanna Painter, phone 360-902-2061, TTY 800-833-6388, email dpainter@agr.wa.gov, by November 5, 2020 [2021].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state noxious weed list provides the basis for noxious weed control efforts for county noxious weed control boards and other entities. It also provides guidelines for the WSNWCB. This proposal makes a few amendments to WAC 16-750-011 and 16-750-015. Specifically, the board is proposing:

1. WAC 16-750-011 Proposed Class B additions and designation changes:

- Hanging sedge, *Carex pendula*, *Carex pendula* subsp. *pendula* and *Carex pendula* subsp. *agastachys*: Additional as a Class B noxious weed species designated in region 1, 3, 4, 5, 6, and region 2 except for King County.
- Rough chervil, *Chaerophyllum temulum*: Additional as a Class B noxious weed species designated in region 1, 3, 4, 5, 6, and region 2 except for King County.
- Wild basil/basil savory, *Clinopodium vulgare*: Additional as a Class B noxious weed species designated in region 1, 2, 4, 5, 6, and region 3 except for Skamania County.
- Common tansy, *Tanacetum vulgare*: Reclassification and designation change from a Class C to a Class B noxious weed designated in Clallam County of region 1, Kitsap and San Juan counties of region 2, Cowlitz and Lewis counties of region 3, and Adams and Lincoln counties of region 5.

2. WAC 16-750-015:

- Green alkanet: Addition as a Class C noxious weed species.
- Common tansy: Reclassification and designation change from Class C noxious weed species to Class B noxious weed species.
- Wild carrot: clarifying definition by adding the wording, to exclude *Daucus carota* subsp. *sativus* (garden carrot) grown commercially or for food.

3. Typo correction: Correcting scientific name of common bugloss from *Lycopsis officinalis* back to *Anchusa officinalis* and correcting scientific name of annual bugloss from *Anchusa arvensis*, to *Lycopsis arvensis*.

Reasons Supporting Proposal: Under RCW 17.10.080, WSNWCB is charged with updating the state noxious weed list on an annual basis to ensure it accurately reflects the noxious weed control priorities and noxious weed distribution. Under RCW 17.10.070, WSNWCB is charged with adopting, amending, or repealing rules, pursuant to the Administrative Procedure Act, chapter 34.05 RCW, as may be necessary to carry out the duties and authorities assigned to the board by this chapter.

The proposed addition of hanging sedge, *Carex pendula*, rough chervil, *Chaerophyllum temulum* (*Carex pendula* subsp. *pendula* and *Carex pendula* subsp. *agastachys*), wild

basil/basil savory, *Clinopodium vulgare*, as Class B noxious weeds and green alkanet, *Pentaglottis sempervirens* as a Class C noxious weed species is intended to keep them from spreading from their very limited distribution to new locations within Washington state. Noxious weeds are very invasive species that when left uncontrolled outcompete agricultural crops and native species. Noxious weed infestations negatively impact both terrestrial and aquatic habits [habitats] as well as farming and grazing lands.

The reclassification and designation change of common tansy from a Class C noxious weed to a Class B noxious weed is intended to better help control and contain this species in designated counties. Class B noxious weeds are generally designated where they are absent, limited, or pose a serious threat to health, agriculture, or natural areas so the economic impact is not unreasonable.

The clarification of wild carrot to except subs. *sativus* is intended to allow for the growing of garden carrots for food and commercially.

The correction of common bugloss from *Lycopsis officinalis* back to *Anchusa officinalis* and change *Anchusa arvensis*, annual bugloss to *Lycopsis arvensis* is intended to correct a typo included in the 2021 noxious weed list update.

Statutory Authority for Adoption: RCW 17.10.070, 17.10.080.

Statute Being Implemented: Chapter 17.10 RCW.

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

Name of Proponent: WSNWCB, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mary Fee, 1111 Washington Street S.E., Olympia, WA 98504, 360-561-4428.

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. WSNWCB is not one of the agencies listed in this section.

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. Approximately 270 businesses responded to an online survey emailed to licensed nurseries and agricultural industry associations. Seven businesses (2 percent) reported selling Class B proposed addition rough chervil but indicated the listing would have no impact on their business do [due] to loss of sales, revenue, or jobs. Five businesses (1.8 percent) reported selling Class B proposed addition hanging sedge but indicated the listing would have no impact on their business do [due] to loss of sales, revenue, or jobs. Two businesses (0.7 percent) reported selling Class B proposed addition wild basil but indicated the listing would have no impact on their business do [due] to loss of sales, revenue, or jobs. One business (0.3 percent) reported selling Class C proposed addition green alkanet but indicated the listing would have no impact on their business do [due] to loss of sales, revenue, or jobs. Zero businesses reported selling common tansy and indicated the listing change would have no impact on their business do [due] to loss of sales, revenue, or jobs. Additionally, 91.8 percent of the businesses indicated that they are considered a small business as defined by RCW 19.85.020.

This rule would require the control of Class B noxious weed species infestations designated for control only in specific counties. Currently the only known infestations of hanging sedge are in King, Whatcom, Skamania, and Mason counties. Skamania County has one possible ornamental planting with less than 24 square feet. Whatcom County has six documented sites with a total less than 200 square feet. There is little to no documentation on possible infestations in King and Mason counties. Currently, the only known rough chervil infestations are limited in distribution in Pacific, Mason, Pierce, Kitsap, and King counties. The only known infestations of wild basil are in limited distribution in western Washington. There are very limited to no infestations of wild basil in eastern Washington.

Green alkanet is being proposed as Class C additions. Green alkanet is in limited distribution in western Washington. There are very little infestation [infestations] to none in eastern Washington. Class C noxious weed species are not designated for required control at the state level.

An analysis of the direct economic effects of the proposed rule amendments indicates that costs to businesses would be negligible or none at all. The three new Class B noxious weed additions are being designated for control in counties where they are either absent or limited in distribu-

tion, businesses in these counties should not be faced with more-than-minor costs to control those noxious weeds. Limited distribution is typically defined as less than 100 infested acres within a county.

Based upon the above analysis, WSNWCB concludes that direct minor costs - if any - imposed would affect less than 10 percent of businesses and would not exceed \$100 in cost to comply as a direct result of these proposed rule-making changes; nor would any of these amendments to the noxious weed list directly cause the creation of or loss of any jobs. WSNWCB concludes that businesses will not be disproportionately impacted, nor would the proposed rule changes impose more-than-minor cost on businesses in an industry. Therefore, we conclude that a formal small business economic impact statement is not required.

A copy of the detailed cost calculations may be obtained by contacting Mary Fee, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-561-4428, fax 360-902-2094, TTY 800-833-6388, email mfee@agr.wa.gov.

September 21, 2021
 Mary Fee
 Executive Secretary

AMENDATORY SECTION (Amending WSR 20-24-098, filed 11/30/20, effective 1/1/21)

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

Name		Will be a "Class B designate" in all lands lying within:	
(1)	blueweed, <i>Echium vulgare</i>	(a)	regions 1, 2, 3, 4, 6
		(b)	region 5, except Spokane County
(2)	Brazilian elodea, <i>Egeria densa</i>	(a)	region 1, except Grays Harbor County
		(b)	region 2, except Kitsap County
		(c)	King County of region 2, except lakes Dolloff, Fenwick, Union, Washington, and Sammamish, and the Sammamish River
		(d)	region 3, except Wahkiakum County
		(e)	regions 4, 5, and 6
(3)	bugloss, annual, ((<i>Anchusa</i>)) <i>Lycopsis arvensis</i>	(a)	regions 1, 2, 3, 4, and 6
		(b)	region 5, except Spokane County
(4)	bugloss, common, ((<i>Lycopsis</i>)) <i>Anchusa officinalis</i>	(a)	regions 1, 2, 3, and 6
		(b)	All of region 4 except those areas lying within the Entiat River Valley between the Columbia River confluence and Stormy Creek in Chelan County
		(c)	region 5, except Spokane County
(5)	butterfly bush, <i>Buddleja davidii</i>	(a)	Grays Harbor County of region 1
		(b)	San Juan County of region 2
		(c)	Cowlitz County of region 3
(6)	camelthorn, <i>Alhagi maurorum</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(7)	common fennel, <i>Foeniculum vulgare</i> (except bulbing fennel, <i>F. vulgare</i> var. <i>azoricum</i>)	(a)	region 1, except Jefferson County
		(b)	region 2, except King and Skagit counties

Name		Will be a "Class B designate" in all lands lying within:
		(c) region 3, except Clark County
		(d) regions 4, 5, and 6
(8)	common reed, <i>Phragmites australis</i> (nonnative genotypes only)	(a) regions 1, 2, 3, and 4
		(b) region 5, except Grant County
(9)	<u>common tansy, <i>Tanacetum vulgare</i></u>	(c) Asotin, Columbia, and Garfield counties of region 6
		(a) <u>Clallam County of region 1</u>
		(b) <u>Kitsap and San Juan counties of region 2</u>
		(c) <u>Cowlitz and Lewis counties of region 3</u>
		(d) <u>Adams and Lincoln counties of region 5</u>
(10)	Dalmatian toadflax, <i>Linaria dalmatica</i> ssp. <i>dalmatica</i>	(a) regions 1, 2, and 3
		(b) Adams, Kittitas, and Lincoln counties of region 5
		(c) Benton, Franklin, and Walla Walla counties of region 6
((10)) (11)	Eurasian watermilfoil, <i>Myriophyllum spicatum</i>	(a) region 1, except Pacific County
		(b) Island, Kitsap, and San Juan counties of region 2
		(c) Clark and Cowlitz counties of region 3
		(d) Chelan and Okanogan counties, and all lakes with public boat launches except Fan Lake in Pend Oreille County of region 4
		(e) Adams, Kittitas, Lincoln, and Whitman counties of region 5
		(f) Asotin, Columbia, and Garfield counties of region 6
((11)) (12)	European coltsfoot, <i>Tussilago farfara</i>	(a) regions 1, 2, 3, 4, 5, and 6
((12)) (13)	fanwort, <i>Cabomba caroliniana</i>	(a) regions 1, 2, 4, 5, and 6
		(b) region 3, except Cowlitz County
((13)) (14)	gorse, <i>Ulex europaeus</i>	(a) region 1, except Grays Harbor and Pacific counties
		(b) regions 2, 3, 4, 5, 6
((14)) (15)	grass-leaved arrowhead, <i>Sagittaria graminea</i>	(a) region 1
		(b) region 2, except Snohomish County
		(c) regions 3, 4, 5, and 6
((15)) (16)	hairy willow-herb, <i>Epilobium hirsutum</i>	(a) regions 1, 3, and 4
		(b) region 2, except Thurston and Whatcom counties
		(c) region 5, except Klickitat County
		(d) region 6, except Benton and Franklin counties
((16)) (17)	<u>hanging sedge, <i>Carex pendula</i></u>	(a) <u>regions 1, 3, 4, 5, and 6</u>
		(b) <u>region 2, except for King County</u>
(18)	hawkweed oxtongue, <i>Picris hieracioides</i>	(a) regions 1, 2, 4, 5, and 6
		(b) region 3, except Skamania County
((17)) (19)	hawkweed, orange, <i>Hieracium aurantiacum</i>	(a) regions 1, 3, and 6
		(b) region 2, except Whatcom County
		(c) region 4, except Pend Oreille and Stevens counties
		(d) region 5, except Kittitas and Spokane counties

Name	Will be a "Class B designate" in all lands lying within:
((18)) (20) hawkweeds: All nonnative species and hybrids of the Meadow subgenus (<i>Pilosella</i>), including, but not limited to, mouseear (<i>Hieracium pilosella</i>), pale (<i>H. lactucella</i>), queen-devil (<i>H. glomeratum</i>), tall (<i>H. piloselloides</i>), whiplash (<i>H. flagellare</i>), yellow (<i>H. caespitosum</i>), and yellow-devil (<i>H. x floribundum</i>)	(a) region 1 (b) region 2, except Thurston County (c) region 3, except Cowlitz County (d) region 4, except Pend Oreille and Stevens counties (e) region 5, except Klickitat and Spokane counties (f) region 6
((19)) (21) hawkweeds: All nonnative species and hybrids of the Wall subgenus (<i>Hieracium</i>), including, but not limited to, common (<i>Hieracium lachenalii</i>), European (<i>H. sabaudum</i>), polar (<i>H. atratum</i>), smooth (<i>H. laevigatum</i>), spotted (<i>H. maculatum</i>), and wall (<i>H. murorum</i>)	(a) regions 1, 3, 5, and 6 (b) region 2, except King, Skagit, Snohomish, and Whatcom counties (c) region 4, except Stevens County
((20)) (22) herb-Robert, <i>Geranium robertianum</i>	(a) regions 4, 5, and 6
((21)) (23) hoary alyssum, <i>Berteroa incana</i>	(a) regions 1, 2, 3, and 6 (b) region 4, except Pend Oreille and Ferry counties (c) region 5, except Klickitat County
((22)) (24) houndstongue, <i>Cynoglossum officinale</i>	(a) regions 1, 2, and 3 (b) Chelan and Douglas counties of region 4 (c) Yakima, Grant and Adams counties of region 5 (d) Benton and Franklin counties of region 6
((23)) (25) indigobush, <i>Amorpha fruticosa</i>	(a) regions 1, 2, and 4 (b) Lewis County of region 3 (c) region 5, except Klickitat County
((24)) (26) knapweed, black, <i>Centaurea nigra</i>	(a) regions 1, 2, 3, 4, 5, and 6
((25)) (27) knapweed, brown, <i>Centaurea jacea</i>	(a) regions 1, 2, 3, 4, 5, and 6
((26)) (28) knapweed, diffuse, <i>Centaurea diffusa</i>	(a) region 1 (b) region 2 (c) region 3, except Cowlitz County (d) Adams County of region 5
((27)) (29) knapweed, meadow, <i>Centaurea x gerstlaueri</i>	(a) regions 1 and 4 (b) region 2, except Whatcom County (c) Thurston County of region 2, except below the ordinary high-water mark of the Nisqually River (d) Lewis and Wahkiakum counties of region 3 (e) region 5, except Kittitas and Klickitat counties (f) region 6, except Franklin and Walla Walla counties

Name	Will be a "Class B designate" in all lands lying within:
((28)) (30) knapweed, Russian, <i>Rhaponticum repens</i>	(a) regions 1, 2, and 3 (b) Ferry and Pend Oreille counties of region 4 (c) Lincoln, Spokane, and Whitman counties of region 5 (d) Adams County of region 5, except for the area west of Highway 17 and north of Highway 26 (e) Asotin and Garfield counties of region 6
((29)) (31) knapweed, spotted, <i>Centaurea stoebe</i>	(a) region 1, except Grays Harbor (b) region 2, except Whatcom County (c) Clark, Lewis, and Wahkiakum counties of region 3 (d) Ferry County of region 4 (e) Adams, Grant and Yakima counties of region 5 (f) region 6, except Columbia and Walla Walla counties
((30)) (32) knotweed, Bohemian, <i>Fallopia x bohemica</i>	(a) Island and San Juan counties of region 2 (b) Skamania County of region 3 (c) region 4, 5, and 6
((31)) (33) knotweed, giant, <i>Fallopia sachalinensis</i>	(a) region 2, except King, Pierce, and Snohomish counties (b) region 3, except Cowlitz and Lewis counties (c) regions 4, 5, and 6
((32)) (34) knotweed, Himalayan, <i>Persicaria wallichii</i>	(a) region 1, except Pacific County (b) region 2, except King and Pierce counties (c) region 3, except Wahkiakum County (d) region 4, 5, and 6
((33)) (35) knotweed, Japanese, <i>Fallopia japonica</i>	(a) Island, San Juan, and Whatcom counties of region 2 (b) Skamania County of region 3 (c) region 4, except Okanogan County (d) region 5, except Spokane County (e) region 6
((34)) (36) kochia, <i>Bassia scoparia</i>	(a) regions 1, 2, and 3 (b) Stevens and Pend Oreille counties of region 4 (c) Adams County of region 5
((35)) (37) lesser celandine, <i>Ficaria verna</i>	(a) region 1, 3, 4, 5, and 6 (b) region 2, except King and Whatcom counties
((36)) (38) loosestrife, garden, <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 5, 6
((37)) (39) loosestrife, purple, <i>Lythrum salicaria</i>	(a) Clallam, Jefferson, and Mason counties of region 1 (b) region 2, except Kitsap, Skagit, and Snohomish counties (c) Clark, Lewis, and Skamania counties of region 3 (d) region 4, except Douglas County (e) region 5, except Grant and Spokane counties (f) region 6, except Asotin and Franklin counties
((38)) (40) loosestrife, wand, <i>Lythrum virgatum</i>	(a) Clallam, Jefferson, and Mason counties of region 1 (b) region 2, except Kitsap, Skagit, and Snohomish counties (c) Clark, Lewis, and Skamania counties of region 3

Name	Will be a "Class B designate" in all lands lying within:
	(d) region 4, except Douglas County
	(e) region 5, except Grant and Spokane counties
	(f) region 6, except Asotin and Franklin counties
((39)) (41) Malta starthistle, <i>Centaurea melitensis</i>	(a) regions 1, 2, and 3
	(b) region 4, except T36 R38 in the area contained within Hwy 395/Hwy 20, Pingston Creek Road, and Highland Loop Road in Stevens County
	(c) region 5, except Klickitat and Whitman counties
((40)) (42) parrotfeather, <i>Myriophyllum aquaticum</i>	(a) region 1, except Pacific County
	(b) regions 2, 4, 5, and 6
	(c) Clark and Skamania counties of region 3
((41)) (43) perennial pepperweed, <i>Lepidium latifolium</i>	(a) regions 1, 2, and 4
	(b) region 3, except Clark and Cowlitz counties
	(c) Kittitas, Lincoln and Spokane counties of region 5
	(d) Columbia and Garfield counties of region 6
((42)) (44) poison hemlock, <i>Conium maculatum</i>	(a) Clallam, Mason, and Pacific counties of region 1
	(b) region 2, except King, Skagit, and Whatcom counties
	(c) Clark and Skamania counties of region 3
	(d) Chelan, Douglas, and Pend Oreille counties of region 4
	(e) Grant, Kittitas and Lincoln counties of region 5
((43)) (45) policeman's helmet, <i>Impatiens glandulifera</i>	(a) region 1, 3, 4, 5, and 6
	(b) region 2, except Thurston and Whatcom counties
((44)) (46) puncturevine, <i>Tribulus terrestris</i>	(a) regions 1, 2, and 3
	(b) Ferry, Pend Oreille, and Stevens counties of region 4
	(c) region 5, except Grant, Klickitat, and Yakima counties
((45)) (47) Ravenna grass, <i>Tripsidium ravennae</i>	(a) Cowlitz County of region 3
	(b) region 4
	(c) region 5, except Yakima County
	(d) region 6, except Benton County
((46)) (48) <u>rough chervil, <i>Chaerophyllum temulum</i></u>	<u>(a) regions 1, 3, 4, 5, and 6</u>
	<u>(b) region 2, except for King County</u>
(49) rush skeletonweed, <i>Chondrilla juncea</i>	(a) regions 1, 2, and 3
	(b) region 4, except all areas of Stevens County south of Township 29
	(c) Kittitas and Yakima counties of region 5, and Adams County, except those areas lying east of Sage Road, the western border of Range 36
	(d) Asotin County of region 6
((47)) (50) saltcedar, <i>Tamarix ramosissima</i> (unless intentionally planted prior to 2004)	(a) regions 1, 3, 4, 5, and 6
	(b) region 2, except King and Thurston counties
((48)) (51) Scotch broom, <i>Cytisus scoparius</i>	(a) regions 4 and 6
	(b) region 5, except Klickitat County

Name	Will be a "Class B designate" in all lands lying within:
((49)) <u>(52)</u> shiny geranium, <i>Geranium lucidum</i>	(a) regions 1, 4, 5, and 6 (b) regions 2, except Thurston County (c) region 3, except Clark County
((50)) <u>(53)</u> spurge flax, <i>Thymelaea passerina</i>	(a) region 4, except Okanogan County (b) regions 5 and 6
((51)) <u>(54)</u> spurge laurel, <i>Daphne laureola</i>	(a) region 1, except Clallam and Jefferson counties (b) region 2, except King, Kitsap, and Pierce counties (c) region 3 (d) regions 4, 5, and 6
((52)) <u>(55)</u> spurge, leafy, <i>Euphorbia virgata</i>	(a) regions 1, 2, 3, and 4 (b) region 5, except Spokane County (c) region 6, except Columbia County
((53)) <u>(56)</u> spurge, myrtle, <i>Euphorbia myrsinites</i>	(a) region 1, except Clallam and Jefferson counties (b) region 2, except King, Kitsap, Pierce, and Whatcom counties (c) regions 3, 5, and 6 (d) region 4, except Okanogan County
((54)) <u>(57)</u> sulfur cinquefoil, <i>Potentilla recta</i>	(a) region 1 (b) region 2, except Pierce and Thurston counties (c) region 3, except Lewis and Skamania counties (d) Adams, Grant, Lincoln, and Whitman counties of region 5 (e) region 6, except Asotin County
((55)) <u>(58)</u> tansy ragwort, <i>Jacobaea vulgaris</i>	(a) Island and San Juan counties of region 2 (b) Clark and Wahkiakum counties of region 3 (c) regions 4, 5, and 6
((56)) <u>(59)</u> thistle, musk, <i>Carduus nutans</i>	(a) regions 1, 2, 3, and 6 (b) region 4, except Douglas and Ferry counties (c) region 5, except Kittitas County
((57)) <u>(60)</u> thistle, plumeless, <i>Carduus acanthoides</i>	(a) regions 1, 2, 3, 5, 6 (b) region 4, except those areas north of State Highway 20 in Stevens County
((58)) <u>(61)</u> thistle, Scotch, <i>Onopordum acanthium</i>	(a) regions 1, 2, and 3 (b) region 4, except Douglas County (c) region 5, except Spokane and Whitman counties
((59)) <u>(62)</u> velvetleaf, <i>Abutilon theophrasti</i>	(a) regions 1, 2, 3, 4, and 6 (b) region 5, except Yakima County
((60)) <u>(63)</u> water primrose, <i>Ludwigia hexapetala</i>	(a) regions 1, 2, 3, 4, 5, and 6
((61)) <u>(64)</u> white bryony, <i>Bryonia alba</i>	(a) regions 1, 2, 3, and 4 (b) region 5, except Whitman County (c) Benton and Garfield counties of region 6
((62)) <u>(65)</u> Wild basil/basil savory, <i>Clinopodium vulgare</i>	(a) <u>regions 1, 2, 4, 5, and 6</u> (b) <u>region 3, except for Skamania County</u>

Name		Will be a "Class B designate" in all lands lying within:	
(66)	wild chervil, <i>Anthriscus sylvestris</i>	(a)	regions 1, 3, 4, and 6
		(b)	region 2, except Whatcom County
		(c)	region 5, except Whitman County
((63)) (67)	yellow archangel, <i>Lamiastrum galeobdolon</i>	(a)	Clallam County of region 1
		(b)	Island, San Juan, Skagit, and Whatcom counties of region 2
		(c)	Cowlitz, Skamania, and Wahkiakum counties of region 3
		(d)	regions 4, 5, and 6
((64)) (68)	yellow floating heart, <i>Nymphoides peltata</i>	(a)	regions 1, 2, 3, and 6
		(b)	region 4, except Stevens County
		(c)	region 5, except Spokane County
((65)) (69)	yellow nutsedge, <i>Cyperus esculentus</i>	(a)	regions 1 and 4
		(b)	region 2, except Skagit and Thurston counties
		(c)	region 3, except Clark County
		(d)	region 5, except Klickitat and Yakima counties
		(e)	region 6, except Franklin and Walla Walla counties
((66)) (70)	yellow starthistle, <i>Centaurea solstitialis</i>	(a)	regions 1, 2, and 3
		(b)	region 4, except T36 R38 in the area contained within Hwy 395/Hwy 20, Pingston Creek Road, and Highland Loop Road in Stevens County
		(c)	region 5, except Klickitat, and Whitman counties

AMENDATORY SECTION (Amending WSR 20-24-098, filed 11/30/20, effective 1/1/21)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
absinth wormwood	<i>Artemisia absinthium</i>
Austrian fieldcress	<i>Rorippa austriaca</i>
babysbreath	<i>Gypsophila paniculata</i>
black henbane	<i>Hyoscyamus niger</i>
blackberry, evergreen	<i>Rubus laciniatus</i>
blackberry, Himalayan	<i>Rubus bifrons</i>
blackgrass	<i>Alopecurus myosuroides</i>
buffalobur	<i>Solanum rostratum</i>
cereal rye	<i>Secale cereale</i>
common barberry	<i>Berberis vulgaris</i>
common catsear	<i>Hypochaeris radicata</i>
common groundsel	<i>Senecio vulgaris</i>
common St. Johnswort	<i>Hypericum perforatum</i>
(common tansy)	<i>Tanacetum vulgare</i>
common teasel	<i>Dipsacus fullonum</i>
<u>crack willow</u>	<u><i>Salix fragilis</i></u>
curly-leaf pondweed	<i>Potamogeton crispus</i>

Common Name	Scientific Name
English hawthorn	<i>Crataegus monogyna</i>
English ivy 4 cultivars only:	<i>Hedera hibernica</i> 'Hibernica'
	<i>Hedera helix</i> 'Baltica'
	<i>Hedera helix</i> 'Pittsburgh'
	<i>Hedera helix</i> 'Star'
Eurasian watermilfoil hybrid	<i>Myriophyllum spicatum</i> x <i>M. sibiricum</i>
field bindweed	<i>Convolvulus arvensis</i>
fragrant water lily	<i>Nymphaea odorata</i>
<u>green alkanet</u>	<u><i>Pentaglottis sempervirens</i></u>
hairy whitetop	<i>Lepidium appelianum</i>
hoary cress	<i>Lepidium draba</i>
Italian arum	<i>Arum italicum</i>
Japanese eelgrass	<i>Nanozostera japonica</i>
jointed goatgrass	<i>Aegilops cylindrica</i>
jubata grass	<i>Cortaderia jubata</i>
lawnweed	<i>Soliva sessilis</i>
longspine sandbur	<i>Cenchrus longispinus</i>
Medusahead	<i>Taeniatherum caput-medusae</i>

Common Name	Scientific Name
nonnative cattail species and hybrids	Including, but not limited to, <i>Typha angustifolia</i> , <i>T. domingensis</i> and <i>T. x glauca</i>
old man's beard	<i>Clematis vitalba</i>
oxeye daisy	<i>Leucanthemum vulgare</i>
pampas grass	<i>Cortaderia selloana</i>
perennial sowthistle	<i>Sonchus arvensis</i> ssp. <i>arvensis</i>
reed canarygrass	<i>Phalaris arundinacea</i>
Russian olive	<i>Elaeagnus angustifolia</i>
scentless mayweed	<i>Tripleurospermum inodorum</i>
smoothseed alfalfa dodder	<i>Cuscuta approximata</i>
spikeweed	<i>Centromadia pungens</i>
spiny cocklebur	<i>Xanthium spinosum</i>
spotted jewelweed	<i>Impatiens capensis</i>
Swainsonpea	<i>Sphaerophysa salsula</i>
thistle, bull	<i>Cirsium vulgare</i>
thistle, Canada	<i>Cirsium arvense</i>
tree-of-heaven	<i>Ailanthus altissima</i>
ventenata	<i>Ventenata dubia</i>
white cockle	<i>Silene latifolia</i>
wild carrot (except <u>subs. sativus</u> where <u>grown</u> commercially ((grown)) or for <u>food</u>)	<i>Daucus carota</i>
yellow flag iris	<i>Iris pseudacorus</i>
yellow toadflax	<i>Linaria vulgaris</i>

Submit Written Comments to: Derek Zable, 19010 1st Avenue South, Burien, WA 98148, email Dzable@cjtc.wa.gov, by November 3, 2021.

Assistance for Persons with Disabilities: Contact Derek Zable, phone 206-835-7350, TTY 1-800-833-6388, email dzable@cjtc.wa.gov, by November 1, 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: WSCJTC is named in 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: Alex Buijs, 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.

September 21, 2021

Derek Zable

Records and Government Affairs Manager

WSR 21-19-132
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
 [Filed September 21, 2021, 11:48 a.m.]

Continuance of WSR 21-16-101.

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 November 4, 2021, at 10:00 a.m., at the Washington State Criminal Justice Training Center (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: November 4, 2021.

WSR 21-19-134
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD
 [Filed September 21, 2021, 2:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-083.

Title of Rule and Other Identifying Information: WAC 181-79A-130 Fees for certificates.

Hearing Location(s): On October 26, 2021, at 1 p.m. This hearing will be virtual. The link will become available several weeks prior to the meeting. More information regarding this can be found on our website <https://www.pesb.wa.gov/about-us/board-meetings>.

Date of Intended Adoption: November 18, 2021.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8 a.m., November 15, 2021.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by October 12, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The certificate fee of \$5 for each year of validity has remained the same since PESB began setting certificate fees in 2005. This rule change would increase the certificate fee by one dollar to \$6 for each year of validity.

Reasons Supporting Proposal: In the past sixteen years while certificate fees have remained the same, all other costs have increased. This includes increased costs for work of the board, board meetings, staff, internal and external meetings, travel, and goods and services.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Sophia Keskey, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-5814; Implementation and Enforcement: Alexandra Manuel, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-725-6275.

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 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.

September 21, 2021

Sophia Keskey
Rules Coordinator

AMENDATORY SECTION (Amending WSR 21-15-085, filed 7/16/21, effective 8/16/21)

WAC 181-79A-130 (~~Fees for certificates.~~) Certificate fees. (1) Under provisions of RCW 28A.410.060, 28A.410.062, and 28A.415.010, the fee for certificates that are valid for more than one year, issued (~~by~~) under the authority of the state of Washington and authorizing the

holder to serve in the common schools of the state, shall be as follows:

(a) For the purposes of this section only, the first issue of the residency certificate shall be calculated as if it had seven years of validity, with a (~~five-dollar~~) six-dollar certificate fee for each year of validity;

(b) The continuing certificate, (~~seventy-dollars~~) \$70.00;

(c) Renewal of a continuing certificate, one dollar;

(d) The reinstatement, additional endorsement, or substitute certificate, (~~fifteen-dollars~~) \$30.00;

(e) The first peoples' language, culture, and oral tribal traditions teacher certificate, (~~twenty-five-dollars~~) six dollars for each year of validity;

(f) All career and technical education certificates, one dollar;

(g) Any other certificate or credential or any renewal or reissuance thereof, (~~five~~) six dollars for each year of validity; and

(h) (~~A~~) The one-time late fee for (~~a~~) the renewed initial or continuing certificate issued under the provisions of WAC 181-79A-123 (7), (8), or (9), for those whose initial certificate (~~had~~) have already expired, shall be (~~one hundred-dollars~~) \$100.00.

(2) The fee for any other certificate or credential, with a validity period of one year or less, or for any renewal or reissuance thereof, issued (~~by~~) under the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be (~~five~~) six dollars.

(3) Officials authorized to collect certificate fees are educational service district superintendents, deans and directors of education at colleges and universities, or their designees. Sovereign tribal governments may collect certificate fees for first peoples' language, culture, and oral tribal traditions certificates. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, sovereign tribal government, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.410.060 or to the office of the superintendent of public instruction.

(4) Beginning September 1, 2013, the office of the superintendent of public instruction may collect certificate fees.

(5) The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or their designee.

(6) The professional educator standards board will review certificate fees every two years to assure the fee is set at a sufficient level for the use of certificate fees under WAC 181-79A-131.

WSR 21-19-135
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed September 21, 2021, 2:36 p.m.]

September 21, 2021
 Sophia Keskey
 Rules Coordinator

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-082.

Title of Rule and Other Identifying Information: WAC 181-78A-100 Existing approved programs.

Hearing Location(s): On November 18, 2021, at 8 a.m., at Heathman Lodge 7801 N.E. Greenwood Drive, Vancouver, WA 98662. We will also have a link available to listen to the meeting virtually, which will become available several weeks prior to the meeting. More information regarding this can be found on our website <https://www.pesb.wa.gov/about-us/board-meetings/>.

Date of Intended Adoption: November 18, 2021.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8 a.m., Monday, September 15, 2021.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by Thursday, November 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule would clarify language and add a program review model for the PESB program standards applicable to school counselor and school psychologist preparation programs.

Reasons Supporting Proposal: Reflects focus group recommendation on a PESB program review model and ensures that school counselor and school psychologist programs demonstrate the applicable PESB program standards.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Sophia Keskey, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-5814; Implementation: Tammie Schrader, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-725-6275; and Enforcement: Alexandra Manuel, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-725-6275.

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 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.

AMENDATORY SECTION (Amending WSR 21-15-103, filed 7/20/21, effective 8/20/21)

WAC 181-78A-100 Existing approved programs.

Providers of programs approved by the board shall comply with the review process established in this chapter and published by the board.

(1) **Teacher and principal preparation programs:** The board will annually review performance data of all educator preparation programs based on components and indicators established in this chapter and published by the board. The professional educator standards board will provide annual updated written guidance to providers regarding the submission of annual program data.

(a) **Notification:** If annual preparation program data analysis indicates that program performance falls below thresholds during any given review period, the board staff will provide written notification to the educator preparation program provider. The educator preparation program provider may choose to submit a response to the board staff. The response must be received by board staff within four weeks following receipt of the notification by the provider. The response should offer evidence of factors and circumstances that explain why program performance is below board approved thresholds on the indicators identified in the notice. The board staff will offer providers guidance on content and timelines for submission of this optional response. The board will review responses concurrently with annual data analysis reports.

(b) **Interventions:** Providers with program performance below indicator thresholds are subject to graduated levels of intervention as follows:

(i) **Intervention 1 - Required self-study report:** If a provider that received written notification of performance below threshold on one or more indicators during the previous review period has performance below thresholds on the same indicator(s) during the subsequent review period, the board will send the provider a second notification. The provider must complete a self-study report related to the components and domain(s) identified in both notifications and submit it to the board. The board will give providers written timelines and guidance for the submission of these materials. In the self-study report, the provider may also submit evidence and a description of the provider's performance related to the indicator(s), components, and domains identified in the notifications. If the board is satisfied with the self-study report, the board will approve it at a board meeting. If the board is not satisfied with the self-study report, staff will give providers additional written timelines and guidance to address the board's concerns.

(ii) **Intervention 2 - Formal review:** If a provider demonstrates performance below thresholds for a third successive review period or more, the professional educator standards board will provide a third notification. Based on its discretion and authorized by a vote, the board also may require a formal review related to the provider's performance

in the domains of practice identified in the notifications. Prior to commencing a formal review, the board will consider the notifications, responses, and self-study report to determine whether to proceed with or postpone a formal review.

(A) The formal review will incorporate the following elements:

(I) The board shall determine the schedule, format, and which forms of validation shall be used to evaluate programs.

(II) The provider will submit requested evidence to the board staff.

(III) A review team will review the evidence and request additional information including information provided through interviews with provider staff or affiliates as needed.

~~((The review team may request additional information including information provided through interviews with provider staff or affiliates as needed.))~~

(IV) The review team will provide a report to the board identifying areas of practice associated with the previous notifications where the provider is out of compliance with educator preparation program requirements, expectations, and outcomes established in chapter 181-78A WAC. The review team may also identify areas of practice where the provider is out of compliance with educator preparation program requirements that were not associated with previous notifications but were noticed by the review team during the process of review. The report may also identify whether the approved indicators or thresholds are functioning as intended.

(V) Board staff serving on the review team will provide assistance to the review team during the review process but will not serve in an evaluative role.

(VI) The review team will submit its report and other appropriate documentation to the provider and the board within one year of the board designating the program for formal review.

(VII) The board may extend the length of the one-year period for submission of the review team's report up to two years at its discretion.

(B) Providers may submit a reply to the review team report within two weeks following receipt of the report. The reply is to focus on the evidence, conclusions, and recommendations in the report but also may include additional evidence of factors and circumstances that explain why program performance is persistently below board approved thresholds on the indicators identified in the notice and self-study report. The board shall publish the process for submitting and reviewing the reply.

(C) In considering the review team's report, the board may request additional information or review, or take action to extend, or change the program's approval status ~~((per the provisions of))~~ under WAC 181-78A-110.

(c) A provider may request a hearing in instances where it disagrees with the board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge ~~((per))~~ under chapter 34.05 RCW and will adhere to the process of brief adjudicated hearings. The provider seeking a hearing will provide a written request to the professional educator standards board ~~((in accordance with))~~

under WAC 10-08-035 no more than thirty calendar days from the decision date.

(d) **Curriculum and instruction review:** In addition to annual indicator reviews, the board will publish a schedule for focused curriculum and instruction review for fully approved teacher and principal preparation programs.

(e) The professional educator standards board shall conduct formal reviews to evaluate curriculum and instruction, with particular focus on the cultural competency, diversity, equity, and inclusion standards; the social and emotional learning standards and benchmarks; and the approved preservice educator role standards. The board shall determine the schedule, format, and which forms of documentation and validation shall be used to evaluate programs. The result of the review will be a report. Based on the findings of the report, the board will decide to either renew full approval status or designate the program on limited approval under WAC 181-78A-110 pending action on the findings of the review report.

(i) Curriculum and instruction reviews will be conducted at least every five years and not more frequently than every three years.

(ii) Program providers will submit requested evidence to the staff of the board.

(iii) A review team will review the evidence and request additional information including information provided through interviews with provider staff or affiliates as needed. One board staff member will serve on the review team to provide assistance to the review team during the review process but will not serve in an evaluative role. Members of the review team shall include two preparation program providers at peer programs, at least one P-12 practitioner and one PEAB member with expertise related to the program scheduled for review, and two individuals with expertise related to culturally responsive practice and social and emotional learning.

(iv) Following the review, the review team will provide a report identifying any areas where the program is out of compliance with requirements established under this chapter and the program expectations and outcomes established in WAC 181-78A-220.

(2) **Superintendent programs:** The board will annually review data related to the performance of all superintendent programs according to data reporting guidance published by the board.

(a) **Annual data analysis:** After each annual review period, the board will give superintendent program providers written analysis of the program's annual data submission.

(b) **Superintendent program review:** The professional educator standards board shall determine the schedule for formal reviews.

The board will determine whether a formal review will take place and what forms of documentation and validation shall be used for evaluation.

(i) Superintendent program reviews will be conducted at least every five years and not more frequently than every three years.

(ii) Superintendent program providers will submit requested evidence to the staff of the professional educator standards board.

(iii) A review team will review the evidence and request additional information including information provided through interviews with provider staff or affiliates as needed. One board staff member will serve on the review team to provide assistance to the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include ((at least)) one member of the program's professional educator advisory board, one P-12 practitioner with expertise related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members, must be identified individuals with expertise related to the domains of practice and standard components identified in annual ((written)) data analyses or in the program's self-study report.

(iv) One of the two providers with peer representatives on the review team will be scheduled for annual review during the subsequent review period.

(v) At least three months in advance of scheduled review, superintendent program providers must complete a self-study report related to the components and domain(s) identified in the written analyses of annual data submissions. The board will give providers written timelines and guidance for the submission of these materials. In the self-study report, the provider may also provide evidence and a description of the provider's performance related to the indicator(s), components, and domains identified in the notifications. Evidence shall include such data and information from the annual data submissions required ((per WAC 181-78A-225(2))) under WAC 181-78A-235 as have been designated by the board as evidence pertinent to the program approval process.

(c) Following the review, the review team will provide a report identifying any areas where the program is out of compliance with requirements, expectations, and outcomes established in chapter 181-78A WAC.

(i) The report may also verify or contradict that the approved indicators or thresholds are functioning as intended.

(ii) The board may extend the length of the one-year report period up to two years at its discretion. The review team's report and other appropriate documentation will be submitted to the provider and the board within one year of the board designating the program for formal review.

(iii) Providers may submit a reply to the review team report within two weeks following receipt of the report. The reply is limited to evidence that the review disregarded state standards, failed to follow state procedures for review, or failed to consider evidence that was available at the time of the review. The board shall publish the process for submitting and reviewing the reply.

(iv) In considering the review team's report, the board may request additional information or review, or take action to extend or change the educator preparation program's approval status ((per the provisions of)) under WAC 181-78A-110.

(d) A provider may request a hearing in instances where it disagrees with the professional educator standards board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge ((per)) under

chapter 34.05 RCW and will adhere to the process of brief, adjudicated hearings. The provider seeking a hearing will provide a written request to the board in accordance with WAC 10-08-035 no more than thirty calendar days from the decision date.

(3) **Program administrator programs:** The board will annually review data related to the performance of all program administrator programs according to data and reporting guidelines published by the board.

(a) Program administrator programs implemented in conjunction with principal preparation programs will be reviewed concurrently with that provider's principal preparation program.

(b) Program administrator programs implemented in conjunction with superintendent preparation programs will be reviewed concurrently with that provider's superintendent preparation program.

(c) Program administrator programs not implemented in conjunction with a principal or superintendent program will be reviewed on a schedule published by the board.

(4) **School ((counseling)) counselor programs((-):** School ((counseling)) counselor program providers shall comply with accrediting procedures for council for the accreditation for counseling and related education programs, unless the program has been specifically approved to operate under alternative national standards ((per)) under WAC 181-78A-225. The professional educator standards board will review preparation programs' alignment with any additions to the national standards deemed necessary by the professional educator standards board.

(a) A provider of residency school ((counseling)) counselor programs without approval from council for the accreditation for counseling and related education programs shall provide proof to the professional educator standards board that it will seek such accreditation, unless the program has been specifically approved to operate under alternative national standards ((per)) under WAC 181-78A-225.

(b) The board will place any existing approved residency school ((counseling)) counselor program not accredited from the council for the accreditation for counseling and related education programs into disapproval status on November 1, 2022, unless the program provider produces evidence of seeking such accreditation, or unless that program has been specifically approved to operate under alternative national standards ((per)) under WAC 181-78A-225.

(c) Annual data analysis: After each annual data submission, the board will give school counselor preparation program providers written analysis of the program's annual data submission.

(d) School counselor preparation program review: The board shall determine the schedule, format, and which forms of validation shall be used to evaluate programs under applicable program approval standards listed in WAC 181-78A-225.

(i) School counselor preparation program reviews will be conducted during the same period of time as their council for the accreditation for counseling and related education programs' review. If the program has been specifically approved to operate under alternative national standards

under WAC 181-78A-225, the review will take place as scheduled by the board.

(ii) School counselor preparation program providers will submit requested evidence to the staff of the professional educator standards board. Evidence shall include such data and information from the annual data submissions required under WAC 181-78A-235(3) as have been designated by the board as evidence pertinent to the program approval and review processes.

(iii) A review team will review the evidence and request additional information including information provided through documents and interviews with program provider staff or affiliates as needed. One board staff member will serve as chair on the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include one member of the program's professional educator advisory board, one P-12 practitioner with expertise related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members must be identified individuals with expertise related to the domains of practice and standard components identified in annual data analyses.

(iv) The review team will use multiple data sources to address the specific goals listed in this section.

(A) The review team and the preparation program provider will use preparation program data available at the time of review.

(B) The review team and the preparation program provider will use evidence compiled by the provider that demonstrates performance aligned with all program standards and requirements. Programs' demonstration of upholding board-approved standards and requirements will be used by the review team to write the review report and will be used by the board in consideration of continued approval status. Staff of the board will offer program providers guidance regarding the evidence required, how it may be gathered and used, and how it must be submitted.

(v) The review team will use available evidence to write the review report that will be used by the board in consideration of continued approval status.

(e) Following the review, the review team will provide a report identifying any areas of practice in which program performance is out of alignment with standards and requirements as listed in WAC 181-78A-225.

(i) The review team's report and other appropriate documentation will be submitted to the provider and the board within six months of the formal review.

(ii) Providers may submit a reply to the review team report within three weeks following receipt of the report. The board shall publish the process for submitting and reviewing the reply.

(iii) In considering the review team's report, the board may request additional information for review, or take action to extend or change the educator preparation program's approval status.

(iv) Based upon the review team's report, the program provider's response, and any subsequent requests for information, as applicable, the board shall take one of the following actions:

(A) The board shall give full approval as described in WAC 181-78A-110 (1)(a).

(B) Limited approval as described in WAC 181-78A-110 (1)(b).

(C) Disapproval as described in WAC 181-78A-110 (1)(c).

(v) A provider may request a hearing in instances where it disagrees with the board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge under chapter 34.05 RCW and will adhere to the process of brief adjudicated hearings. The provider seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035 no more than 30 calendar days from the decision date.

(5) School ((psychology)) psychologist programs((-)); Providers of school ((psychology)) psychologist programs shall comply with accrediting procedures for the National Association for School ((Psychology)) Psychologists. School ((psychology)) psychologist program providers shall comply with accrediting procedures for the National Association for School ((Psychology)) Psychologists, unless the program has been specifically approved to operate under alternative national standards ((per)) under WAC 181-78A-225. The professional educator standards board will review preparation programs' alignment with any additions to the national standards deemed necessary by the professional educator standards board.

(a) A provider of school ((psychology)) psychologist programs without approval from the National Association for School ((Psychology)) Psychologists shall provide proof to the professional educator standards board that it will seek such accreditation, unless the program has been specifically approved to operate under alternative national standards ((per)) under WAC 181-78A-225.

(b) The board will place any existing approved school psychology program not accredited from the National Association of School ((Psychology)) Psychologists into disapproval status on November 1, 2022, unless the program provider produces evidence of seeking such accreditation, or unless that program has been specifically approved to operate under alternative national standards ((per)) under WAC 181-78A-225.

(c) Annual data analysis: After each annual data submission, the board will give school psychologist preparation program providers written analysis of the program's annual data submission.

(d) School psychologist preparation program review: The board shall determine the schedule, format, and which forms of validation shall be used to evaluate programs under applicable program approval standards listed in WAC 181-78A-225.

(i) School psychologist preparation program reviews will be conducted during the same period of time as their National Association for School Psychologist's review. If the program has been specifically approved to operate under alternative national standards under WAC 181-78A-225, the review will take place as scheduled by the board.

(ii) School psychologist preparation program providers will submit requested evidence to the staff of the professional

educator standards board. Evidence shall include such data and information from the annual data submissions required under WAC 181-78A-235(3) as have been designated by the board as evidence pertinent to the program approval and review processes.

(iii) A review team will review the evidence and request additional information including information provided through documents and interviews with program provider staff or affiliates as needed. One board staff member will serve as chair on the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include one member of the program's professional educator advisory board, one P-12 practitioner with expertise related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members must be identified individuals with expertise related to the domains of practice and standard components identified in annual data analyses.

(iv) The review team will use multiple data sources to address the specific goals listed in this section.

(A) The review team and the preparation program provider will use preparation program data available at the time of review.

(B) The review team and the preparation program provider will use evidence compiled by the provider that demonstrates performance aligned with all program standards and requirements. Programs' demonstration of upholding board-approved standards and requirements will be used by the review team to write the review report and will be used by the board in consideration of continued approval status. Staff of the board will offer program providers guidance regarding the evidence required, how it may be gathered and used, and how it must be submitted.

(v) The review team will use available evidence to write the review report that will be used by the board in consideration of continued approval status.

(e) Following the review, the review team will provide a report identifying any areas of practice in which program performance is out of alignment with standards and requirements as listed in WAC 181-78A-225.

(i) The review team's report and other appropriate documentation will be submitted to the provider and the board within six months of the formal review.

(ii) Providers may submit a reply to the review team report within three weeks following receipt of the report. The board shall publish the process for submitting and reviewing the reply.

(iii) In considering the review team's report, the board may request additional information for review, or take action to extend or change the educator preparation program's approval status.

(iv) Based upon the review team's report, the program provider's response, and any subsequent requests for information, as applicable, the board shall take one of the following actions:

(A) The board shall give full approval as described in WAC 181-78A-110 (1)(a).

(B) Limited approval as described in WAC 181-78A-110 (1)(b).

(C) Disapproval as described in WAC 181-78A-110 (1)(c).

(v) A provider may request a hearing in instances where it disagrees with the board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge under chapter 34.05 RCW and will adhere to the process of brief adjudicated hearings. The provider seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035 no more than 30 calendar days from the decision date.

(6) Career and technical education administrator and business and industry route educator preparation programs: The board will annually review data related to the performance of all such programs according to data reporting guidance published by the board.

(a) Annual data analysis: After each annual review period, the board will give career and technical education administrator and business and industry route educator preparation program providers written analysis of the program's annual data submission.

(b) Career and technical education administrator and business and industry route educator preparation program review: The board shall determine the schedule, format, and which forms of documentation and validation shall be used to evaluate programs.

(i) Career and technical education administrator and business and industry route educator preparation program reviews will be conducted at least every five years and not more frequently than every three years.

(ii) At least three months in advance of their scheduled review, career and technical education administrator and business and industry route educator preparation program providers must complete a self-study report related to the components and domain(s) identified in the written analyses of annual data submissions. The board will give providers written timelines and guidance for the submission of these materials.

(iii) Career and technical education administrator and business and industry route educator preparation program providers will submit requested evidence to the staff of the professional educator standards board. Evidence shall include such data and information from the annual data submissions required ~~((per))~~ under WAC 181-78A-235(3) as have been designated by the board as evidence pertinent to the program approval and review processes.

(iv) A review team will review the evidence and request additional information including information provided through documents and interviews with program provider staff or affiliates as needed. One board staff member will serve as chair on the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include one member of the program's professional educator advisory board, one P-12 practitioner with expertise in career and technical education related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members, must be identified individuals with expertise related to the domains of practice and standard components identified in annual ~~((written program feed-~~

~~back~~) data analyses or in the program's self-study report. One of the two providers with peer representatives on the review team will be scheduled for the subsequent program review.

(v) The review team will use multiple data sources to address the specific goals listed in this section.

(A) The review team and the preparation program provider will use the self-study report to identify program provider's goals and strategies for improvement.

(B) The review team and the preparation program provider will use preparation program data available at the time of review.

(C) The review team and the preparation program provider will use evidence compiled by the provider that demonstrates performance aligned with all program standards and requirements. Staff of the board will offer program providers guidance regarding the evidence required, how it may be gathered and used, and how it must be submitted.

(vi) The review team will use available evidence to write the review report that will be used by the board in consideration of continued approval status.

(c) Following the review, the review team will provide a report identifying any areas of practice in which program performance is out of alignment with standards and requirements.

(i) The review team's report and other appropriate documentation will be submitted to the provider and the board within six months of the formal review.

(ii) Providers may submit a reply to the review team report within three weeks following receipt of the report. The board shall publish the process for submitting and reviewing the reply.

(iii) In considering the review team's report, the board may request additional information for review, or take action to extend or change the educator preparation program's approval status.

(iv) Based upon the review team's report, the program provider's response, and any subsequent requests for information, as applicable, the board shall take one of the following actions:

(A) The board shall give full approval as described in WAC 181-78A-110 (1)(a).

(B) Limited approval as described in WAC 181-78A-110 (1)(b).

(C) Disapproval as described in WAC 181-78A-110 (1)(c).

(v) A provider may request a hearing in instances where it disagrees with the board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge (~~per~~) under chapter 34.05 RCW and will adhere to the process of brief adjudicated hearings. The provider seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035 no more than thirty calendar days from the decision date.

WSR 21-19-136
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-08—Filed September 21, 2021,
2:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-062.

Title of Rule and Other Identifying Information: Using respectful language.

Hearing Location(s): On Tuesday, October 26, 2021, at 11:00 a.m., Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website here <https://www.insurance.wa.gov/using-respectful-language-r-2021-08>. Due to the COVID-19 public health emergency, this meeting will be held via Zoom platform.

Date of Intended Adoption: October 28, 2021.

Submit Written Comments to: Simon Casson, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by October 25, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 275, Laws of 2020 (HB 2390) amended several statutes to reflect respectful language as identified under current law by replacing references to "handicapped persons" with references to "individuals with disabilities."

Reasons Supporting Proposal: The agency needs to develop a rule on this topic because: HB 2390 recently passed that amends several statutes to reflect respectful language as identified under current law by replacing references to "handicapped persons" with references to "individuals with disabilities." To utilize respectful language and align with the updated statutory language, OIC should amend WAC 284-50-330.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: Chapter 275, Laws of 2020 (HB 2390).

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Simon Casson, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7038; Implementation: Melanie Anderson, P.O. Box 40255, Tumwater, WA 98504-0260, 360-725-7000; and Enforcement: Melanie Anderson or Charles Malone, P.O. Box 40255, Tumwater, WA 98504-0260, 360-725-7000.

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. OIC has determined that under RCW 34.05.328 (5)(b)(iv), this rule making will only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect and is exempt from RCW 34.05.328 (1)(c).

This rule amends WAC 284-50-330 to reflect respectful language as identified under current law by replacing references to "handicapped persons" with references to "individuals with disabilities." There is only one section within Title 284 WAC that utilizes the term "handicapped persons" (WAC 284-50-330(8)). This WAC is related to one of the statutes (RCW 48.20.420) that the bill amends. The change does not alter the underlying meaning of the WAC, and therefore is exempt from a cost-benefit analysis under RCW 34.05.328 [(5)](b)(iv).

OIC determines that this rule is exempt from cost-benefit analysis requirements.

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.

Explanation of exemptions: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry¹ ..." The small business economic impact statement (SBEIS) must include "... a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses²."

¹ RCW 19.85.030:
<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>.

² RCW 19.85.040:
<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>.

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(d), it corrects/clarifies existing language.

This rule amends WAC 284-50-330 to reflect respectful language as identified under current law by replacing references to "handicapped persons" with references to "individuals with disabilities." There is only one section within Title 284 WAC that utilizes the term "handicapped persons" (WAC 284-50-330(8)). This WAC is related to one of the statutes (RCW 48.20.420) that the bill amends. The change does not alter the underlying meaning of the WAC, and therefore is exempt from a small business impact statement under RCW 19.85.025(3).

OIC determines that this rule is exempt from small business economic impact statement requirements.

September 21, 2021
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 17-18-102, filed 9/6/17, effective 10/7/17)

WAC 284-50-330 General rules as to minimum standards. (1) A "noncancellable," "guaranteed renewable" or

"noncancellable and guaranteed renewable" policy shall not provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. The policy shall provide that in the event of the insured's death the spouse of the insured, if covered under the policy, shall become the insured.

(2) The terms "noncancellable," "guaranteed renewable" or "noncancellable and guaranteed renewable" shall not be used without further explanatory language in accordance with the disclosure requirements of WAC 284-50-375(1). The terms "noncancellable" or "noncancellable and guaranteed renewable" may be used only in a policy which the insured has the right to continue in force by the timely payment of premiums set forth in the policy until the age of 65 or to eligibility for medicare, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force: Provided, however, any accident and health or accident only policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age 60 if, at age 60, the insured has the right to continue the policy in force at least to age 65 while actively or regularly employed. Except as provided above, the term "guaranteed renewable" may be used only in a policy which the insured has the right to continue in force by the timely payment of premiums until the age of 65 or to eligibility for medicare, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force, except that the insurer may make changes in premium rates by classes: Provided, however, any accident and health or accident only policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age 60, if at age 60, the insured has the right to continue the policy in force at least to age 65 while actively and regularly employed.

(3) In a family policy covering both husband and wife the age of the younger spouse may be used as the basis for meeting the age and durational requirements of the definitions of "noncancellable" or "guaranteed renewable." However, this requirement shall not prevent termination of coverage of the older spouse upon attainment of the stated age limit (e.g., age 65) so long as the policy may be continued in force as to the younger spouse to the age or for the durational period as specified in said definition.

(4) When accidental death and dismemberment coverage is part of the insurance coverage offered under the contract, the insured shall have the option to include all insureds under such coverage and not just the principal insured.

(5) If a policy contains a status type military service exclusion or a provision which suspends coverage during military service, the policy shall provide, upon receipt of written request, for refund of premiums as applicable to such person on a pro rata basis.

(6) In the event the insurer cancels or refuses to renew, policies providing pregnancy benefits shall provide for an

extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force.

(7) Policies providing convalescent or extended care benefits following hospitalization shall not condition such benefits upon admission to the convalescent or extended care facility with a period of less than fourteen days after discharge from the hospital.

(8) In accord with RCW 48.20.420, coverage shall continue for any dependent child who is incapable of self-sustaining employment due to developmental or physical disability ((or physical handicap)), on the date that such child's coverage would otherwise terminate under the policy due to the attainment of a specified age limit for children, and who is chiefly dependent on the insured for support and maintenance. The policy may require that within 31 days of such date the company receive due proof of such incapacity and dependency in order for the insured to elect to continue the policy in force with respect to such child, or that a separate converted policy be issued at the option of the insured or policyholder.

(9) Any policy providing coverage for the recipient in a transplant operation shall also provide reimbursement of any medical expenses of a live donor to the extent that benefits remain and are available under the recipient's policy, after benefits for the recipient's own expenses have been paid.

(10) A policy may contain a provision relating to recurrent disabilities; provided, however, that no such provision shall specify that a recurrent disability be separated by a period greater than six months.

(11) Accidental death and dismemberment benefits shall be payable if the loss occurs within no less than ninety days from the date of the accident, irrespective of total disability. Disability income benefits, if provided, shall not require the loss to commence less than thirty days after the date of accident, nor shall any policy which the insurer cancels or refuses to renew require that it be in force at the time disability commences if the accident occurred while the policy was in force.

(12) Specific dismemberment benefits shall not be in lieu of other benefits unless the specific benefit equals or exceeds the other benefits.

(13) Any accident only policy providing benefits which vary according to the type of accidental cause shall prominently set forth in the outline of coverage the circumstances under which benefits are payable which are lesser than the maximum amount payable under the policy.

(14) All medicare supplement policies providing in-hospital benefits only shall include in their provided benefits the initial Part A medicare deductible as established from time to time by the Social Security Administration. Premiums may be reduced or raised to correspond with changes in the covered deductible.

(15) Termination of the policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(16) As an alternative to hospitalization or institutionalization of an insured and with the intent to cover placement of the insured patient in the most appropriate and cost-effective setting, every individual disability insurance policy or contract issued, amended, or renewed on or after January 1, 1995, which provides coverage for hospitalization or other institutional expenses to a resident of this state shall include substitution of home health care, provided in lieu of hospitalization or other institutional care, furnished by home health, hospice, or home care agencies licensed under chapter 70.127 RCW, at equal or lesser cost.

(a) In addition, such expenses may include coverage for durable medical equipment which permits the insured to stay at home, care provided in Alzheimer's centers, adult family homes, assisted living facilities, congregate care facilities, adult day health care, home health, hospice, and home care, or similar alternative care arrangements which provide necessary care in less restrictive or less expensive environments.

(b) Substitution of less expensive or less intensive services shall be made only with the consent of the insured and upon the recommendation of the insured's attending physician or licensed health care provider that such services will adequately meet the insured patient's needs. The decision to substitute less expensive or less intensive services shall be determined based on the medical needs of the individual insured patient.

(c) An insurer may require that home health agencies or similar alternative care providers have written treatment plans which are approved by the insured patient's attending physician or other licensed health care provider.

(d) Coverage may be limited to no less than the maximum benefits which would be payable for hospital or other institutional expenses under the policy or contract, and may include all deductibles and coinsurances which would be payable by the insured under the hospital or other institutional expense coverage of the insured's policy or contract.

(e) This subsection shall not apply to long-term care, medicare supplement, or disability income protection insurance policies or contracts. This subsection shall not apply to guaranteed renewable disability insurance policies or contracts issued prior to January 1, 1995.

WSR 21-19-137

PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-06—Filed September 21, 2021, 2:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-13-132.

Title of Rule and Other Identifying Information: Telemedicine and coverage of audio-only telemedicine services (ESHB 1196 (chapter 157, Laws of 2021)).

Hearing Location(s): On October 28, 2021, at 11 a.m. Register for the Zoom video conference here <https://wa-oic.zoom.us/join/register/tZYrd-yoqzwpHdUbGx3NXtg>

VqPoFLA6SET3p. Due to the COVID-19 public health emergency, this hearing will be held via Zoom.

Date of Intended Adoption: October 29, 2021.

Submit Written Comments to: Jane Beyer, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by October 25, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov, by October 25, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESHB 1196 (chapter 157, Laws of 2021) was signed into law on May 3, 2021. The legislation addresses coverage of telemedicine services, including audio-only telemedicine services. Prior to passage of this legislation, audio-only telemedicine services were explicitly excluded from the definition of "telemedicine." Carriers were not required by statute to cover audio-only telemedicine services. During the COVID-19 public health emergency, the office of the insurance commissioner (OIC) issued emergency orders requiring coverage of audio-only telemedicine services in order to ensure access to medical services. ESHB 1196 requires coverage of audio-only telemedicine services under specified conditions and amends the statutory language related to telemedicine payment parity.

The proposed rule amends WAC 284-170-130 to add definitions relevant to telemedicine and creates new WAC 284-43-433. The new section addresses coverage of telemedicine services generally, including payment parity and the conditions in ESHB 1196 associated with payment for audio-only telemedicine services.

Reasons Supporting Proposal: This proposed rule is necessary to ensure clarity regarding several issues addressed in ESHB 1196, including telemedicine payment parity and the requirement that providers obtain consent from patients in advance of providing audio-only telemedicine encounters as a condition of receiving payment from carriers for those encounters. The rule will facilitate implementation of ESHB 1196 by ensuring that all affected consumers and health care entities understand their rights and obligations under the new law.

Statutory Authority for Adoption: RCW 48.43.735(9).

Statute Being Implemented: ESHB 1196 (chapter 157, Laws of 2021).

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jane Beyer, P.O. Box 40260, Olympia, WA, 360-725-7043; Implementation: Molly Nollette, P.O. Box 40260, Olympia, WA, 360-725-7117; and Enforcement: Charles Malone, P.O. Box 40260, Olympia, WA, 360-725-7050.

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 Tabba Alam, P.O. Box 40260, Olympia, WA

98504-0260, phone 360-725-7170, email rulescoordinator@oic.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.

Background Information: ESHB 1196 (chapter 157, Laws of 2021) was signed into law on May 3, 2021. The legislation addresses coverage of telemedicine services, including audio-only telemedicine services and was effective July 25, 2021. Prior to passage of this legislation, audio-only telemedicine services were explicitly excluded from the definition of "telemedicine." Carriers were not required by statute to cover audio-only telemedicine services. ESHB 1196 amends the definition of "telemedicine" to include audio-only services. During the COVID-19 public health emergency, OIC issued emergency orders requiring coverage of audio-only telemedicine services in order to ensure access to medical services. ESHB 1196 requires coverage of audio-only telemedicine services under specified conditions and amends the statutory language related to telemedicine payment parity. OIC is developing rules to implement the provisions of the new law.

This rule amends/adds sections to address conditions in the new law associated with payment for audio-only telemedicine services and payment parity for telemedicine services.

Legal Obligations: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement (SBEIS): (i) If the proposed rule will impose more than minor costs on businesses in an industry¹ ... " SBEIS must include "... a brief description of the reporting, record-keeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses²."

1 RCW 19.85.030

<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>.

2 RCW 19.85.040

<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>.

This rule proposal does not impose more than minor costs on small business and is exempt from requirements of the Regulatory Fairness Act.

Rationale: The rule regulates the conduct of carriers, who are not small businesses, by adding requirements to their carrier/provider contracts that align with the statutory conditions for payment of audio-only telemedicine services. The rule is implementing RCW 48.43.735(8): "(8)(a) If a provider intends to bill a patient or the patient's health plan for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered." Hence, the **statute** imposes an obligation on providers, who could be a small business, that is a condition of billing the patient or their health plan for an audio-only encounter. The proposed rule language, in new WAC 284-170-433(6) defines how the provider can obtain patient consent in a manner that will allow them to bill the patient or their health plan for an audio-only encounter.

There are less than minor costs associated with the proposed rule to small business. OIC has applied a default cost of compliance (\$100) when analyzing whether the rules would

have a disproportionate impact on small businesses as defined in RCW 19.85.020(3).

Below are calculations for minor cost thresholds across stakeholders that classify as a small business based on the best analogous NAICS types. Although it is unlikely these rules would result in even the full default cost of compliance, the minor cost does not exceed any of the thresholds for any of the small business stakeholders.

Further, OIC has determined that implementation of the proposed rule will not result in significant administrative, intrinsic or actual costs to small provider offices as they at present have preexisting processes for obtaining patient con-

sent to services. The rule is designed to allow providers to incorporate this statutory consent requirement into their current business practices.

In contrast, OIC had [has] determined that the proposed rule will offer increased benefit to the small business health care provider stakeholders as this rule gives them the potential to generate increased patient revenue and reduce some overhead costs by virtue of being able to provide care via audio-only telemed [telemedicine].

For these reasons, the proposed rules do not impose more than minor costs on businesses as defined by RCW 19.85.020 (2).

2019 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Average number of employees/business	Minor Cost Estimate - 1% of Avg Annual Payroll. (0.01*AvgPay)
621111	\$100.00	Offices of physicians, except mental health	Health care and social assistance	29	\$968.28
621112	\$100.00	Offices of mental health physicians	Health care and social assistance	5	\$482.23
621210	\$100.00	Offices of dentists	Health care and social assistance	9	\$454.52
621320	\$100.00	Offices of optometrists	Health care and social assistance	7	\$375.00
621330	\$100.00	Offices of mental health practitioners	Health care and social assistance	9	\$379.98
621340	\$100.00	Offices of specialty therapists	Health care and social assistance	15	\$472.87
621399	\$100.00	Offices of miscellaneous health practitioners	Health care and social assistance	5	\$329.79
621410	\$100.00	Family planning centers	Health care and social assistance	37	\$549.48
621420	\$100.00	Outpatient mental health centers	Health care and social assistance	47	\$523.24

Source: Washington State Auditor Minor Cost Threshold Calculator July 2019.xlsx.

Determination: The proposed rule does not impose more-than-minor costs (as defined by RCW 19.85.020(2)) on small businesses.

September 21, 2021
 Mike Kreidler
 Insurance Commissioner

AMENDATORY SECTION (Amending WSR 21-01-094, filed 12/11/20, effective 1/11/21)

WAC 284-170-130 Definitions. Except as defined in other subchapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Adverse determination" has the same meaning as the definition of adverse benefit determination in RCW 48.43.005, and includes:

(a) The determination includes any decision by a health carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness or is determined to be experimental or investigational and the requested benefit is therefore denied,

reduced, or terminated or payment is not provided or made, in whole or in part for the benefit;

(b) The denial, reduction, termination, or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier or its designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;

(c) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit;

(d) A rescission of coverage determination; or

(e) A carrier's denial of an application for coverage.

(2) "Allowed amount" has the meaning set forth in RCW 48.43.005.

(3)(a) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(b) "Audio-only telemedicine" does not include:

(i) The use of facsimile, email, or text messages, unless the use of text-like messaging is necessary to ensure effective communication with individuals who have a hearing, speech, or other disability; or

(ii) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(4) "Authorization" or "certification" means a determination by the carrier that an admission, extension of stay, or other health care service has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness in relation to the applicable health plan.

~~((3))~~ (5) "Clinical review criteria" means the written screens, or screening procedures, decision rules, medical protocols, or clinical practice guidelines used by the carrier as an element in the evaluation of medical necessity and appropriateness of requested admissions, procedures, and services, including prescription drug benefits, under the auspices of the applicable health plan. Clinical approval criteria has the same meaning as clinical review criteria.

~~((4))~~ (6) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

~~((5))~~ (7) "Covered person" or "enrollee" means an individual covered by a health plan including a subscriber, policyholder, or beneficiary of a group plan.

~~((6))~~ (8) "Disciplining authority" has the meaning set forth in RCW 18.130.020.

(9) "Distant site" has the meaning set forth in RCW 48.43.735.

(10) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain or emotional distress, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical, mental health, or substance use disorder treatment attention, if failure to provide medical, mental health, or substance use disorder treatment attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

~~((7))~~ (11) "Emergency services" has the meaning set forth in RCW 48.43.005.

~~((8))~~ (12) "Enrollee point-of-service cost-sharing" or "cost-sharing" (~~means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles~~) has the meaning set forth in RCW 48.43.005.

~~((9))~~ (13) "Established relationship" means:

(a) The covered person has had at least one in-person appointment within the past year with the provider providing audio-only telemedicine, with a provider employed at the same clinic as the provider providing audio-only telemedicine, or with a locum tenens or other provider who is the designated back up or substitute provider for the provider providing audio-only telemedicine who is on leave and is not associated with an established clinic; or

(b) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedi-

icine. A referral includes circumstances in which the provider who has had at least one in-person appointment with the covered person participates in the audio-only telemedicine encounter with the provider to whom the covered person has been referred.

(14) "Facility" means an institution providing health care services including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings, and as defined in RCW 48.43.005.

~~((10))~~ (15) "Formulary" means a listing of drugs used within a health plan.

~~((11))~~ (16) "Grievance" has the meaning set forth in RCW 48.43.005.

~~((12))~~ (17) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

~~((13))~~ (18) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

~~((14))~~ (19) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in The Patient Protection and Affordable Care Act (P.L. 111-148, as amended (2010)).

~~((15))~~ (20) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after

a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

~~((16))~~ (21) "Hospital" has the meaning set forth in RCW 48.43.735.

(22) "Indian health care provider" means:

(a) The Indian Health Service, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 U.S.C. Sec. 1661;

(b) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. Sec. 450 et seq.;

(c) A tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. Sec. 450 et seq.;

(d) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. Sec. 47 (commonly known as the Buy Indian Act); or

(e) An urban Indian organization that operates a health program with funds in whole or part provided by Indian Health Service under a grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. Sec. 1603(29).

~~((17))~~ (23) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

~~((18))~~ (24) "Medically necessary" or "medical necessity" in regard to mental health services and pharmacy services is a carrier determination as to whether a health service is a covered benefit because the service is consistent with generally recognized standards within a relevant health profession.

~~((19))~~ (25) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

~~((20))~~ (26) "Mental health services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize, or ameliorate the effects of a mental disorder listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

~~((21))~~ (27) "Network" means the group of participating providers and facilities providing health care services to a particular health plan or line of business (individual, small, or large group). A health plan network for issuers offering more than one health plan may be smaller in number than the total

number of participating providers and facilities for all plans offered by the carrier.

~~((22))~~ (28) "Originating site" means the physical location of a patient receiving health care services through telemedicine, and includes those sites described in WAC 284-170-433.

(29) "Out-patient therapeutic visit" or "out-patient visit" means a clinical treatment session with a mental health provider of a duration consistent with relevant professional standards used by the carrier to determine medical necessity for the particular service being rendered, as defined in Physicians Current Procedural Terminology, published by the American Medical Association.

~~((23))~~ (30) "Participating provider" and "participating facility" mean a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

~~((24))~~ (31) "Patient consent" means a voluntary and informed decision by a patient, following an explanation by the provider or auxiliary personnel under the general supervision of the provider presented in a manner understandable to the patient that is free of undue influence, fraud or duress, to consent to a provider billing the patient or the patient's health plan for an audio-only telemedicine service under RCW 48.43.735 or this section.

(32) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

~~((25))~~ (33) "Pharmacy services" means the practice of pharmacy as defined in chapter 18.64 RCW and includes any drugs or devices as defined in chapter 18.64 RCW.

~~((26))~~ (34) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

~~((27))~~ (35) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

~~((28))~~ (36) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

~~((29))~~ (37) "Real time communication" means synchronous and live communication between a provider and a patient. It does not include delayed or recorded messages, such as email, facsimile or voice mail.

(38) "Same amount of compensation" means providers are reimbursed by a carrier using the same allowed amount for telemedicine services as they would if the service had been provided in-person unless negotiation has been under-

taken under RCW 48.43.735 or WAC 284-170-433(2). Where consumer cost-sharing applies to telemedicine services, the consumer's payment combined with the carrier's payment must be the same amount of compensation, or allowed amount, as the carrier would pay the provider if the telemedicine service had been provided in person. Where an alternative payment methodology other than fee-for-service payment would apply to an in-person service, "same amount of compensation" means providers are reimbursed by a carrier using the same alternative payment methodology that would be used for the same service if provided in-person, unless negotiation has been undertaken under RCW 48.43.735 or WAC 284-170-433(2).

(39) "Service area" means the geographic area or areas where a specific product is issued, accepts members or enrollees, and covers provided services. A service area must be defined by the county or counties included unless, for good cause, the commissioner permits limitation of a service area by zip code. Good cause includes geographic barriers within a service area, or other conditions that make offering coverage throughout an entire county unreasonable.

~~((30))~~ (40) "Small group plan" means a health plan issued to a small employer as defined under RCW 48.43.005(34) comprising from one to fifty eligible employees.

~~((31))~~ (41) "Store and forward technology" has the meaning set forth in RCW 48.43.735.

(42) "Substance use disorder services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, or out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize, or ameliorate the effects of a substance use disorder listed in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

~~((32))~~ (43) "Substitute drug" means a prescription medication, drug or therapy that a carrier covers based on an exception request. When the exception request is based on therapeutic equivalence, a substitute drug means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

~~((33))~~ (44) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

(45) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology or audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this chapter, "telemedicine" does not include facsimile, email, or text messaging, unless the use of text-like messaging is necessary to ensure effective communication with individuals who have a hearing, speech, or other disability.

NEW SECTION

WAC 284-170-433 Provider contracts—Telemedicine. (1)(a) Every participating provider contract must, for health plans issued or renewed on or after January 1, 2017, provide that a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The plan provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal Patient Protection and Affordable Care Act in effect on January 1, 2015, RCW 48.43.005 and 48.43.715;

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(b) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(2)(a) Every participating provider contract must, for health plans issued or renewed on or after January 1, 2021, provide that, except as provided in (b) of this subsection, a carrier will reimburse a provider for a health care service provided to a covered person through telemedicine as provided in RCW 48.43.735(1) or subsection (1) of this section the same amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider.

(b) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from the amount of compensation for in-person services.

For purposes of (b) of this subsection, the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(c) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider.

(3)(a) Every participating provider contract must, for health plans issued or renewed on or after January 1, 2017, provide that an originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(i) Hospital;

(ii) Rural health clinic;

(iii) Federally qualified health center;

(iv) Physician's or other provider's office;

(v) Licensed or certified behavioral health agency;

(vi) Skilled nursing facility;

(vii) Home or any location determined by the individual receiving the service including, but not limited to, a pharmacy licensed under chapter 18.64 RCW or a school-based health center as defined in RCW 43.70.825. If the site chosen by the individual receiving service is in a state other than the

state of Washington, a provider's ability to conduct a telemedicine encounter in that state is determined by the licensure status of the provider and the provider licensure laws of the other state; or

(viii) Renal dialysis center, except an independent renal dialysis center.

(b) Except for (a)(vii) of this subsection and a hospital that is an originating site for an audio-only telemedicine encounter, any originating site under this subsection may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health carrier. A distant site, a hospital that is an originating site for an audio-only telemedicine encounter, or any other site not identified in this subsection may not charge a facility fee.

(4) A health carrier may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(5) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(6)(a) Every participating provider contract must, effective July 25, 2021, provide that if a provider intends to bill a covered person or the covered person's health plan for an audio-only telemedicine service, the provider must obtain patient consent from the covered person for the billing in advance of the service being delivered, consistent with the requirements of this subsection, and state and federal laws related to obtaining patient consent.

(b)(i) A covered person's consent must be obtained prior to initiation of the first audio-only encounter with a provider and may constitute consent to such encounters for a period of up to twelve months. If audio-only encounters continue beyond an initial twelve-month period, consent must be obtained from the covered person for each prospective twelve-month period.

(ii) A covered person may consent to a provider billing them or their health plan in writing or verbally. Consent to billing for an audio-only telemedicine encounter may be obtained and documented by the provider or auxiliary personnel under the general supervision of the provider as part of the process of making an appointment for an audio-only telemedicine encounter, recorded verbally as part of the audio-only telemedicine encounter record or otherwise documented in the patient record. Consent must be documented and retained by the provider for a minimum of five years. As needed, a carrier also may request documentation of the covered person's consent as a condition of claim payment.

(iii) Consent to be billed for audio-only telemedicine services must be obtained by the provider or auxiliary personnel under the general supervision of the participating provider.

(iv) A patient may revoke consent granted under this subsection. Revocation of the patient's consent must be communicated by the patient or their authorized representative to

the provider or auxiliary personnel under the general supervision of the provider verbally or in writing and must be documented and retained by the provider for a minimum of five years. Once consent is revoked, the revocation must operate prospectively.

(7)(a) A carrier may not deny, reduce, terminate or fail to make payment for the delivery of health care services using audio and visual technology solely because the communication between the patient and provider during the encounter shifted to audio-only due to unanticipated circumstances. In these instances, a carrier may not require a provider to obtain consent from the patient to continue the communication.

(b) A carrier has no obligation to reimburse a provider for both an audio-visual and an audio-only encounter when both means of communication have been used during the encounter due to unforeseen circumstances.

(8)(a) If the commissioner has cause to believe that any provider has engaged in a pattern of unresolved violations of RCW 48.43.735(8) or subsection (6) of this section, the commissioner may submit information to the department of health or the appropriate disciplining authority, as defined in RCW 18.130.020, for action.

(b) In determining whether there is cause to believe that a provider has engaged in a pattern of unresolved violations, the commissioner shall consider, but is not limited to, consideration of the following:

(i) Whether there is cause to believe that the provider has committed two or more violations of RCW 48.43.735(8) or subsection (6) of this section;

(ii) Whether the provider has been nonresponsive to questions or requests for information from the commissioner related to one or more complaints alleging a violation of RCW 48.43.735(8) or subsection (6) of this section; and

(iii) Whether, subsequent to correction of previous violations, additional violations have occurred.

(c) Prior to submitting information to the department of health or the appropriate disciplining authority, the commissioner may give the provider an opportunity to cure the alleged violations or explain why the actions in question did not violate RCW 48.43.735(8) or subsection (6) of this section.

(9) Every participating provider contract must, for health plans issued or renewed on or after July 25, 2021, ensure that access to telemedicine services is inclusive for those patients who may have disabilities or limited-English proficiency and for whom the use of telemedicine technology may be more challenging, consistent with carriers' obligations under WAC 284-43-5940 through 284-43-5965 with respect to design and implementation of plan benefits.

(10) Each carrier's provider contracts must include language conforming to the requirements of this section by July 1, 2022.

(11) This section does not require a health carrier to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or provider when the site or provider is not a participating provider under the plan.

WSR 21-19-138
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-11—Filed September 21, 2021,
 2:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-065.

Title of Rule and Other Identifying Information: Actuarial Designations.

Hearing Location(s): On Tuesday, November 9, 2021, at 9:30 a.m., Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website here <https://www.insurance.wa.gov/actuarial-designations-r-2021-11>. Due to the COVID-19 public health emergency, this meeting will be held via Zoom platform.

Date of Intended Adoption: November 10, 2021.

Submit Written Comments to: Simon Casson, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by November 8, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OIC needs to create a rule in conformance with the National Association of Insurance Commissioners (NAIC) recent (C) committee announcement of the "NAIC-Accepted Actuarial Designation" establish in 2019. The Society of Actuaries (SOA) has asked OIC to revise this regulation to permit actuaries with other NAIC-Accepted Actuarial Designations to be considered a qualified actuary.

The proposed rule will provide guidance regarding NAIC-Accepted Actuarial Designations. The NAIC has updated the requirements as of 2019 and the proposed rule conforms to these updated requirements. The existing designations require an actuary to be a member of the Casualty Actuarial Society (CAS). The new designations are as follows:

- Fellow of the CAS having passed the United States version of Exam 6.
- Associate of the CAS having passed Exam 7 and the United States version of Exam 6.
- Fellow of the SOA including completion of the general insurance track and these exams: The United States version of the Financial and Regulatory Environment Exam and the Advanced Topics in General Insurance Exam.

Reasons Supporting Proposal: The proposed rule will provide guidance regarding NAIC-Accepted Actuarial Designations. The NAIC has updated the requirements as of 2019 and the proposed rule conforms to these updated requirements.

Statutory Authority for Adoption: RCW 48.02.060, 48.05.073, 48.05.383.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Simon Casson, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7038; Implementation: Molly Nollette, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000; and Enforcement: Charles Malone, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

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. OIC has determined that under RCW 34.05.328 (5)(b)(iii), this rule will adopt or incorporate, one or more of the following without 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, items as referenced by Washington state law, national consensus codes that generally establish industry standards. The material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule and is exempt from RCW 34.05.328 (1)(c).

This rule conforms with the generally established industry standard set by the NAIC as seen in the Annual Statement Instructions. Under RCW 34.05.328 (5)(b)(iii), this rule is exempt from a cost-benefit analysis as it adopts national consensus codes that generally establish industry standards, those being the standards set by the NAIC.

OIC determines that this rule is exempt from cost-benefit analysis requirements.

Explanation of exemptions: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry¹ ..." The small business economic impact statement (SBEIS) must include "... a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses²."

- 1 RCW 19.85.030
<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>.
- 2 RCW 19.85.040
<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>.

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(c), it incorporates existing rules/statues [statutes] by reference.

This rule conforms with the generally established industry standard set by the NAIC as seen in the Annual Statement Instructions. Under RCW 34.05.310 (4)(c), this rule is exempt from an SBEIS as it adopts national consensus codes that generally establish industry standards, those being the standards set by the NAIC.

OIC determines that this rule is exempt from SBEIS requirements.

September 21, 2021

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 14-15-149, filed 7/23/14, effective 8/23/14)

WAC 284-07-060 Statement of actuarial opinion. (1) For purposes of this section "insurer" has the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(2)(a) Each insurer must include with its annual statement, a statement from a qualified actuary, as defined in WAC 284-05-060, or as defined in subsection (4) of this section for domestic property and casualty insurers, or as defined in subsection (5) of this section for health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW entitled "Statement of Actuarial Opinion," setting forth the actuary's opinion relating to the insurer's reserves and other actuarial items, prepared in accordance with the appropriate *Annual Statement Instructions* and *Accounting Practices and Procedures Manuals* adopted by the National Association of Insurance Commissioners. If an exemption is allowed by the *Annual Statement Instructions* and is approved by the domiciliary commissioner, an insurer shall be exempt from this requirement (unless the commissioner of Washington makes a specific finding, by order, bulletin, letter, or otherwise, that for a specific insurer, or one or more insurers, company compliance is necessary to carry out the commissioner's statutory responsibilities). A certified copy of the approved exemption must be filed with the annual statement in all jurisdictions in which the company is authorized.

(b) After December 31, 2014, statements of actuarial opinion for all domestic and foreign insurers must be filed electronically with the NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. This includes the statement of actuarial opinion for the year ended December 31, 2014. Insurers must electronically transmit the statement of actuarial opinion, as described in (a) of this subsection, in PDF or other format as noted on the commissioner's website. The commissioner has the discretion to allow an insurer to file a statement of actuarial opinion electronically with the commissioner. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the statement of actuarial opinion is due.

(c) To comply with requirements that statements of actuarial opinion must be signed by the actuary, an insurer may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) Include in the electronic filing an image of the original signature in PDF format as noted on the commissioner's

website. This electronically filed document must contain a legally binding signature of the actuary and any person providing supporting documentation.

(3) This section does not relieve an insurer from its obligation to comply with other requirements of Titles 48 RCW and 284 WAC.

(4) With respect to statements of actuarial opinion for property and casualty insurers domiciled in this state, a person can demonstrate competency in loss reserve evaluation, and thus be considered to be a qualified actuary, only by being:

(a) A ~~(member in good standing of the Casualty Actuarial Society)~~ person who meets the basic education, experience, and continuing education requirements of the qualification standards promulgated by the American Academy of Actuaries, has obtained and maintains an accepted actuarial designation prescribed by the *Annual Statement Instructions*, and is a member of a professional actuarial association that requires adherence to the same Code of Professional Conduct and U.S. Qualification Standards promulgated by the American Academy of Actuaries, and participates in the Actuarial Board for Counseling and Discipline when its association members are practicing in the U.S.; or

(b) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner, as prescribed by the *Annual Statement Instructions*.

(5) With respect to statements of actuarial opinion for health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements the qualified actuary must be:

(a) A member in good standing of the American Academy of Actuaries;

(b) A person recognized by the American Academy of Actuaries as qualified for such actuarial evaluation; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner. In such a case, the health care service contractor or health maintenance organization must request approval at least ninety days prior to the filing of its annual statement.

WSR 21-19-139

PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-15—Filed September 21, 2021, 2:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-076

Title of Rule and Other Identifying Information: FAIR (fair access to insurance requirements) plan committee members.

Hearing Location(s): On October 28, 2021, at 3:00 p.m., Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website here <https://www.insurance.wa.gov/fair-plan-committee-members-r-2021-15>. Due to the COVID-19 public health emergency, this hearing will be held via Zoom.

Date of Intended Adoption: November 1, 2021.

Submit Written Comments to: Shari Maier, P.O. Box 40260, Olympia, WA 98504-0260 email rulescoordinator@oic.wa.gov, fax 360-586-3109, by October 28, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov, by October 28, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update references to associations involved in the plan administration and make technical changes that should make the rules clearer and easier to follow.

Reasons Supporting Proposal: The two associations currently named in the rules merged and operate under a new name.

Statutory Authority for Adoption: RCW 48.02.060, 48.01.030, 48.18.480.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Shari Maier, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7173; Implementation: Melanie Anderson, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7214; and Enforcement: Charles Malone, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7050.

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. OIC has determined that this rule is exempt from a cost-benefit analysis under RCW 34.05.328 [(5)](b)(iv): RCW 34.05.328 (5)(b)(iv), this rule making will only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect and is exempt from RCW 34.05.328 (1)(c).

This rule making involves replacing references to two associations by name to a generic association reference. Additional technical changes are included to improve rule clarity.

OIC determines that this rule is exempt from cost-benefit analysis requirements.

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.

Explanation of exemptions: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry¹ ..." The small business economic impact statement (SBEIS) must include "... a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses²."

¹ RCW 19.85.030

<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>.

² RCW 19.85.040

<http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>.

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(d), it corrects/clarifies existing language.

This rule making involves replacing references to two associations by name to a generic association reference. Additional technical changes are included to improve rule clarity.

OIC determines that this rule is exempt from SBEIS requirements.

September 21, 2021

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending WSR 14-21-179, filed 10/22/14, effective 11/22/14)

WAC 284-19-140 Administration. (1) This program shall be administered by a governing committee (referred to as the committee) of the facility, subject to the supervision of the commissioner, and operated by a manager appointed by the committee.

(2) The committee consists of nine members, including ~~((five))~~ six insurers, ~~((elected from each of the following))~~ as follows:

(a) ~~((American Insurance Association (one member)))~~ Property insurers represented by any trade association(s) shall designate or elect three members;

(b) ~~((Property Casualty Insurers Association of America (two members);~~

~~((c)))~~ All other stock insurers shall elect ((f))one member((g)) by a majority vote counted on a weighted basis in accordance with each insurer's premiums written and the aggregate premiums written for all insurers in this respective group: ((and

~~((d)))~~ (c) All other nonstock insurers shall elect ((f))one member((g)) by a majority vote counted on a weighted basis in accordance with each insurer's premiums written and the aggregate premiums written for all insurers in this respective group;

(d) A sixth member ((shall)) must be an insurer designated as the service insurer under the program((:)), and the

commissioner shall designate a sixth member if there is more than one service insurer(-);

(e) The other three members are individuals who are appointed by the commissioner to serve, none of whom have a direct or indirect interest in any insurer except as a policyholder(~~—The individual members serve for a period of one year or until their successors are appointed—~~);

(f) Not more than one insurer in a group under the same management or ownership shall serve on the committee at the same time(-); and

(g) One of the six insurers on the governing committee (~~shall~~) must be a domestic insurer.

(3) The governing committee may issue operating procedures and other directives to carry out the purposes of this plan and directives of the commissioner.

(4) Each person serving on the committee or any subcommittee, each member of the facility, and each officer and employee of the facility shall be indemnified by the facility against all costs and expenses actually and necessarily incurred in connection with the defense of any action, suit, or proceeding in which he or she is made a party by reason of being or having been a member of the committee, or a member or officer or employee of the facility except in relation to matters as to which he or she has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of duties as a member of the committee, or a member or officer or employee of the facility. This indemnification does not apply to any loss, cost, or expense on insurance policy claims under the program. Indemnification is not exclusive of other rights to which such member or officer may be entitled as a matter of law.

(5) Members on the committee serve for a period of one year or until successors are elected, designated or appointed, as applicable.

AMENDATORY SECTION (Amending WSR 98-13-095, filed 6/16/98, effective 7/17/98)

WAC 284-19-150 Annual and special meetings. (1) There shall be an annual meeting of the insurers on a date fixed by the committee. (~~The three associations (WAC 284-19-140(2)) shall designate or elect their representatives to the committee. The two nonassociation groups of companies shall elect their respective representatives by a majority vote counted on a weighted basis in accordance with each insurer's premiums written and the aggregate premiums written for all insurers in the respective groups of companies. Representatives on the committee shall serve for a period of one year or until successors are elected or designated.~~)

(2) A special meeting may be called at a time and place designated by the committee or upon the written request to the committee of any ten insurers, not more than one of which may be a group under the same management or ownership.

(3) Twenty days' notice of the annual or special meeting (~~shall~~) must be given in writing by the committee to the insurers. A majority of the insurers constitutes a quorum. Voting by proxy is permitted. Notice of any meeting (~~shall~~) must be accompanied by an agenda for the meeting.

(4) Any matter, including amendment of this program, may be proposed and voted upon by mail, provided the pro-

cedure is unanimously authorized by the members of the committee present and voting at any meeting of the committee. If approved by the committee, notice of any proposal is mailed to the insurers not less than (~~twenty~~) 20 days prior to the final date fixed by the committee for voting.

(5) At any regular or special meeting at which the vote of the insurers is or may be required on any proposal, including amendment to this program, or any vote of the insurers which may be taken by mail on any proposal, such votes (~~shall~~) must be cast and counted on a weighted basis in accordance with each insurer's premiums written. A proposal becomes effective when approved by at least two-thirds of the votes cast on the weighted basis, except amendments to this program that will require administrative action by the commissioner.

**WSR 21-19-140
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2021-18—Filed September 21, 2021,
3:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-096.

Title of Rule and Other Identifying Information: Washington state health insurance pool (WSHIP) purpose, membership, and annual reporting.

Hearing Location(s): On October 26, 2021, at 3:00 p.m. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner website here <https://www.insurance.wa.gov/washington-state-health-insurance-pool-wship-r-2021-18>. Due to the COVID-19 public health emergency, this hearing will be held via Zoom.

Date of Intended Adoption: November 1, 2021.

Submit Written Comments to: Shari Maier, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by October 26, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov, by October 26, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify the purpose, membership, and annual reporting requirements for WSHIP.

Reasons Supporting Proposal: A lack of required WSHIP reporting for some carriers may be due in part to the fact that the existing rules do not describe the purpose, membership, or annual reporting requirements of the WSHIP. Adding this information to the rules will help provide guidance regarding which carriers fall under the reporting requirements.

Statutory Authority for Adoption: RCW 48.41.170, 48.02.060.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Shari Maier, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7173; Implementation: Melanie Anderson, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7214; and Enforcement: Charles Malone, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7050.

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 Simon Casson, 302 Sid Snyder Avenue S.W., Suite 200, Olympia, WA 98501, phone 360-725-7038, email SimonC@oic.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(4).

Explanation of exemptions: The average number of employees per firm was determined below using Bureau of Labor Statistics data:

Average number of firms: 58.

Average annual employment over 12 months: 6,777.

Average number of employees per firm: 117.

The average number of employees for a Direct Health and Medical Insurance Carrier is 117 employees, above the small business threshold of 50 under chapter 19.85.020(3).

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. Additionally, under RCW 19.85.030 (1)(a), the proposed rule will impose less-than-minor costs on businesses in an industry, therefore a small business economic impact statement is not required.

NAICS Code	Estimated Cost of Compliance	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll	0.3% of AVG Annual Gross Business Income
524114	\$100	Direct Health and Medical Insurance Carriers	\$228,929.41	\$88,030.57 (2018 Dataset pulled from USBLS)	\$99,243.89 (2018 Dataset pulled from DOR)

September 21, 2021
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 03-07-007, filed 3/6/03, effective 4/6/03)

WAC 284-91-001 Plan of operation approved. Under RCW 48.41.040(4), the commissioner approves the plan of operation submitted by the board of directors of the (~~Washington state health insurance~~) pool ((~~WSHIP~~)). The plan of operation is composed of the following documents:

(1) Articles of organization approved by the WSHIP board on September 5, 2002, and amended by the insurance commissioner on March ((4)) 5, 2003;

(2) Bylaws approved by the WSHIP board on September 5, 2002, and approved by the insurance commissioner on March 5, 2003. The WSHIP board subsequently amended and restated its bylaws on January 8, 2020, which were approved by the insurance commissioner on January 27, 2020; and

(3) Operating rules approved by the WSHIP board on September 5, 2002.

NEW SECTION

WAC 284-91-100 Intent. The Washington state health insurance pool (WSHIP) was created with the intent of ensuring the availability of comprehensive health insurance to residents who are denied health insurance and are otherwise unable to obtain such insurance coverage directly under any individual or group health plan.

NEW SECTION

WAC 284-91-110 Definitions. The definitions in this section apply throughout this chapter.

(1) "Accounting year" means a 12-month period determined by the board for purposes of recordkeeping and accounting. The first accounting year may be more or less than 12 months and, from time to time in subsequent years, the board may order an accounting year of other than 12 months as may be required for orderly management and accounting of the pool.

(2) "Administrator" means the entity chosen by the board to administer the pool under RCW 48.41.080.

(3) "Board" means the board of directors of the pool.

(4) "Commissioner" means the insurance commissioner.

(5) "Health care provider" means any physician, facility, or health care professional, who is licensed in Washington state and entitled to reimbursement for health care services.

(6) "Health care services" means services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

(7) "Health carrier" or "carrier" has the same meaning as in WAC 284-43-0160.

(8)(a) "Health coverage" means any group or individual disability insurance policy, health care service contract, and health maintenance agreement, except those contracts entered into for the provision of medicare.

(b) "Health coverage" does not include:

(i) Short-term care, long-term care, dental, vision, accident, fixed indemnity, disability income contracts, limited benefit or credit insurance;

(ii) Coverage issued as a supplement to liability insurance;

(iii) Insurance arising out of the worker's compensation or similar law;

(iv) Automobile medical payment insurance; or

(v) Insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(9) "Health plan" means any arrangement by which persons, including dependents or spouses, covered or making application to be covered under this pool, have access to hospital and medical benefits or reimbursement.

(a) This includes any: "Health coverage," as defined under this section; uninsured arrangements of group or group-type contracts, including employer self-insured, cost-plus, or other benefit methodologies not involving insurance or not governed by Title 48 RCW; coverage under group-type contracts which are not available to the general public and can be obtained only because of connection with a particular organization or group; and coverage by medicare or other governmental benefits.

(b) "Health plan" excludes the types of insurance excluded under the definition of "health coverage" in this section.

(10)(a) "Member" means:

(i) Any commercial health carrier which provides disability insurance or stop loss insurance, any health care service contractor, any health maintenance organization licensed under Title 48 RCW, and any self-funded multiple employer welfare arrangement as defined in RCW 48.125-010;

(ii) The Washington state health care authority as issuer of the state uniform medical plan; or

(iii) When authorized by federal law, employers and other entities, including self-insured employers, other self-funding entities, and employee welfare benefit plans that provide health plan benefits in this state.

(b) "Member" does not include any carrier, health care service contractor, or health maintenance organization whose products are exclusively dental products or those products excluded from the definition of "health coverage" in this section.

(11) "Plan of operation" means the pool, including articles, bylaws, and operating rules, adopted by the board pursuant to RCW 48.41.050.

(12) "Pool" means the Washington state health insurance pool.

NEW SECTION

WAC 284-91-120 Health insurance pool—Membership. All entities in this state, on or after May 18, 1987, meeting the definition of a member (as per WAC 284-91-110), shall be members of the pool.

NEW SECTION

WAC 284-91-130 Financial participation in pool—Computation, deficit assessments. (1) Following the close of each accounting year, the pool administrator shall determine the total net cost of pool operation which shall include:

(a) Net premium (premiums less administrative expense allowances), the pool expenses of administration, and incurred losses for the year, taking into account investment income and other appropriate gains and losses; and

(b) The amount of pool contributions specified in the state Omnibus Appropriations Act for deposit into the health benefit exchange account under RCW 43.71.060, to assist with the transition of enrollees from the pool into the health benefit exchange created by chapter 43.71 RCW.

(2) Each member's proportion of participation in the pool shall be determined annually, by the board based on annual statements and other reports deemed necessary by the board and filed by carriers with the commissioner, by multiplying the total cost of pool operation by a fraction. The numerator of the fraction equals that member's total number of resident insured persons, including spouse and dependents, covered under all health plans in the state by that member during the preceding calendar year. The denominator of the fraction equals the total number of resident insured persons, including spouses and dependents, covered under all health plans in the state by all pool members during the preceding calendar year.

(a) All carriers that meet the definition of a member, regardless of whether they actually provided applicable health coverage during the accounting year, must file these statements and other reports.

(b) For purposes of calculating the numerator and the denominator under this subsection:

(i) All health plans in the state by the state health care authority include only the uniform medical plan;

(ii) Each ten resident insured persons, including spouse and dependents, under a stop loss plan or the uniform medical plan shall count as one resident insured person; and

(iii) Health plans serving medical care services program clients under RCW 74.09.035 are exempted from the calculation.

(c) Except as provided in RCW 48.41.037, any deficit incurred by the pool, including pool contributions for deposit into the health benefit exchange account, shall be recouped by assessments among members apportioned under this subsection pursuant to the formula set forth by the board among members. The monthly per member assessment may not exceed the 2013 assessment level of \$2.57. If the maximum assessment is insufficient to cover a pool deficit, the assessment shall be used first to pay all incurred losses and pool administrative expenses, with the remainder being available for deposit in the health benefit exchange account.

(3)(a) The board may abate or defer, in whole or in part, the assessment of a member if they determine that payment of the assessment would endanger the ability of the member to fulfill its contractual obligations.

(b) If an assessment against a member is abated or deferred, in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in subsection (2) of this section. The

member receiving such abatement or deferment shall remain liable to the pool for the deficiency.

(4)(a) Subject to the limitation imposed in subsection (2)(c) of this section, the pool administrator shall transfer the assessments for pool contributions for the operation of the health benefit exchange to the treasurer for deposit into the health benefit exchange account.

(b) If assessments exceed actual losses and administrative expenses of the pool and pool contributions for deposit into the health benefit exchange account, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

NEW SECTION

The following section of the Washington Administrative Code is decodified and recodified as follows:

Old WAC Number	New WAC Number
284-91-001	284-91-140

WSR 21-19-148
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed September 22, 2021, 10:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-109.

Title of Rule and Other Identifying Information: WAC 415-02-178 May I purchase an annuity?

Hearing Location(s): On October 26, 2021, at 2:00 p.m. The hearing will be conducted by telephone conference only, 360-407-3830 or 855-682-0796 (toll free), Conference ID 1580673.

Date of Intended Adoption: October 27, 2021.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email drs.rules@drs.wa.gov, by October 25, 2021.

Assistance for Persons with Disabilities: Contact Jilene Siegel, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, by October 21, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify the sources of funds that may be used to purchase a defined benefit annuity.

Reasons Supporting Proposal: This amendment will clarify which funds are considered to be from an "eligible retirement plan" as required for the purchase of an annuity.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.32.067 (TRS), 43.43.315 (WSPRS), 41.26.105 (LEOFF Plan 1), 41.26.463 (LEOFF Plan 2), 41.40.131 (PERS), 41.35.235 (SERS), and 41.37.295 (PSERS Plan 2).

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

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Candice Myrum, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7288.

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 (5)(a)(i) does not apply to this proposed rule and is not voluntarily made applicable by the agency.

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; 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.

September 22, 2021
Jilene Siegel
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-01-145, filed 12/17/19, effective 1/17/20)

WAC 415-02-178 May I purchase an annuity? (1) Am I eligible to purchase an annuity? You are eligible to purchase a defined benefit plan annuity at the time of retirement if you are a member of TRS (RCW 41.32.067), WSPRS (RCW 43.43.315), LEOFF Plan 1 (RCW 41.26.105), LEOFF Plan 2 (RCW 41.26.463), PERS (RCW 41.40.131), SERS (RCW 41.35.235), or PSERS Plan 2 (RCW 41.37.295). This annuity provides a lifetime increase to your monthly benefit. (For purchasing an annuity from your Plan 3 defined contribution account, refer to WAC 415-111-320.)

(2) Can I purchase an annuity if I take a lump sum payment? You may not purchase an annuity if you elect a lump sum payment instead of a monthly benefit.

(3) Are there limits to the annuity amount I may purchase? There is no maximum limit on the purchase amount. If you are a LEOFF or WSPRS member the minimum purchase amount is \$25,000. If you are a PERS, SERS, or PSERS member, the minimum purchase amount is \$5,000. There is no minimum required for TRS members.

(4) When can I apply to purchase an annuity? You must submit your request to purchase an annuity to the department at the time you apply for retirement.

(5) How much will my monthly benefit increase if I purchase an annuity? The increase in your monthly benefit will be calculated using the following formula:

$$\text{Purchase Annuity Amount} \times \text{Annuity Factor} = \text{Increase to Monthly Benefit}$$

The annuity factor is determined by your age on the later of your retirement date or the date your retirement application is submitted to the department.

Example: John is a member of LEOFF Plan 2. He applies for retirement and requests to purchase an annuity for \$45,000. For illustration purposes in this example only, we will use 0.0051025 as the corresponding annuity factor (factors change periodically). John's monthly benefit will increase by \$229.61 per month, calculated as follows:

$$\text{Purchase Annuity Amount} \times \text{Annuity Factor} = \text{Increase to Monthly Benefit}$$

$$\$45,000 \times 0.0051025 = \$229.61$$

(6) How and when do I pay for the annuity? The department will generate a bill to you for the cost of the annuity after we receive your request to purchase.

(a) For all TRS members, payment may be made by making a one-time personal payment (however, IRS regulations limit the amount of after-tax dollars you may use); or you may roll over funds from another tax-deferred retirement account.

(b) For LEOFF, WSPRS, PERS, SERS, and PSERS members, the annuity must be purchased by rolling over funds from an "eligible retirement plan" which is a tax qualified plan offered by a governmental employer (like the state of Washington's deferred compensation program) or rolling over tax-deferred funds that originated with a governmental employer.

(c) For PERS Plan 1 or TRS Plan 1 members, post-thirty year contributions withheld under the provisions of RCW 41.40.191 or 41.32.4986 respectively, may not be used to purchase the annuity.

(d) Payment must be made in full by ninety days after the later of your retirement date or bill issue date. Your annuity will begin once your payment is received and your retirement is processed. The effective date for the start of this benefit is

the later of your retirement date or the payment in full date plus one day.

(7) What are the survivor options for my annuity? The survivor option you designate for your retirement benefit will also be used for your annuity purchase, with the exception of WSPRS Plan 1 Option A and LEOFF Plan 1.

If you are a WSPRS Plan 1 member who chose Option A or you are a LEOFF Plan 1 member, your annuity will be paid for your lifetime only. Under these two survivor options, even though the retirement benefit may be paid over two lifetimes, there is no actuarial reduction. No actuarial reduction can be applied to the annuity, therefore the annuity can only be treated as if a single life option was chosen.

If you choose a benefit option with a survivor feature and your survivor dies before you, your monthly annuity payment will increase to the amount it would have been had you not selected a survivor option.

(8) Will I receive a cost of living adjustment (COLA) on the portion of my benefit that is based on the purchased annuity? If you are eligible for an annual COLA adjustment on your monthly benefit, you will receive the same COLA percentage on this annuity.

(9) If I purchase an annuity and then return to work, how will the annuity portion of my benefit be affected? You will continue to receive the annuity portion of your monthly benefit payment even if you return to work, or return to membership.

(10) If I retire then return to membership and rere-tire, may I purchase another annuity? Yes. You may purchase another annuity when you rere-tire provided you are rere-tiring from an eligible plan that allows an annuity purchase.

(11) May I purchase an annuity from more than one retirement plan?

(a) If you are a dual member under chapter 415-113 WAC, Portability of public employment benefits, and you combine service credit to retire as a dual member, you may purchase an annuity from each dual member plan that allows an annuity purchase.

(b) If you are not a dual member and retire separately from more than one plan you may purchase an annuity from each eligible plan that allows an annuity purchase.

(12) What happens to my annuity upon my death (and the death of my survivor, if applicable)?

System Plan	Benefit Option	Annuity Payment Upon Death
TRS 1	Maximum Option	At the time of your death the annuity payment stops.
TRS 1, TRS 2, TRS 3, LEOFF 2, WSPRS 2, PERS 1, PERS 2, PERS 3, SERS 2, SERS 3, and PSERS 2	Option 1 (single life)	At the time of your death the annuity payments stop. The original amount you paid for your annuity, less any payments you have received, will be paid to your designated beneficiary.
WSPRS 1	Option A	
LEOFF 1	Automatic Survivor	
TRS 1, TRS 2, TRS 3, LEOFF 2, WSPRS 2, PERS 1, PERS 2, PERS 3, SERS 2, SERS 3, and PSERS 2	Option 2, 3, 4 (joint life)	At the time of your death, payments will continue to your survivor. At the time of your survivor's death, the original amount you paid for your annuity, less any payments you and your survivor have received, will be paid to your designated beneficiary.
WSPRS 1	Option B (joint life)	

WSR 21-19-149
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed September 22, 2021, 10:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-24-129.

Title of Rule and Other Identifying Information: WAC 415-104-482 How are the different LEOFF Plan 2 disability benefits calculated?

Hearing Location(s): On October 26, 2021, at 2:30 p.m. The hearing will be conducted by telephone conference only, 360-407-3830 or 855-682-0796 (toll free), Conference ID 91556917.

Date of Intended Adoption: October 27, 2021.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email drs.rules@drs.wa.gov, by October 25, 2021.

Assistance for Persons with Disabilities: Contact Jilene Siegel, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, by October 21, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify that adjustments to offset workers' compensation and Social Security disability benefits will be prospective.

Reasons Supporting Proposal: This amendment describes how adjustments are applied to a LEOFF Plan 2 member's catastrophic benefit if other disability benefits are approved retroactively.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.26.470(9).

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

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Candice Myrum, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7288.

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 (5)(a)(i) does not apply to this proposed rule and is not voluntarily made applicable by the agency.

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; 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 state-wide 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.

September 22, 2021

Jilene Siegel

Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-13-078, filed 6/15/18, effective 7/16/18)

WAC 415-104-482 How are the different LEOFF Plan 2 disability benefits calculated? (1) **Line of duty:** As a line of duty disability retiree, you may choose between:

(a) A nontaxable, one-time lump sum payment equal to one hundred fifty percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at one hundred percent; or

(b) A monthly disability benefit equal to:

(i) Ten percent of your final average salary (FAS), which is nontaxable; and

(ii) Two percent of your FAS for each year of service beyond five years.

Calculation of monthly disability benefit:

Example 1: Chris was approved for line of duty disability. The final average salary (FAS) was \$10,000. Chris had 20 years of service credit at the time of retirement. To determine the line of duty disability benefit amount:

1. $10\% \times \text{FAS} = \text{Nontaxable amount}$
 $.10 \times \$10,000 = \$1,000$
2. $2\% \times \text{FAS} \times \text{Number of Service Years beyond Five Years} = \text{Taxable amount}$
 $.02 \times \$10,000 \times 15 = \$3,000$
3. $\text{Nontaxable amount} + \text{Taxable amount} = \text{Total benefit}$
 $\$1,000 + \$3,000 = \$4,000$

Example 2: Pat was approved for line of duty disability. The final average salary (FAS) was \$10,000. Pat had 2 years of service credit at the time of retirement. To determine the line of duty disability benefit amount:

1. $10\% \times \text{FAS} = \text{Nontaxable amount}$
 $.10 \times \$10,000 = \$1,000$
2. $2\% \times \text{FAS} \times \text{Number of Service Years beyond Five Years} = \text{Taxable amount}$
 $.02 \times \$10,000 \times 0 = \0
3. $\text{Nontaxable amount} + \text{Taxable amount} = \text{Total benefit}$

$$\$1,000 + \$0 = \$1,000$$

(2) **Catastrophic duty disability:** As a catastrophic duty disability retiree, you may choose between:

(a) A nontaxable, one-time lump sum payment equal to one hundred fifty percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at one hundred percent. Under this option you waive your right to the medical insurance premium reimbursement; or

(b) A monthly disability benefit equal to:

(i) Seventy percent of your final average salary (FAS), which is nontaxable, reduced by any temporary disability benefits provided under Title 51 RCW and federal Social Security disability benefits, if necessary to ensure that the total combined benefits do not exceed one hundred percent of the member's final average salary (FAS). Any such adjustment will be applied prospectively from the time the Title 51 RCW or Social Security determination is made, even if the Title 51 RCW or Social Security disability benefits are retroactively adjusted.

(ii) The reduced benefit cannot be less than the earned service retirement benefit.

Calculation of monthly disability benefit:

Example 1: Terry was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Terry was not receiving benefits from LNI or Social Security disability insurance (SSDI). Terry had 20 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. 70% of FAS = Monthly disability benefit
 $.70 \times \$10,000 = \$7,000$
2. $2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$
 $.02 \times \$10,000 \times 20 = \$4,000$

Since there is no offset and the monthly disability benefit is greater than the earned benefit, Terry's benefit will be \$7000 a month.

Example 2: Pat was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Pat was receiving benefits from LNI and Social Security disability insurance (SSDI) in the amounts of \$5,000 and \$2,000. Pat had 2 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. 70% of FAS = Monthly disability benefit
 $.70 \times \$10,000 = \$7,000$
2. Monthly disability benefit + LNI benefits + SSDI benefit = Total of all benefits
 $\$7,000 + \$5,000 + \$2,000 = \$14,000$

3. Total of all benefits - FAS = Reduction amount
 $\$14,000 - \$10,000 = \$4,000$

4. Monthly disability benefit - Reduction Amount = Reduced monthly benefit
 $\$7,000 - \$4,000 = \$3,000$

5. $2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$
 $.02 \times \$10,000 \times 2 = \400

Since the reduced monthly benefit amount is greater than the earned benefit, Pat's benefit will be \$3,000 a month.

Example 3: Chris was approved for catastrophic disability. The final average salary (FAS) was \$10,000. Chris was receiving benefits from LNI (Title 51 RCW) and Social Security disability insurance (SSDI) in the amounts of \$5,000 and \$2,000 respectively. Chris had 20 years of service credit at the time of retirement. To determine the catastrophic benefit amount:

1. 70% of FAS = Monthly disability benefit
 $.70 \times \$10,000 = \$7,000$
2. Monthly disability benefit + LNI benefits + SSDI benefit = Total of all benefits
 $\$7,000 + \$5,000 + \$2,000 = \$14,000$

3. Total of all benefits - FAS = Reduction amount (to not exceed 100% of FAS)
 $\$14,000 - \$10,000 = \$4,000$

4. Monthly disability benefit - Reduction Amount = Reduced monthly benefit
 $\$7,000 - \$4,000 = \$3,000$

5. $2\% \times \text{FAS} \times \text{Service Years} = \text{Earned benefit}$
 $.02 \times \$10,000 \times 20 = \$4,000$

Chris is entitled to the greater of the catastrophic retirement calculation or the earned benefit. Since the earned benefit is greater than the reduced catastrophic benefit, Chris' benefit will be \$4,000 a month.

(3) **Nonduty disability:** As a nonduty disability retiree, you receive a benefit of two percent times your final average salary times your service credit years. This disability benefit will be actuarially reduced to reflect the difference in age at the time of disability retirement and age fifty-three.

Calculation of monthly disability benefit:

Example 1 - Full actuarial reduction:

Chris, age 47, was approved for a nonduty disability. The final average salary (FAS) was \$10,000. Chris had 20 years of service credit at the time of retirement. To determine the nonduty disability benefit amount:

$$\begin{aligned}
 2\% \times \text{FAS} \times \text{Service Years} \times \text{early retire-} &= \text{Benefit} \\
 \text{ment factor (2018 table)} &= \text{amount} \\
 .02 \times \$10,000 \times 20 \times 0.5980 &= \$2,392
 \end{aligned}$$

WSR 21-19-150
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed September 22, 2021, 10:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-111.

Title of Rule and Other Identifying Information: WAC 415-02-750 How does the department comply with Internal Revenue Code distribution rules?

Hearing Location(s): On October 26, 2021, at 3:00 p.m. The hearing will be conducted by telephone conference only, 360-407-3830 or 855-682-0796 (toll free), Conference ID 65678922.

Date of Intended Adoption: October 27, 2021.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email drs.rules@drs.wa.gov, by October 25, 2021.

Assistance for Persons with Disabilities: Contact Jilene Siegel, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, by October 21, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In accordance with chapter 189, Laws of 2021 (SB 5367), this amendment will allow DRS to initiate refunds of contributions to inactive, nonvested members with account balances less than \$1,000.

Reasons Supporting Proposal: Chapter 189, Laws of 2021 (SB 5367) requires DRS to establish a rule to identify inactive accounts of nonvested members with balances below \$1,000, and provide for closing the accounts and refunding the account balances.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: Chapter 189, Laws of 2021 (SB 5367).

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

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Candice Myrum, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7288.

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 (5)(a)(i) does not apply to this proposed rule and is not voluntarily made applicable by the agency.

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.

September 22, 2021
 Jilene Siegel
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-24-099, filed 12/1/10, effective 1/1/11)

WAC 415-02-750 How does the department comply with Internal Revenue Code distribution rules? (1) All benefits paid from the retirement plan shall be distributed in accordance with a reasonable and good faith interpretation of the requirements of section 401 (a)(9) of the Internal Revenue Code, as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code. In order to meet these requirements, the retirement plan shall be administered in accordance with the following provisions:

(a) If a plan member separates from service prior to attaining eligibility for a future benefit and the balance of the member's accumulated contributions is less than \$1,000, the department may initiate a refund of the member's accumulated contributions following written notification to the member.

(i) A refund of the accumulated contributions initiated by the department under the terms of this section shall terminate all rights to benefits in the retirement plan.

(ii) If the member is reemployed in an eligible position, service credits earned prior to the refund may be restored upon repayment according to the provisions of the plan.

(b) Distribution of a member's benefit must begin by the later of April 1st following the calendar year in which a member attains age seventy and one-half or April 1st of the year following the calendar year in which the member retires;

~~((b))~~ (c) Unless distributed in a lump sum, the member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and designated beneficiary;

~~((c))~~ (d) The life expectancy of a member or the member's spouse or beneficiary may not be recalculated after the benefits commence;

~~((d))~~ (e) If a member dies before the required distribution of the member's benefits has begun, the member's entire interest must be either:

(i) Distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31st of the calendar year following the calendar year of the member's death; or

(ii) Distributed within five years of the member's death.

((~~e~~)) (f) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of section 401 (a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation section 1.401 (a)(9)-6, Q&A 2; and

((~~f~~)) (g) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as under the method of distribution being used for the member as of the date of the member's death.

(2) The retirement system pursuant to a valid dissolution order as defined in RCW 41.50.500 may establish separate benefits for a member and nonmember.

(3) The death and disability benefits provided by the plan are limited by the incidental benefit rule set forth in section 401 (a)(9)(G) of the Internal Revenue Code and Treasury Regulation section 1.401-1 (b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed twenty-five percent of the cost for all of the members' benefits received from the plan.

WSR 21-19-153
PROPOSED RULES
COUNTY ROAD
ADMINISTRATION BOARD

[Filed September 22, 2021, 11:11 a.m.]

Original Notice.

Proposal is exempt under chapter 36.78 RCW.

Title of Rule and Other Identifying Information: Amending chapters 136-130, 136-161, 136-163, 136-165, 136-167 and 136-170 WAC to make housekeeping changes, changes requested by the RAP region(s), and clarifying that indirect costs are not eligible for reimbursement.

Hearing Location(s): On October 28, 2021, at 2:00 p.m., at 2404 Chandler Court S.W., Olympia, WA 98504.

Date of Intended Adoption: October 28, 2021.

Submit Written Comments to: Drew Woods, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, email drew.woods@crab.wa.gov, by October 22, 2021.

Assistance for Persons with Disabilities: Contact Drew Woods, phone 360-753-5989, TTY 800-883-6384, email drew.woods@crab.wa.gov, by October 22, 2021.

Reasons Supporting Proposal: Housekeeping changes.

Statutory Authority for Adoption: Chapter 36.78 RCW.

Statute Being Implemented: Not applicable.

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

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

Name of Proponent: County road administration board, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Steve Johnson, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989;

Enforcement: Drew Woods, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989.

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 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.

Is exempt under chapter 36.78 RCW.

September 20, 2021

Jane Wall

Executive Director

AMENDATORY SECTION (Amending WSR 19-04-047, filed 1/29/19, effective 3/1/19)

WAC 136-130-020 Priorities by project type. The county road administration board has determined that the interests of the counties in the several regions will be best served by encouraging development of distinct project priority rating systems for each region.

There shall be five project types eligible for RATA funding, with each having separate rating systems for project ranking and selection. The five project types include:

(1) Reconstruction - Emphasis on alignment and grade changes on ~~((fifty))~~ 50 percent or more of the project length, and may include additional travel lanes and right of way costs.

(2) 3R - Resurfacing, restoration, and rehabilitation - Primary focus on extending the service life of existing facility involving less than ~~((fifty))~~ 50 percent vertical or horizontal changes, and on safety improvements. Right of way costs are eligible for RATA reimbursement as a part of this project type.

(3) 2R - Resurfacing and restoration - Primary focus on restoration of the pavement structure on the existing vertical and horizontal alignment and spot safety improvements. Minor widening costs are allowed as a part of this project type. Right of way costs are not eligible for RATA reimbursement in this project type.

(4) Intersection - 3R or reconstruction work limited to the vicinity of an existing intersection, and may include additional travel lanes and right of way costs.

(5) Bridge and drainage structures - Replacement or major rehabilitation of an existing bridge or other drainage structure, and may include additional travel lanes and right of way costs. The bridge or drainage structure(s) cost must be a minimum of 50 percent of the overall project cost.

(a) All National Bridge Inventory (NBI) listed structures are eligible for replacement or rehabilitation. Rehabilitation is the major work required to restore the structural integrity of a bridge as well as work necessary to correct major safety defects.

(b) All non-NBI structures are eligible for replacement of the existing structure.

In consultation with the individual regions, the executive director shall approve the various forms and procedures necessary to allocate available RATA funding, consistent with RCW 36.79.080.

AMENDATORY SECTION (Amending WSR 13-16-105, filed 8/7/13, effective 9/7/13)

WAC 136-130-050 Supplemental rules in northeast region (NER). Each county in the NER may submit projects requesting RATA funds not to exceed ~~((twenty-five))~~ 25 percent of the forecasted NER biennial apportionment.

Bridge projects may be submitted requesting RATA funds under one of the following conditions:

(1) Bridges must be approved for federal bridge funding and RATA funds shall be used only as a match for such federal funding. Bridges will be ranked for RATA funding using the WSDOT priority list and may be added to the NER Category 1 priority array at any time during the biennium upon approval of the bridge for federal bridge funding.

(2) A stand-alone bridge project may be submitted as an ordinary reconstruction or 3R RAP project provided that its priority rating has been computed by the bridge rating method in the NER RAP rating procedures. Such projects shall not be considered for funding from the bridge reserve described above.

~~((3) RAP projects that include bridge improvements where the cost of the bridge improvements do not exceed twenty percent of the total project cost are not considered bridge projects as set out in this section.))~~

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

WAC 136-130-060 Supplemental rules in southeast region (SER). Each county in the SER may submit projects requesting RATA funds not to exceed twice the per county limit of the forecasted SER biennial apportionment as follows:

Asotin County	ten percent
Benton County	fourteen percent
Columbia County	eleven percent
Franklin County	thirteen percent
Garfield County	ten percent
Kittitas County	thirteen percent
Klickitat County	fourteen percent
Walla Walla County	fourteen percent
Yakima County	twenty percent

Federally funded bridges for which counties are seeking matching funds shall receive first consideration for bridge funds. Bridges receiving federal funding may be added to this list at any time during the biennium. Stand-alone bridges may compete for funds in this reserve that remain after all bridges seeking match for federal funds have been funded. Non-NBI

drainage structures may compete for funds in this reserve after stand-alone bridges have been funded. Whatever part of the bridge reserve that is not allocated to bridge projects shall be available for allocation to other RAP projects.

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

WAC 136-130-080 Limitation on rating points. In each of the project prioritization procedures and associated approved forms, for purposes of the RAP project prospectus submitted to the county road administration board, ~~((geometric condition points shall be assigned only))~~ if a county desires points for correcting geometric deficiencies, then all geometric deficiencies shall be listed, with points being assigned for those conditions ((which)) that will be corrected by construction of the project.

AMENDATORY SECTION (Amending WSR 01-05-009, filed 2/8/01, effective 3/11/01)

WAC 136-161-040 RAP program cycle—Field review by county road administration board. After all preliminary prospectuses are received, the county road administration board will schedule and conduct an on-site field review of each project. During the field review, conducted jointly with the county engineer or his/her designee (unless waived by the county engineer), the assigned county road administration board staff person will review the overall project scope with the county representative and, using that region's priority rating process, determine the rating score of all priority elements which are based on a visual examination. To ensure both uniformity and professional judgment in the visual ratings, the assigned county road administration board staff person shall be a licensed professional civil engineer in the state of Washington, and the same person shall review and rate all projects within a region. All field reviews will be completed, each project's type will be set, and the visual rating scores returned to each submitting county, by July 1st of each even-numbered year prior to a funding period.

AMENDATORY SECTION (Amending WSR 19-04-047, filed 1/29/19, effective 3/1/19)

WAC 136-161-080 Limitations on allocations of RATA funds to counties. For any project program period, no county shall receive a RATA fund allocation greater than the following maximum project RATA contribution, or percentage of the forecasted regional apportionment amount:

(1) PSR: No maximum project RATA contribution; 40% limit on percentage of the forecasted regional apportionment amount;

(2) NWR: No maximum project RATA contribution; twenty percent limit on percentage of the forecasted regional apportionment amount;

(3) NER: No maximum project RATA contribution; maximum RATA contribution to each county for 2R and drainage projects combined is seven hundred fifty thousand dollars; twelve and one-half percent limit on percentage of the forecasted regional apportionment amount;

(4) SWR: No maximum project RATA contribution; fifteen percent limit on percentage of the forecasted regional apportionment amount;

(5) SER: No maximum project RATA contribution; percentage varies by county as follows:

- | | |
|------------------------|------------------|
| (a) Asotin County | ten percent |
| (b) Benton County | fourteen percent |
| (c) Columbia County | eleven percent |
| (d) Franklin County | thirteen percent |
| (e) Garfield County | ten percent |
| (f) Kittitas County | thirteen percent |
| (g) Klickitat County | fourteen percent |
| (h) Walla Walla County | fourteen percent |
| (i) Yakima County | twenty percent |

(6) The county limits for all eligible and applying counties in each region will be adjusted to include by equal share the funding limit of any ineligible or nonapplying county.

(7) Projects must have a total estimated cost of two hundred fifty thousand dollars or greater to be eligible for RATA funding.

AMENDATORY SECTION (Amending WSR 07-17-020, filed 8/6/07, effective 9/6/07)

WAC 136-161-090 Limitations on use of RATA funds. RATA funds requested and ~~((allocated))~~ allowed to a project are limited to ~~((eighty percent in the NWR for projects approved by the CRABoard on and prior to April 30, 2008, and ninety percent in the NWR for projects approved thereafter, and ninety percent in the PSR, SWR, NER and SER, of the total eligible project development costs, which include preliminary engineering and construction costs in all regions, and))~~ the match requirements established by county road administration board policy following 36.79.120 RCW. The match requirements will be applied to the total eligible project development costs, which include preliminary engineering and construction costs in all regions, and non 2R project type right-of-way costs in the PSR, NWR, NER and SER.

Even though additional and eligible project development costs may be incurred by a county for a specific project, the maximum amount of RATA funds for that project is limited to the amount allocated and shown in the CRAB/county contract (see chapter 136-170 WAC), unless the allocation is increased pursuant to chapter 136-165 WAC.

AMENDATORY SECTION (Amending WSR 07-17-020, filed 8/6/07, effective 9/6/07)

WAC 136-161-110 Use of other funds to match RATA funds. A county with an approved RAP project may use any other funds available for such project including federal, other state, private, and local funds ~~((, provided that the county will be required to use such other funds to match any RATA funds allocated to the project with a minimum of twenty percent other funds in the NWR for projects approved~~

~~by the CRABoard on and prior to April 30, 2008, and ten percent other funds in the NWR for projects approved thereafter, and ten percent other funds in the PSR, SWR, NER, and SER)). The minimum match of RATA funds allocated to the project shall be set by county road administration board policy following RCW 36.79.120.~~

AMENDATORY SECTION (Amending WSR 20-04-077, filed 2/4/20, effective 3/6/20)

WAC 136-163-050 Limitations and conditions. All projects for which rural arterial program funding is being requested under this chapter are subject to the following:

(1) The requesting county has the sole burden of making a clear and conclusive showing that the project is emergent as described in this chapter; and

(2) The requesting county shall clearly demonstrate that the need for the project was unable to be anticipated at the time the current six-year transportation program was developed; and

(3) The requesting county agrees to a reduction in the next funding period's maximum RATA eligibility to the county equal to the RATA that may be ~~((provided, however,))~~ awarded. Should that region not have a maximum RATA eligibility for each county, the requesting county agrees to withdraw, amend or delay an existing approved project or portion thereof in an amount equal to the RATA that may be provided for the project.

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

WAC 136-165-020 Requirements for consideration of RATA fund increases. (1) When a county submits its final prospectus as described in WAC 136-161-050, the county road administration board presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) All cost increases during the course of construction shall be the responsibility of the county. In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation once during the course of a project's development, and such request may occur only after completion of preliminary engineering, but prior to commencing construction. A project shall be considered to have commenced construction if:

(a) The construction contract for the work has been awarded; or

(b) If done by county forces, the work has commenced, except for construction engineering.

Requests for increases in excess of twenty-five percent of the original RATA allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits. If current funding sources are not sufficient to cover the costs beyond a twenty-five percent increase, the county may resubmit the same project for funding in the next funding period. Upon funding of the new project by the county road administration board, the previous

contract shall become void. All RATA funds expended on the previous contract shall be repaid to the county road administration board unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

(a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) of this section;

(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) of this section;

(c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) The request is not to pay for an expansion of the originally approved project;

(e) If the work is to be done by contract, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, advertisement of the project for construction bids; and

(f) If the work is to be done by county forces, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, commencement of the work.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgment and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which a county is expected to consider includes, but is not limited to, the following:

(a) The availability at the needed time of matching funds and other supplementary funds;

(b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;

(c) Required permits, including preproject scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;

(d) Required right of way or other easements, and the time and cost of acquisition;

(e) Availability of qualified contractors to perform the work;

(f) Ownership, type, amount, and time requirements of any required utility relocation;

(g) Historical and projected labor, equipment and material costs; and

(h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The county road administration board will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

(a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;

(b) Project permit requirements were substantially changed, or new permits were required;

(c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;

(d) Design or other standards applicable to the project were changed; and/or

(e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds.

(6) Extraordinary and unforeseeable market-wide fluctuations in standard bid item costs will not be considered a basis for project cost increases by the county road administration board.

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

WAC 136-167-030 Termination of approved project after RATA reimbursement. (1) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made, for other than an unanticipated scope change, and is prepared to repay the RATA for all RATA funds received, the county shall, by means of a letter signed by the chair of the board of county commissioners or the county executive as appropriate, inform the county road administration board of its termination of the project. The letter shall state the reasons for termination and commit to repaying all RATA funds received for the project. Upon acknowledgment of such termination by the county road administration board, the county shall repay the county road administration board for all RATA funds paid to the county on that project within ~~((sixty))~~ 60 days of such acknowledgment. After receipt of the RATA repayment, the county road administration board will void the CRAB/county contract and allocate the RATA funds to other projects within the region.

(2) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made, for other than an unanticipated scope change, and does not want to be required to repay the county road administration board for all RATA funds received, a letter of request signed by the chair of the board of county commissioners or the county executive as appropriate must be sent to the county road administration board. The request must include:

(a) An explanation of the reasons that the project will not proceed to completion;

(b) A statement of the amount of RATA funds which the county does not want to repay; ~~((and))~~

(c) An explanation of why the county believes full repayment should not be made; and

(d) Agreement to provide supporting documentation for amounts the county does not want to repay.

If the county road administration board grants the request, the county shall repay all RATA funds not exempted from repayment within 60 days of the county road administration board's action, the CRAB/county contract will be amended, and the remaining RATA funds will be allocated to other projects within the region. If the county road administration board denies the request, full repayment shall be made as provided in subsection (1) of this section.

~~((3) If after an engineering design study for the RATA funded project has been completed, and as a result of that study it is found that the project scope submitted the final project prospectus must be significantly altered due to factors not anticipated at the time of final prospectus submittal, a county may voluntarily withdraw the project and resubmit a revised project during a later RAP cycle.~~

~~A county wishing to voluntarily withdraw a project for an unanticipated scope change shall submit a request signed by the chair of the board of county commissioners or the county executive as appropriate, to the county road administration board notifying the board of the county's intention to withdraw the project and the nature of the unanticipated project scope change. The county may retain up to five percent of the RATA request amount, not to exceed seventy-five thousand dollars for the RATA share of the cost to perform the engineering design study. In order to be eligible to retain the RATA share of the cost to perform the engineering design study, the project must have begun the engineering design within one year of project approval by the county road administration board and it must be documented in the request that the changed conditions could not have been reasonably anticipated at the time of final prospectus submittal. The director shall make the determination of eligibility for the following conditions:~~

~~(a) Unanticipated subsurface conditions identified in a geotechnical report resulting from subsurface explorations (i.e., drilling) that would not normally be completed prior to the final prospectus;~~

~~(b) Unanticipated environmental and/or cultural resource issues identified in an environmental or cultural resource discipline report that would not normally be completed prior to the final prospectus submittal;~~

~~(c) Changes in project eligibility resulting from annexation or functional classification changes not anticipated prior to final prospectus submittal;~~

~~(d) Inability to obtain necessary rights of way from agencies/entities that are not subject to eminent domain (i.e., federal or tribal agencies); or~~

~~(e) Major geometric changes required to mitigate impacts identified by the public and/or adjacent property owners as the result of a formal environmental determination, formal public involvement process, or unanticipated costs for utility relocations that were not reasonably anticipated prior to final prospectus submittal.~~

~~Upon a determination of eligibility by the director, the county shall repay the county road administration board for all costs in excess of the eligible amount within sixty days of such acknowledgment, the CRAB/county contract will be amended, and the remaining RATA funds will be allocated to other projects within the region. Any determination made by the director under this subsection may be appealed to the full~~

~~board for a final determination of eligibility. Nothing in this subsection is intended to limit or restrict a county from making a request to the county road administration board as allowed under subsection (2) of this section.)~~

AMENDATORY SECTION (Amending WSR 13-16-105, filed 8/7/13, effective 9/7/13)

WAC 136-170-030 Terms of CRAB/county contract.

(1) The CRAB/county contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding, and the county shall be entitled to receive RATA funding in accordance with the vouchering/payment process as described in chapter 136-180 WAC, only if the contract is properly signed and returned to the county road administration board within forty-five calendar days of its mailing by the county road administration board.

(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer, and, if applicable, the phased construction plan submitted by the county engineer to the county road administration board.

(d) The county will notify the county road administration board:

(i) If a single construction contract is intended to fully complete the project, at the time of project advertisement, construction contract, and when the project has been completed. Should the small works roster process be utilized, then the initial notice must occur prior to initiating the contractor selection process.

(ii) If county forces are utilized to fully complete the project, at the time of project notice, as required in RCW 36.77.070, commencement of construction activities, and when the project has been completed.

(iii) If the project applies a phased construction methodology, at those times described in a phased construction plan, consistent with subsection (2) of this section.

(e) The county road administration board will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the county road administration board office, subject to the availability of RATA funds apportioned to the region; or subject to a minimum regional balance determined by the CRABoard for the purposes of cash flow; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied. Counties are ineligible to receive RATA funded construction cost reimbursements prior to satisfaction of the initial project notice requirement described in subsection (1)(d) of this section.

(f) The county will reimburse the RATA in the event a project post-audit reveals ineligible expenditures of RATA funds.

(g) The county may be required to reimburse the RATA in the event of early termination in accordance with the provisions of chapter 136-167 WAC.

(h) The county agrees to amend the contract in cases where:

(i) Additional RATA funds have been requested and approved under chapter 136-165 WAC;

(ii) Other relief from the original scope, design or project limits has been approved by the county road administration board under chapter 136-165 WAC; or

(iii) A project has been terminated without full RATA reimbursement under WAC 136-167-030(2).

(i) The county agrees to provide periodic project development progress reports as requested by the county road administration board.

(2) Counties may implement a phased construction methodology in the completion of RATA funded projects. A phased construction methodology is described as the process to implement multiple construction contracts through competitive bid and award, contracts awarded through exercise of the small works roster process, or construction by county forces, or a combination of two or more of these three methods, in order to complete a single RATA funded project. If a county elects to use phased construction methodology, construction of at least one of the project phases must commence by the lapsing date and all remaining phases must commence within two years of commencement of the first phase. In the event the county fails to meet either of these timelines, repayment of expended RATA funds for all phases of the project will be required unless waived by the county road administration board in keeping with the provisions of this section.

(a) In order to be considered phased construction, each phase must:

(i) Be distinct, independent, and nonoverlapping construction activities as to location and type of work;

(ii) Result in separate function and utility;

(iii) Be part of related and sequential construction activities that lead to overall project completion;

(iv) Separately and collectively comply with state laws as to procurement of contract work and use of county forces; and

(v) Not be implemented in a way that would otherwise be considered a split project, as described in WAC 136-170-060, without first obtaining approval as a split project.

(b) In order to satisfy notification requirement of subsection (1)(d) of this section, a phased construction plan must be developed and submitted to the county road administration board at least fifteen calendar days prior to contract bid advertisement, beginning the selection process for a contractor through a small works roster process, or commencement of construction by county forces, whichever occurs first. The phased construction plan must:

(i) Include a description of each construction phase, the contracting method to be employed or that county forces will be used;

(ii) Include an estimated cost and begin and end dates for each construction phase; and

(iii) Describe the relationship between construction phases and ultimate completion of the overall project.

AMENDATORY SECTION (Amending WSR 09-23-044, filed 11/9/09, effective 12/10/09)

WAC 136-170-040 Combining of CRAB/county contracts. In those cases when a county desires to combine two or more adjacent RATA funded projects into a single (~~con-~~struction) contract, the county, prior to advertising for the construction contract, or prior to commencing construction should any of the projects be scheduled for completion by county forces, must make a formal written request to the county road administration board to combine the projects into a single project, assuring that the original prospectus work will be accomplished as originally proposed or as previously revised by the county road administration board, regardless of the applicable maximum project RATA contribution.

Upon receipt of a letter of request to combine, and consideration and approval by the director of the county road administration board, a revised CRAB/county contract will be prepared and sent to the county for its execution and returned in the same manner as for the original contract(s). Projects shall be considered adjacent if they have a common terminus.

NEW SECTION

WAC 136-170-045 Bundling of construction projects. In those cases when a county desires to bundle two or more RATA funded projects into a single construction contract, the county, prior to advertising for the construction contract, or prior to commencing construction should any of the projects be scheduled for completion by county forces, must make a formal written request to the county road administration board to bundle the projects into a single construction contract. This request must describe the benefit to bundling the projects into a single construction contract and demonstrate how the county will separately track each individual project/item cost.

Upon receipt of a letter of request to bundle funded projects for construction, a letter approving or denying the request will be prepared and sent to the county from the county road administration board executive director.

AMENDATORY SECTION (Amending WSR 09-23-044, filed 11/9/09, effective 12/10/09)

WAC 136-170-050 Combining of RATA funded project with non-RATA funded project. In those cases when a county desires to combine a RATA funded project with one or more adjacent non-RATA funded projects, the county, prior to advertising for the construction contract, or prior to commencing construction should any of the projects be scheduled for completion by county forces, shall notify the county road administration board in writing of its plans to combine the projects into a single construction project, assuring in writing that the work items assigned to the RATA funded section will remain distinct and separate through the bid documents and contract plans.

Upon verification that the request is submitted in a timely manner, that the combined project will meet the conditions of the CRAB/county contract and prospectus requirements, and that RATA funded items of work will be suffi-

ciently separated from other work, the CRAB director will respond in writing, to grant the combination. Projects shall be considered adjacent if they have a common terminus.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-180-030 Voucher approval. The county constructing each RAP project may submit vouchers monthly as the work progresses and shall submit a final voucher after completion of each RAP project for the payment of the RATA share of the project cost. Each voucher shall include total project costs to date, including costs covered by other funding sources. The county shall include with each voucher sufficient documentation to verify costs. Reimbursable costs include all eligible direct costs for the design phase, right-of-way phase in allowed regions, and construction phase. Indirect costs shall not be included. The chair of the county road administration board or his/her designee shall approve such vouchers for payment to the county submitting the voucher.

WSR 21-19-154
PROPOSED RULES
COUNTY ROAD
ADMINISTRATION BOARD
[Filed September 22, 2021, 11:11 a.m.]

Original Notice.

Proposal is exempt under chapter 36.78 RCW.

Title of Rule and Other Identifying Information: Amending chapters 136-12, 136-14, 136-15 and 136-50 WAC, commonly known as the standards of good practice, to address housekeeping items as well as amend or remove outdated requirements and add new requirements necessitated by legislative change or outside agency WAC.

Hearing Location(s): On October 28, 2021, at 2:00 p.m., 2404 Chandler Court S.W., Olympia, WA 98504.

Date of Intended Adoption: October 28, 2021.

Submit Written Comments to: Drew Woods, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, email drew.woods@crab.wa.gov, by October 22, 2021.

Assistance for Persons with Disabilities: Contact Drew Woods, phone 360-753-5989, TTY 800-883-6384, email drew.woods@crab.wa.gov, by October 22, 2021.

Reasons Supporting Proposal: Housekeeping changes and necessary updates.

Statutory Authority for Adoption: Chapter 36.78 RCW.

Statute Being Implemented: Not applicable.

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

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

Name of Proponent: County road administration board, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Derek Pohle, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989;

Enforcement: Drew Woods, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989.

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 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.

Is exempt under chapter 36.78 RCW.

September 20, 2021

Jane Wall

Executive Director

AMENDATORY SECTION (Amending WSR 17-11-037, filed 5/11/17, effective 6/11/17)

WAC 136-12-010 Purpose and authority. The laws of the state of Washington make detailed provisions in chapter 36.80 RCW, for the employment of a county engineer in each county. This chapter specifies that the county legislative authority of each county shall employ a county road engineer on either a full-time or part-time basis, or by contracting with another county for the engineering services of a county road engineer; that ~~((he/she))~~ they shall be a registered and licensed professional civil engineer under the laws of this state; that ~~((he/she))~~ they shall have supervision, under the direction of the county legislative authority, of all activities related to the county roads of the county, including maintenance; that ~~((he/she))~~ they shall certify to the county legislative authority all bills with respect to county roads; that ~~((he/she))~~ they shall keep complete public records of all road department activities; that ~~((he/she))~~ they shall prepare plans and specifications for all construction work on the county road system; give an official bond to the county conditioned upon faithfully performing all the duties and accounting for county property entrusted to ~~((him or her))~~ them.

AMENDATORY SECTION (Amending WSR 19-04-048, filed 1/29/19, effective 3/1/19)

WAC 136-12-030 Acting county engineer. If for any reason it is impossible to employ a new county engineer immediately, the county legislative authority shall designate, by resolution, an acting county engineer for an interim period not to exceed six months except as provided in WAC 136-12-060. A copy of such resolution shall be forwarded to the county road administration board within five business days of the effective date of the vacancy.

If the acting county engineer is not a licensed professional civil engineer, the legislative authority shall designate a licensed professional civil engineer to perform all professional civil engineering functions during the interim period as required by chapter 18.43 RCW, and the unlicensed acting

county engineer shall perform only those functions of the office not requiring a professional civil engineer's license.

Per RCW 18.43.120, it is unlawful for a person to practice engineering without a license, unless directly overseen by a licensed individual. For the purposes of this chapter, the practice of engineering involves anything requiring engineering opinion, judgment, consultation, analysis, calculation, or design, but would exclude certain routine maintenance and operations decision making and calculations by qualified personnel.

AMENDATORY SECTION (Amending WSR 19-04-048, filed 1/29/19, effective 3/1/19)

WAC 136-12-080 Supervision of nonengineering county engineer duties in counties with a part-time county engineer or a contract county engineer. When a legislative authority of a county chooses to employ a county engineer on a part-time basis or contract with another county for the services of its county engineer, it shall designate by resolution a full-time employee to perform the day-to-day supervision of the county engineer duties not requiring a professional civil engineering license in accordance with policies established by the legislative authority.

Per RCW 18.43.120, it is unlawful for a person to practice engineering without a license, unless directly overseen by a licensed individual. For the purposes of this chapter, the practice of engineering involves anything requiring engineering opinion, judgment, consultation, analysis, calculation, or design, but would exclude certain routine maintenance and operations decision making and calculations by qualified personnel.

AMENDATORY SECTION (Amending WSR 19-04-048, filed 1/29/19, effective 3/1/19)

WAC 136-14-020 Application. Priority programming techniques shall be applied in the ranking of all potential projects on the road system of each county. They may be applied to all road and bridge projects combined in a single group, ~~((or))~~ may be applied to individual functional classes of roads and further subdivided into rural and urban systems if desired, or by funding source(s). Priority programming will not be required, but is recommended, for the local access road system. However, bridges on the local access road system must be included in priority programming.

AMENDATORY SECTION (Amending WSR 19-04-048, filed 1/29/19, effective 3/1/19)

WAC 136-14-030 Process. Each county engineer will be required to develop a priority programming process tailored to meet the overall roadway system development policy determined by ~~((his or her))~~ their county legislative authority. Items to be included and considered, which may vary from county to county, in the technique for roads shall include, but need not be limited to the following:

- (1) Traffic volumes;
- (2) Roadway condition;
- (3) Geometrics;
- (4) Safety and accident history; and

(5) Matters of significant local importance.

~~((The manner in which these various items are treated may vary from county to county.))~~

Bridge priorities shall be established in accordance with WAC 136-20-060. A description of the priority programming technique to be used shall be submitted by each county engineer to the county road administration board, upon request.

The county road administration board, upon request, will provide assistance to counties in the development, evaluation or modification of their priority programming process in order to meet the requirements of this rule.

AMENDATORY SECTION (Amending WSR 19-04-048, filed 1/29/19, effective 3/1/19)

WAC 136-14-040 Application of process. The priority programming process for roads shall be applied by the county engineer to all potential arterial, collector and bridge projects in the county, and to local access road projects if directed by the legislative authority. The resulting priority array(s) shall be updated not later than the first Monday in October and shall be consulted together with bridge priorities by the county legislative authority and county engineer during the preparation of the proposed six-year transportation program as described in chapter 136-15 WAC.

AMENDATORY SECTION (Amending WSR 88-16-017, filed 7/25/88)

WAC 136-15-040 Program listings of specific projects. This listing shall include projects having an estimated cost approximately equal to the anticipated revenues for projects during the program period, clearly identifying those projects (1) for which funding is reasonably assured; (2) for which funds are not specifically assured but are within expected levels of existing programs for the applicable year; and (3), if desired, those which are unfunded within currently anticipated resources. Because of the possibility of unforeseen future circumstances at the time of approval of the six-year program, the above construction funding classification for any project shall not be considered final, but only an indication of the relative certainty of the various proposed projects.

Minimum required information for each project: Road log number, beginning and ending mile post limits, project length, federal functional classification, freight and goods classification, project name, project description or type, estimated cost and proposed/secured funding sources, and funding status.

It is recommended that provision be made in the program for one or more generic projects each year for improvements such as miscellaneous safety projects, new culvert and small bridge construction and other minor improvements.

Chapter 136-50 WAC

~~STANDARDS OF GOOD PRACTICE—((STATUTORY RELATIONSHIP BETWEEN COUNTY ENGINEER AND COUNTY LEGISLATIVE AUTHORITY—~~~~ADOPTION OF WRITTEN POLICIES)) COUNTY ROAD DEPARTMENT ADMINISTRATION~~

AMENDATORY SECTION (Amending WSR 02-18-020, filed 8/22/02, effective 9/22/02)

WAC 136-50-010 Purpose and authority. The powers and duties of the county legislative authority in relation to roads and bridges, and the qualifications and duties of the county engineer are detailed in Title 36 RCW. This chapter ~~((reiterates the formal relationship between the legislative authority and its county engineer and requires that certain written policies be adopted to insure the efficient and productive operation of the road department.~~

In this chapter and throughout Title 136 WAC, the term "county engineer" shall mean both "county road engineer" and "county engineer," as those terms are used in Title 36 RCW)) specifies policies and notifications to be coordinated between the county engineer, county legislative authority, and the county road administration board.

AMENDATORY SECTION (Amending WSR 02-18-020, filed 8/22/02, effective 9/22/02)

WAC 136-50-030 Duties of the county engineer. The various duties and responsibilities of the county engineer are set forth in chapter 36.80 RCW. In addition to these specifically defined duties, the county engineer shall be guided by written policies regarding county road department operation as promulgated by the county legislative authority.

In this chapter and throughout Title 136 WAC, the term "county engineer" shall mean both "county road engineer" and "county engineer," as those terms are used in Title 36 RCW. See AGO Letter Opinion 1972 No. 049.

AMENDATORY SECTION (Amending WSR 02-18-020, filed 8/22/02, effective 9/22/02)

WAC 136-50-035 Charter counties. In counties that have adopted a home rule charter, as provided for in Article 11 subsection 4 of the state Constitution, the duties and responsibilities of the county engineer set forth in chapter 36.80 RCW may be modified by the county legislative authority as allowed by existing constitutional law, statutory law, and the county's charter.

If the legislative/executive authority of a charter county has modified/delegated the statutory duties of the county engineer, the county shall submit the resolution or ordinance adopting these modifications/delegations to the county road administration board within five business days of adoption. This shall include any subsequent written delegations of authority.

AMENDATORY SECTION (Amending WSR 02-18-020, filed 8/22/02, effective 9/22/02)

WAC 136-50-050 Written policy. In order to implement the requirements of this chapter, the county legislative authority shall develop and by resolution or ordinance adopt written policies, within the limits of existing state law, that cover any matters relating to county road department ((operation)) administration, maintenance, and construction as they may see fit. At a minimum, the following written policies must be adopted ((to cover the issues listed in WAC 136-50-051 through 136-50-055)) by the legislative authority:

(1) Organization: A policy designating the interrelationships of all positions involved in the administration, operation, maintenance, and construction of the county road system, including the legislative/executive authority. Said policy shall include a chart or pictorial representation of the interrelationships and must clearly show the chain of command throughout the entire organization. It is recommended, but not required, the positions be represented by title or position number rather than by employee name to reduce the frequency of revision, adoption, and required submission to CRAB.

(2) Complaint handling: A policy establishing the method by which complaints from the general public and others will be received, assigned for review, response and any corrective action, and follow-up communication deemed appropriate.

(3) Work for others: A policy regarding approval of work for other public agencies and county departments within the requirements of RCW 35.77.020, 36.75.205, and chapter 39.34 RCW. The policy shall include, but is not limited to, the following:

(a) Statement of intent indicating whether the legislative authority will accept requests for work from other public agencies or other county departments;

(b) Statement indicating procedures to be followed in processing such requests in accordance with applicable statutes; and

(c) Statement indicating any delegation of authority in processing such requests.

(4) County road standards: The county engineer shall propose and, the legislative authority shall adopt, and amend as needed, standards for all county roads per chapter 36.86 RCW, and shall include:

(a) Design standards, see WSDOT local agency guidelines chapter 42.

(b) Construction specifications.

(c) Permitting work within the county road right-of-way.

(5) Survey monument preservation: A policy regarding preservation, maintenance, and restoration of survey monuments within the county road right-of-way.

AMENDATORY SECTION (Amending WSR 02-18-020, filed 8/22/02, effective 9/22/02)

WAC 136-50-070 Submittal of policies to the county road administration board. Each county legislative authority shall submit to ~~((the office of))~~ the county road administration board one copy of each adopted policy required in WAC ~~((136-50-051 through 136-50-055,))~~ 136-50-050 and

any subsequent revisions thereto, (~~adopted pursuant to this regulation~~) within 10 business days of adoption. The county road administration board shall maintain a current file of all such adopted policies for each county.

NEW SECTION

WAC 136-50-080 Notifications. To ensure that the standards of good practice are followed and, to facilitate county road administration board assistance and support to the counties, the county engineer shall notify the county legislative authority and the county road administration board within five business days regarding any of the following:

(1) The county engineer's professional civil engineering license expires or is suspended by the board of registration for professional engineers and land surveyors;

(2) The county, the county road department, or the county engineer is cited by any state or federal agency for violating state or federal law regarding county road administration, operation, maintenance, or construction;

(3) The county's certified agency certification is placed on probation or is revoked by the Washington state department of transportation;

(4) A finding or management letter from the state auditor's office directly or indirectly involving or effecting county road or equipment rental and revolving funds or policies;

(5) Judgments or verdicts involving the county road department.

NEW SECTION

WAC 136-50-090 Failure to comply. If a county fails to comply with any portion of this chapter, the matter will be considered at the next regular meeting of the county road administration board. The county road administration board may take any action deemed necessary to ensure a county's compliance with this chapter.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|----------------|---|
| WAC 136-50-051 | Policy regarding organization. |
| WAC 136-50-052 | Policy regarding personnel practices. |
| WAC 136-50-053 | Policy regarding handling of complaints. |
| WAC 136-50-054 | Policy regarding approval of work for other public agencies and county departments. |
| WAC 136-50-055 | Policy regarding accommodation of utilities on county road rights of way. |

WSR 21-19-156

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed September 22, 2021, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-007.

Title of Rule and Other Identifying Information: WAC 182-543-2000 Eligible providers and provider requirements, 182-551-2010 Definitions, and 182-551-2210 Provider requirements.

Hearing Location(s): On October 26, 2021, at 10:00 a.m. The health care authority (HCA) remains closed in response to the coronavirus disease (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/webinar/register/WN_Ig_1_IBzQ0Oa2h_0Y6Ak0w. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than October 27, 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 October 26, 2021.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.lougheed@hca.wa.gov, by October 8, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending these rules to change occurrences of "ordering physician" to "authorized practitioner" to align with amendments in chapters 182-543 and 182-551 WAC recently made in WSR 21-12-051.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 18.79.256.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 18.79.256

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

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: Jason Crabbe, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-9563; Implementation and Enforcement: Cynde Rivers, P.O. Box 45506, Olympia, WA 98504-5506, 360-725-5282.

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 proposed rule does not impose more-than-minor costs on businesses.

September 22, 2021
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

WAC 182-551-2010 Definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC apply to subchapter II:

"Acute care" means care provided by a home health agency for clients who are not medically stable or have not attained a satisfactory level of rehabilitation. These clients require frequent intervention by a registered nurse or licensed therapist.

"Authorized practitioner" means a physician, nurse practitioner, clinical nurse specialist, or physician assistant who may order home health services, including face-to-face encounter services.

"Brief skilled nursing visit" means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs only one of the following activities during a visit to a client:

- (a) An injection;
- (b) Blood draw; or
- (c) Placement of medications in containers.

"Chronic care" means long-term care for medically stable clients.

"Full skilled nursing visit" means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs one or more of the following activities during a visit to a client:

- (a) Observation;
- (b) Assessment;
- (c) Treatment;
- (d) Teaching;
- (e) Training;
- (f) Management; and
- (g) Evaluation.

"Home health agency" means an agency or organization certified under medicare to provide comprehensive health care on an intermittent or part-time basis to a patient in any setting where the patient's normal life activities take place.

"Home health aide" means a person registered or certified as a nursing assistant under chapter 18.88 RCW who, under the direction and supervision of a registered nurse or licensed therapist, assists in the delivery of nursing or therapy related activities, or both.

"Home health aide services" means services provided by a home health aide only when a client has an acute, intermittent, short-term need for the services of a registered nurse, physical therapist, occupational therapist, or speech therapist who is employed by or under contract with a home health agency. These services are provided under the supervision of the previously identified authorized practitioners and include,

but are not limited to, ambulation and exercise, assistance with self-administered medications, reporting changes in a client's condition and needs, and completing appropriate records.

"Home health skilled services" means skilled health care (nursing, specialized therapy, and home health aide) services provided on an intermittent or part-time basis by a medicare-certified home health agency with a current provider number in any setting where the client's normal life activities take place. See also WAC 182-551-2000.

"Long-term care" is a generic term referring to various programs and services, including services provided in home and community settings, administered directly or through contract by the department of social and health services' (DSHS) division of developmental disabilities (DDD) or aging and long-term support administration (ALTSA) through home and community services (HCS).

"Plan of care (POC)" (also known as **"plan of treatment (POT)"**) means a written plan of care that is established and periodically reviewed and signed by both an (~~ordering physician~~) authorized practitioner and a home health agency provider. The plan describes the home health care to be provided in any setting where the client's normal life activities take place. See WAC 182-551-2210.

"Review period" means the three-month period the medicaid agency assigns to a home health agency, based on the address of the agency's main office, during which the medicaid agency reviews all claims submitted by that home health agency.

"Specialized therapy" means skilled therapy services provided to clients that include:

- (a) Physical;
- (b) Occupational; or
- (c) Speech/audiology services.

(See WAC 182-551-2110.)

"Telemedicine" - For the purposes of WAC 182-551-2000 through 182-551-2220, means the use of telemonitoring to enhance the delivery of certain home health skilled nursing services through:

- (a) The collection and transmission of clinical data between a patient at a distant location and the home health provider through electronic processing technologies. Objective clinical data that may be transmitted includes, but is not limited to, weight, blood pressure, pulse, respirations, blood glucose, and pulse oximetry; or
- (b) The provision of certain education related to health care services using audio, video, or data communication instead of a face-to-face visit.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

WAC 182-551-2210 Provider requirements. For any delivered home health service to be payable, the medicaid agency requires home health providers to develop and implement an individualized plan of care (POC) for the client.

(1) The POC must:

- (a) Be documented in writing and be located in the client's home health medical record;

(b) Be developed, supervised, and signed by a licensed registered nurse or licensed therapist;

(c) Reflect the ~~((ordering physician's))~~ authorized practitioner's orders and client's current health status;

(d) Contain specific goals and treatment plans;

(e) Be reviewed and revised by an ~~((ordering physician))~~ authorized practitioner at least every sixty calendar days, signed by the ~~((ordering physician))~~ authorized practitioner within forty-five days of the verbal order, and returned to the home health agency's file; and

(f) Be available to medicaid agency staff or its designated contractor(s) on request.

(2) The provider must include all the following in the POC:

(a) The client's name, date of birth, and address (to include name of residential care facility, if applicable);

(b) The primary diagnosis (the diagnosis that is most related to the reason the client qualifies for home health services) or the diagnosis that is the reason for the visit frequency;

(c) All secondary medical diagnoses, including date or dates of onset or exacerbation;

(d) The prognosis;

(e) The type or types of equipment required, including telemedicine as appropriate;

(f) A description of each planned service and goals related to the services provided;

(g) Specific procedures and modalities;

(h) A description of the client's mental status;

(i) A description of the client's rehabilitation potential;

(j) A list of permitted activities;

(k) A list of safety measures taken on behalf of the client; and

(l) A list of medications which indicates:

(i) Any new prescription; and

(ii) Which medications are changed for dosage or route of administration.

(3) The provider must include in or attach to the POC:

(a) A description of the client's functional limits and the effects;

(b) Documentation that justifies why the medical services should be provided in any setting where the client's life activities take place instead of an ~~((ordering physician's))~~ authorized practitioner's office, clinic, or other outpatient setting;

(c) Significant clinical findings;

(d) Dates of recent hospitalization;

(e) Notification to the department of social and health services (DSHS) case manager of admittance;

(f) A discharge plan, including notification to the DSHS case manager of the planned discharge date and client disposition at time of discharge; and

(g) Order for the delivery of home health services through telemedicine, as appropriate.

(4) The individual client medical record must comply with community standards of practice, and must include documentation of:

(a) Visit notes for every billed visit;

(b) Supervisory visits for home health aide services as described in WAC 182-551-2120(3);

(c) All medications administered and treatments provided;

(d) All ~~((physician's))~~ authorized practitioner's orders, new orders, and change orders, with notation that the order was received before treatment;

(e) Signed ~~((physician's))~~ authorized practitioner's new orders and change orders;

(f) Home health aide services as indicated by a registered nurse or licensed therapist in a home health aide care plan;

(g) Interdisciplinary and multidisciplinary team communications;

(h) Inter-agency and intra-agency referrals;

(i) Medical tests and results;

(j) Pertinent medical history; and

(k) Notations and charting with signature and title of writer.

(5) The provider must document at least the following in the client's medical record:

(a) Skilled interventions per the POC;

(b) Client response to the POC;

(c) Any clinical change in client status;

(d) Follow-up interventions specific to a change in status with significant clinical findings;

(e) Any communications with the attending ~~((ordering physician))~~ authorized practitioner; and

(f) Telemedicine findings, as appropriate.

(6) The provider must include the following documentation in the client's visit notes when appropriate:

(a) Any teaching, assessment, management, evaluation, client compliance, and client response;

(b) Weekly documentation of wound care, size (dimensions), drainage, color, odor, and identification of potential complications and interventions provided;

(c) If a client's wound is not healing, the client's ~~((ordering physician))~~ authorized practitioner has been notified, the client's wound management program has been appropriately altered and, if possible, the client has been referred to a wound care specialist; and

(d) The client's physical system assessment as identified in the POC.

AMENDATORY SECTION (Amending WSR 18-24-021, filed 11/27/18, effective 1/1/19)

WAC 182-543-2000 Eligible providers and provider requirements. (1) The medicaid agency pays qualified providers for medical equipment and repairs on a fee-for-service basis as follows:

(a) Providers who are enrolled with medicare for medical equipment and related repair services;

(b) Qualified complex rehabilitation technology (CRT) suppliers who are enrolled with medicare;

(c) Medical equipment dealers and pharmacies who are enrolled with medicare, and have a national provider identifier (NPI) for medical supplies;

(d) Prosthetics and orthotics providers who are licensed by the Washington state department of health in prosthetics and orthotics. Medical equipment dealers and pharmacies that do not require state licensure to provide selected prosthetics and orthotics may be paid for those selected prosthet-

ics and orthotics only as long as the medical equipment dealers and pharmacies meet the medicare enrollment requirement;

(e) Occupational therapists providing orthotics who are licensed by the Washington state department of health in occupational therapy;

(f) Physicians who provide medical equipment in the office; and

(g) Out-of-state prosthetics and orthotics providers who meet their state regulations.

(2) Providers and suppliers of medical equipment must:

(a) Meet the general provider requirements in chapter 182-502 WAC;

(b) Have the proper business license and be certified, licensed and bonded if required, to perform the services billed to the agency;

(c) Have a valid prescription for the medical equipment.

(i) To be valid, a prescription must:

(A) Be written on the agency's Prescription Form (HCA 13-794). The agency's electronic forms are available online at <https://www.hca.wa.gov/billers-providers/forms-and-publications>;

(B) Be written by ~~((a physician))~~ an authorized practitioner as defined in WAC ~~((182-500-0085))~~ 182-551-2010 and meet the face-to-face encounter requirements described in WAC 182-551-2040;

(C) Be written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the medical equipment. Prescriptions must not be back-dated;

(D) Be no older than one year from the date the prescriber signs the prescription; and

(E) State the specific item or service requested, diagnosis, estimated length of need (weeks, months, or years), and quantity.

(ii) For dual-eligible clients when medicare is the primary payer and the agency is being billed for only the copay, only the deductible, or both, subsection (2)(a) of this section does not apply.

(d) Provide instructions for use of equipment;

(e) Provide only new equipment to clients, which include full manufacturer and dealer warranties. See WAC 182-543-2250(3);

(f) Provide documentation of proof of delivery, upon agency request (see WAC 182-543-2200); and

(g) Bill the agency using only the allowed procedure codes listed in the agency's published medical equipment billing guide.