

WSR 18-23-004
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed November 7, 2018, 3:33 p.m., effective December 8, 2018]

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

Purpose: The department is amending these rules to update program requirements, clarify training requirements, and simplify eligibility based on statute[s] governing the program. The chapter has been rewritten using plain language principles, and some content has been moved and sections repealed to improve organization and readability of the chapter.

Citation of Rules Affected by this Order: New WAC 388-826-0011, 388-826-0016, 388-826-0041, 388-826-0071, 388-826-0072, 388-826-0078, 388-826-0079, 388-826-0133 and 388-826-0205; repealing WAC 388-826-0015, 388-826-0020, 388-826-0025, 388-826-0030, 388-826-0035, 388-826-0045, 388-826-0055, 388-826-0060, 388-826-0065, 388-826-0080, 388-826-0085, 388-826-0129, 388-826-0135, 388-826-0136, 388-826-0210, 388-826-0220 and 388-826-0250; and amending WAC 388-826-0001, 388-826-0005, 388-826-0010, 388-826-0040, 388-826-0050, 388-826-0070, 388-826-0075, 388-826-0077, 388-826-0130, 388-826-0138, 388-826-0145, 388-826-0150, 388-826-0160, 388-826-0170, 388-826-0175, 388-826-0200, 388-826-0230, 388-826-0240, and 388-845-1515.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 74.13.350.

Adopted under notice filed as WSR 18-12-108 on June 6, 2018.

Changes Other than Editing from Proposed to Adopted Version: The developmental disabilities administration (DDA) replaced references to chapter 388-145 WAC with references to chapter 110-145 WAC and WAC 110-145-1670 because the department of children, youth, and families recently recodified its rules under Title 110 WAC.

WSR 18-12-108 proposed new WAC 388-826-0131 and 388-826-0132 and proposed the repeal of WAC 388-826-0090 and 388-826-0095. As a result of comments received on these proposed changes, DDA will schedule changes for these sections for a second public hearing.

DDA made nonsubstantive changes to new WAC 388-826-0133. The changes remove "countable" from the section because a representative payee manages the client's income in general, not just countable income. The changes to subsections (1) and (2) are as follows:

The representative payee:

(1) ~~Receives and m~~Manages the client's ~~countable~~ income;

(2) Uses the client's ~~countable~~ income to contribute toward the cost of the client's participation and room and board;

A final cost-benefit analysis is available by contacting Chantelle Diaz, DDA, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 19, Repealed 17.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 9, Amended 19, Repealed 17.

Date Adopted: November 7, 2018.

Cheryl Strange
Secretary

AMENDATORY SECTION (Amending WSR 02-22-057, filed 10/31/02, effective 12/1/02)

WAC 388-826-0001 ~~What ((is the purpose of the)) are voluntary placement ((~~program~~) services? ((The purpose of the))~~ Voluntary placement ((~~program is to:~~

~~(1) Support the optimal growth and development of the child or youth in out of home placement. The sole reason for the out of home placement is the child's developmental disability.)~~ services are ((~~offered~~) administered by ((~~DSHS/ DDD~~) through a voluntary placement agreement. Parents retain custody of their child or youth.

~~(2) Support) the ((child and family with a shared parenting arrangement through the use of licensed foster care providers.~~

~~(3) Complement other public and private resources in providing supports to the child and family.~~

~~(4) Encourage the relationship between the child and parents, even when the child or youth is not living in their own home.~~

~~(5) These rules are adopted under the authority of RCW 74.13.350)) developmental disabilities administration (DDA) and provide temporary residential placement for a child outside of the child's regular home setting that is voluntarily agreed to by the child's parent, custodian, or guardian and DDA.~~

AMENDATORY SECTION (Amending WSR 02-22-057, filed 10/31/02, effective 12/1/02)

WAC 388-826-0005 What definitions((-)) apply to this chapter? (("Best interest" includes, but is not limited to:

~~(1) Prevent regression or loss of skills already acquired;~~

~~(2) Achieve or maintain self-sufficiency;~~

~~(3) Provide the least restrictive setting that will meet the child's/youth's medical, social, developmental and personal needs;~~

~~(4) Benefits the medical, personal, social and developmental needs of the child/youth;~~

(5) Maintains family relationships.)

"Child ((or youth))" means ~~((an individual))~~ a person who is eligible for ~~((division))~~ developmental disabilities administration (DDA) services ~~((per RCW 71A.16.040 and))~~ under chapter 388-825 WAC, ~~((is less than))~~ under eighteen ~~((years of age and who is))~~, and in the custody of a parent by blood, adoption, or legal guardianship.

"Child foster home" means a private home licensed to provide twenty-four hour care to children.

"Client ((or person))" means ~~((an individual is))~~ a person eligible for ~~((division))~~ DDA services ~~((per RCW 71A.16.040 and WAC 388-825-030))~~ under chapter 388-825 WAC.

~~("Community support services" means one or more of the services listed in RCW 71A.12.040 including, but not limited to the following services: Architectural, social work, early childhood intervention, employment, family counseling, respite care, information and referral, health services, legal services, therapy services, residential services and support, transportation services, and vocational services.)~~

"Client responsibility" means the total amount of a client's participation and room and board.

"Community inclusion activities" means person-centered, age appropriate, participation in activities in a client's local community.

"Custody" means protective care or guardianship of someone; parental responsibility, especially as allocated to one of two divorcing parents.

"DDA" means the developmental disabilities administration within the department of social and health services.

"Department" means the department of social and health services of the state of Washington.

~~("Director" means the director of the division of developmental disabilities.~~

"DDD" means the division of developmental disabilities of the department of social and health services.

"Emergency" means a sudden, unexpected occurrence demanding immediate action.

"Exemption" means the department's approval of a written request for an exception to a rule in this chapter.)

"Family" means ~~((individuals of any age, living together in the same household related by blood, marriage, adoption or as a result of sharing legal custody of a minor child))~~ one or more of the following relatives: Spouse or registered domestic partner, natural, adoptive or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

~~("Foster care provider" means the individual person licensed by the DSHS, children's administration, division of licensed resources (DLR) (chapter 388-148 WAC) to provide foster care in the person's home; or a group care agency licensed by DLR to provide foster care for an individual in a group facility or staffed residential setting.~~

"In the voluntary placement program the legal status of the child" means that the child is in legal custody of the biological or adoptive parent(s) or legal and custodial guardian.)

"Group care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis.

"Guardian ad litem (GAL)" means a court-appointed neutral investigator whose job is to make a recommendation to the court if the proposed guardian is fit to serve and whether the client is legally incapacitated.

~~("The) Judicial determination ((and review))"~~ means a court process ~~((that occurs in court and its purpose is))~~ to ~~((affirm that))~~ determine whether out-of-home placement is in the best interest of ~~((the))~~ a child. ~~((The parent is notified of the court date and may appear in court with the child's DDD social worker.))~~

"Legal guardian" means a person's legal guardian appointed through formal proceedings in accordance with state law.

"Legal status of the child" means that the child is in legal custody of a biological or adoptive parent or legal and custodial guardian.

"Out-of-home placement" means a ~~((DLR licensed))~~ home ~~((; a licensed group care))~~ other than the child's regular home, such as a state-operated living alternative or a facility ~~((or another))~~ licensed ~~((setting))~~ by the division of licensed resources (DLR) where the child has been placed.

"Parent" means ~~((the individual who is the))~~ a biological or adoptive ~~((person or legal custodial guardian))~~ parent who has legal responsibility for and physical custody of the child.

"Participation" has the same meaning as is under WAC 182-513-1100.

"Personal needs allowance (PNA)" means an amount set aside from a client's income under WAC 182-513-1105.

"Person-centered service plan (PCSP)" means a document that identifies the client's goals and assessed health and welfare needs. The person-centered service plan also indicates the paid services and natural supports that will assist the client to achieve their goals and address their assessed needs.

"Registered nurse delegator" means a licensed registered nurse who delegates specific nursing care tasks to a qualified nursing assistant or home care aide, and supports clients in a community-based care setting or in-home care setting under RCW 18.79.260.

"Residential habilitation services" means instruction and support services under WAC 388-845-1500.

"Respite care" means short-term, intermittent care to relieve a primary caregiver.

"Room and board" has the same meaning as is under WAC 182-513-1100.

"Shared parenting" means ~~((biological or adoptive parents or legal guardians and foster care providers share responsibilities. Responsibilities are for the physical and emotional care, education and medical well-being of child/youth who meets DDD eligibility criteria and who is in a voluntary out of home placement as is described in the shared parenting agreement))~~ a collaboration between the parent or legal guardian and licensed provider or state-operated living alternative (SOLA) to share in meeting the support needs of the client receiving voluntary placement services.

"Shared parenting plan" means a written plan ~~((among the parent, a foster care provider and DDD, with the expectation of))~~ for sharing responsibilities ~~((for care of a~~

child/youth, including exchanging information on a routine basis about medical, education, daily routines and special situations in the life of the child/youth)) among the parent, a licensed provider or SOLA and the department, outlining the shared responsibilities for care of a child.

~~("Voluntary out-of-home placement" for a child who is eligible for DDD services means:~~

~~(1) When a parent and the division of developmental disabilities (DDD) agree that it is in the best interest of the child to reside out of the home of the parents;~~

~~(2) The placement is solely due to the child's disability;~~

~~(3) There are no unresolved issues of abuse and neglect;~~

~~(4) When the parent or custodial and legal guardian and division sign a voluntary placement agreement; and~~

~~(5) When a child lives more than fifty percent of her/his life in a licensed setting that is other than in the parents' home. The setting may be a licensed foster family home, group care facility, or staffed residential home as licensed under chapter 74.15 RCW.)~~

"Significant change assessment" means an assessment triggered by an unexpected, documented change in a client's condition, activities of daily living, mood and behaviors, or psychological or medical conditions which affect the level of care needed for the client.

"SOLA" means state-operated living alternative.

"Staffed residential home" means a licensed facility that provides twenty-four hour care to six or fewer children who require more supervision than can be provided in a foster home.

"Supplemental security income (SSI)" means a needs-based assistance program administered by the federal social security administration for blind, disabled, and aged individuals.

~~"Voluntary placement agreement((s))" ((as used in this section,)) means a written agreement between the department and a child's parent, custodian, or legal guardian authorizing the department to place the child in a licensed facility or SOLA.~~

~~("Written request for out-of-home placement" means a written request signed by the custodial parent requesting out-of-home placement for the child or youth under eighteen years of age.)~~

AMENDATORY SECTION (Amending WSR 02-22-057, filed 10/31/02, effective 12/1/02)

WAC 388-826-0010 Who is eligible for ~~((the))~~ voluntary placement ~~((program))~~ services? ~~((Children who:~~

~~(1) Are determined eligible for DDD services under RCW 71A.16.040;~~

~~(2) Are under eighteen years of age when the request for services through VPP is made;~~

~~(3) Have no unresolved issues of abuse or neglect pending with DSHS children's administration;~~

~~(4) Are in the legal and physical custody of their parent or legal guardian; and~~

~~(5) The request is made solely due to the child's disability RCW 74.13.350 and parents have used all other appropriate services for their child through DDD.)~~

(1) A child is eligible for voluntary placement services if:

(a) The child:

(i) Is DDA-eligible under chapter 388-825 WAC;

(ii) Will enter voluntary out-of-home placement while under eighteen;

(iii) Has accessed all other available and appropriate DDA services;

(b) The child's parent, guardian, or legal custodian:

(i) Is unable to provide care for the child needs;

(ii) Has determined that the child would benefit from voluntary out-of-home placement;

(iii) Requests out-of-home placement solely because of the child's developmental disability;

(iv) Requests voluntary placement services in writing;

(v) Complies with the voluntary placement agreement;

and

(c) DDA:

(i) Has available funding;

(ii) Determines that available and appropriate in-home supports do not meet the child's needs;

(iii) Determines that voluntary out-of-home placement is in the child's best interest.

(2) The department considers voluntary out-of-home placement to be in the best interest of the child if voluntary placement services:

(a) Help maintain family relationships; and

(b) Provide the least restrictive setting that will benefit the child's medical, social, developmental, and personal needs.

(3) DDA waits to determine a client's eligibility for voluntary placement services until any pending child protective services' investigations conclude.

NEW SECTION

WAC 388-826-0011 What do voluntary placement services include? Voluntary placement services include:

(1) A shared parenting plan under WAC 388-826-0041;

(2) A person-centered service plan;

(3) Residential habilitation services;

(4) Community inclusion activities;

(5) Developmentally appropriate support to the child in activities of daily living;

(6) Comprehensive health and safety reviews facilitated by DDA every ninety days;

(7) Coordination with the medically intensive children's program under chapter 182-551 WAC;

(8) Coordination with the early support for infants and toddlers program for eligible children under the Individuals with Disabilities Education Act, Part C; and

(9) Coordination between the local school district and the licensed provider or SOLA to receive free and public education (FAPE) services.

NEW SECTION

WAC 388-826-0016 Where may a client receive voluntary placement services? A client may receive voluntary placement services in:

(1) A children's state-operated living alternative; or

(2) A home licensed under chapter 74.15 RCW, including a:

- (a) Child foster home;
- (b) Staffed residential home; or
- (c) Group care facility for medically-fragile children.

AMENDATORY SECTION (Amending WSR 02-22-057, filed 10/31/02, effective 12/1/02)

WAC 388-826-0040 What is ~~((*)~~ the voluntary placement agreement? ~~((It is a mutually voluntary and written document between the parent and the department. It must be signed by the child's parent and the DSHS/DDD representative to be in effect. An agreement regarding a Native American child is not valid unless executed in writing before the court and filed with the court as provided in RCW 13.34.130. Any party to the voluntary placement agreement may terminate the agreement at any time. When one party ends the agreement, per the VPA, the voluntary agreement is ended.~~

~~The agreement authorizes DSHS/DDD to facilitate a placement for the child who is under eighteen years of age in a licensed facility. Under the term of the agreement, the parent retains legal custody. DSHS/DDD is responsible for the child's placement and care. The agreement shall at a minimum specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the department while the child is in placement.)~~

(1) Before a child may enter voluntary out-of-home placement, the child's parent or legal guardian must execute a voluntary placement agreement.

(2) The voluntary placement agreement must specify:

(a) That the child's parent or legal guardian retains legal custody of the child;

(b) That the department is responsible for the child's placement and care;

(c) That the signature of the child's parent or legal guardian is required;

(d) The legal status of the child;

(e) The rights and obligations of the parent or legal guardian;

(f) The rights and obligations of the child;

(g) The rights and obligations of the department while the child is in placement; and

(h) That any party to the voluntary placement agreement may terminate the agreement at any time.

(3) If a court has entered a final divorce decree or parenting plan that delineates decision-making authority, the parent must provide a copy of the document to the department.

(4) A voluntary placement agreement regarding an Indian child is invalid unless it complies with RCW 13.38-150.

(5) If a child's placement is unsuccessful under the terms of the voluntary placement agreement, the child returns to their parent's physical care until a new placement is available.

(6) Upon termination of the voluntary placement agreement, the child must return to the parent or legal guardian's care unless:

(a) Taken into custody under RCW 13.34.050 or 26.44-050;

(b) Placed in shelter care under RCW 13.34.060; or

(c) Placed in foster care under RCW 13.34.130.

NEW SECTION

WAC 388-826-0041 What is a shared parenting plan? (1) A shared parenting plan is a written agreement between the client's parent or legal guardian, the licensed provider or SOLA, and the department.

(2) The shared parenting plan must:

(a) Include a plan for the parent or legal guardian's continual involvement, including:

(i) A schedule for visiting the child in out-of-home placement;

(ii) An activities schedule;

(iii) Emergency contact information;

(iv) Consent to medical care;

(v) Routine communication about medical issues, education, daily routines, and special considerations in the life of the child; and

(vi) Expectations for each party's role, including special considerations.

(b) Coordinate healthcare benefits;

(c) Designate a representative payee;

(d) Address the requirement to access all available income sources under WAC 182-512-0700(1);

(e) Include a plan for respite care if the child lives in a child foster home; and

(f) Be developed within forty-five days of the client's out-of-home placement and reviewed annually thereafter by the department.

(3) If any party does not follow the shared parenting plan, all parties must review and revise the shared parenting plan.

(4) If any party does not follow the revised shared parenting plan, DDA may terminate the client's voluntary placement services and the child will return to the parent or legal guardian's care unless:

(a) Taken into custody under RCW 13.34.050 or 26.44-050;

(b) Placed in shelter care under RCW 13.34.060; or

(c) Placed in foster care under RCW 13.34.130.

AMENDATORY SECTION (Amending WSR 02-22-057, filed 10/31/02, effective 12/1/02)

WAC 388-826-0050 ~~((Is there an ongoing court process when the child is in out of home placement and how does the process work))~~ What are the judicial requirements for a child receiving voluntary placement services?

~~((The ongoing court process involves the following activities:~~

~~(1) When a child is placed in a licensed out of home setting, within one hundred eighty days, the DDD social worker must file an order with the court that says the custodial and legal parent has signed a voluntary placement agreement with DDD and voluntarily requests placement of their child in out of home care;~~

~~(2) The child's DDD social worker prepares the necessary papers and files them with the court clerk; and~~

~~(3) Once a year, the DDD social worker prepares a report that must be presented to the court. It is called an order for continued placement and it describes in the words of the~~

social worker, why the out-of-home placement continues to be in the best interest of the child.))

When a child receives voluntary placement services, the department must:

(1) Develop a permanency plan of care no more than sixty days after the child is placed out-of-home;

(2) No more than one hundred eighty days after the child is placed out-of-home and annually thereafter, obtain a judicial determination that the placement is in the best interest of the child - a judicial determination is not required if the child's out-of-home placement ends before one hundred eighty days elapse;

(3) Conduct periodic administrative reviews as required by federal law - a review may be called at any time by the department, the parent, or the legal guardian; and

(4) Work with the department of children, youth, and families to file a dependency petition if there is reason to believe the child is a dependent child under RCW 13.34.030.

AMENDATORY SECTION (Amending WSR 02-22-057, filed 10/31/02, effective 12/1/02)

WAC 388-826-0070 What ((is) are the ((responsibility of the department for the)) department's responsibilities for a child ((who is in out-of-home care)) receiving voluntary placement services? ((When DDD facilitates an out-of-home placement, DDD is responsible for:

(1) A voluntary placement agreement according to this section;

(2) Monitoring of the child's placement and care;

(3) A permanency plan of care for the child;

(4) A plan that monitors the health, safety and appropriateness of the child's placement at a minimum every ninety days, making face-to-face visits at that time;

(5) The DDD social worker maintains any records as required by court oversight; and

(6) DDD social worker facilitates a needs assessment, individual service plan and a shared parenting plan.))

When a child receives voluntary placement services, the department must:

(1) Develop the shared parenting plan no more than forty-five days after the child is placed out-of-home and review the plan at each annual assessment;

(2) Visit the child in their out-of-home placement at least every ninety days;

(3) Review the child's person-centered service plan no more than ninety days after the child is placed out-of-home;

(4) Monitor the child's voluntary placement services by:
(a) Facilitating team meetings using a wraparound planning model;

(b) Reviewing the child's support plans;

(c) Reviewing incident reports and follow-up measures involving the client;

(d) Authorizing payment for services; and

(e) Facilitating communication between the client's parent, legal guardian, and licensed provider or SOLA;

(5) Determine eligibility for apple health coverage under chapters 182-513 WAC and 182-515 WAC;

(6) Determine the child's participation and room and board amount, if any;

(7) Comply with the permanency planning hearing requirements under RCW 13.34.270 no more than one-hundred eighty days after the child is placed out-of-home and annually thereafter;

(8) Notify the child's parent or legal guardian in writing before the date of each annual permanency planning hearing;

(9) Monitor the licensed provider or SOLA to ensure the provider complies with contract requirements, which includes compliance with DDA policies and minimum licensing rules; and

(10) Refer a client age eighteen or older for a nurse delegation assessment, if necessary.

NEW SECTION

WAC 388-826-0071 What are the responsibilities of the licensed provider supporting a client receiving voluntary placement services? When a client is receiving voluntary placement services, the licensed provider must:

(1) Ensure the health and safety of the client;

(2) Develop a quarterly report if the client is in a staffed residential home or group care facility for medically-fragile children. The quarterly report must include:

(a) A summary of the client's progress toward developing skills identified in the individualized treatment plan;

(b) An update regarding shared parenting, including a summary of family visits;

(c) A summary of incident reports, if any;

(d) School progress, including individualized education program updates;

(e) Any significant changes in the client's condition or prescribed medications; and

(f) A summary of the client's participation in community inclusion activities.

(3) Help develop and implement the shared parenting plan;

(4) Participate in the client's individualized education program;

(5) Develop emergency preparedness plans under WAC 110-145-1670;

(6) Track, and make available to the department upon request, the client's participation in community inclusion activities - if the client is in a staffed residential home - including:

(a) Date of each activity;

(b) Cost of each activity; and

(c) A running balance of the client's community inclusion activities funds;

(7) Retain all client records for at least six years after termination or expiration of their contract; and

(8) Request an assessment for nurse delegation if the client is age eighteen or older and needs medication administration.

NEW SECTION

WAC 388-826-0072 What training must a licensed staffed residential or SOLA employee complete? To support a client receiving voluntary placement services, a licensed staffed residential or SOLA employee must complete:

- (1) Training required under chapter 110-145 WAC;
- (2) Training and continuing education required under chapter 388-829 WAC;
- (3) Client-specific training based on the client's treatment plan and person-centered service plan; and
- (4) Nurse delegation training under chapter 246-888 WAC, if applicable.

AMENDATORY SECTION (Amending WSR 02-22-057, filed 10/31/02, effective 12/1/02)

WAC 388-826-0075 ~~What are ((the)) a parent or legal guardian's responsibilities ((of the parents)) when their child ((receives)) is receiving voluntary placement services ((in the voluntary placement program))?~~ ((Parents retain custody of their child at all times when the child is receiving services in the voluntary placement program. Parents responsibilities include, but are not limited to, the following:

- (1) ~~The right to make all major nonemergency decision about medical care, enlistment in military service, marriage and other important legal decisions for the person under eighteen years of age;~~
- (2) ~~Maintain ongoing and regular contact with the child;~~
- (3) ~~Agree to work cooperatively with their child's DDD social worker and other DSHS staff and persons caring for their child;~~
- (4) ~~Participate in decision making for their child;~~
- (5) ~~Cooperate with DDD in selecting a representative payee for the child's Social Security benefits, received from the Social Security Administration, and which are used for basic maintenance while the child is in out-of-home care;~~
- (6) ~~Agree that if their child's out-of-home placement disrupts, their child will return to the parents physical care until a new placement is developed. The parent's signature on the voluntary placement agreement confirms their understanding of the responsibilities listed in the VPA-))~~

When a client is receiving voluntary placement services, the client's parent or legal guardian must:

- (1) Maintain weekly contact with the child;
- (2) Comply with the voluntary placement agreement;
- (3) Help apply for income and benefits available to the child from the Social Security Administration; and
- (4) Participate in:
 - (a) The shared parenting plan;
 - (b) Team meetings; and
 - (c) The DDA annual assessment, including the person-centered service plan.

AMENDATORY SECTION (Amending WSR 09-24-063, filed 11/25/09, effective 12/26/09)

WAC 388-826-0077 ~~((Are there limits to the))~~ **Who is eligible for respite ((care I can receive if I receive voluntary placement)) services?** ((The following limitations apply to the respite care you can receive when approved for voluntary placement services:

- (1) ~~The DDD assessment will determine how much respite you can receive per chapter 388-828 WAC.~~
- (2) ~~Prior approval by the DDD regional administrator or designee is required:~~

~~(a) To exceed fourteen days in a calendar per month for out-of-home respite; or~~

~~(b) To pay for more than eight hours in a twenty-four hour period of time for respite care in any setting other than your place of residence.~~

~~(3) Respite providers have the following limitations and requirements:~~

~~(a) If respite is provided in a private home, the home must be licensed;~~

~~(b) The respite provider cannot be the spouse of the foster parent receiving respite if the spouse and the foster parent reside in the same residence;~~

~~(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.~~

~~(4) DDD cannot pay for any fees associated with the respite care; for example, membership fees at a recreational facility, or insurance fees.~~

~~(5) If you require respite from a licensed practical nurse (LPN) or a registered nurse (RN), services may be authorized as skilled nursing services per WAC 388-845-1700 using an LPN or RN.~~

~~(6) Respite cannot replace day care while your foster parent is at work.~~

~~(7) Respite cannot replace natural supports available to the child while in foster care. Family members will not be paid to provide respite.~~

~~(8) If you reside in a licensed-staffed residential home or group care facility, you are not eligible to receive respite care.))~~

(1) A client who lives in a foster home is eligible for respite services.

(2) A client who lives in a licensed staffed residential, SOLA, or group home for medically-fragile children is not eligible for respite services.

(3) The DDA assessment under chapter 388-828 WAC determines the amount of respite services a client may receive.

NEW SECTION

WAC 388-826-0078 **Who may provide respite services to a client receiving voluntary placement services in a child foster home?** To provide respite services to a client receiving voluntary placement services, a provider must:

- (1) Be a qualified provider under WAC 388-845-1615; and
- (2) Have a respite contract with the developmental disabilities administration.

NEW SECTION

WAC 388-826-0079 **What limits apply to respite services?** Limits under WAC 388-845-1620 apply to a client receiving voluntary placement services in a child foster home.

AMENDATORY SECTION (Amending WSR 07-15-003, filed 7/6/07, effective 8/6/07)

WAC 388-826-0130 How does ~~((DDD))~~ **the department** determine the rate ~~((that is paid))~~ to support a ~~((child))~~ **client in a licensed foster home?** ~~((DDD))~~ (1) The department determines the rate that is paid to support a (child) client in a licensed foster home by ((adding:

(1) The basic foster care room and board rate published annually by children's administration per WAC 388-25-0120) conducting a foster care rate assessment.

(2) DDA conducts the ((specialized rate identified after administering the)) foster care rate assessment ((FCRA tool));

(a) No more than thirty days after the date the child is admitted to a licensed foster home;

(b) Annually; and

(c) If a significant change occurs.

NEW SECTION

WAC 388-826-0133 What is the representative payee's role? The representative payee:

(1) Manages the client's income;

(2) Uses the client's income to contribute toward the cost of the client's participation and room and board;

(3) Places the client's personal needs allowance and any conserved funds in a payee account; and

(4) Monitors the child's payee account to maintain eligibility for supplemental security income (SSI) and medicaid.

AMENDATORY SECTION (Amending WSR 07-15-003, filed 7/6/07, effective 8/6/07)

WAC 388-826-0138 What questions are ~~((asked))~~ in the foster care rate assessment ~~((tool))~~ and how are ~~((the licensed foster home provider's))~~ answers scored? (1) The foster care rate assessment ((tool)) consists of thirteen questions ((that are scored by DDD based on discussion between the DSHS representative and the licensed foster home provider)).

((H)) (2) Scores are based on natural supports available, documented support plans, and report of care provided by the licensed foster home provider.

(3) The assessment excludes any additional paid supports provided, such as nursing and therapies.

(4) The hours are assessed against the number of hours expected to support a typically-developing child the same age as the client.

(5) Daily living: ((Include)) What is the average number of hours per day spent ((earing for this child beyond what is expected for his/her age on)) supporting the client with daily living tasks ((including)) like dressing, grooming, toileting, feeding and providing specialized body care? Do not include private duty nursing hours in this average.

((Answers)) Hours per day	Score
0 to 1	30
2 to 5	91
6 to 9	213

((Answers)) Hours per day	Score
10 to 20	396
Over 20	609

((Z)) (6) Physical needs: What is the average number of hours per day ~~((beyond what is expected for his/her age))~~ spent providing assistance to the client that is not included in the "daily living" category above? ~~((E.g., wheelchairs,))~~ Examples include assistance with: Mobility; prosthetics((- and); communication; other assistive devices((- dental/orthodontic, communication (speech, hearing, sight)); airway management (monitors, ventilators)((-); pressure sores; and((-or intravenous)) enteral nutrition((+)). Do not include private duty nursing hours in this average.

((Answers)) Hours per day	Score
0 to 1	30
2 to 5	91
6 to 20	274
Over 20	609

((Z)) (7) Behavioral needs: What is the average number of hours per day ~~((the foster parent(s) will need to spend supporting and supervising the child due to behaviors disorders, emotional disorders, and mental disorders))~~ spent providing behavioral, emotional, and mental health supports to the client? Do not include hours under subsection (8)(b) of this section in this average.

((Answers)) Hours per day	Score
0 to 1	30
2 to 5	91
6 to 13	335
14 to 24	578
Over 24	731

((4) Participation in child's) (8) Therapeutic plan: ~~((Include))~~ What is the average number of hours per week spent implementing a plan prescribed by a professional related to the child's physical, behavioral, emotional, or mental health therapy? The foster parent must provide a copy of each plan to the assessor.

(a) ~~((Physical therapeutic plan (e.g., meeting with providers, attending therapy or directly giving))~~ What is the average numbers of hours per week spent providing or attending physical, occupational ~~((or postsurgical)),~~ and speech therapy((+))?

((Answers)) Hours per week	Score
0 to 1	4
2 to 3	13
4 to 9	30
10 to 46	65

(b) ~~((Participation in emotional/))~~What is the average number of hours per week spent participating in or imple-

menting services identified in the client's behavioral support plan ((e.g., meeting with providers, attending therapy or directly supporting therapeutic plan-)), such as applied behavior analysis (ABA) or counseling?

((Answers)) Hours per week	Score
0 to 1	4
2 to 3	13
4 to 19	48
20 to 60	104
Over 60 ((hours/week))	390

~~((5))~~ Arranging, scheduling and supervising activities)
 (9) Appointments: ~~((Indicate))~~ What is the average number of hours per week spent scheduling, traveling to and from, and participating in appointments ~~((and accompanying the child))~~? The foster parent must provide documentation of appointments to the assessor.

(a) ~~((Medical/dental (e.g., transporting and waiting for medical services including))~~ What is the average number of hours per week spent scheduling, traveling to and from, and participating in doctor visits, dental visits, rehabilitation, and therapy visits~~((+))~~?

((Answers)) Hours per week	Score
0 to 1	4
2 to 5	13
6 to 14	39
Over 14 ((hours/week))	82

(b) What is the average number of hours per week spent scheduling, traveling to and from, and participating in community activities ~~((e.g., transporting and waiting during events including))~~, such as recreation, leisure, sports ~~((or))~~, and extra-curricular activities~~((+))~~?

((Answers)) Hours per week	Score
0 to 1	4
2 to 3	13
4 to 7	30
8 to 20	48
Over 20 ((hours/week))	130

~~((6))~~ (10) House care: ~~((Indicate))~~ What is the average number of times per week ~~((to repair))~~ spent repairing, ~~((clean or replace))~~ cleaning, and replacing household items~~((, including))~~ and medical equipment, over and above normal wear and tear, due to:

(a) A chronic medical condition~~((s (e.g., lack of personal control resulting in bed wetting or incontinence, lack of muscle control or unawareness of the consequences of physical actions-)))~~?

((Answers)) Times per week	Score
0 to 1	6
2 to 7	24

((Answers)) Times per week	Score
8 to 19	58
20 to 38	91
Over 38 ((times per week))	238

(b) Destructive behavior ~~((e.g., lack of emotional control resulting in damage or destruction of property-)))~~?

((Answers)) Times per week	Score
0 to 1	6
2 to 3	15
4 to 9	28
10 to 22	58
Over 22 ((times per week))	162

~~((7))~~ (11) Development and socialization skills: ~~((Indicate))~~ What is the average number of hours per week ~~((to provide))~~ spent providing guidance and assistance~~((-))~~?

(a) ~~((Direct developmental assistance (e.g.,))~~ What is the average number of hours per week spent helping with homework and ~~((readiness to learn))~~ learning new activities~~((-))~~?

((Answers)) Hours per week	Score
0 to 1	4
2 to 3	13
4 to 11	30
12 to 30	87
Over 30 ((hours/week))	249

(b) ~~((Professional interaction (e.g.,))~~ What is the average number of hours per week spent interacting with other professionals, such as meeting with teachers, visiting the client's school ~~((either planned or in crisis))~~, speaking on the phone with school personnel, participating in individual education plan development and review~~((+))~~?

((Answers)) Hours per week	Score
0 to 1	4
2 to 3	13
4 to 5	22
6 to 12	30
Over 12 ((hours/week))	82

(c) What is the average number of hours per week spent developing socialization and functional life skills ~~((e.g.,))~~, ~~((helping the child build skills, make))~~ like making positive choices ~~((and take responsibility))~~, ~~((learn about the use of))~~ being accountable, managing money, ~~((relate to peers, adults and family members and explore))~~ exploring the community~~((+))~~, and relating to peers, adults, and family members?

((Answers)) Hours per week	Score
0 to 1	4
2 to 7	22

((Answers)) Hours per week	Score
8 to 19	56
20 to 60	173
Over 60 ((hours/week))	403

~~((8))~~ (12) Shared parenting: ~~((Indicate))~~ What is the average number of hours per week ~~((to work with the birth parents and/or siblings, including assisting in the care of the child during visits, demonstrating care techniques, planning and decision making))~~ spent implementing the shared parenting plan? The shared parenting plan must be available for review.

((Answers)) Hours per week	Score
0 to 1	4
2 to 3	13
4 to 12	30
Over 12	82

AMENDATORY SECTION (Amending WSR 07-15-003, filed 7/6/07, effective 8/6/07)

WAC 388-826-0145 How does ~~((DDD))~~ **DDA** determine the foster care level from the raw score? (1) The following are the foster care levels based on the range of aggregate scores:

Level	Low Score	High Score
1	0	320
2	321	616
3	617	1501
4	1502	2085
5	2086	2751
6	2752	999999

(2) A standardized rate for specialized services is assigned to ~~((each))~~ levels one through six.

(3) The standardized rate is published by ~~((DDD. The rate))~~ **DDA** and is paid monthly to the foster parent ~~((in addition to the basic rate))~~.

AMENDATORY SECTION (Amending WSR 06-04-088, filed 1/31/06, effective 3/3/06)

WAC 388-826-0150 What happens if ~~((the level assigned to the child changes))~~ a significant change assessment occurs? ~~((The care needs of all children in foster care will be reassessed annually or more often if a major life change occurs.))~~

(1) ~~((A "major life change" is an unexpected, documented))~~ If a significant change ~~((in a child's medical or psychological condition that affects the level of care required))~~ assessment occurs, **DDA** conducts a foster care rate assessment.

(2) If the ~~((assessed level changes and))~~ foster care rate assessment results in a rate change, the foster parent ~~((will receive at least thirty days))~~ receives a thirty-day written

notice ~~((of the rate change. The notice will include))~~ that includes the effective date ~~((that))~~ of the ~~((rate))~~ change ~~((takes effect))~~.

AMENDATORY SECTION (Amending WSR 06-04-088, filed 1/31/06, effective 3/3/06)

WAC 388-826-0160 ~~((What limitations exist on administrative hearings regarding))~~ Are foster care ~~((payments in VPP))~~ rates appealable? ~~((The))~~ A foster care ~~((provider and the parents are not entitled to request an))~~ rate is not appealable through the administrative hearing ~~((to dispute the established foster care rates))~~ process.

AMENDATORY SECTION (Amending WSR 06-04-088, filed 1/31/06, effective 3/3/06)

WAC 388-826-0170 How ~~((are rates for))~~ does the department determine the rate to support a client in a licensed staffed residential home ~~((s determined in VPP))~~? ~~((Rates for licensed staffed residential homes are determined by the department after review of the needs of the child, the proposal from the licensed staffed residential agency and the proposed staffing schedule.))~~

(1) To determine the rate to support a client in a licensed staffed residential home, the department assesses the client's support needs, including:

- (a) Activities of daily living;
- (b) Instrumental activities of daily living; and
- (c) Behavioral and supervision supports.

(2) Children are entitled to appropriate educational services including, to the extent possible, participating in a full school day. The department must not pay a provider for any hours the client is in school.

AMENDATORY SECTION (Amending WSR 07-15-003, filed 7/6/07, effective 8/6/07)

WAC 388-826-0175 How does ~~((DDD))~~ the department determine the rate ~~((that is paid))~~ to support a ~~((child))~~ medically-fragile client in a ~~((licensed))~~ group care facility? ~~((A rate is negotiated by contract between DDD and the licensed group care facility.))~~

The department pays a group care facility a DDA-established, per-person, monthly rate to support a medically-fragile client.

AMENDATORY SECTION (Amending WSR 06-01-107, filed 12/21/05, effective 12/21/05)

WAC 388-826-0200 What happens if ~~((the voluntary placement ends))~~ a licensed provider terminates a client's out-of-home placement? ~~((The child must be returned to the physical care of the child's legal parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The agreement as described in RCW 74.13.350, between DDD and legal parents is completely voluntary. Per RCW 74.13.350, any party may terminate the agreement at any time.))~~

If a licensed provider terminates a client's out-of-home placement:

(1) The child must return to the parent or legal guardian's care unless:

(a) Taken into custody under RCW 13.34.050 or 26.44.-050;

(b) Placed in shelter care under RCW 13.34.060; or

(c) Placed in foster care under RCW 13.34.130;

(2) The provider must:

(a) Notify the client's parent or legal guardian, the department, and the client's school in writing at least thirty days before the termination; and

(b) Develop a transition plan; and

(3) The department assesses the client's health and welfare needs, and may authorize supports to the family while a new out-of-home placement is identified.

NEW SECTION

WAC 388-826-0205 What happens when a client, parent, or legal guardian request a different provider? (1)

A client, parent, or legal guardian requesting a change in provider must:

(a) Notify the DDA social worker and provider; and

(b) Determine if current services can be modified to meet the client's need.

(2) If services cannot be modified to meet the client's need, alternative residential options may be explored.

(a) The client may return home until a new placement is identified; or

(b) The client may remain in the current placement until a new provider is identified.

(3) The department may request a court review and a guardian ad litem to represent the best interest of the child.

AMENDATORY SECTION (Amending WSR 06-01-107, filed 12/21/05, effective 12/21/05)

WAC 388-826-0230 What happens after a ((youth)) client turns eighteen? ((When a youth turns eighteen, and is considered an adult, while in the voluntary placement program, the youth may remain in the child foster home, in VPP, under the following circumstances:

~~(1) Youth remains in the education or vocational program in the local public school district in which he/she has been enrolled until graduation or age twenty-one, whichever is earlier, per WAC 392-172-030(2), RCW 74.13.031 (10) and (13), 28A.155.020, and 28A.155.030;~~

~~(2) The placement remains intact and does not disrupt;~~

~~(3) When needed, youth who turns eighteen can self-administer medication;~~

~~(4) Youth cannot remain in foster care, living in a child foster home, and in VPP, after eighteen years of age when:~~

~~(a) The child foster home placement disrupts;~~

~~(b) The youth leaves education or vocational program; or~~

~~(c) The youth who turns eighteen needs someone to administer medication.~~

~~Dependency guardianships end at age eighteen. If a youth has been in a legal guardianship, under chapter 11.88 RCW and if the reason for guardianship was the minority of the child the guardianship ends.))~~

A client who turns eighteen while in voluntary out-of-home placement may remain there until their twenty-first birthday if:

(1) They pursue a high school or equivalency course of study (GED/HSEC) or vocational program;

(2) A voluntary placement agreement is signed by the client or their legal guardian; and

(3) The client can self-administer medication or they receive nurse delegation services.

AMENDATORY SECTION (Amending WSR 06-01-107, filed 12/21/05, effective 12/21/05)

WAC 388-826-0240 ((What happens if a parent disagrees with a decision made by DDD)) Who may appeal a department action? ((If a parent disagrees with a decision made by DDD staff, the parent has the right to pursue the appeal process, as outlined in RCW 71A.10.050 and chapter 388-02 WAC:))

(1) A client, the client's parent, or the client's authorized representative may appeal any decision under RCW 71A.10.-050 or WAC 388-825-120.

(2) A request may be made orally or in writing.

(3) An appellant must request an administrative hearing no more than ninety days after the date they received notification of the disputed decision.

(4) An appellant must request an administrative hearing within the ten-day notice period under WAC 388-458-0040 if the client wishes to receive continued benefits under WAC 388-825-145.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1515 Are there limits to the residential habilitation services I ((~~can~~)) may receive? (1) You may only receive one type of residential habilitation service at a time.

(2) None of the following ((~~can~~)) may be paid for under the core or community protection waiver:

(a) Room and board;

(b) The cost of building maintenance, upkeep, improvement, modifications or adaptations required to assure the health and safety of residents, or to meet the requirements of the applicable life safety code;

(c) Activities or supervision already being paid for by another source;

(d) Services provided in your parent's home unless you are receiving alternative living services for a maximum of six months to transition you from your parent's home into your own home.

(3) Alternative living services in the core waiver cannot:

(a) Exceed forty hours per month;

(b) Provide personal care or protective supervision.

(4) The following persons cannot be paid providers for your service:

(a) Your spouse;

(b) Your natural, step, or adoptive parents if you are a child age seventeen or younger;

(c) Your natural, step, or adoptive parent unless your parent is certified as a residential agency per chapter 388-101

WAC or is employed by a certified or licensed agency qualified to provide residential habilitation services.

(5) The initial authorization of residential habilitation services requires prior approval by the DDA regional administrator or designee.

(6) If you are under age eighteen, the residential habilitation services you receive are subject to requirements under chapter 388-826 WAC.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-826-0015 Who else may be eligible to participate in the voluntary placement program?
- WAC 388-826-0020 How does the family, whose child is a client of DDD request access to the VPP?
- WAC 388-826-0025 What is the process for a child or youth who transfers from children's administration to get into the VPP?
- WAC 388-826-0030 How is a decision made for out-of-home placement?
- WAC 388-826-0035 How is a decision made regarding participation in the voluntary placement program?
- WAC 388-826-0045 What happens after a voluntary placement agreement is signed, what are the legal issues and who is responsible?
- WAC 388-826-0055 What basic services may a child receive from the voluntary placement program?
- WAC 388-826-0060 Are there other services a child may receive in this program?
- WAC 388-826-0065 What can parents expect if they use in-home supports under this program?
- WAC 388-826-0080 What are the expectations for parents when their child is in out-of-home care?
- WAC 388-826-0085 What other DDD services are available for a child through the voluntary placement program?
- WAC 388-826-0129 What are the residential settings that DDD uses to provide voluntary placement program services?
- WAC 388-826-0135 When does DDD administer the foster care rate assessment tool?
- WAC 388-826-0136 How often does DDD administer the foster care rate assessment tool?

- WAC 388-826-0210 When the child leaves the voluntary placement program for any reason, what DDD services are available to the child and family when voluntary placement ends?
- WAC 388-826-0220 Will a child or youth continue to receive special education or early intervention services while in VPP?
- WAC 388-826-0250 Does DDD make exceptions to the requirements in this chapter?

**WSR 18-24-001
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2018-08—Filed November 21, 2018, 12:43 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: Clarify language which currently exists in statute to correct a reference from the Financial Industry Regulatory Authority (FINRA) to the Washington department of financial institutions.

Citation of Rules Affected by this Order: Amending WAC 284-17-015.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.005, and 48.18A.070.

Adopted under notice filed as WSR 18-19-094 on September 18, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 21, 2018.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 09-02-073, filed 1/6/09, effective 7/1/09)

WAC 284-17-015 Variable life and variable annuity products—Standards for resident licenses. (1) (~~Resident insurance~~) Any producer(~~s~~) who desires to sell, solicit or

negotiate variable life and variable annuity products in this state must:

(a) Obtain a securities salesperson license from the department of financial institutions for a FINRA member broker-dealer; and

(b) If a resident of this state, obtain and maintain an insurance producer license with ((a)) the life line of authority and ((an appropriate securities license from the Financial Industry Regulatory Authority (FINRA). Upon presentation of satisfactory evidence that the producer has fulfilled this requirement,)) the variable life and variable annuity line of authority; or

(c) If a nonresident of this state, obtain and maintain a producer license with the life line of authority and the variable life and variable annuity line of authority in their resident or home state in order to be eligible to apply for and be issued a nonresident license in this state.

(2) The commissioner will only issue a resident or non-resident producer license with ((a)) the variable life and variable annuity ((products)) line of authority when satisfactory evidence has been received that the producer has fulfilled the applicable requirements of subsection (1) of this section.

((2)) (3) All licensees with the variable life and variable annuity products line of authority are also subject to the licensing requirements set forth in RCW 48.18A.060.

WSR 18-24-007
PERMANENT RULES
SECRETARY OF STATE

[Filed November 26, 2018, 12:36 p.m., effective December 27, 2018]

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

Purpose: This update changes punctuation, and clarifies subsection (3)(c) in a list of qualifications.

Citation of Rules Affected by this Order: Amending WAC 434-230-015.

Statutory Authority for Adoption: RCW 29A.04.611.

Adopted under notice filed as WSR 18-11-121 on May 22, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 26, 2018.

Mark Neary
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 18-10-003, filed 4/19/18, effective 5/20/18)

WAC 434-230-015 Ballots and instructions. (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes if candidate races appear on the ballot.

(3) Instructions that accompany a ballot must:

(a) Instruct the voter how to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notify the voter that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Explain how to complete and sign the ballot declaration. The following declaration must accompany the ballot:

"I do solemnly swear or affirm under penalty of perjury that I am:

A citizen of the United States;

A legal resident of the state of Washington;

At least 18 years old on election day;

Voting only once in this election;

Not under the authority of the Department of Corrections for a Washington felony conviction;

Not disqualified from voting due to a court order; and

Not voting in any other jurisdiction in the United States for this election(~~(-and)~~).

It is illegal to forge a signature or cast another person's ballot. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both."

The declaration must include space for the voter to sign and date the declaration, for the voter to write his or her phone number, and for two witnesses to sign if the voter is unable to sign.

(d) Explain how the voter may make a mark, witnessed by two other people, if the voter is unable to write their signature;

(e) Explain that a power of attorney cannot be used to sign a ballot for someone else;

(f) Explain how to place the ballot in the security envelope and place the security envelope in the return envelope;

(g) Explain how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(h) If applicable, explain that postage is required, or exactly how much postage is required. See WAC 434-250-200 on return postage;

(i) Explain that, in order for the ballot to be counted, it must be either postmarked no later than election day or deposited at a ballot drop box no later than 8:00 p.m. election day;

(j) Explain how to learn about the locations, hours, and services of voting centers and ballot drop boxes, including the availability of accessible voting equipment;

(k) Include, for a primary election that includes a partisan office other than a presidential primary race, a notice on an insert explaining:

"In each race, you may vote for any one candidate listed. The two candidates who receive the most votes in the primary will advance to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(l)(i) Include, for a general election that includes a partisan office, the following explanation:

"If a primary election was held for an office, the two candidates who received the most votes in the primary advanced to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice president appear on the general election ballot, the following must be added to the statement required by (l)(i) of this subsection:

"The election for president and vice president is different. Candidates for president and vice president are the official nominees of their political party."

(4) Instructions that accompany a special absentee ballot authorized by RCW 29A.40.050 must also explain that the voter may request and subsequently vote a regular ballot, and that if the regular ballot is received by the county auditor, the regular ballot will be tabulated and the special absentee ballot will be voided.

(5) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

(6)(a) If the ballot includes a partisan office other than a presidential primary race, the ballot must include the following notice in bold print immediately above the first partisan congressional, state or county office: "READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(b) When the race for president and vice president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice president but immediately above the first partisan congressional, state or county office: "READ: Each candidate for president and vice president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(c) The same notice may also be listed in the ballot instructions.

(7) Counties may use varying sizes and colors of ballots, provided such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate various types of ballots.

(8) Ballots shall be formatted as provided in RCW 29A.36.170.

(9) Removable stubs are not considered part of the ballot.

(10) If ballots are printed with sequential numbers or other sequential identifiers, the county auditor must take steps to prevent ballots from being issued sequentially, in order to protect secrecy of the ballot.

Counties may use ballot envelopes and instruction in stock until May 31, 2019.

WSR 18-24-008

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed November 26, 2018, 12:43 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The agency is amending WAC 182-551-1860 Concurrent care for hospice clients age twenty and younger, to remove language related to exception to rule and allow for medical necessity review of noncovered services. These changes comply with early and periodic screening, diagnostic and treatment (EPSDT) program rules under 42 C.F.R., Sec. 441, Subpart B, and WAC 182-534-0100, EPSDT.

Citation of Rules Affected by this Order: Amending WAC 182-551-1860.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-20-125 on October 3, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 26, 2018.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-12-082, filed 6/5/17, effective 7/6/17)

WAC 182-551-1860 Concurrent care for hospice clients age twenty and younger. (1) In accordance with 42 U.S.C. 1396d (o)(1)(C), a client age twenty and younger may voluntarily elect hospice care without waiving any rights to services that the client is entitled to under Title XIX Medicaid and Title XXI Children's Health Insurance Program (CHIP) that are related to the treatment of the client's condition for which a diagnosis of terminal illness has been made.

(2) The related services in subsection (1) of this section and medications requested for clients age twenty and younger are subject to the medicaid agency's specific program rules governing those services or medications.

(3) ~~((If the services in this section include noncovered services listed in WAC 182-501-0070, the provider must request an exception to rule under WAC 182-501-0160.))~~
When a noncovered service is recommended based on the early and periodic screening, diagnosis, and treatment (EPSDT) program, the agency evaluates the request for medical necessity based on the definition in WAC 182-500-0070 and the process in WAC 182-501-0165.

(4) If the medicaid agency denies a request for a covered service, refer to WAC 182-502-0160, billing a client, for when a client may be responsible to pay for a covered service.

WSR 18-24-010
PERMANENT RULES
NOXIOUS WEED
CONTROL BOARD

[Filed November 26, 2018, 4:52 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The Washington state noxious weed list provides the basis for noxious weed control efforts for county and district weed control boards as well as other entities. This rule-making order amends chapter 16-750 WAC by:

- Designating Eurasian watermilfoil, *Myriophyllum spicatum*, grass-leaved arrowhead, *Sagittaria graminea*, diffuse knapweed, *Centaurea diffusa*, and purple loosestrife, *Lythrum salicaria*, in Mason County.
- Undesignating hoary alyssum, *Berteroa incana*, in Ferry County.
- Designating Brazilian elodea, *Egeria densa*, in Pacific and Snohomish counties.
- Designating butterfly bush, *Buddleja davidii*, in San Juan and Grays Harbor counties.
- Designating camelthorn, *Alhagi maurorum*, in Walla Walla County.
- Designating Dalmatian toadflax, *Linaria dalmatica* ssp. *dalmatica*, in Cowlitz, Kittitas, and Franklin counties.
- Designating European coltsfoot, *Tussilago farfara*, in Adams, Lincoln, Benton, and Franklin counties (missed Grant County, will need to be added next year).
- Designating fanwort, *Cabomba caroliniana*, in Grays Harbor County.
- Designating hairy willow-herb, *Epilobium hirsutum*, in Walla Walla County.

- Designating houndstongue, *Cynoglossum officinale*, in Douglas and Franklin counties.
- Undesignating indigobush, *Amorpha fruticosa*, in Skamania County.
- Designating hawkweeds of the meadow subgenus (*Pilosella*) in Ferry County.
- Undesignating meadow knapweed, *Centaurea x moncktonii*, in Skamania and Clark counties.
- Undesignating spotted knapweed, *Centaurea stoebe*, in Skamania County.
- Updating five scientific names of noxious weeds: Kochia: *Kochia scoparia* to *Bassia scoparia*; leafy spurge: *Euphorbia esula* to *Euphorbia virgata*; Himalayan knotweed: *Polygonum polystachyum* to *Persicaria wallichii*; Russian knapweed: *Acroptilon repens* to *Rhaponticum repens*; and tansy ragwort: *Senecio jacobaea* to *Jacobaea vulgaris*.

Citation of Rules Affected by this Order: Amending WAC 16-750-011.

Statutory Authority for Adoption: Chapter 17.10 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 18-20-116 on October 3, 2018.

Changes Other than Editing from Proposed to Adopted Version: A few proposed changes to the noxious weed list (chapter 16-750 WAC) were not adopted, namely:

- Undesignating Eurasian watermilfoil, *Myriophyllum spicatum*, in Cowlitz County; designating Eurasian watermilfoil, *Myriophyllum spicatum*, in Kittitas County except for the Columbia River.
- Undesignating Brazilian elodea, *Egeria densa*, in Cowlitz County.
- Undesignating hoary alyssum, *Berteroa incana*, in Spokane County.
- Undesignating nonnative hawkweeds species and hybrids of the wall subgenus (*Hieracium*) in Skamania and Clark counties.
- Undesignating nonnative hawkweeds species and hybrids of the meadow subgenus (*Pilosella*) in Skamania County.
- Undesignating spotted knapweed, *Centaurea stoebe*, in Clark County.
- Undesignating shiny geranium, *Geranium lucidum*, in Skamania County.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule
Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 26, 2018.

Anthony J. Stadelman
Chairman

AMENDATORY SECTION (Amending WSR 17-24-035, filed 11/29/17, effective 1/1/18)

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 (and Pacific counties) <u>County</u>
		(b)	region 2, except Kitsap (and Snohomish counties) <u>County</u>
		(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 arvensis</i>	(a)	regions 1, 2, 3, 4, and 6
		(b)	region 5, except Spokane County
(4)	bugloss, common, <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)	<u>Grays Harbor County of region 1</u>
		(b)	<u>San Juan County of region 2</u>
		(c)	Cowlitz County of region 3
(6)	camelthorn, <i>Alhagi maurorum</i>	(a)	regions 1, 2, 3, 4, (and) 5, and 6
		((b))	region 6, except Walla Walla County
(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
		(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
		(c)	Asotin, Columbia, and Garfield counties of region 6
(9)	Dalmatian toadflax, <i>Linaria dalmatica</i> ssp. <i>dalmatica</i>	(a)	regions 1 (and), 2, and 3
		(b)	(region 3, except Cowlitz County)
		((c))	Adams, Kittitas, and Lincoln counties of region 5
		((d))	Benton, Franklin, and Walla Walla counties of region 6
		(c)	
(10)	Eurasian watermilfoil, <i>Myriophyllum spicatum</i>	(a)	region 1, except Pacific (and Mason counties) <u>County</u>
		(b)	Island and San Juan counties of region 2
		(c)	Clark and Cowlitz counties of region 3

Name		Will be a "Class B designate" in all lands lying within:
		(d) Chelan and Okanogan counties, and all lakes with public boat launches except Fan Lake in Pend Oreille County of region 4
		(e) Adams and Lincoln counties of region 5
		(f) Asotin, Columbia, and Garfield counties of region 6
(11)	European coltsfoot, <i>Tussilago farfara</i>	(a) regions 1, 2, 3, ((and)) 4, and 6
		(b) region 5, except ((Adams, Grant, and Lincoln counties)) <u>Grant County</u>
		((e)) region 6, except Benton and Franklin counties))
(12)	fanwort, <i>Cabomba caroliniana</i>	(a) regions <u>1</u> , 2, 4, 5, and 6
		(b) ((region 1, except Grays Harbor
		(e))) region 3, except Cowlitz County
(13)	gorse, <i>Ulex europaeus</i>	(a) region 1, except Grays Harbor and Pacific counties
		(b) regions 2, 3, 4, 5, 6
(14)	grass-leaved arrowhead, <i>Sagittaria graminea</i>	(a) region 1 ((, except Mason County))
		(b) region 2, except Snohomish County
		(c) regions 3, 4, 5, and 6
(15)	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) ((Asotin, Columbia, and Garfield counties of)) region 6, <u>except Benton and Franklin counties</u>
(16)	hawkweed oxtongue, <i>Picris hieracioides</i>	(a) regions 1, 2, 4, 5, and 6
		(b) region 3, except Skamania County
(17)	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
(18)	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) ((Chelan, Douglas, and Okanogan counties of)) region 4, <u>except Pend Oreille and Stevens counties</u>
		(e) region 5, except Klickitat and Spokane counties
		(f) region 6
(19)	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, and Whatcom counties
		(c) region 4, except Stevens County

Name		Will be a "Class B designate" in all lands lying within:	
(20)	herb-Robert, <i>Geranium robertianum</i>	(a)	regions 4, 5, and 6
(21)	hoary alyssum, <i>Berteroa incana</i>	(a)	regions 1, 2, 3, and 6
		(b)	region 4, except Pend Oreille (County and those areas lying north of Highway 20 in Ferry County) and <u>Ferry counties</u>
		(c)	region 5, except Klickitat County
(22)	houndstongue, <i>Cynoglossum officinale</i>	(a)	regions 1, 2, and 3
		(b)	Chelan (County) and <u>Douglas counties</u> of region 4
		(c)	Yakima, Grant and Adams counties of region 5
		(d)	Benton (County) and <u>Franklin counties</u> of region 6
(23)	indigobush, <i>Amorpha fruticosa</i>	(a)	regions 1, 2, and 4
		(b)	Lewis (and Skamania counties) <u>County</u> of region 3
		(c)	region 5, except Klickitat County
(24)	knapweed, black, <i>Centaurea nigra</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(25)	knapweed, brown, <i>Centaurea jacea</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(26)	knapweed, diffuse, <i>Centaurea diffusa</i>	(a)	region 1 (, except Mason County)
		(b)	region 2
		(c)	region 3, except Cowlitz County
		(d)	Adams County of region 5
(27)	knapweed, meadow, <i>Centaurea x moncktonii</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)	<u>Lewis and Wahkiakum counties</u> of region 3 (, except Cowlitz County)
		(e)	region 5, except Kittitas and Klickitat counties
		(f)	region 6, except Franklin and Walla Walla counties
(28)	knapweed, Russian, (<i>Aeroptilon</i>) <u><i>Rhaponticum repens</i></u>	(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)	knapweed, spotted, <i>Centaurea stoebe</i>	(a)	region 1, except Grays Harbor
		(b)	region 2, except Whatcom County
		(c)	<u>Clark, Lewis, and Wahkiakum counties</u> of region 3 (, except Cowlitz County)
		(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)	knotweed, Bohemian, <i>Polygonum x bohemicum</i>	(a)	Island County of region 2
		(b)	Skamania County of region 3
		(c)	region 4, except Stevens County

Name		Will be a "Class B designate" in all lands lying within:
		(d) region 5, except Whitman and Yakima counties
		(e) region 6
(31)	knotweed, giant, <i>Polygonum sachalinense</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)	knotweed, Himalayan, (<i>Polygonum polystachyum</i>) <i>Persicaria wallichii</i>	(a) region 1, except Pacific County
		(b) region 2, except King and Pierce counties
		(c) Cowlitz, Lewis and Skamania counties of region 3
		(d) region 4, except Stevens County
		(e) regions 5 and 6
(33)	knotweed, Japanese, <i>Polygonum cuspidatum</i>	(a) Island, San Juan, and Whatcom counties of region 2
		(b) Skamania County of region 3
		(c) region 4, except Okanogan and Stevens counties
		(d) region 5, except Spokane County
		(e) region 6
(34)	kochia, (<i>Koehia</i>) <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)	lesser celandine, <i>Ficaria verna</i>	(a) Snohomish County of region 2
		(b) Skamania County of region 3
		(c) Pend Oreille and Stevens counties of region 4
(36)	loosestrife, garden, <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 5, 6
(37)	loosestrife, purple, <i>Lythrum salicaria</i>	(a) Clallam (and), Jefferson, and Mason counties of region 1
		(b) region 2, except Kitsap, Pierce, 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) Columbia, Garfield, and Walla Walla counties of region 6
(38)	loosestrife, wand, <i>Lythrum virgatum</i>	(a) Clallam and Jefferson counties of region 1
		(b) region 2, except Kitsap, Pierce, 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) Columbia, Garfield, and Walla Walla counties of region 6
(39)	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

Name		Will be a "Class B designate" in all lands lying within:	
(40)	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)	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)	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 and Pend Oreille counties of region 4
		(e)	Grant, Kittitas and Lincoln counties of region 5
(43)	policeman's helmet, <i>Impatiens glandulifera</i>	(a)	region 1, except Pacific County
		(b)	region 2, except Pierce, Thurston, and Whatcom counties
		(c)	regions 3, 4, 5, and 6
(44)	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)	Ravenna grass, <i>Saccharum ravennae</i>	(a)	Cowlitz County of region 3
		(b)	region 4, except Chelan County
		(c)	region 5, except Grant and Yakima counties
		(d)	region 6, except Benton County
(46)	rush skeletonweed, <i>Chondrilla juncea</i>	(a)	regions 1 and 3
		(b)	region 2, except Kitsap County
		(c)	region 4, except all areas of Stevens County south of Township 29
		(d)	Kittitas and Yakima counties of region 5, and Adams County, except those areas lying east of Sage Road, the western border of Range 36
		(e)	Asotin County of region 6
(47)	saltcedar, <i>Tamarix ramosissima</i> (unless intentionally planted prior to 2004)	(a)	regions 1, 3, 4, and 5
		(b)	region 2, except King and Thurston counties
		(c)	region 6, except Benton and Franklin counties
(48)	Scotch broom, <i>Cytisus scoparius</i>	(a)	regions 4 and 6
		(b)	region 5, except Klickitat County
(49)	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)	spurge flax, <i>Thymelaea passerina</i>	(a)	region 4, except Okanogan County
		(b)	regions 5 and 6
(51)	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, except Skamania County

		Will be a "Class B designate" in all lands lying within:	
Name			
		(d)	regions 4, 5, and 6
(52)	spurge, leafy, <i>Euphorbia</i> (<i>esula</i>) <i>virgata</i>	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Spokane and Whitman counties
		(c)	region 6, except Columbia and Garfield counties
(53)	spurge, myrtle, <i>Euphorbia myrsin-</i> <i>ites</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 and Stevens counties
(54)	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)	tansy ragwort, (<i>Senecio</i>) <i>Jaco-</i> <i>baea vulgaris</i>	(a)	Island and San Juan counties of region 2
		(b)	Clark and Wahkiakum counties of region 3
		(c)	regions 4 and 6
		(d)	region 5, except Klickitat County
(56)	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)	thistle, plumeless, <i>Carduus acan-</i> <i>thoides</i>	(a)	regions 1, 2, 3, 5, 6
		(b)	region 4, except those areas north of State Highway 20 in Ste- vens County
(58)	thistle, Scotch, <i>Onopordum acan-</i> <i>thium</i>	(a)	regions 1, 2, and 3
		(b)	region 4, except Douglas County
		(c)	region 5, except Spokane and Whitman counties
(59)	velvetleaf, <i>Abutilon theophrasti</i>	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Yakima County
		(c)	region 6, except Franklin County
(60)	water primrose, <i>Ludwigia hexa-</i> <i>petala</i>	(a)	regions 1, 2, 4, 5, and 6
		(b)	region 3, except Cowlitz County
(61)	white bryony, <i>Bryonia alba</i>	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Whitman County
		(c)	Benton County of region 6
(62)	wild chervil, <i>Anthriscus sylvestris</i>	(a)	regions 1, 4, and 6
		(b)	region 2, except Island and Whatcom counties
		(c)	Wahkiakum and Lewis counties of region 3
		(d)	region 5, except Whitman County
(63)	yellow archangel, <i>Lamiaeum</i> <i>galeobdolon</i>	(a)	Clallam County of region 1
		(b)	Island, San Juan, Skagit, and Whatcom counties of region 2
		(c)	Skamania and Wahkiakum counties of region 3
		(d)	regions 4, 5, and 6

Name		Will be a "Class B designate" in all lands lying within:	
(64)	yellow floating heart, <i>Nymphoides peltata</i>	(a)	regions 1, 2, and 6
		(b)	region 3, except Cowlitz County
		(c)	region 4, except Stevens County
		(d)	region 5, except Spokane County
(65)	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)	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

WSR 18-24-013
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (Consumer Services)

[Filed November 27, 2018, 9:19 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The rules must be amended to implement chapter 62, Laws of 2018, to add student education loan servicing and student education loan servicers to those activities and persons regulated under the Consumer Loan Act.

Citation of Rules Affected by this Order: New WAC 208-620-324, 208-620-442, 208-620-569, 208-620-950, 208-620-960 and 208-620-970; and amending WAC 208-620-010, 208-620-011, 208-620-104, 208-620-230, 208-620-300, 208-620-320, 208-620-322, 208-620-327, 208-620-328, 208-620-370, 208-620-371, 208-620-431, 208-620-490, 208-620-505, 208-620-510, 208-620-515, 208-620-520, and 208-620-550.

Statutory Authority for Adoption: RCW 43.320.040, 31.04.165, proposed in compliance with OFM Guidance 3.a. dated October 12, 2011.

Adopted under notice filed as WSR 18-15-077 on July 17, 2018.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 208-620-011, interpreted definition of student education loan servicer to clarify that the definition does not include those collecting on student education loans that are in default when they are collection agencies licensed in Washington or an attorney licensed in Washington under certain circumstances.

2. WAC 208-620-240, this section was repealed [not included] because the contents were included either in the statute or in other places in the rules.

3. WAC 208-620-442, added introductory language and the definition of portfolio.

4. WAC 208-620-490, added a new subsection (5) describing specific information that a student education loan servicer must collect, maintain, and report to the department.

5. WAC 208-620-520, subsection (5) was removed and incorporated in WAC 208-620-490. See number 4 immediately above.

6. WAC 208-620-550, sentence added to subsection (1) to clarify that payoff information must be provided either pursuant to the rule or pursuant to an applicable federal program requirement.

7. WAC 208-620-950, added language clarifying that the requirements in subsection (4) may be met with a telephonic system providing the borrower speaks with a single point of contact on repayment or loan forgiveness options.

8. WAC 208-620-970, added introductory language clarifying that if a servicer is acquiring, transferring, or selling servicing activities on federal student education loans in compliance with the Department of Education, the requirements of this section do not apply.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 6, Amended 18, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 6, Amended 18, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 18, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 6, Amended 18, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 27, 2018.

Charles Clark, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 18-16-024, filed 7/24/18, effective 9/1/18)

WAC 208-620-010 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

"Act" means the Consumer Loan Act, chapter 31.04 RCW.

"Advertise, advertising, and advertising material" means any form of sales or promotional materials used in connection with the business. Advertising material includes, but is not limited to, newspapers, magazines, leaflets, flyers, direct mail, indoor or outdoor signs or displays, point-of-sale literature or educational materials, other printed materials; radio, television, public address system, or other audio broadcasts; internet pages, social media, instant messages, or electronic bulletin boards.

~~("Affiliate" means any person who controls, is controlled by, or is under common control with another.)~~

"Annual percentage rate" has the same meaning as defined in Regulation Z, 12 C.F.R. Part 1026, implementing the Truth in Lending Act.

"Application" means the submission of a borrower's financial information in anticipation of a credit decision relating to a residential mortgage loan, which includes the borrower's name, monthly income, Social Security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought. An application may be submitted in writing or electronically and includes a written record of an oral application. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a residential mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a residential mortgage loan.

"Bank Secrecy Act" means the Bank Secrecy Act (BSA), 31 U.S.C. 1051 et seq. and 31 C.F.R. Part 103.

"Bond substitute" means unimpaired capital, surplus and qualified long-term subordinated debt.

~~("Borrower." See WAC 208-620-011.)~~

"Business day" means Monday through Friday excluding federally recognized bank holidays.

"Commercial context" or "commercial purpose" means actions taken for the purpose of obtaining anything of value for oneself, or for an entity or individual for which the individual acts, rather than exclusively for public, charitable, or family purposes.

"Common ownership" exists if an entity or entities possess an ownership or equity interest of five percent or more in another entity.

"Creditor" has the same meaning as in the Truth in Lending Act, 15 U.S.C. 1602(f) and Regulation Z, 12 C.F.R. Part 1026.

~~("Department" means the department of financial institutions.~~

~~"Depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act on the effective date of this section, and includes credit unions.)~~

"Depository Institutions Deregulatory and Monetary Control Act" means the Depository Institutions Deregulatory and Monetary Control Act of 1980 (DIDMCA), 12 U.S.C. Sec. 1735f-7a.

~~("Director" means the director of the department of financial institutions or his or her designated representative.)~~

" Dwelling " means the same as in Regulation Z implementing the Truth in Lending Act which is a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile or manufactured home, and trailer, if it is used as a residence. See 12 C.F.R. Sec. 1026.2.

"Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. Sec. 1691 and Regulation B, 12 C.F.R. Part 1002.

"Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq.

"Fair Debt Collection Practices Act" means the Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692, 12 C.F.R. Part 1006.

~~("Federal banking agencies" means the Board of Governors of the Federal Reserve System, Comptroller of the Currency, National Credit Union Administration, Federal Deposit Insurance Corporation, and Consumer Financial Protection Bureau.)~~

"Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

"Filing" means filing, recording, releasing or reconveying mortgages, deeds of trust, security agreements or other documents, or transferring certificates of title to vehicles.

"Gramm-Leach-Bliley Act (GLBA)" means the Financial Modernization Act of 1999, 15 U.S.C. Sec. 6801-6809, and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 C.F.R. Parts 313-314.

"Higher education institution" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, which is open to residents of the state, which neither restricts entry on racial or religious grounds, which provides programs of education beyond high school leading at least to the baccalaureate degree, and which is accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the council for higher education. RCW 28B.07.020(4).

"Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. Secs. 2801 through 2810 and 12 C.F.R. Part 1003 (formerly Part 203).

"Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. This includes step-parents, stepchildren, stepsiblings, and adoptive relationships.

~~("Individual servicing a mortgage loan." See WAC 208-620-011(2).)~~

~~"Insurance" means life insurance, disability insurance, property insurance, insurance covering involuntary unem-~~

ployment and such other insurance as may be authorized by the insurance commissioner in accordance with Title 48 RCW.)

"Lender" means any person that extends money to a borrower with the expectation of being repaid.

~~("License" means a license issued under the authority of this chapter with respect to a single place of business.)~~

"License number" means your NMLS unique identifier displayed as prescribed by the director. Some examples of the way you may display your license number are: NMLS ID 12345, NMLS 12345, NMLS #12345, MB-12345, or MLO-12345.

~~("Licensee" means a person who holds one or more current licenses.)~~

"Live check" means a loan solicited through the mail in the form of a check, which, when endorsed by the payee, binds the payee to the terms of the loan agreement contained on the check.

~~("Loan" means a sum of money lent at interest or for a fee or other charges and includes both open-end and closed-end transactions.)~~

"Loan originator" means the same as mortgage loan originator.

~~("Loan processor." See WAC 208-620-011.)~~

"Long-term subordinated debt" means for the purposes required in RCW 31.04.045 outstanding promissory notes or other evidence of debt with initial maturity of at least seven years and remaining maturity of at least two years.

~~("Making a loan" means advancing, offering to advance, or making a commitment to advance funds for a loan.)~~

"Material litigation" means proceedings that differ from the ordinary routine litigation incidental to the business. Litigation is ordinary routine litigation if it ordinarily results from the business and does not deviate from the normal business litigation. Litigation involving five percent of the licensee's assets or litigation involving the government would constitute material litigation.

~~("Mortgage broker" means the same as in RCW 19.146.010. A licensee or person subject to this chapter can not receive compensation as both a consumer loan licensee making the loan and as a mortgage broker in the same transaction.~~

~~"Mortgage loan originator" or "loan originator" means an individual who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain (1) takes a residential mortgage loan application; or (2) offers or negotiates terms of a residential mortgage loan, including short sale transactions. An individual "offers or negotiates terms of a residential mortgage loan" if the individual:~~

~~(a) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms; or~~

~~(b) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms.~~

~~Mortgage loan originator also includes an individual who for compensation or gain performs residential mortgage loan modification services or holds himself or herself out as~~

~~being able to perform residential mortgage loan modification services.~~

~~Mortgage loan originator also includes an individual who holds himself or herself out as being able to perform any of the activities described in this definition. For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that the person engages in any of the activities of a loan originator, including the use of business cards, stationery, brochures, rate lists or other promotional items.~~

~~Mortgage loan originator does not include any individual who performs purely administrative or clerical tasks and does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code.~~

~~For the purposes of this definition, administrative or clerical tasks means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing of a residential mortgage loan. An individual who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.~~

~~Mortgage loan originator does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law to conduct those activities, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. See the definition of real estate brokerage activity in this subsection.~~

~~This definition does not apply to employees of a housing counseling agency approved by the United States department of Housing and Urban Development unless the employees of a housing counseling agency are required under federal law to be individually licensed as mortgage loan originators.)~~

"NMLS" means the Nationwide Multistate Licensing System and Registry, Nationwide Mortgage Licensing System, NMLSR, or such other name or acronym as may be assigned to the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the state regulatory registry, LLC, or any successor or affiliated entity, for the licensing and registration of persons in the mortgage and other financial services industries.

"Out-of-state licensee" means a licensee that does not maintain a physical presence within the state, or a licensee that maintains headquarters or books and records outside Washington.

~~("Person" includes individuals, partnerships, associations, trusts, corporations, and all other legal entities.~~

~~"Principal" means either (1) any person who controls, directly or indirectly through one or more intermediaries, a ten percent or greater interest in a partnership, company, association or corporation; or (2) the owner of a sole proprietorship.)~~

"Principal amount" means the loan amount advanced to or for the direct benefit of the borrower.

"Principal balance" means the principal amount plus any allowable origination fee.

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

"Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including (1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property; (2) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property; (3) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction; (4) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and (5) offering to engage in any activity, or act in any capacity, described in (1) through (4) of this definition.

"Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Secs. 2601 et seq., and Regulation X, 12 C.F.R. Part 1024.

"Records" mean books, accounts, papers, records and files, no matter in what format they are kept, which are used in conducting business under the act.

"Referring a delinquent loan to foreclosure" means taking any step in furtherance of foreclosure. Examples include, but are not limited to: Sending a referral to a foreclosure trustee or attorney inside or outside of the servicing entity requesting they begin the foreclosure process; making a record in written or electronic form that flags, comments, blocks, suspends or in any way indicates in the electronic record of a mortgage loan that foreclosure has begun; any such marking of an electronic record that impairs the record in a way that payments will not be applied or will be routed into a suspense account.

~~("Registered mortgage loan originator" means any individual who (1) meets the definition of mortgage loan originator and is an employee of: A depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration; and (2) is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system.~~

"Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other consensual security interest on a dwelling, as defined in the Truth in Lending Act, or residential real estate upon which is constructed or intended to be constructed a dwelling.

~~"Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include, but are not limited to, forbearances; repayment plans; changes in interest rates, loan terms (length), or loan types; capitalizations of arrearages; or principal reductions.~~

~~"Residential mortgage loan modification services." See WAC 208-620-011.~~

"S.A.F.E. Act" means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Title V of the Housing

and Economic Recovery Act of 2008 ("HERA"), Public Law No. 110-289, effective July 30, 2008; and Regulation G, 12 C.F.R. Part 1007; and Regulation H, 12 C.F.R. Part 1008.

~~"Senior officer" means an officer of a consumer loan company at the vice president level or above.~~

~~"Service or servicing a loan." See WAC 208-620-011.~~

~~"Simple interest method." See WAC 208-620-011.)~~

"State" means the state of Washington.

"Student education loan borrower" means:

(a) Any resident of this state who has received or agreed to pay a student education loan; or

(b) Any person who shares responsibility with such resident for repaying the student education loan.

"Student education loan servicing" or "service a student education loan" means:

(a) Receiving any scheduled periodic payments from a student education loan borrower pursuant to the terms of a student education loan;

(b) Applying the payments of principal and interest and such other payments with respect to the amounts received from a student education loan borrower, as may be required pursuant to the terms of a student education loan;

(c) Working with the student education loan borrower to collect data, or collecting data, to make decisions to modify the loan; or

(d) Performing other administrative services with respect to a student education loan including collection activities. "Student education loan servicing" does not include third-party student education loan modification services.

"Subsidiary" means a person that is controlled by another.

"Table funding" means a settlement at which a mortgage loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

"Telemarketing and Consumer Fraud and Abuse Act" means the Telemarketing and Consumer Fraud and Abuse Act, 15 U.S.C. Sec. 6101 to 6108.

"Telemarketing Sales Rule" means the rules promulgated in 16 C.F.R. Part 310.

~~("Third party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.~~

~~"Third party service provider" means any person other than the licensee who provides goods or services to the licensee in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.)~~

"Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Secs. 1601 et seq., and Regulation Z, 12 C.F.R. Part 1026.

~~("Unique identifier" means a number or other identifier assigned by protocols established by the NMLS.~~

~~"Underwriter." See WAC 208-620-011.)~~

AMENDATORY SECTION (Amending WSR 18-16-024, filed 7/24/18, effective 9/1/18)

WAC 208-620-011 How does the department interpret certain definitions in RCW 31.04.015? (1) "**Borrower**" means an individual who consults with or retains a licensee or person subject to this chapter in an effort to obtain or seek information about obtaining a loan for personal, family, or household use, or a residential mortgage loan modification, regardless of whether the individual actually obtains a loan or residential mortgage loan modification. "**Borrower**" also includes a "student education loan borrower."

(2) (~~"Individual servicing a residential mortgage loan"~~) means a person who on behalf of a lender or servicer licensed or exempt from licensing in this state: Collects or attempts to collect payments on existing obligations due and owing to the licensed or exempt lender or servicer, including payments of principal, interest, escrow amounts, and other amounts due; works with borrowers to collect data and make decisions necessary to modify either temporarily or permanently terms of the obligations; or otherwise finalizes collection through the foreclosure process. For the purpose of this definition "on behalf of a lender or servicer" means that the individual person is employed by the lender or servicer and does not receive any compensation or gain directly or indirectly from borrowers for performing the described activities.

(3)) "**Director**" means the director of the department of financial institutions or his or her designated representative.

(3) "**Educational institution**" means:

(a) An entity that offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree beyond the secondary level;

(b) Any location where an entity is offering postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession; and

(c) Any establishment licensed under chapter 18.16 RCW that offers curriculums of instruction in the practice of cosmetology, hair design, barbering, esthetics, master esthetics, manicuring, or instructor-trainee.

(4) "**Federal banking agencies**" means the Board of Governors of the Federal Reserve System, Comptroller of the Currency, National Credit Union Administration, Federal Deposit Insurance Corporation, and Consumer Financial Protection Bureau.

(5) "**Individual servicing a residential mortgage loan**" means a person who on behalf of a lender or servicer licensed by this state, or a lender or servicer exempt from licensing, who collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due, on existing obligations due and owing to the licensed or exempt lender or servicer for a residential mortgage loan when the borrower is in default, or in reasonably foreseeable likelihood of default, working with the borrower and the licensed lender or servicer, collects data and makes decisions necessary to modify either temporarily or permanently certain terms of those obligations, or otherwise finalizes collection through the foreclosure process.

For purposes of this definition "on behalf of a lender or servicer" means that the individual person is employed by the lender or servicer and does not receive any compensation or

gain directly or indirectly from the borrower for performing the described activities.

(6) "**License**" means a license issued under the authority of this chapter with respect to a single place of business.

(7) "**Loan processor**" or "**underwriter**" means an individual who performs clerical or support duties as an employee (not as an independent contractor) of a person licensed or exempt from licensing and at the direction of and subject to the supervision and instruction of an individual licensed, or exempt from licensing, under this chapter. A residential mortgage loan processor or underwriter engaged as an independent contractor by a licensee must hold a mortgage loan originator license.

((4)) (8) "**Mortgage loan originator**" or "**loan originator**" means an individual who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain:

(a) Takes a residential mortgage loan application; or

(b) Offers or negotiates terms of a residential mortgage loan, including short sale transactions. An individual "offers or negotiates terms of a residential mortgage loan" if the individual:

(i) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms; or

(ii) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms.

Mortgage loan originator also includes an individual who for compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.

Mortgage loan originator also includes an individual who holds himself or herself out as being able to perform any of the activities described in this definition. For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that the person engages in any of the activities of a loan originator, including the use of business cards, stationery, brochures, rate lists or other promotional items.

Mortgage loan originator does not include any individual who performs purely administrative or clerical tasks and does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. Sec. 101(53D).

For the purposes of this definition, administrative or clerical tasks mean the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing of a residential mortgage loan. An individual who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

Mortgage loan originator does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law to conduct those activities, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mort-

gage broker, or other mortgage loan originator. See the definition of real estate brokerage activity in this subsection.

This definition does not apply to employees of a housing counseling agency approved by the United States Department of Housing and Urban Development unless the employees of a housing counseling agency are required under federal law to be individually licensed as mortgage loan originators.

(9) "Residential mortgage loan modification services" means activities conducted for compensation or gain by persons not engaged in servicing the borrower's existing residential mortgage loan. The activities may include negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform residential mortgage loan modification services. The activities may also include the collection of data for submission to another person performing mortgage loan modification services or to a residential mortgage loan servicer.

((5)) (10) "S.A.F.E. Act" means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Title V of the Housing and Economic Recovery Act of 2008 (HERA), Public Law No. 110-289, effective July 30, 2008; and Regulation G, 12 C.F.R. Part 1007; and Regulation H, 12 C.F.R. Part 1008.

(11) "Service" or "servicing a loan" means, with respect to residential mortgage loans, the following:

- (a) Regulated activities.
 - (i) Collecting or attempting to collect payments on existing obligations due and owing to the lender or investor, including payments of principal, interest, escrow amounts, and other amounts due;
 - (ii) Collecting fees due to the servicer for the servicing activities;
 - (iii) Working with the borrower to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently; or
 - (iv) Otherwise finalizing collection through the foreclosure process.
- (b) Regulated persons.
 - (i) "Servicer." Persons directly engaged in servicing.
 - (ii) "Master servicer." Persons responsible for ongoing servicing administration either by directly servicing or through servicing agreements with licensed or exempt subservicers. Except that the director may issue a license waiver to a master servicer servicing or administering the servicing of fewer than twenty-five loans.
 - (iii) "Subservicer." Persons directly servicing pursuant to a servicing agreement with a master servicer.
- (c) Persons not regulated.
 - (i) "Investor." Persons holding securities or other types of instruments backed by pools of residential mortgage loans. Investors are not servicers, master servicers, or subservicers.
 - (ii) "Note buyers." Persons who purchase mortgage loans without servicing rights and who are not servicers, master servicers, or subservicers.

((6)) (12) "Simple interest method" means the method of computing interest payable on a loan by applying the rate of interest specified in the note or its periodic equivalent to the unpaid balance of the principal amount outstanding for the time outstanding. Interest may not be compounded or payable in advance.

(a) Each payment must be applied as directed in the loan documents. No more than forty-five days of prepaid interest may be collected at the time of the loan closing.

(b) The prohibition on compounding interest does not apply to reverse mortgage loans made in compliance with the Washington State Reverse Mortgage Act within this chapter.

(13) "Student education loan" means:

(a) Any loan solely for personal, family, or household use to finance postsecondary education and costs of attendance at an educational institution, or any subsequent loan to refinance the former; and

(b) Any loan to refinance a payment plan or accounts receivable with a higher education institution if the student is not enrolled in the higher education institution.

(14) "Student education loan servicer" does not include the following when engaged in the activity of collecting student education loans in default:

(a) Collection agencies licensed in Washington under chapter 19.16 RCW; and

(b) An attorney licensed in Washington collecting student education loans in default as part of providing legal services. This attorney exclusion may be extended to the attorney's bona fide legal practice, but is otherwise an individual exclusion and may not be extended to a separate business entity.

AMENDATORY SECTION (Amending WSR 18-16-024, filed 7/24/18, effective 9/1/18)

WAC 208-620-104 Who is exempt from licensing as a consumer loan company? (1) See RCW 31.04.025 (2)(a), (b), (d), (g) through (i), and (k) through (m).

(2) Under RCW 31.04.025 (2)(c), entities conducting transactions under chapter 63.14 RCW (Retail installment sales of goods and services); however, the entity is not exempt if the transactions are an extension of credit to purchase merchandise certificates, coupons, open or closed loop stored value, or any other item issued and redeemable by a retail seller other than the entity extending the credit.

(3) Under RCW 31.04.025 (2)(e), any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary dwelling.

(4) Under RCW 31.04.025 (2)(f), a person selling property they own, that does not contain a dwelling, when the property serves as security for the financing. The exemption is not available to individuals subject to the federal S.A.F.E. Act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings. See also WAC 208-620-232.

(5) Under RCW 31.04.025 (2)(j), a nonprofit housing organization seeking exemption must meet the following standards:

(a) Has the status of a tax-exempt organization under Section 501 (c)(3) of the Internal Revenue Code of 1986;

(b) Promotes affordable housing or provides home ownership education, or similar services;

(c) Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;

(d) Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;

(e) Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;

(f) Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and

(g) Meets other standards as prescribed by the director.

(6) Under RCW 31.04.025(3), individuals who make loans or extend credit, secured or unsecured, to immediate family members.

(7) Under RCW 31.04.025(3), individuals who extend credit on the sale of their primary dwelling.

(8) Investors. See WAC 208-620-011(5).

(9) Note buyers. See WAC 208-620-011(5).

(10) Under RCW 31.04.420:

(a) Trade, technical, vocational, or apprentice programs that teach skills related to a specific job, and postsecondary schools that service their own student education loans;

(b) Persons servicing five or fewer student education loans;

(c) Guarantors of federal student loans that do not also service federal student loans;

(d) The United States or any department or agency thereof, to the extent it is servicing student education loans that it originated;

(e) Any state, county, city, or any department or agency thereof, but only to the extent it is servicing student education loans that it originated; and

(f) Persons providing third-party student education loan modification services. See RCW 31.04.015(38).

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

WAC 208-620-230 Do I need a consumer loan license to lend money, extend credit ((✕)), service or modify the terms of residential mortgage loans, or service student education loans? (1) Yes. If you do not qualify for an exemption under RCW 31.04.025 or 31.04.420, you must hold a license to:

(a) Be located in Washington and lend money, extend credit, ((✕)) service or modify residential mortgage loans, or service student education loans;

(b) Be located outside Washington and lend money or extend credit to Washington residents ((✕)), service or modify residential mortgage loans on Washington real estate, or service student education loans for Washington residents;

(c) From any location solicit or advertise by any means to Washington residents including but not limited to mail, brochure, telephone, print, radio, television, internet, or any other electronic means;

(d) From any location conduct business under the act with Washington residents by mail or internet;

(e) Hold yourself out as able to conduct any of the activities in (a) through (d) of this subsection.

(2) If you violate subsection (1) of this section, on non-residential loans, you must refund to the borrower the interest and nonthird-party fees charged in the transaction. On residential mortgage loans, you must refund to the borrower non-third-party fees charged in the transaction.

(3) See also WAC 208-620-232 for residential mortgage loans.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-300 If I want to operate my business from more than one office, do I have to license each location? Yes. You must submit a branch office application through the NMLS for each branch office, residential mortgage loan servicing location, student education loan servicing location, or direct solicitation location. ~~((You must provide evidence of surety bond coverage for each branch and meet all other license requirements.))~~ You may not operate until a license is granted for that location.

AMENDATORY SECTION (Amending WSR 17-01-124, filed 12/20/16, effective 1/1/18)

WAC 208-620-320 What is the amount of the surety bond required for my consumer loan license? (1) Surety bond amounts are based on ~~((loan origination))~~ the volume of your activity from prior years. If there is no prior year volume, the surety bond amount required at application is thirty thousand dollars. For purposes of this section, ~~(((")) references to loan origination volume((" means a volume of))~~ mean closed loans.

(2) Nonresidential loan origination. If you originate non-residential loans the surety bond amount is based on the annual dollar amount of loans you originate. See the following chart:

1. Zero to twenty million in loans originated:	\$30,000
2. Twenty million to forty million:	\$50,000
3. Forty million to fifty million:	\$100,000
4. Fifty million and above:	\$150,000

(3) Residential mortgage loans ~~((origination))~~.

(a) Origination. If you only originate residential mortgage loans, the surety bond amount is based on the annual dollar amount of residential mortgage loans you originate. Use the chart in subsection (2) of this section for the bond amount.

(b) Servicing. If you only service residential mortgage loans, a bond requirement may only arise if you elect a surety bond in lieu of the required net worth in WAC 208-620-322, or you sponsor a Washington mortgage loan originator.

(c) Origination and servicing. If you originate and service residential mortgage loans, your surety bond amount will be based on your origination volumes. See the table in subsection (2) of this section.

(d) Brokering. If you only broker residential mortgage loans, your surety bond amount ~~((at application is thirty thousand dollars. There after subject to annual adjustment the~~

surety bond amount)) will be based on the total annual principal amount of the loans brokered. See the table in subsection (2) of this section.

(4) Combined nonresidential and residential loan origination. If you originate both nonresidential and residential loans, your bond amount will be based on the combined origination volume. See the table in subsection (2) of this section.

(5) Third-party residential loan modification services. If you only offer third-party residential mortgage loan modification services, your bond amount is thirty thousand dollars.

(6) Student education loan servicing. If you only service student education loans, the surety bond amount is thirty thousand dollars.

AMENDATORY SECTION (Amending WSR 17-01-124, filed 12/20/16, effective 1/1/18)

WAC 208-620-322 What are the capital requirements for a nondepository residential mortgage loan servicer applicant (~~and~~) or licensee servicing loans not guaranteed by a government sponsored entity (GSE) and/or government corporation? (1)(a) An applicant or licensee servicing residential mortgage loans not including any GSE or government corporation loans must maintain a minimum tangible net worth, based on its nationwide servicing portfolio, as follows:

0-199 loans	\$100,000
200-299 loans	\$200,000
300-399 loans	\$300,000
400-499 loans	\$400,000
500-599 loans	\$500,000
600-699 loans	\$600,000
700-799 loans	\$700,000
800-899 loans	\$800,000
900-999 loans	\$900,000
1,000 plus loans	\$1,000,000

(b) Alternatively the applicant or licensee may maintain a one million dollar surety bond in lieu of tangible net worth.

(c) In addition, the applicant or licensee must maintain liquidity (to include operating reserves) of .00035 times the unpaid principal balance of the portfolio.

(2) An applicant or licensee (~~with~~) servicing twenty-five or fewer (~~loans~~) Washington residential mortgage accounts may apply to the director to waive or adjust one or more of these capital requirements. In considering such a request the director will consider whether the licensee has a positive net worth and adequate operating reserves. For purposes of this section, "operating reserves" are funds set aside in anticipation of future payments or obligations and are included in liquidity.

(3) Licensees must annually or more frequently report, as prescribed by the director, on liquidity (including operating reserves) and tangible net worth.

(4) Any licensee that does not maintain the standards in this section is subject to action by the director including that authority in RCW 31.04.165(4).

(5) The following definitions apply to this section:

(a) Tangible net worth means total equity minus receivables due from affiliated entities, minus goodwill and other intangible assets, and minus the carrying value of pledged assets net of the associated liabilities of the pledged assets.

(b) Liquidity means unrestricted cash and cash equivalents, investment grade securities that are available for sale or held for trade, and unused/available portion of committed servicing advance lines.

NEW SECTION

WAC 208-620-324 What are the capital requirements for a student education loan servicer? (1)(a) An applicant or licensee servicing student education loans must maintain a minimum tangible net worth of two hundred fifty thousand dollars.

(b) In addition, the applicant or licensee must maintain liquidity (to include operating reserves) of .00035 times the unpaid principal balance of the nationwide portfolio.

(2) An applicant or licensee servicing student education loans for Washington state borrowers may apply to the director to waive or adjust the capital requirements. In considering such a request, among other things, the director will consider the number of loans being serviced and whether the applicant or licensee has a positive net worth and adequate operating reserves. For purposes of this section, "operating reserves" are funds set aside in anticipation of future payments or obligations and are included in liquidity.

(3) Licensees servicing student education loans must annually or more frequently report, as prescribed by the director, on liquidity (including operating reserves) and tangible net worth.

(4) Any licensee servicing student education loans that does not maintain the standards in this section is subject to action by the director, including that authority in RCW 31.04.165(4).

(5) The following definitions apply to this section:

(a) Tangible net worth means total equity minus receivables due from affiliated entities, minus goodwill and other intangible assets, and minus the carrying value of pledged assets net of the associated liabilities of the pledged assets.

(b) Liquidity means unrestricted cash and cash equivalents, investment grade securities that are available for sale or held for trade, and the unused/available portion of committed servicing advance lines (funding facilities).

AMENDATORY SECTION (Amending WSR 10-20-122, filed 10/5/10, effective 11/5/10)

WAC 208-620-327 How often will my bond amount change? Your bond amount may change annually depending on your volume of (~~loan origination and residential mortgage loans serviced in Washington. See RCW 31.04.045(6))~~) Washington activity. By March 1st of each year, you must determine your required bond amount and provide DFI with proof of having an adequate bond.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-328 ~~For purposes of the annual assessment and surety bond calculation, how often must I report my ((loan origination and residential mortgage loan servicing volume))~~ **Washington activity?** You must report your ((loan origination and residential mortgage loan servicing volume)) volume of activity as directed and on the form prescribed by the director.

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

WAC 208-620-370 **What are the grounds for denying or conditioning my consumer loan company license application?** The director may deny or condition approval of a license application if you or any principal, officer, or board director of the applicant:

- (1) Fails to pay a fee due the department or the NMLS;
- (2) Fails to demonstrate financial responsibility, experience, character, and general fitness to operate a business honestly, fairly, and efficiently within the purposes of the Consumer Loan Act. The director may find that the person has failed to make the demonstration if, among other things:

(a) Is or has been subject to an injunction or an administrative action issued pursuant to the Consumer Loan Act, the Consumer Protection Act, the Mortgage Broker Practices Act, the Insurance Code, the Securities Act, or similar laws in this or another state; or

(b) Is reported to have a history of unpaid debts as reported by an independent credit report issued by a recognized credit reporting agency; or

(c) Is the subject of a criminal felony indictment, or a criminal gross misdemeanor charge involving dishonesty or financial misconduct (RCW 31.04.055 (1)(d)); or

(d) Is insolvent in the sense that the value of the applicant's or licensee's liabilities exceeds its assets or in the sense that the applicant or licensee cannot meet its obligations as they mature; or

(e) Has had a license to conduct lending, residential mortgage loan servicing, ~~((or))~~ to provide settlement services associated with lending or residential mortgage loan servicing, or student education loan servicing revoked or suspended by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license (see RCW 31.04.093 (6)(c)).

(3) Has misrepresented, omitted or concealed a material fact from the department or has misrepresented a material fact to the department;

(4) Has been found to have committed an act of misrepresentation or fraud in any aspect of ~~((the conduct of the lending or brokering business or profession))~~ providing financial services;

(5) Has failed to complete its application as defined in WAC 208-620-280, within a reasonable time after being notified that the department considers the file abandoned for failure to provide requested information or documentation;

(6) Fails to maintain a bond or bond alternative that is compliant with the act.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-371 **May I employ someone to work with Washington residents or Washington property who has been convicted of a gross misdemeanor or felony, or who has had a ((lending-related)) financial services-related license revoked or suspended?** No. (1) Pursuant to RCW 31.04.093(6), the director may prohibit any officer, principal, or employee from participating in the affairs of any licensee if that officer, principal, or employee has been convicted of or pled guilty or nolo contendere to:

(a) A gross misdemeanor involving dishonesty or financial misconduct; or

(b) A felony in a domestic, foreign, or military court:

(i) During the seven-year period preceding the date of the proposed employment; or

(ii) At any time preceding the date of the proposed employment, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(2) For purposes of this section, "participating in the affairs of any licensee" means an officer, principal, or employee or independent contractor who will or does originate loans, supervise employees or independent contractors, or manage the loan production or other activities of the licensee.

(3) Additionally, the director may prohibit participation in the affairs of the licensee by any officer, principal, or employee or independent contractor, or person subject to the act, who has had a license to ~~((engage in lending, or performance of a settlement service related to lending, including loan modifications,))~~ provide financial services revoked or suspended in this state or any state.

(4) The department considers it to be a deceptive practice in violation of RCW 31.04.027(2) for any licensee to employ an officer, principal, or employee or independent contractor to conduct any of the activities described in subsection (3) of this section without first conducting a background check.

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

WAC 208-620-431 **What are my quarterly call report filing requirements ((if I make, broker, or service residential mortgage loans))?** You are required to file accurate and complete call reports on the dates and in a form prescribed by the NMLS (see RCW 31.04.277).

NEW SECTION

WAC 208-620-442 **How do I calculate the annual assessment for my student education loan servicing activity in Washington?** Pursuant to RCW 31.04.400, your annual assessment is an amount sufficient to cover the costs of the department's administration of the program, and to fund the student achievement council's student loan advocate. For purposes of this section, "portfolio" means all student education loan servicing accounts, including those held for investment.

(1) **Calculation of the annual assessment for student education loans serviced.** The amount of the annual assess-

ment is determined by multiplying the adjusted total loan volume of the loans in the year being assessed by .0000384616.

(2) **All loans counted in assessment calculation.** The "adjusted total loan volume" is the sum of:

(a) The principal loan balance of Washington student education loans in your portfolio on December 31st of the prior year; plus

(b) The total principal loan balance of Washington student education loans added to your portfolio during the assessment year.

AMENDATORY SECTION (Amending WSR 18-16-024, filed 7/24/18, effective 9/1/18)

WAC 208-620-490 What are my reporting responsibilities when something of significance happens to my business? (1) Prior notification required. You must amend your NMLS record at least ten days prior to a change of your:

(a) Principal place of business or any of branch offices;

(b) Name or legal status (e.g., from sole proprietor to corporation, etc.);

(c) ~~(Name and mailing address of your registered agent if you are located outside the state;~~

~~(d))~~ Legal or trade name; or

~~((e))~~ ~~(d)~~ Ownership control of ten percent or more ~~(or~~

~~(f) A closure or surrender of the license. See WAC 208-620-499).~~

(2) ~~((Post notification))~~ **NMLS update within ten days.** You must amend your NMLS record within ten days after an occurrence of any of the following:

(a) A change in mailing address, telephone number, fax number, or email address;

(b) A change in the name and mailing address of your registered agent if you are located outside the state;

(c) A closure of surrender of your license. See WAC 208-620-499;

(d) Termination of sponsorship of a loan originator;

(e) A change in primary company contact or primary consumer complaint contact; or

(f) A change in your response to a disclosure question within NMLS. You must upload the document that is the basis for your changed response.

(3) **Written notice to the department within ten days.** You must notify the department in writing within ten days after an occurrence of any of the following:

(a) A cancellation or expiration of your Washington state business license;

~~((e))~~ (b) A change in standing with the state of Washington secretary of state, including the resignation or change of the registered agent;

~~((d))~~ (c) Failure to maintain the appropriate unimpaired capital under WAC 208-620-340. See WAC 208-620-360;

~~((e))~~ (d) Receipt of notification of cancellation of your surety bond;

~~((f) Termination of sponsorship of loan originator;~~

~~(g))~~ (e) Receipt of notification of a claim against your bond;

~~((h) A change in primary company contact, primary consumer complaint contact, location of your books and records;~~

~~(i) A change in your response to a disclosure question within NMLS. You must upload the document that is the basis for your changed response; or~~

~~(j))~~ (f) For student education loan servicers servicing for the federal government, the occurrence of any event that alters the condition of the business to the extent it would no longer qualify for a federal contract;

(g) Notification of termination from servicing student education loans for the federal government, if applicable;

(h) Notification from a GSE of a breach of contract, waiver, or nonperformance if the reason for the notification remains unresolved for more than ninety days;

(i) Notification from the federal government of a breach of contract, waiver, nonperformance if the reason for the notification remains unresolved for more than ninety days; or

(j) Your capital falling below the required government sponsored entity (GSE) minimum capital requirements, if applicable.

~~((3) Post notification))~~ **(4) NMLS update within twenty days.** You must amend your NMLS record within twenty days after the occurrence of any of the following developments:

(a) Receipt of notification of license revocation procedures against your license in any state;

(b) The filing of a felony indictment or information related to lending or brokering activities against you or any officer, board director, or principal or an indictment or information involving dishonesty against you or any officer, board director, or principal;

(c) Conviction of you or any officer, director, or principal for a felony, or a gross misdemeanor involving lending, brokering or financial misconduct; ~~((e))~~

~~(d) ((The filing of any material litigation against the company.~~

~~(e) Notification of termination from the GSE, if applicable.~~

~~(4) Other.~~

~~(a) You must amend your NMLS record after receiving notification from the GSE of a breach of contract, waiver, or nonperformance if the reason for the notification remains unresolved for more than ninety days.~~

~~(b))~~ See WAC 208-620-499 for the requirements when you close your business.

~~((e))~~ (e) Within forty-five days of a data breach you must notify the director in writing. This notification requirement may change based on directives or recommendations from law enforcement. See also WAC 208-620-573.

(5) Student education loan servicers. In addition to keeping records in compliance with the act, servicers of student education loans must also collect, maintain, and report to the department specific information about the student education loans in their portfolio. Such information includes, but is not limited to, and as applicable: Loan volume; default, refinance, and modification information; loan type (subsidized or unsubsidized, Stafford or Direct, PLUS, etc.) information; and collection practices.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-505 In addition to the Consumer Loan Act, what other laws do I have to comply with? You must ensure you are in compliance with all federal and state laws, regulations and programs that apply to lending or brokering loans, ~~(($\text{\textcircled{R}}$))~~ servicing residential mortgage loans, including applicable reverse mortgage, or servicing student education loans including, but not limited to, the Truth in Lending Act, the Equal Credit Opportunity Act, the Home Mortgage Disclosure Act, the Bank Secrecy Act, the Real Estate Settlement Procedures Act, the Gramm-Leach-Bliley Act, the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, the Federal Trade Commission Act, the Telemarketing and Consumer Fraud and Abuse Act, the Washington State Fair Housing Act, the S.A.F.E. Act, the Federal Trade Commission Telemarketing Sales Rule, and the Mortgage Acts and Practices - Advertising statute, Regulation N, 12 C.F.R. Part 1014.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-510 What are my disclosure obligations to consumers? Some types of loans may not be covered by the integrated TILA-RESPA rule. Examples include: Reverse mortgages and HELOCS. Creditors originating these types of mortgages must continue to use, as applicable, the federal Good Faith Estimate, HUD-1, and Truth in Lending disclosures. Creditors are not prohibited from using the integrated TILA-RESPA disclosures. However, they cannot replace the required federal Good Faith Estimate, HUD-1, and Truth in Lending disclosures.

(1) **Content requirements.** In addition to complying with the applicable disclosure requirements in the federal and state statutes referred to in WAC 208-620-505 if the loan will be secured by a lien on real property, you must also provide the borrower or potential borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three business days of receipt of a loan application.

(2) **Proof of delivery.** The licensee must be able to prove that the disclosures under subsection (1) of this section were provided within the required time frames. For purposes of determining the timeliness of the required early disclosures, the department may use the date of the credit report or may use the date of an application received from a broker. In most cases, proof of mailing is sufficient evidence of delivery. If the licensee has an established system of disclosure tracking that includes a disclosure and correspondence log, checklists, and a reasonable system for determining if a borrower did receive the documents, the licensee will be presumed to be in compliance.

(3) **Residential mortgage loans—Rate locks.** Within three business days of receipt of a residential mortgage loan application you must provide the borrower with the following disclosure about the interest rate:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the

federal good faith estimate or loan estimate is considered compliance.

(b) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, if guaranteed by a company other than your company, you must provide the name of that company, whether and under what conditions any rate lock fees are refundable to the borrower, and:

- (i) The number of days in the rate lock period;
- (ii) The date of the rate lock and expiration date of the rate lock;
- (iii) The rate of interest locked;
- (iv) Any other terms and conditions of the rate lock agreement; and
- (v) The date the rate lock agreement was provided to the borrower.

(c) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date that includes the items from (b) of this subsection.

(d) Prior to closing, you must disclose payment of a rate lock as a cost in Block 2 of the federal good faith estimate or in "Loan Cost" on the loan estimate. At closing, you must disclose payment of a rate lock in section 800 "Items Payable" on a HUD-1 or in "Loan Cost" on the closing disclosure.

(e) You may rely on a broker's rate lock agreement if it complies with this subsection.

(4) **Residential mortgage loans—Loans brokered to other creditors.** Within three business days following receipt of a residential mortgage loan application you must provide to each borrower or potential borrower:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the federal good faith estimate or loan estimate is considered compliance with this subsection;

(b) An estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty;

(c) A good faith estimate or loan estimate that conforms with RESPA, Regulation X, 12 C.F.R. Part 1024 and TILA, Regulation Z, 12 C.F.R. Part 1016;

(d) A rate lock disclosure containing the following:

(i) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, the name of the company providing the guarantee, whether and under what conditions any rate lock fees are refundable to the borrower, and:

- (A) The number of days in the rate lock period;
- (B) The date of the rate lock and the expiration date of the rate lock;
- (C) The rate of interest locked;
- (D) The date the rate lock was provided to the borrower; and

(E) Any other terms and conditions of the rate lock agreement.

(ii) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date. The rate lock agreement must include the items from (d) of this subsection.

(e) Prior to closing, you must disclose payment of a rate lock as a cost in Block 2 of the federal good faith estimate or in "Loan Cost" on the loan estimate. At closing, you must disclose payment of a rate lock in section 800 "Items Payable" on a HUD-1 or in "Loan Cost" on the closing disclosure.

(f) You may rely on a lender's rate lock agreement if it is in compliance with this subsection.

(5) **Residential mortgage loans—Shared appreciation mortgages (SAM) or mortgages with shared appreciation provisions.** Within three business days following receipt of a loan application for a shared appreciation mortgage, or a mortgage with a shared appreciation provision, in addition to the disclosures required by federal law or by this chapter, you must provide each borrower with a written disclosure containing at a minimum the following:

(a) The percentage of shared equity or shared appreciation you will receive (or a formula for determining it);

(b) The value the borrower will receive for sharing his or her equity or appreciation;

(c) The conditions that will trigger the borrower's duty to pay;

(d) The conditions that may cause the lender to terminate the mortgage or shared appreciation provision early;

(e) The procedure for including qualifying major home improvements in the home's basis (if any);

(f) Whether a prepayment penalty applies or other conditions applicable, if a borrower wishes to repay the loan early, including but not limited to, any date certain after which the borrower can repay the loan by paying back the lender's funds plus accrued equity; and

(g) The date on which the SAM terminates and the equity or appreciation becomes payable if no triggering event occurs.

(6) **Residential mortgage loan modifications.** You must immediately inform the borrower in writing if the owner of the loan requires additional information from the borrower, or if it becomes apparent that a residential mortgage loan modification is not possible.

(7) **Student education loans.** In addition to the applicable disclosures required for all consumer loans made by a licensee, for all consumer loans made by a licensee that are a refinance of a federal student education loan, the licensee must provide to the borrower a clear and conspicuous disclosure that some repayment and forgiveness options available under federal student education loan programs, including without limitation, income-driven repayment plans, economic hardship deferments, or public service loan forgiveness, will no longer be available to the borrower if he or she chooses to refinance federal student education loans with one or more consumer loans.

(8) Each licensee must maintain in its files sufficient information to show compliance with state and federal law.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-515 What authority do I have after my license has been issued? Once your license has been issued you may:

(1) Lend money with a note rate that does not exceed twenty-five percent per annum as determined by the simple interest method of calculating interest owed. This applies only to nonmortgage loans, junior lien mortgage loans, and to lenders that are not "creditors" under the Depository Institutions Deregulatory and Monetary Control Act when making first lien mortgage loans. The requirement for the simple interest method of calculating interest does not apply to reverse mortgages.

(2) Make open-end loans as authorized in RCW 31.04-.115 provided that:

(a) The annual fee allowed in RCW 31.04.115(3) may not exceed fifty dollars; and

(b) The annual fee must be charged in advance as a lump sum. It must not be charged monthly and must not be financed.

(3) In accordance with Title 48 RCW, sell insurance covering real and personal property, covering the life or disability or both of the borrower, covering the involuntary unemployment of the borrower, or other insurance products approved by the Washington state office of the insurance commissioner.

(4) Service residential mortgage loans. See also WAC 208-620-320, 208-620-325, 208-620-550, 208-620-551, and 208-620-900.

(5) Provide third-party loan modification services for residential mortgage loans. See also WAC 208-620-320, 208-620-325, 208-620-545, 208-620-550, and 208-620-552.

(6) Service student education loans.

AMENDATORY SECTION (Amending WSR 18-16-024, filed 7/24/18, effective 9/1/18)

WAC 208-620-520 What are the records I must maintain and for how long must I maintain them? Unless otherwise indicated in this section, and as applicable, you must maintain the following records for a minimum of three years after making the final entry, or the period of time required by federal law, whichever is longer:

(1) **General records.** Each licensee must maintain electronic or hard copy books, accounts, records, papers, documents, files, and other information relevant to making loans or servicing residential mortgage loans.

(2) **Advertising records.** These records include newspaper and print advertising, scripts of radio and television advertising, telemarketing scripts, all direct mail advertising, and any electronic advertising distributed by facsimile computer, or other electronic or wireless network.

(3) **Other specific records.** The records required under subsection (1) of this section include, but are not limited to:

(a) All loan agreements or notes and all addendums, riders, or other documents that supplement the final loan agreements;

(b) All forms of loan applications, written or electronic (the Fannie Mae 1003 is an example);

(c) The initial rate sheet or other supporting rate information, if applicable;

(d) The last rate sheet, or other supporting rate information, if there was a change in rates, terms, or conditions prior to settlement, if applicable;

(e) Rate lock agreements and the supporting rate sheets or other rate supporting document, if applicable;

(f) All written disclosures required by the act and federal laws and regulations. Some examples of federal law disclosures include, but are not limited to: The good faith estimate or loan estimate or other Truth in Lending Act disclosures, Equal Credit Opportunity Act disclosures, and affiliated business arrangement and other disclosures under RESPA;

(g) Documents and records of compensation paid to employees and independent contractors;

(h) An accounting of all funds received in connection with loans with supporting data;

(i) Settlement statements (for example, the final HUD-1, HUD-1A or federal closing disclosure);

(j) Broker loan document requests (may also be known as loan document request or demand statements) that include any prepayment penalties, terms, fees, rates, yield spread premium, loan type and terms;

(k) Records of any fees refunded to applicants for loans that did not close;

(l) All file correspondence and logs;

(m) All mortgage broker contracts with lenders and all other correspondence with the lenders;

(n) All documents used to support the underwriting approval, if applicable; and

(o) All documents that evidence a financial commitment made to protect a rate of interest during a rate lock period.

(4) Loan servicing documents.

(a) You must maintain servicing agreements as part of your records.

(b) You must maintain all notices from GSEs, if applicable.

(c) You must maintain recorded telephone conversations with consumers for three years after the date of the call or longer if required by another law.

(5) **Abandoned records.** If you do not maintain your records as required, you are responsible for the costs of collection, storage, conversion to electronic format or proper destruction of the records.

AMENDATORY SECTION (Amending WSR 18-16-024, filed 7/24/18, effective 9/1/18)

WAC 208-620-550 What business practices are prohibited? In addition to RCW 31.04.027, the following constitute an "unfair or deceptive" act or practice:

(1) Failure to provide the exact pay-off amount as of a certain date within seven business days after being requested in writing to do so by a borrower or record or their authorized representative. Student education loan servicers must comply with this subsection or an applicable federal program requirement;

(2) Failure to record a borrower's payment as received on the day it is delivered to any of the licensee's locations during its regular working hours;

(3) Collecting more than forty-five days of prepaid interest at the time of loan closing;

(4) Soliciting or entering into a contract with a borrower that provides in substance that the licensee may earn a fee or

commission through its "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) **Engaging in unfair or deceptive advertising practices.** Unfair advertising may include advertising that offends public policy, or causes substantial injury to consumers or to competition in the marketplace. See also WAC 208-620-630;

(6) Negligently making any false statement or willfully making any omission of material fact in connection with any application or any information filed by a licensee in connection with any application, examination or investigation conducted by the department;

(7) Making any payment, directly or indirectly, or withholding or threatening to withhold any payment, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(8) Leaving blanks on a loan origination document that is signed by the borrower or providing the borrower with loan origination documents with blanks;

(9) Failing to clearly disclose to a borrower whether the payment advertised or offered for a real estate loan includes amounts for taxes, insurance or other products sold to the borrower;

(10) Purchasing insurance on an asset secured by a loan without first attempting to contact the borrower by mailing one or more notices to the last known address of the borrower, unless mail has been previously returned as undeliverable from the address, in order to verify that the asset is not otherwise insured;

(11) Willfully filing a lien on property without a legal basis to do so;

(12) Coercing, intimidating, or threatening borrowers in any way with the intent of forcing them to complete a loan transaction;

(13) Failing to reconvey title to collateral, if any, within sixty business days when the loan is paid in full;

(14) ~~((Intentionally))~~ Failing to timely and completely comply with any directive, subpoena, or order issued by the department;

(15) Negligently delaying the closing of a residential mortgage loan ~~((for the sole purpose of increasing))~~ which results in increased interest, costs, fees, or charges payable by the borrower;

~~((+5))~~ (16) Negligently delaying the refinance or modification of a student education loan which results in increased interest, costs, fees, or other charges payable by the borrower or which results in the proposed refinancing or modification becoming unavailable, or both;

(17) Steering a borrower to a residential mortgage loan with less favorable terms than they qualify for in order to increase the compensation paid to the company or mortgage loan originator. An example is counseling, or directing a borrower to accept a residential mortgage loan product with a risk grade less favorable than the risk grade the borrower would qualify for based on the licensee or other regulated person's then current underwriting guidelines, prudently applied, considering the information available to the licensee or other regulated person, including the information provided by the borrower;

~~((16))~~ (18) Failing to indicate on all residential mortgage loan applications, initial and revised, the company's unique identifier, the loan originator's unique identifier, and the date the application was taken or revised;

~~((17))~~ (19) Receiving compensation or anything of value from any party for assisting in real estate "flopping." Flopping occurs during some short sales where the value of the property is misrepresented to the lender who then authorizes the sale of the property for less than market value. The property is then resold at market value or near market value for a profit. The failure to disclose the true value of the property to the lender constitutes fraud and is a violation of this chapter;

~~((18))~~ (20) Receiving compensation for making the loan and for brokering the loan in the same transaction;

~~((19))~~ (21) Charging a fee in a residential mortgage loan transaction that is more than the fees allowed by the state or federal agency overseeing the specific type of loan transaction. Examples include, but are not limited to, loans insured or guaranteed by the Veterans Administration, Home Equity Conversion Mortgages insured by HUD, and loans offered through the United States Department of Agriculture Rural Development;

~~((20))~~ (22) Making, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan. An example is advertising a discounted rate without clearly and conspicuously disclosing in the advertisement the cost of the discount to the borrower and that the rate is discounted;

~~((21))~~ (23) Servicing a usurious loan.

NEW SECTION

WAC 208-620-569 What fees can I charge the student education loan borrower when servicing student education loans? (1) You may charge servicing fees authorized by the loan documents, by the act, or by the borrower. Examples include, but are not limited to, late fees as authorized by the loan documents, insufficient fund fees as authorized by the loan documents or as allowed under WAC 208-620-560(2), and wire transfer fees for wire transfers requested by the borrower.

(2) You may only charge a fee for a default related service that is usual and customary or reasonable in light of the service provided.

(3) You may not charge a consumer for fees you paid to third parties in excess of the fee you paid to the third party.

(4) Fees which are not timely charged to a borrower's account pursuant to RCW 31.04.405 must be waived, or if already collected, must be returned to the borrower within fifteen calendar days.

STUDENT EDUCATION LOAN SERVICING REQUIREMENTS

NEW SECTION

WAC 208-620-950 Servicing student education loans—General requirements. (1) Other applicable laws,

regulations, and programs. A violation of an applicable state or federal law, regulation, or program is a violation of this act. In addition to complying with all other provisions of this act and rules, you must comply with the following: All applicable federal program requirements.

(2) Communications. If the student education loan borrower did not provide authorization for electronic communications during the origination process, you must provide the borrower with a specific, separate document seeking the borrower's authorization to receive all communications electronically. If the borrower responds affirmatively (agreeing), you must retain the borrower's agreement to receive electronic communications.

(3) Payment processing and fees.

(a) You must assess any incurred fees to a borrower's account within forty-five days of the date on which the fee was incurred. You must clearly and conspicuously explain the fee in a statement mailed to the borrower at the borrower's last known address no more than thirty days after assessing the fee. If you provide monthly or more frequent statements that include this information you are not required to provide the information in a notice in addition to the monthly or more frequent statement. You may also provide the information via email if the borrower has assented to receive electronic communications.

(b) You must accept and credit, or treat as credited, all amounts received within one business day of receipt when the borrower has made the payment to the address where instructed, provided that the borrower has provided sufficient information to credit the account. If you use the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. You must apply the payment as specified in the loan documents.

(c) You must notify the borrower if a payment is received but not credited, or treated as credited. You must mail the notification to the borrower within ten business days by mail at the borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the borrower must take to make the student education loan current. If you provide monthly or more frequent statements that include this information you are not required to provide the information in a notice in addition to the monthly or more frequent statement. You may also provide the information via email if the borrower has assented to receive electronic communications.

(4) You must provide, free of charge on your web site, information or links to information regarding repayment and loan forgiveness options that may be available to borrowers, as well as the availability of a student loan advocate to provide assistance. The requirement to provide information on the availability of a student loan advocate may be satisfied by language referring the student education loan borrower to their state's relevant authority. This information or these links shall be prominently placed and provided via written correspondence or email with the borrower at least once per calendar year. Alternatively, you may provide a toll-free telephone number where a student education loan borrower may speak

to a single point of contact about loan repayment and loan forgiveness options.

NEW SECTION

WAC 208-620-960 Servicing student education loans—Requests for information. (1) You must make a reasonable attempt to comply with a borrower's request for information about the student education loan account and to respond to any dispute initiated by the borrower about the loan account. A reasonable attempt includes, but is not limited to:

(a) Maintaining written or electronic records of each written request for information involving the borrower's account until the student education loan is paid in full, sold, or otherwise satisfied;

(b) Providing a written statement to the borrower within fifteen business days of receipt of a written request from the borrower. The borrower's request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and sufficient detail regarding the information sought by the borrower to permit the servicer to comply.

(2) You must provide, at a minimum, the following information to a borrower's request described in this section:

(a) Whether the account is current or, if the account is not current, an explanation of why the account is not current and the date the account became past due;

(b) The current balance due on the student education loan, including the principal due, the amount of funds, if any, held in a suspense account, if any, and whether there are any shortages known to the servicer;

(c) The identity, address, and other relevant information about the current holder, owner, or assignee of the student education loan; and

(d) The telephone number and mailing address of the servicer's business unit where the borrower will reach an individual with the information and authority to answer questions and resolve disputes.

(3) You must promptly correct any errors and refund any fees assessed to the borrower resulting from an error you made.

(4) If the borrower applies for or attempts to certify progress toward a discharge or refund of amounts paid on their federal student education loans with the United States Department of Education, you must provide explanations to the borrower on any decision made with respect to their application.

(5) In addition to the statement described in subsection (2) of this section, a borrower may request more detailed information from a servicer, and the servicer must provide the information within fifteen business days of receipt of a written request from the borrower to the servicer at the address the servicer has provided to the borrower for such requests for information. The request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and provide sufficient detail to the servicer regarding information sought by the borrower. If requested by the borrower, this statement must also include:

(a) A copy of the original note, or if unavailable, an affidavit of lost note, with all endorsements; and

(b) A statement that identifies and itemizes all fees and charges assessed under the loan servicing transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the student education loan including suspense account activity, if any.

(c) The period of the account history shall cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the student education loan for the entire two-year time period, the servicer must provide the information going back to the date on which the servicer began servicing the loan and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the loan prior to the two-year period or the period during which the servicer has serviced the student education loan, the servicer must provide an account history beginning with the month that the servicer claims any outstanding sums that are owed on the student education loan up to the date of the request for the information.

(d) If the borrower requests this statement, you must provide it free of charge; but the borrower is only entitled to one free statement annually. If the borrower requests more than one statement annually, you may charge thirty dollars for the second and subsequent statements.

NEW SECTION

WAC 208-620-970 Servicing student education loans—Acquiring, transferring, or selling servicing activities. If you are acquiring, transferring, or selling servicing activities of federal student education loans in compliance with the department of education contractual requirements, you are not subject to the following requirements of this section.

(1) When acquiring servicing rights from another servicer you must:

(a) Notify the student education loan borrowers in writing no more than sixty days and no less than forty-five days before the effective date of the transfer of the students' loans to provide them with:

(i) The effective date of the transfer of servicing, and the date at which you will begin to accept payments relating to the loan, if different;

(ii) The name, mailing address, and toll-free telephone number for your designated points of contact, as well as the designated points of contact for the transferring servicer, at which the borrower can obtain answers to inquiries;

(iii) A statement that the transfer of servicing does not affect any term or condition of the student education loan other than the entity servicing the loan;

(iv) Information about how to obtain a payment history from you or the transferring servicer, including a count of payments that qualify toward any forgiveness options, as applicable;

(v) A notification indicating whether an alternative repayment plan or loan consolidation application is pending, if available; and

(vi) Information about how to appropriately direct and submit a complaint to the United States Department of Education, the student loan advocate, student loan ombuds, and other relevant federal or state agencies that collect borrower complaints, in the event of a servicing error. This requirement may be satisfied by language referring the student education loan borrower to their state's relevant authority.

(b) Continue processing student education loan modification requests, including applications for income-driven repayment, loan forgiveness, or loan consolidation received by you or the transferring servicer during the transfer process, if applicable; and

(c) Retain records necessary to maintain the borrower's uninterrupted enrollment in their existing repayment plan.

(2) When transferring or selling the servicing of loans you must:

(a) Notify the student education loan borrowers in writing no more than sixty days and no less than forty-five days before the effective date of the transfer of the students' loans to provide them with:

(i) If available, the effective date of the transfer of servicing, and the date at which you will no longer accept payments relating to the loan, if different;

(ii) The name, mailing address, and toll-free telephone number for your designated points of contact, as well as the designated points of contact for the receiving servicer, at which the borrower can obtain answers to inquiries; and

(iii) A statement that the transfer of servicing does not affect any term or condition of the student education loan other than the entity servicing the loan; and

(b) Inform the receiving servicer if a student education loan modification request is pending, if applicable.

prescribed by physicians and that other nonphysician practitioners must document that a face-to-face encounter (related to the primary reason medical equipment is needed) occurred within a reasonable time frame.

The proposed rules use the term "medical equipment" to replace "durable medical equipment" (DME) and the other items formerly listed with DME. The rules provide that if the agency denies a requested service, the client may request an administrative hearing. The agency has removed unnecessary definitions from this chapter. The rules clarify that medical equipment may be used in any setting where normal life activities take place. The rules clarify that prosthetics and orthotics requested beyond stated limits may be prior authorized when medically necessary. The agency considers requests for prior authorization for items meeting the definition of medical equipment, and grants prior authorization when the service is medically necessary. The proposed rules repeal WAC 182-543-6000, which list noncovered DME.

The proposed rules align with section 503 of the Consolidated Appropriations Act, 2016 and section 5002 of the 21st Century Cures Act of 2016, which added section 1903 (i)(27) to the Social Security Act. The proposed rules prohibit reimbursement for certain medical equipment expenditures that are, in the aggregate, in excess of what medicare would have paid for the items. To remove redundancy, WAC 182-543-9000 also includes reimbursement provisions previously contained in WAC 182-543-9100 through 182-543-9400; these rules will be repealed.

Citation of Rules Affected by this Order: Repealing WAC 182-543-6000, 182-543-9100, 182-543-9200, 182-543-9250, 182-543-9300 and 182-543-9400; and amending WAC 182-543-0500, 182-543-1000, 182-543-1100, 182-543-2000, 182-543-2100, 182-543-2200, 182-543-2250, 182-543-3100, 182-543-4200, 182-543-4300, 182-543-4400, 182-543-5000, 182-543-5500, 182-543-5700, 182-543-7000, 182-543-7100, 182-543-7200, 182-543-7300, 182-543-8000, 182-543-8100, 182-543-8200, and 182-543-9000.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: 42 C.F.R. Part 440.70; 42 U.S.C. Section 1396 (b)(i)(27).

Adopted under notice filed as WSR 18-19-101 on September 19, 2018.

Changes Other than Editing from Proposed to Adopted Version:

WSR 18-24-021

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed November 27, 2018, 2:53 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The agency is amending these rules to align with federal rules under 42 C.F.R. Part 440.70. The rules require that medical supplies, equipment and appliances be

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-543-2250 Rental or purchase.		
Proposed	(12) For a client who is eligible for both medicare and medicaid, the agency only pays the client's coinsurance and deductibles. The agency discontinues paying client's coinsurance and deductibles for rental medical equipment covered by medicare when either of the following applies.	Revised to clarify that the agency pays when the medical equipment is covered by medicare.

Proposed/ Adopted	WAC Subsection	Reason
Adopted	(12) For a client who is eligible for both medicare and medicaid, the agency only pays the client's coinsurance and deductibles <u>when the medical equipment is covered by medicare</u> . The agency discontinues paying client's coinsurance and deductibles for rental medical equipment covered by medicare when either of the following applies.	
WAC 182-543-3100 Patient lifts/traction, equipment/fracture, and frames/transfer boards.		
Proposed section title	Covered—Patient lifts/traction, equipment/fracture, and frames/transfer boards	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	Covered —Patient lifts/traction, equipment/fracture, and frames/transfer boards	
WAC 182-543-4200 Wheelchairs—Power-drive.		
Proposed section title	Covered—Wheelchairs—Power-drive	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	Covered —Wheelchairs—Power-drive	
WAC 182-543-4300 Wheelchairs—Modifications, accessories and repairs.		
Proposed section title	Covered—Wheelchairs—Modifications, accessories and repairs	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	Covered —Wheelchairs—Modifications, accessories and repairs	
WAC 182-543-4300 Wheelchairs—Modifications, accessories and repairs.		
Proposed	(1) The medicaid agency covers, with prior authorization, wheelchair accessories and modifications that are specifically identified by the manufacturer as separate line item charges. To receive payment ...	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	(1) The medicaid agency covers <u>pays for</u> , with prior authorization, wheelchair accessories and modifications that are specifically identified by the manufacturer as separate line item charges. To receive payment ...	
WAC 182-543-4300 Wheelchairs—Modifications, accessories and repairs.		
Proposed	(3) The agency covers, with prior authorization, wheelchair repairs. To receive payment, providers must submit the following to the agency:	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	(3) The agency covers <u>pays for</u> , with prior authorization, wheelchair repairs. To receive payment, providers must submit the following to the agency:	
WAC 182-543-4400 Complex rehabilitation technology.		
Proposed section title	Covered—Complex rehabilitation technology	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	Covered —Complex rehabilitation technology	
WAC 182-543-4400 Complex rehabilitation technology.		
Proposed	(1) The <u>medicaid</u> agency covers, with prior authorization, individually configured, complex rehabilitation technology (CRT) products.	Removed "covered," which could imply that some services in this chapter are covered and some are not.

Proposed/ Adopted	WAC Subsection	Reason
Adopted	(1) The medicaid agency eovers <u>pays for</u> , with prior authorization, individually configured, complex rehabilitation technology (CRT) products.	
WAC 182-543-5000 Prosthetics/orthotics.		
Proposed section title	Covered—Prosthetics/orthotics	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	Covered —Prosthetics/orthotics	
WAC 182-543-5000 Prosthetics/orthotics.		
Proposed	(1) The <u>medicaid</u> agency covers, without prior authorization (PA), the following prosthetics and orthotics.	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	(1) The medicaid agency eovers <u>pays for</u> , without prior authorization (PA), the following prosthetics and orthotics.	
WAC 182-543-5500 Medical supplies and related services.		
Proposed section title	Covered—Medical supplies and related services	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	Covered —Medical supplies and related services	
WAC 182-543-5700 Medical equipment for clients in skilled nursing facilities.		
Proposed section title	Covered—Medical equipment for clients in skilled nursing facilities	Removed "covered," which could imply that some services in this chapter are covered and some are not.
Adopted	Covered —Medical equipment for clients in skilled nursing facilities	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 22, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 5.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 22, Repealed 6; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 27, 2018.

Wendy Barcus
Rules Coordinator

Chapter 182-543 WAC

~~((DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES, COMPLEX REHABILITATION TECHNOLOGY, PROSTHETICS, ORTHOTICS, MEDICAL SUPPLIES AND RELATED SER-~~

VICES)) MEDICAL EQUIPMENT, SUPPLIES, AND APPLIANCES

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-0500 ~~((DME and related supplies, complex rehabilitation technology, prosthetics, orthotics, medical supplies and related services—))~~General. (1) The federal government considers ~~((durable))~~ medical equipment ~~((DME) and related supplies, complex rehabilitation technology (CRT), prosthetics, orthotics, and medical))~~, supplies ~~((to be optional))~~, and appliances, which the medicaid agency refers to throughout this chapter as medical equipment, services under the medicaid program ~~((except when prescribed as an integral part of an approved plan of treatment under the home health program or required under the early and periodic screening, diagnosis and treatment (EPSDT) program. The medicaid agency may reduce or eliminate coverage for optional services, consistent with legislative appropriations)).~~

(2) The agency ~~((covers the DME and related supplies, CRT, prosthetics, orthotics, and related services))~~ pays for medical equipment, including modifications, accessories, and repairs ~~((and medical supplies listed in this chapter))~~, according to agency rules and subject to the limitations and requirements in this chapter ~~((~~

~~((~~ (3) The agency pays for DME and related supplies, CRT, prosthetics, orthotics, and related services including modifications, accessories, and repairs, and medical supplies when they are:

(a) Covered;

(b) ~~Within the scope of the client's medical program (see WAC 182-501-0060 and 182-501-0065);~~

(c) ~~when the medical equipment is:~~

(a) Medically necessary, as defined in WAC 182-500-0070;

~~((d) Prescribed by a physician, advanced registered nurse practitioner (ARNP), naturopathic physicians, or physician assistant certified (PAC) within the scope of his or her licensure, except for dual eligible medicare/medicaid clients when medicare is the primary payer and the agency is being billed for a co-pay and/or deductible only;~~

~~((e)) (b) Authorized, as required within this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and provider notices; and~~

~~((f)) (c) Billed according to this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and provider notices(, and~~

~~((g) Provided and used within accepted medical or physical medicine community standards of practice)).~~

~~((4)) (3) For the initiation of medical equipment under WAC 182-551-2122, the face-to-face encounter must be related to the primary reason the client requires medical equipment and must occur no later than six months prior to the start of services.~~

~~(4) The face-to-face encounter must be conducted by the ordering physician, a nonphysician practitioner as described in WAC 182-500-0075, or the attending acute, or post-acute physician, for beneficiaries admitted to home health immediately after an acute or post-acute stay.~~

~~(5) If a nonphysician practitioner as described in WAC 182-500-0075 (or the attending physician when a client is discharged from an acute hospital stay) performs the face-to-face encounter, the nonphysician practitioner (or attending physician) must communicate the clinical findings of that face-to-face encounter to the ordering physician. Those clinical findings must be incorporated into a written or electronic document included in the client's medical record.~~

~~(6) The agency requires prior authorization for covered ((DME and related supplies, CRT, prosthetics, orthotics, medical supplies, and related services)) medical equipment when the clinical criteria set forth in this chapter are not met, including the criteria associated with the expedited prior authorization process.~~

(a) The agency evaluates requests requiring prior authorization on a case-by-case basis to determine medical necessity as defined in WAC 182-500-0070, according to the process found in WAC 182-501-0165.

(b) Refer to WAC 182-543-7000, 182-543-7100, 182-543-7200, and 182-543-7300 for specific details regarding authorization.

~~((5)) (7) The agency bases its determination about which ((DME and related supplies, CRT, prosthetics, orthotics, medical supplies, and related services)) medical equipment requires prior authorization (PA) or expedited prior authorization (EPA) on utilization criteria (see WAC 182-543-7100 for PA and WAC 182-543-7300 for EPA). The agency considers all of the following when establishing utilization criteria:~~

(a) Cost;

(b) The potential for utilization abuse;

(c) A narrow therapeutic indication; and

(d) Safety.

~~((6)) (8) The agency evaluates a request for ((any item listed as noncovered in this chapter)) equipment that does not meet the definition of medical equipment or that is determined not medically necessary under the provisions of WAC 182-501-0160. When early and periodic screening, diagnosis and treatment (EPSDT) applies, the agency evaluates a non-covered service, equipment, or supply according to the process in WAC 182-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see WAC 182-543-0100 for EPSDT rules).~~

~~((7)) (9) The agency may terminate a provider's participation with the agency according to WAC 182-502-0030 and 182-502-0040.~~

~~((8)) (10) The agency evaluates a request for a service that ((is in a covered category,)) meets the definition of medical equipment but has been determined to be experimental or investigational, under the provisions of WAC 182-501-0165.~~

~~(11) If the agency denies a requested service, the agency notifies the client in writing that the client may request an administrative hearing under chapter 182-526 WAC. (For MCO enrollees, see WAC 182-538-110.)~~

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-1000 ~~((DME and related supplies, complex rehabilitation technology, prosthetics, and orthotics, medical supplies and related services--))~~ **Definitions.** The following definitions and abbreviations and those found in chapter 182-500 WAC apply to this chapter.

"By-report (BR)" - See WAC 182-500-0015.

"Complex needs patient" - An individual with a diagnosis or medical condition that results in significant physical or functional needs and capacities.

"Complex rehabilitation technology (CRT)" - Wheelchairs and seating systems classified as durable medical equipment within the medicare program that:

~~((1)) (a) Are individually configured for individuals to meet their specific and unique medical, physical, and functional needs and capacities for basic activities as medically necessary to prevent hospitalization or institutionalization of a complex needs patient;~~

~~((2)) (b) Are primarily used to serve a medical purpose and generally not useful to a person in the absence of an illness or injury; and~~

~~((3)) (c) Require certain services necessary to allow for appropriate design, configuration, and use of such item, including patient evaluation and equipment fitting.~~

"Date of delivery" - The date the client actually took physical possession of an item or equipment.

"Digitized speech" (also referred to as devices with whole message speech output) - Words or phrases that have been recorded by an individual other than the speech generating device (SGD) user for playback upon command of the SGD user.

"Disposable supplies" - Supplies which may be used once, or more than once, but are time limited.

~~("Durable medical equipment (DME)" - Equipment that:~~

- ~~(1) Can withstand repeated use;~~
- ~~(2) Is primarily and customarily used to serve a medical purpose;~~
- ~~(3) Generally is not useful to a person in the absence of illness or injury; and~~
- ~~(4) Is appropriate for use in the client's place of residence.)~~

"EPSDT" - See WAC 182-500-0030.

"Expedited prior authorization (EPA)" - See WAC 182-500-0030.

"Fee-for-service (FFS)" - See WAC 182-500-0035.

"Health care common procedure coding system (HCPCS)" - A coding system established by the Health Care Financing Administration (HCFA) to define services and procedures. HCFA is now known as the Centers for Medicare and Medicaid Services (CMS).

"Home" - For the purposes of this chapter, means location, other than hospital or skilled nursing facility where the client receives care.

"House wheelchair" - A skilled nursing facility wheelchair that is included in the skilled nursing facility's per-patient-day rate under chapter 74.46 RCW.

"Individually configured" - A device has a combination of features, adjustments, or modifications specific to a complex needs patient that a qualified complex rehabilitation technology supplier provides by measuring, fitting, programming, adjusting, or adapting the device as appropriate so that the device is consistent with an assessment or evaluation of the complex needs patient by a health care professional and consistent with the complex needs patient's medical condition, physical and functional needs and capacities, body size, period of need, and intended use.

~~("Limitation extension" - A client-specific authorization by the agency for additional covered services beyond the set amount allowed under agency rules. See WAC 182-501-0169.)~~

"Manual wheelchair" - See "Wheelchair - Manual."

"Medical equipment" - Includes medical equipment and appliances, and medical supplies.

"Medical equipment and appliances" - Health care-related items that:

- (a) Are primarily and customarily used to serve a medical purpose;
- (b) Generally are not useful to a person in the absence of illness or injury;
- (c) Can withstand repeated use;
- (d) Can be reusable or removable; and
- (e) Are suitable for use in any setting where normal life activities take place.

"Medical supplies" - ((Supplies)) Health care-related items that are:

- ((1) Primarily and customarily used to service a medical purpose; and
- ((2)) (a) Consumable or disposable or cannot withstand repeated use by more than one person;
- (b) Required to address an individual medical disability, illness, or injury;

(c) Suitable for use in any setting which is not a medical institution and in which normal life activities take place; and
(d) Generally not useful to a person in the absence of illness or injury.

"Medically necessary" - See WAC 182-500-0070.

"National provider indicator (NPI)" - See WAC 182-500-0075.

~~("Other durable medical equipment (other DME)" - All durable medical equipment, excluding wheelchairs and wheelchair-related items.~~

~~"Orthotic device" or "orthotic" - A corrective or supportive device that:~~

- ~~(1) Prevents or corrects physical deformity or malfunction; or~~
- ~~(2) Supports a weak or deformed portion of the body.~~

~~"Personal or comfort item" - An item or service which primarily serves the comfort or convenience of the client or caregiver.)~~ "Orthotic device" or "orthotic" - A corrective or supportive device that:

- (a) Prevents or corrects physical deformity or malfunction; or
- (b) Supports a weak or deformed portion of the body.

"Power-drive wheelchair" - See "Wheelchair - Power."

"Pricing cluster" - A group of manufacturers' list prices for brands/models of ~~((DME, medical supplies and nondurable))~~ medical equipment that the agency considers when calculating the reimbursement rate for a procedure code that does not have a fee established by medicare.

"Prior authorization" - See WAC 182-500-0085.

"Prosthetic device" or "prosthetic" - See WAC 182-500-0085.

"Qualified complex rehabilitation technology supplier" - A company or entity that:

- ~~((1))~~ (a) Is accredited by a recognized accrediting organization as a supplier of CRT;
- ~~((2))~~ (b) Meets the supplier and quality standards established for durable medical equipment suppliers under the medicare program;
- ~~((3))~~ (c) For each site that it operates, employs at least one CRT professional, certified by the rehabilitation engineering and assistive technology society of North America as an assistive technology professional, to analyze the needs and capacities of clients, and provide training in the use of the selected covered CRT items;

~~((4))~~ (d) Has the CRT professional physically present for the evaluation and determination of the appropriate individually configured CRT for the complex needs patient;

~~((5))~~ (e) Provides service and repairs by qualified technicians for all CRT products it sells; and

~~((6))~~ (f) Provides written information to the complex needs patient at the time of delivery about how the individual may receive service and repair of the delivered CRT.

"Resource-based relative value scale (RBRVS)" - A scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involved.

"Reusable supplies" - Supplies which are to be used more than once.

"**Scooter**" - A federally approved, motor-powered vehicle that:

- ((1)) (a) Has a seat on a long platform;
- ((2)) (b) Moves on either three or four wheels;
- ((3)) (c) Is controlled by a steering handle; and
- ((4)) (d) Can be independently driven by a client.

"**Specialty bed**" - A pressure reducing support surface, such as foam, air, water, or gel mattress or overlay.

"**Speech generating device (SGD)**" - An electronic device or system that compensates for the loss or impairment of a speech function due to a congenital condition, an acquired disability, or a progressive neurological disease. The term includes only that equipment used for the purpose of communication. Formerly known as "augmentative communication device (ACD)."

"**Synthesized speech**" - Is a technology that translates a user's input into device-generated speech using algorithms representing linguistic rules, unlike prerecorded messages of digitized speech. A SGD that has synthesized speech is not limited to prerecorded messages but rather can independently create messages as communication needs dictate.

"**Three- or four-wheeled scooter**" - A three- or four-wheeled vehicle meeting the definition of scooter (see "scooter") and which has the following minimum features:

- ((1)) (a) Rear drive;
- ((2)) (b) A twenty-four volt system;
- ((3)) (c) Electronic or dynamic braking;
- ((4)) (d) A high to low speed setting; and
- ((5)) (e) Tires designed for indoor/outdoor use.

"**Trendelenburg position**" - A position in which the patient is lying on his or her back on a plane inclined thirty to forty degrees. This position makes the pelvis higher than the head, with the knees flexed and the legs and feet hanging down over the edge of the plane.

"**Usual and customary charge**" - See WAC 182-500-0110.

"**Warranty-period**" - A guarantee or assurance, according to manufacturers' or provider's guidelines, of set duration from the date of purchase.

"**Wheelchair - Manual**" - A federally approved, non-motorized wheelchair that is capable of being independently propelled and fits one of the following categories:

- ((1)) (a) Standard:
 - ((a)) (i) Usually is not capable of being modified;
 - ((b)) (ii) Accommodates a person weighing up to two hundred fifty pounds; and
 - ((c)) (iii) Has a warranty period of at least one year.
- ((2)) (b) Lightweight:
 - ((a)) (i) Composed of lightweight materials;
 - ((b)) (ii) Capable of being modified;
 - ((c)) (iii) Accommodates a person weighing up to two hundred fifty pounds; and
 - ((d)) (iv) Usually has a warranty period of at least three years.
 - ((3)) (c) High-strength lightweight:
 - ((a)) (i) Is usually made of a composite material;
 - ((b)) (ii) Is capable of being modified;
 - ((c)) (iii) Accommodates a person weighing up to two hundred fifty pounds;

((4)) (iv) Has an extended warranty period of over three years; and

((5)) (v) Accommodates the very active person.

((4)) (d) Hemi:

((a)) (i) Has a seat-to-floor height lower than eighteen inches to enable an adult to propel the wheelchair with one or both feet; and

((b)) (ii) Is identified by its manufacturer as "Hemi" type with specific model numbers that include the "Hemi" description.

((5)) (e) Pediatric: Has a narrower seat and shorter depth more suited to pediatric patients, usually adaptable to modifications for a growing child.

((6)) (f) Recliner: Has an adjustable, reclining back to facilitate weight shifts and provide support to the upper body and head.

((7)) (g) Tilt-in-space: Has a positioning system, which allows both the seat and back to tilt to a specified angle to reduce shear or allow for unassisted pressure releases.

((8)) (h) Heavy duty:

((a)) (i) Specifically manufactured to support a person weighing up to three hundred pounds; or

((b)) (ii) Accommodating a seat width of up to twenty-two inches wide (not to be confused with custom manufactured wheelchairs).

((9)) (i) Rigid: Is of ultra-lightweight material with a rigid (nonfolding) frame.

((10)) (j) Custom heavy duty:

((a)) (i) Specifically manufactured to support a person weighing over three hundred pounds; or

((b)) (ii) Accommodates a seat width of over twenty-two inches wide (not to be confused with custom manufactured wheelchairs).

((11)) (k) Custom manufactured specially built:

((a)) (i) Ordered for a specific client from custom measurements; and

((b)) (ii) Is assembled primarily at the manufacturer's factory.

"**Wheelchair - Power**" - A federally approved, motorized wheelchair that can be independently driven by a client and fits one of the following categories:

((1)) (a) Custom power adaptable to:

((a)) (i) Alternative driving controls; and

((b)) (ii) Power recline and tilt-in-space systems.

((2)) (b) Noncustom power: Does not need special positioning or controls and has a standard frame.

((3)) (c) Pediatric: Has a narrower seat and shorter depth that is more suited to pediatric patients. Pediatric wheelchairs are usually adaptable to modifications for a growing child.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-1100 (~~DME and related supplies, complex rehabilitation technology, prosthetics, orthotics, medical supplies and related services~~) Client eligibility.
 (1) Refer to the table in WAC 182-501-0060 to see which Washington apple health ((WAH)) programs include ((DME)) home health services, including medical equipment

and related services, (~~complex rehabilitation technology (CRT), prosthetics and orthotics, medical supplies and related services~~) in their benefit package.

(2) For clients eligible under an alien emergency medical (AEM) program, see WAC 182-507-0115.

(3) Clients who are eligible for services under medicare and medicaid (medically needy program-qualified medicare beneficiaries) are eligible for ((DME)) medical equipment and related services (~~complex rehabilitation technology (CRT), prosthetics and orthotics, medical supplies and related services~~).

(4) Clients who are enrolled in a medicaid agency-contracted managed care organization (MCO) must arrange for ((DME and related services, prosthetics and orthotics, medical supplies)) medical equipment and related services directly through ((his or her)) the client's agency-contracted MCO. The agency does not pay for medical equipment ((and/or)) or services provided to a client who is enrolled in ((a)) an agency-contracted MCO, but chose not to use one of the MCO's participating providers.

(5) For clients who reside in a skilled nursing facility, see WAC 182-543-5700.

(6) Clients enrolled in the alternative benefits plan (defined in WAC 182-500-0010) are eligible for ((DME and related supplies, CRT, prosthetics, orthotics,)) medical ((supplies, and related)) equipment when used as a habilitative service to treat a qualifying condition in accordance with WAC 182-545-400.

AMENDATORY SECTION (Amending WSR 17-15-073, filed 7/14/17, effective 8/14/17)

WAC 182-543-2000 ~~((DME and related supplies, complex rehabilitation technology, prosthetics, orthotics, medical supplies and related services))~~ Eligible providers and provider requirements. (1) The medicaid agency pays qualified providers for ((durable)) medical equipment ((DME and related supplies, complex rehabilitation technology (CRT), prosthetics, orthotics, medical supplies,)) and repairs ((, and related services)) on a fee-for-service basis as follows:

(a) ((DME)) Providers who are enrolled with medicare for ((DME)) medical equipment and related repair services;

(b) Qualified complex rehabilitation technology (CRT) suppliers who are enrolled with medicare ((for DME and related repair services));

(c) Medical equipment dealers ((who are enrolled with medicare,)) and pharmacies who are enrolled with medicare, ((and home health agencies under their)) 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 prosthetics 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 ((and supplies)) in the office ((The agency may pay separately for medical supplies, subject to the provisions in the agency's resource-based relative value scale fee schedule)); and

(g) Out-of-state prosthetics and orthotics providers who meet their state regulations.

(2) Providers and suppliers of ((DME and related supplies, CRT, prosthetics, orthotics,)) medical ((supplies and related items)) 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 ((DME)) 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 ((<http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>) https://www.hca.wa.gov/billers-providers/forms-and-publications;

(B) Be written by a physician ((, advanced registered nurse practitioner (ARNP), naturopathic physician, or physician's assistant certified (PAC))) as defined in WAC 182-500-0085 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 ((supply,)) medical equipment ((, or device)). 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 ((DME and related supplies, prosthetics and orthotics, medical supplies and related items)) medical equipment billing ((instructions)) guide.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-2100 ~~((DME and related supplies, complex rehabilitation technology, prosthetics, orthotics, medical supplies and related services))~~ Requests to include new ((equipment/supplies/technology)) medical equipment and technology. (1) An interested party may

request the medicaid agency to include new ~~((equipment/supplies))~~ medical equipment in the agency's ~~((durable))~~ medical equipment ~~((DME) and related supplies, complex rehabilitation technology (CRT), prosthetics, orthotics, medical supplies and related services))~~ billing ~~((instructions))~~ guide.

(2) The request ~~((should))~~ must include credible evidence, including but not limited to:

- (a) Manufacturer's literature;
- (b) Manufacturer's pricing;
- (c) Clinical research/case studies ~~((included))~~ including FDA approval, if required;

(d) Proof of certification from the Centers for Medicare and Medicaid Services (CMS), if applicable; and

(e) Any additional information the requester feels would aid the agency in its determination.

~~((3) Requests should be sent to the DME Program Management Unit, P.O. Box 45505, Olympia WA 98504 5506.))~~

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-2200 ~~((DME and related supplies, complex rehabilitation technology, prosthetics, orthotics, medical supplies and related services—))~~ Proof of delivery. (1) When a provider delivers an item directly to the client or the client's authorized representative, the provider must furnish the proof of delivery when the medicaid agency requests that information. All of the following apply:

(a) The agency requires a delivery slip as proof of delivery. The proof of delivery slip must:

(i) Be signed and dated by the client or the client's authorized representative (the date of signature must be the date the item was received by the client);

(ii) Include the client's name and a detailed description of the item(s) delivered, including the quantity and brand name; and

(iii) For ~~((durable))~~ medical equipment ~~((DME) and complex rehabilitation technology (CRT))~~ that may require future repairs, include the serial number.

(b) When the provider or supplier submits a claim for payment to the agency, the date of service on the claim must be one of the following:

(i) For a one-time delivery, the date the item was received by the client or the client's authorized representative; or

(ii) For nondurable medical supplies for which the agency has established a monthly maximum, on or after the date the item was received by the client or the client's authorized representative.

(2) When a provider uses a delivery/shipping service to deliver items which are not fitted to the client, the provider must furnish proof of delivery that the client received the equipment and/or supply, when the agency requests that information.

(a) If the provider uses a delivery/shipping service, the tracking slip is the proof of delivery. The tracking slip must include:

(i) The client's name or a reference to the client's ~~((package(s)))~~ package or packages;

(ii) The delivery service package identification number; and

(iii) The delivery address.

(b) If the provider/supplier does the delivering, the delivery slip is the proof of delivery. The delivery slip must include:

(i) The client's name;

(ii) The shipping service package identification number;

(iii) The quantity, detailed description(s), and brand ~~((name(s)))~~ name or names of the items being shipped; and

(iv) For ~~((DME and CRT))~~ medical equipment that may require future repairs, the serial number.

(c) When billing the agency, use:

(i) ~~((Use))~~ The shipping date as the date of service on the claim if the provider uses a delivery/shipping service; or

(ii) ~~((Use))~~ The actual date of delivery as the date of service on the claim if the provider/supplier does the delivery.

(3) A provider must not use a delivery/shipping service to deliver items which must be fitted to the client.

(4) Providers must obtain prior authorization when required before delivering the item to the client. The item must be delivered to the client before the provider bills the agency.

(5) The agency does not pay for ~~((DME and related supplies, CRT, prosthetics and orthotics, medical supplies))~~ medical equipment and related items furnished to the agency's clients when:

(a) The medical professional who provides medical justification to the agency for the item provided to the client is an employee of, has a contract with, or has any financial relationship with the provider of the item; or

(b) The medical professional who performs a client evaluation is an employee of, has a contract with, or has any financial relationship with a provider of ~~((DME and related supplies, CRT, prosthetics and orthotics, medical supplies.))~~ medical equipment and related items.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-2250 ~~((DME and related supplies, complex rehabilitation technology, prosthetics, orthotics, medical supplies and related services—))~~ Rental or purchase. (1) The medicaid agency bases its decision to rent or purchase ~~((durable))~~ medical equipment ~~((DME))~~ on the length of time the client needs the equipment.

(2) A provider must not bill the agency for the rental or purchase of equipment supplied to the provider at no cost by suppliers/manufacturers.

(3) The agency purchases new ~~((DME))~~ medical equipment ~~((and complex rehabilitation technology (CRT)))~~ only.

(a) A new ~~((DME))~~ medical equipment item that is placed with a client initially as a rental item is considered a new item by the agency at the time of purchase.

(b) A used ~~((DME))~~ medical equipment item that is placed with a client initially as a rental item must be replaced by the supplier with a new item prior to purchase by the agency.

(4) The agency requires a dispensing provider to ensure the ~~((DME))~~ medical equipment rented to a client is:

(a) In good working order; and

(b) Comparable to equipment the provider rents to individuals with similar medical equipment needs who are either private pay or who have other third-party coverage.

(5) The agency's minimum rental period for covered ~~((DME))~~ medical equipment is one day.

(6) The agency authorizes rental equipment for a specific period of time. The provider must request authorization from the agency for any extension of the rental period.

(7) The agency's reimbursement amount for rented ~~((DME))~~ medical equipment includes all of the following:

(a) Delivery to the client;

(b) Fitting, set-up, and adjustments;

(c) Maintenance, repair and/or replacement of the equipment; and

(d) Return pickup by the provider.

(8) The agency considers rented equipment to be purchased after twelve months' rental unless the equipment is restricted as rental only.

(9) ~~((DME and related supplies, CRT, prosthetics, and orthotics))~~ Medical equipment purchased by the agency for a client ~~((are))~~ is the client's property.

(10) The agency rents, but does not purchase, certain ~~((DME))~~ medical equipment for clients. This includes, but is not limited to, the following:

(a) Bilirubin lights for newborns ~~((at home))~~ in any setting where normal life activities take place; and

(b) Electric hospital-grade breast pumps.

(11) The agency stops paying for any rented medical equipment effective the date of a client's death. The agency prorates monthly rentals as appropriate.

(12) For a client who is eligible for both Medicare and Medicaid, the agency only pays ~~((only))~~ the client's coinsurance and deductibles when the medical equipment is covered by Medicare. The agency discontinues paying client's coinsurance and deductibles for rental medical equipment covered by Medicare when either of the following applies:

(a) The reimbursement amount reaches Medicare's reimbursement cap for the medical equipment; or

(b) Medicare considers the medical equipment purchased.

(13) The agency does not obtain or pay for insurance coverage against liability, loss and/or damage to rental equipment that a provider supplies to a client.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-3100 ~~((Covered—))~~ Patient lifts/traction, equipment/fracture, and frames/transfer boards. The Medicaid agency covers the purchase of the following with the stated limitations, without prior authorization:

(1) Patient lift, hydraulic, with seat or sling - One per client in a five-year period.

(2) Traction equipment - One per client in a five-year period.

(3) Trapeze bars - One per client in a five-year period. The agency requires prior authorization for rental.

(4) Fracture frames - One per client in a five-year period. The agency requires prior authorization for rental.

(5) Transfer board or devices - One per client in a five-year period.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-4200 ~~((Covered—))~~ Wheelchairs—Power-drive. (1) The Medicaid agency ~~((covers))~~ pays for power-drive wheelchairs when the prescribing physician certifies that ~~((the following clinical criteria are met))~~:

(a) The client can independently and safely operate a power-drive wheelchair;

(b) The client's medical condition negates ~~((his or her))~~ the client's ability to self-propel any of the wheelchairs listed in the manual wheelchair category in any setting where normal life activities take place; and

(c) A power-drive wheelchair will:

(i) Provide the client the only means of independent mobility in any setting where normal life activities take place; or

(ii) Enable a child to achieve age-appropriate independence and developmental milestones.

(2) ~~((The following additional information is required))~~ Additionally, for a three or four-wheeled power-drive scooter/power-operated vehicle (POV)~~((:~~

~~((a)))~~, the prescribing physician ~~((certifies that the client's condition is stable; and~~

~~((b) The client))~~ must certify the client's condition is unlikely to require a standard power-drive wheelchair within the next two years.

(3) When the agency approves a power-drive wheelchair for a client who already has a manual wheelchair, the power-drive wheelchair becomes the client's primary chair, unless the client meets the criteria in subsection (5) of this section.

(4) The agency pays to maintain only the client's primary wheelchair, unless the conditions of subsection (6) of this section apply.

(5) The agency pays for one manual wheelchair and one power-drive wheelchair for noninstitutionalized clients only when one of the following circumstances applies:

(a) The architecture of locations where the client's ~~((home is))~~ normal life activities take place are completely unsuitable for a power-drive wheelchair, due to conditions such as narrow hallways, narrow doorways, steps at the entryway, and insufficient turning radius;

(b) The architecture of the bathroom in locations where the client's ~~((home bathroom))~~ normal life activities take place is such that power-drive wheelchair access is not possible, and the client needs a manual wheelchair to safely and successfully complete bathroom activities and maintain personal cleanliness; or

(c) The client has a power-drive wheelchair, but also requires a manual wheelchair because the power-drive wheelchair cannot be transported to meet the client's community, workplace, or educational activities. In this case, the manual wheelchair would allow the caregiver to transport the client in a standard automobile or van. The agency requires the client's situation to meet the following conditions:

(i) The client's activities that require the second wheelchair must be located farther than one-fourth of a mile from

the client's home or along a pathway that does not provide for safe use of a power wheelchair; and

(ii) Cabulance, public buses, or personal transit are not available, practical, or possible for financial or other reasons.

(6) When the agency approves both a manual wheelchair and a power-drive wheelchair for a noninstitutionalized client who meets one of the circumstances in subsection (5) of this section, the agency pays to maintain both wheelchairs.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-4300 (~~Covered~~) Wheelchairs—Modifications, accessories, and repairs. (1) The medicaid agency (~~eovers~~) pays for, with prior authorization, wheelchair accessories and modifications that are specifically identified by the manufacturer as separate line item charges. To receive payment, providers must submit the following to the agency:

(a) A completed General Information for Authorization form (HCA 13-835). The agency's electronic forms are available online (see WAC 182-543-7000, Authorization);

(b) A completed Prescription Form (HCA 13-794);

(c) A completed Medical Necessity for Wheelchair Purchase (for home clients only) form (HCA 13-727). The date on this form (HCA 13-727) must not be dated prior to the date on the Prescription Form (HCA 13-794);

(d) The make, model, and serial number of the wheelchair to be modified;

(e) The modification requested; and

(f) Any specific information regarding the client's medical condition that necessitates the modification.

(2) The agency pays for transit option restraints only when used for client-owned vehicles.

(3) The agency (~~eovers~~) pays for, with prior authorization, wheelchair repairs. To receive payment, providers must submit the following to the agency:

(a) General Information for Authorization form (HCA 13-835). The agency's electronic forms are available online (see WAC 182-543-7000);

(b) A completed Medical Necessity for Wheelchair Purchase form (for home clients only) (HCA 13-727);

(c) The make, model, and serial number of the wheelchair to be repaired; and

(d) The repair requested.

(4) Prior authorization is required for the repair and modification of client-owned equipment.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-4400 (~~Covered~~) Complex rehabilitation technology. (1) The medicaid agency (~~eovers~~) pays for, with prior authorization, individually configured, complex rehabilitation technology (CRT) products.

(2) CRT must be supplied by a CRT supplier with the appropriate taxonomy number to bill for the items.

(3) Each site that a company operates must employ at least one CRT professional who has been certified by the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA).

(4) The client must be evaluated by a licensed health care provider who performs specialty evaluations within their scope of practice (occupational or physical therapists) and who does not have a financial relationship with the supplier.

(a) At the evaluation, a CRT professional must also be present from the company ordering the equipment; or

(b) The CRT provider must be present at the evaluation to:

(i) Assist in selection of the appropriate CRT item(s); and

(ii) Provide training in the use of the selected items.

(5) The CRT provider must:

(a) Provide service and repairs by qualified technicians for all CRT products it sells; and

(b) Provide written information to the client at the time of delivery as to how the client may receive services and repairs.

AMENDATORY SECTION (Amending WSR 17-15-073, filed 7/14/17, effective 8/14/17)

WAC 182-543-5000 (~~Covered~~) Prosthetics/orthotics. (1) The medicaid agency (~~eovers~~) pays for, without prior authorization (PA), the following prosthetics and orthotics. Items that meet the definition of medical equipment may be covered under the requirements for medical equipment. Prosthetics and orthotics that do not meet those definitions are covered, with stated limitations:

(a) Thoracic-hip-knee-ankle orthosis (THKAO) standing frame - One every five years.

(b) Preparatory, above knee "PTB" type socket, non-alignable system, pylon, no cover, SACH foot plaster socket, molded to model - One per lifetime, per limb.

(c) Preparatory, below knee "PTB" type socket, non-alignable system, pylon, no cover, SACH foot thermoplastic or equal, direct formed - One per lifetime, per limb.

(d) Socket replacement, below the knee, molded to patient model - One per twelve-month period, per limb.

(e) Socket replacement, above the knee/knee disarticulation, including attachment plate, molded to patient model - One per twelve-month period, per limb.

(f) All other prosthetics and orthotics are limited to one per twelve-month period per limb.

(g) Prosthetics and orthotics beyond these limits may be prior authorized when medically necessary, as defined in WAC 182-500-0070.

(2) The agency pays only licensed prosthetic and orthotic providers to supply prosthetics and orthotics. This licensure requirement does not apply to the following:

(a) Providers who are not required to have specialized skills to provide select orthotics, but meet (~~DME~~) medical equipment and pharmacy provider licensure requirements;

(b) Occupational therapists providing orthotics who are licensed by the Washington state department of health in occupational therapy; and

(c) Out-of-state providers, who must meet the licensure requirements of that state.

(3) The agency pays only for prosthetics or orthotics that are listed as such by the Centers for Medicare and Medicaid Services (CMS), that meet the definition of prosthetic or

orthotic in WAC 182-543-1000 and are prescribed under WAC 182-543-1100 (~~and 182-543-1200~~).

(4) The agency pays for repair or modification of a client's current prosthesis. To receive payment, all of the following must be met:

(a) All warranties are expired;

(b) The cost of the repair or modification is less than fifty percent of the cost of a new prosthesis and the provider has submitted supporting documentation; and

(c) The repair must have a warranty for a minimum of ninety days.

(5) Clients are responsible for routine maintenance of their prosthetic or orthotic. If a client does not have the physical or mental ability to perform this task, the client's caregiver is responsible for routine maintenance of the prosthetic or orthotic. The agency requires PA for extensive maintenance to a prosthetic or orthotic.

~~((6) For prosthetics dispensed for cosmetic reasons only, see WAC 182-543-6000 DME and related supplies, medical supplies and related services - Noncovered.))~~

AMENDATORY SECTION (Amending WSR 12-07-022, filed 3/12/12, effective 4/12/12)

WAC 182-543-5500 (~~Covered~~) Medical supplies and related services. The medicaid agency (~~covers, without prior authorization unless otherwise specified,~~) pays for the following medical supplies and related services without prior authorization unless otherwise specified:

(1) Antiseptics and germicides:

(a) Alcohol (isopropyl) or peroxide (hydrogen) - One pint per month;

(b) Alcohol wipes (box of two hundred) - One box per month;

(c) Betadine or pHisoHex solution - One pint per month;

(d) Betadine or iodine swabs/wipes (box of one hundred) - One box per month;

(2) Bandages, dressings, and tapes;

(3) Batteries - Replacement batteries:

(a) The agency pays for the purchase of replacement batteries for wheelchairs with prior authorization.

(b) The agency does not pay for wheelchair replacement batteries that are used for speech generating devices (SGDs) or ventilators. ~~((See WAC 182-543-3400 for speech generating devices and chapter 182-548 WAC for ventilators.))~~

(4) Blood monitoring/testing supplies:

(a) Replacement battery of any type, used with a client-owned, medically necessary (~~home~~) or specialized blood glucose monitor - One in a three-month period;

(b) Spring-powered device for lancet - One in a six-month period;

(c) Diabetic test strips as follows:

(i) For clients (~~(, twenty years of)~~) age twenty and younger, as follows:

(A) Insulin dependent, three hundred test strips and three hundred lancets per client, per month.

(B) For noninsulin dependent, one hundred test strips and one hundred lancets per client, per month.

(ii) For clients (~~(,)~~) age twenty-one (~~(years of age)~~) and older:

(A) Insulin dependent, one hundred test strips and one hundred lancets per client, per month.

(B) For noninsulin dependent, one hundred test strips and one hundred lancets per client, every three months.

(iii) For pregnant (~~(women)~~) people with gestational diabetes, the agency pays for the quantity necessary to support testing as directed by the client's physician, up to sixty days postpartum.

(d) See WAC 182-543-5500(12) for blood glucose monitors.

(5) Braces, belts, and supportive devices:

(a) Knee brace (neoprene, nylon, elastic, or with a hinged bar) - Two per twelve-month period;

(b) Ankle, elbow, or wrist brace - Two per twelve-month period;

(c) Lumbosacral brace, rib belt, or hernia belt - One per twelve-month period;

(d) Cervical head harness/halter, cervical pillow, pelvic belt/harness/boot, or extremity belt/harness - One per twelve-month period.

(6) Decubitus care products:

(a) Cushion (gel, sacroiliac, or accuback) and cushion cover (any size) - One per twelve-month period;

(b) Synthetic or lamb's wool sheepskin pad - One per twelve-month period;

(c) Heel or elbow protectors - Four per twelve-month period.

(7) Ostomy supplies:

(a) Adhesive for ostomy or catheter: Cement; powder; liquid (e.g., spray or brush); or paste (any composition, e.g., silicone or latex) - Four total ounces per month.

(b) Adhesive or nonadhesive disc or foam pad for ostomy pouches - Ten per month.

(c) Adhesive remover or solvent - Three ounces per month.

(d) Adhesive remover wipes, fifty per box - One box per month.

(e) Closed pouch, with or without attached barrier, with a one- or two-piece flange, or for use on a faceplate - Sixty per month.

(f) Closed ostomy pouch with attached standard wear barrier, with built-in one-piece convexity - Ten per month.

(g) Continent plug for continent stoma - Thirty per month.

(h) Continent device for continent stoma - One per month.

(i) Drainable ostomy pouch, with or without attached barrier, or with one- or two-piece flange - Twenty per month.

(j) Drainable ostomy pouch with attached standard or extended wear barrier, with or without built-in one-piece convexity - Twenty per month.

(k) Drainable ostomy pouch for use on a plastic or rubber faceplate (only one type of faceplate allowed) - Ten per month.

(l) Drainable urinary pouch for use on a plastic, heavy plastic, or rubber faceplate (only one type of faceplate allowed) - Ten per month.

(m) Irrigation bag - Two every six months.

(n) Irrigation cone and catheter, including brush - Two every six months.

- (o) Irrigation supply, sleeve - One per month.
- (p) Ostomy belt (adjustable) for appliance - Two every six months.
- (q) Ostomy convex insert - Ten per month.
- (r) Ostomy ring - Ten per month.
- (s) Stoma cap - Thirty per month.
- (t) Ostomy faceplate - Ten per month. The agency does not pay for either of the following when billed in combination with an ostomy faceplate:
 - (i) Drainable pouches with plastic face plate attached; or
 - (ii) Drainable pouches with rubber face plate.
- (8) Syringes and needles;
- (9) Urological supplies - Diapers and related supplies:
 - (a) The standards and specifications in this subsection apply to all disposable incontinent products (e.g., briefs, diapers, pull-up pants, underpads for beds, liners, shields, guards, pads, and undergarments). See subsections (b), (c), (d), and (e) of this section for additional standards for specific products. All of the following apply to all disposable incontinent products:
 - (i) All materials used in the construction of the product must be safe for the client's skin and harmless if ingested;
 - (ii) Adhesives and glues used in the construction of the product must not be water-soluble and must form continuous seals at the edges of the absorbent core to minimize leakage;
 - (iii) The padding must provide uniform protection;
 - (iv) The product must be hypoallergenic;
 - (v) The product must meet the flammability requirements of both federal law and industry standards; and
 - (vi) All products are covered for client personal use only.
 - (b) In addition to the standards in subsection (a) of this section, diapers must meet all the following specifications. They must:
 - (i) Be hourglass shaped with formed leg contours;
 - (ii) Have an absorbent filler core that is at least one-half inch from the elastic leg gathers;
 - (iii) Have leg gathers that consist of at least three strands of elasticized materials;
 - (iv) Have an absorbent core that consists of cellulose fibers mixed with absorbent gelling materials;
 - (v) Have a back sheet that is moisture impervious and is at least 1.00 mm thick, designed to protect clothing and linens;
 - (vi) Have a top sheet that resists moisture returning to the skin;
 - (vii) Have an inner lining that is made of soft, absorbent material; and
 - (viii) Have either a continuous waistband, or side panels with a tear-away feature, or refastenable tapes, as follows:
 - (A) For child diapers, at least two tapes, one on each side.
 - (B) The tape adhesive must release from the back sheet without tearing it, and permit a minimum of three fastening/unfastening cycles.
 - (c) In addition to the standards in subsection (a) of this section, pull-up pants and briefs must meet the following specifications. They must:
 - (i) Be made like regular underwear with an elastic waist or have at least four tapes, two on each side or two large tapes, one on each side;

- (ii) Have an absorbent core filler that is at least one-half inch from the elastic leg gathers;
- (iii) Have an absorbent core that consists of cellulose fibers mixed with absorbent gelling;
- (iv) Have leg gathers that consist of at least three strands of elasticized materials;
- (v) Have a back sheet that is moisture impervious, is at least 1.00 mm thick, and is designed to protect clothing and linens;
- (vi) Have an inner lining made of soft, absorbent material; and
- (vii) Have a top sheet that resists moisture returning to the skin.
- (d) In addition to the standards in subsection (a) of this section, underpads are covered only for incontinent purposes in a client's bed and must meet the following specifications:
 - (i) Have an absorbent layer that is at least one and one-half inches from the edge of the underpad;
 - (ii) Be manufactured with a waterproof backing material;
 - (iii) Be able to withstand temperatures not to exceed one hundred-forty degrees Fahrenheit;
 - (iv) Have a covering or facing sheet that is made of non-woven, porous materials that have a high degree of permeability, allowing fluids to pass through and into the absorbent filler. The patient contact surface must be soft and durable;
 - (v) Have filler material that is highly absorbent. It must be heavy weight fluff filler or the equivalent; and
 - (vi) Have four-ply, nonwoven facing, sealed on all four sides.
- (e) In addition to the standards in subsection (a) of this section, liners, shields, guards, pads, and undergarments are covered for incontinence only and must meet the following specifications:
 - (i) Have channels to direct fluid throughout the absorbent area, and leg gathers to assist in controlling leakage, and/or be contoured to permit a more comfortable fit;
 - (ii) Have a waterproof backing designed to protect clothing and linens;
 - (iii) Have an inner liner that resists moisture returning to the skin;
 - (iv) Have an absorbent core that consists of cellulose fibers mixed with absorbent gelling materials;
 - (v) Have pressure-sensitive tapes on the reverse side to fasten to underwear; and
 - (vi) For undergarments only, be contoured for good fit, have at least three elastic leg gathers, and may be belted or unbelted.
- (f) The agency pays for urological products when they are used alone. The following are examples of products (~~which~~) the agency does not pay for when used in combination with each other:
 - (i) Disposable diapers;
 - (ii) Disposable pull-up pants and briefs;
 - (iii) Disposable liners, shields, guards, pads, and undergarments;
 - (iv) Rented reusable diapers (e.g., from a diaper service); and
 - (v) Rented reusable briefs (e.g., from a diaper service), or pull-up pants.

(g) The agency approves a client's use of a combination of products only when the client uses different products for daytime and nighttime use. Example: pull-up pants for daytime use and disposable diapers for nighttime use. The total quantity of all products in this section used in combination cannot exceed the monthly limitation for the product with the highest limit.

(h) Purchased disposable diapers (any size) are limited to two hundred per month for clients age three (~~((years of age))~~) and older.

(i) Reusable cloth diapers (any size) are limited to:

(i) Purchased - Thirty-six per year; and

(ii) Rented - Two hundred per month.

(j) Disposable briefs and pull-up pants (any size) are limited to:

(i) Two hundred per month for a client age three (~~((three))) through age eighteen (~~((years of age))~~); and~~

(ii) One hundred fifty per month for a client age nineteen (~~((years of age))~~) and older.

(k) Reusable briefs, washable protective underwear, or pull-up pants (any size) are limited to:

(i) Purchased - Four per year.

(ii) Rented - One hundred fifty per month.

(l) Disposable pant liners, shields, guards, pads, and undergarments are limited to two hundred per month.

(m) Underpads for beds are limited to:

(i) Disposable (any size) - One hundred eighty per month.

(ii) Purchased, reusable (large) - Forty-two per year.

(iii) Rented, reusable (large) - Ninety per month.

(10) Urological supplies - Urinary retention:

(a) Bedside drainage bag, day or night, with or without anti-reflux device, with or without tube - Two per month. The agency does not pay for these when billed in combination with any of the following:

(i) With extension drainage tubing for use with urinary leg bag or urostomy pouch (any type, any length), with connector/adaptor; and/or

(ii) With an insertion tray with drainage bag, and with or without catheter.

(b) Bedside drainage bottle, with or without tubing - Two per six month period.

(c) Extension drainage tubing (any type, any length), with connector/adaptor, for use with urinary leg bag or urostomy pouch. The agency does not pay for these when billed in combination with a vinyl urinary leg bag, with or without tube.

(d) External urethral clamp or compression device (not be used for catheter clamp) - Two per twelve-month period.

(e) Indwelling catheters (any type) - Three per month.

(f) Insertion trays:

(i) Without drainage bag and catheter - One hundred and twenty per month. The agency does not pay for these when billed in combination with other insertion trays that include drainage bag, catheters, and/or individual lubricant packets.

(ii) With indwelling catheters - Three per month. The agency does not pay for these when billed in combination with other insertion trays without drainage bag and/or indwelling catheter, individual indwelling catheters, and/or individual lubricant packets.

(g) Intermittent urinary catheter - One hundred twenty per month. The agency does not pay for these when billed in combination with an insertion tray with or without drainage bag and catheter(~~(s)~~), or other individual intermittent urinary catheters.

(h) Irrigation syringe (bulb or piston). The agency does not pay for these when billed in combination with irrigation tray or tubing.

(i) Irrigation tray with syringe (bulb or piston) - Thirty per month. The agency does not pay for these when billed in combination with irrigation syringe (bulb or piston), or irrigation tubing set.

(j) Irrigation tubing set - Thirty per month. The agency does not pay for these when billed in combination with an irrigation tray or irrigation syringe (bulb or piston).

(k) Leg straps (latex foam and fabric), replacement only.

(l) Male external catheter, specialty type, or with adhesive coating or adhesive strip - Sixty per month.

(m) Urinary suspensory with leg bag, with or without tube - Two per month. The agency does not pay for these when billed in combination with a latex urinary leg bag, urinary suspensory without leg bag, extension drainage tubing, or a leg strap.

(n) Urinary suspensory without leg bag, with or without tube - Two per month.

(o) Urinary leg bag, vinyl, with or without tube - Two per month. The agency does not pay for these when billed in combination with drainage bag and without catheter.

(p) Urinary leg bag, latex - One per month. The agency does not pay for these when billed in combination with or without catheter.

(11) Miscellaneous supplies:

(a) Bilirubin light therapy supplies when provided with a bilirubin light which the agency prior authorized - Five days supply.

(b) Continuous passive motion (CPM) softgoods kit - One, with rental of CPM machine.

(c) Eye patch with elastic, tied band, or adhesive, to be attached to an eyeglass lens - One box of twenty.

(d) Eye patch (adhesive wound cover) - One box of twenty.

(e) Nontoxic gel (e.g., LiceOff TM) for use with lice combs - One bottle per twelve-month period.

(f) Nonsterile gloves - Two hundred, per client, per month.

(i) For clients residing in an assisted living facility, the agency pays, with prior authorization, for additional nonsterile gloves up to the quantity necessary as directed by the client's physician, not to exceed a total of four hundred per client, per month.

(ii) Prior authorization requests must include a completed:

(A) General Information for Authorization form (HCA 13-835). The agency's electronic forms are available online (see WAC 182-543-7000 Authorization); and

(B) Limitation Extension Request Incontinent Supplies and Gloves form (HCA 13-870).

(g) Sterile gloves - Thirty pair, per client, per month.

(12) Miscellaneous (~~((DME))~~) medical equipment:

(a) Bilirubin light or light pad - Five days rental per twelve-month period for at-home newborns with jaundice.

(b) Blood glucose monitor (~~((specialized or home))~~) - One in a three-year period. See WAC 182-543-5500(4) for blood monitoring/testing supplies. The agency does not pay for continuous glucose monitoring systems including related equipment and supplies under the durable medical equipment benefit. See WAC 182-553-500 home infusion therapy/parenteral nutrition program.

(c) Continuous passive motion (CPM) machine - Up to ten days rental and requires prior authorization.

(d) Lightweight protective helmet/soft shell (including adjustable chin/mouth strap) - Two per twelve-month period.

(e) Lightweight ventilated hard-shell helmet (including unbreakable face bar, woven chin strap with adjustable buckle and snap fastener, and one set of cushion pads for adjusting fit to head circumference) - Two per twelve-month period.

(f) Pneumatic compressor - One in a five-year period.

(g) Positioning car seat - One in a five-year period.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-5700 (~~Covered DME and related supplies and complex rehabilitation technology~~) Medical equipment for clients in skilled nursing facilities. (1) The medicaid agency's skilled nursing facility per diem rate, established in chapters 74.46 RCW, 388-96, and 388-97 WAC, includes any reusable and disposable medical supplies that may be required for a skilled nursing facility client, unless otherwise specified within this section.

(2) The agency pays for the following (~~covered DME and related supplies and complex rehabilitation technology (CRT)~~) medical equipment outside of the skilled nursing facility per diem rate, subject to the limitations in this section:

(a) Manual or power-drive wheelchairs (including CRT);

(b) Speech generating devices (SGD); and

(c) Specialty beds.

(3) The agency pays for one manual or one power-drive wheelchair for clients who reside in a skilled nursing facility, with prior authorization, according to the requirements in WAC 182-543-4100, 182-543-4200, and 182-543-4300. Requests for prior authorization must:

(a) Be for the exclusive full-time use of a skilled nursing facility resident;

(b) Not be included in the skilled nursing facility's per diem rate;

(c) Include a completed General Information for Authorization form (HCA 13-835);

(d) Include a copy of the telephone order, signed by the physician, for the wheelchair assessment;

(e) Include a completed Medical Necessity for Wheelchair Purchase for Nursing Facility Clients form (HCA 13-729).

(4) The agency pays for wheelchair accessories and modifications that are specifically identified by the manufacturer as separate line item charges, with prior authorization. To receive payment, providers must submit the following to the agency:

(a) A copy of the telephone order, signed by the physician for the wheelchair accessories and modifications;

(b) A completed Medical Necessity for Wheelchair Purchase for Nursing Facility Clients form (HCA 13-729). The date on this form (HCA 13-729) must not be prior to the date on the telephone order. The agency's electronic forms are available online (see WAC 182-543-7000, Authorization);

(c) The make, model, and serial number of the wheelchair to be modified;

(d) The modification requested; and

(e) Specific information regarding the client's medical condition that necessitates modification.

(5) The agency pays for wheelchair repairs(~~(s)~~) with prior authorization. To receive payment, providers must submit the following to the agency:

(a) A completed Medical Necessity for Wheelchair Purchase for Nursing Facility Clients form (HCA 13-729). The agency's electronic forms are available online (see WAC 182-543-7000, Authorization);

(b) The make, model, and serial number of the wheelchair to be repaired; and

(c) The repair requested.

(6) Prior authorization is required for the repair and modification of client-owned equipment.

(7) The skilled nursing facility must provide a house wheelchair as part of the per diem rate, when the client resides in a skilled nursing facility.

(8) When the client is eligible for both medicare and medicaid and is residing in a skilled nursing facility in lieu of hospitalization, the agency does not reimburse for (~~DME and related supplies, CRT, prosthetics, orthotics~~) medical (~~supplies~~) equipment, related services, or related repairs or labor charges under fee-for-service (FFS).

(9) The agency pays for the purchase and repair of a speech generating device (SGD), with prior authorization. The agency pays for replacement batteries for SGDs in accordance with WAC 182-543-5500(3).

(10) The agency pays for the purchase or rental of a specialty bed (a heavy duty bariatric bed is not a specialty bed), with prior authorization, when:

(a) The specialty bed is intended to help the client heal; and

(b) The client's nutrition and laboratory values are within normal limits.

(11) The agency considers decubitus care products to be included in the skilled nursing facility per diem rate and does not reimburse for these separately.

(12) See WAC (~~182-543-9200~~) 182-543-9000 for reimbursement for wheelchairs and (~~WAC 182-543-9250 for reimbursement for~~) CRT.

(13) The agency pays for the following medical supplies for a client in a skilled nursing facility outside the skilled nursing facility per diem rate:

(a) Medical supplies or services that replace all or part of the function of a permanently impaired or malfunctioning internal body organ. This includes, but is not limited to, the following:

(i) Colostomy and other ostomy bags and necessary supplies (see WAC 388-97-1060(3)); and

(ii) Urinary retention catheters, tubes, and bags, excluding irrigation supplies.

(b) Supplies for intermittent catheterization programs, for the following purposes:

(i) Long term treatment of atonic bladder with a large capacity; and

(ii) Short term management for temporary bladder atony.

(c) Surgical dressings required as a result of a surgical procedure, for up to six weeks post-surgery.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-7000 Authorization. (1) The medicaid agency requires providers to obtain authorization for ~~((covered durable))~~ medical ~~((equipment (DME) and related supplies, complex rehabilitation technology (CRT), prosthetics, orthotics, medical supplies and related))~~ equipment as required in this chapter, in chapters 182-501 and 182-502 WAC, and in published billing ~~((instructions and/or))~~ guides and provider notices or when the clinical criteria required in this chapter are not met.

(a) The agency considers requests for prior authorization (PA) for any item meeting the definition of medical equipment, and PA is granted when the service is medically necessary as defined in WAC 182-500-0070.

(b) For prior authorization (PA), a provider must submit a written request to the agency as specified in the agency's published billing ~~((instructions))~~ guides (see WAC 182-543-7100). All requests for prior authorization must be accompanied by a completed General Information for Authorization form (HCA 13-835) in addition to any program specific forms as required within this chapter. The agency's electronic forms are available online at ~~((:))~~ <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>.

~~((b))~~ (c) For expedited prior authorization (EPA), a provider must meet the clinically appropriate EPA criteria outlined in the agency's published billing ~~((instructions))~~ guides. The appropriate EPA number must be used when the provider bills the agency (see WAC 182-543-7200).

(2) When a service requires authorization, the provider must properly request authorization in accordance with the agency's rules, billing ~~((instructions))~~ guides, and provider notices.

(3) The agency's authorization of ~~((service(s)))~~ services does not necessarily guarantee payment.

(4) When authorization is not properly requested, the agency rejects and returns the request to the provider for further action. The agency does not consider the rejection of the request to be a denial of service.

(5) Authorization requirements in this chapter are not a denial of service to the client.

(6) The agency may recoup any payment made to a provider if the agency later determines that the service was not properly authorized or did not meet the EPA criteria. Refer to WAC 182-502-0100 (1)(c).

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-7100 Prior authorization. (1) The medicaid agency requires providers to obtain prior authorization for certain ~~((items))~~ medical equipment and services before delivering ~~((that item))~~ the equipment or service to the client, except for dual-eligible medicare/medicaid clients when medicare is the primary payer. The ~~((item))~~ equipment or service must also be delivered to the client before the provider bills the agency.

(2) All prior authorization requests must be accompanied by a completed General Information for Authorization form (HCA 13-835), in addition to any program specific agency forms as required within this chapter. Agency forms are available online at <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>.

(3) When the agency receives the initial request for prior authorization, the ~~((prescription(s) for those items))~~ prescription for the medical equipment or services must not be older than ~~((three))~~ six months from the date the agency receives the request.

(4) The agency requires certain information from providers in order to prior authorize the purchase or rental of equipment. This information includes, but is not limited to ~~((the following))~~:

(a) The manufacturer's name;

(b) The equipment model and serial number;

(c) A detailed description of the item; and

(d) Any modifications required, including the product or accessory number as shown in the manufacturer's catalog.

(5) For prior authorization requests, the agency requires the prescribing provider to furnish patient-specific justification for base equipment and each requested line item accessory or modification as identified by the manufacturer as a separate charge. The agency does not accept general standards of care or industry standards for generalized equipment as justification.

(6) The agency considers requests for ~~((new durable))~~ medical equipment ~~((DME) and related supplies, complex rehabilitation technology (CRT), prosthetics, orthotics, medical supplies and related equipment))~~ that ~~((do))~~ does not have assigned health care common procedure coding system (HCPCS) codes and are not listed in the agency's published issuances, including billing instructions or provider notices. These items require prior authorization. The provider must furnish all of the following information to the agency to establish medical necessity:

(a) A detailed description of the ~~((item(s) or service(s)))~~ equipment or service to be provided;

(b) The cost or charge for the ~~((item(s)))~~ equipment;

(c) A copy of the manufacturer's invoice, price-list or catalog with the product description for the ~~((item(s)))~~ equipment being provided; and

(d) A detailed explanation of how the requested ~~((item(s)))~~ equipment differs from an already existing code description.

(7) The agency does not pay for the purchase, rental, or repair of medical equipment that duplicates equipment that the client already owns, rents, or that the agency has authorized for the client. If the provider believes the purchase,

rental, or repair of medical equipment is not duplicative, the provider must request prior authorization and submit the following to the agency:

(a) Why the existing equipment no longer meets the client's medical needs; or

(b) Why the existing equipment could not be repaired or modified to meet the client's medical needs.

(c) Upon request, documentation showing how the client's condition met the criteria for PA or EPA.

(8) A provider may resubmit a request for prior authorization for ~~((an item))~~ equipment or services that the agency has denied. The agency requires the provider to include new documentation that is relevant to the request.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-7200 ~~((Limitation extension (LE)))~~
Prior authorization for limits on amount, frequency, or duration. (1) The medicaid agency limits the amount, frequency, or duration of certain ~~((covered medical supplies and equipment (MSE), durable))~~ medical equipment ~~((DME), and related supplies, prosthetics, orthotics, medical supplies;))~~ and related services, and reimburses up to the stated limit without requiring prior authorization.

(2) Certain ~~((covered))~~ items have limitations on quantity and frequency. These limits are designed to avoid the need for prior authorization for items normally considered medically necessary and for quantities sufficient for a thirty-day supply for one client.

(3) The agency requires a provider to request prior authorization ~~((for a limitation extension (LE)))~~ in order to exceed the stated limits for ~~((nondurable))~~ medical equipment and ~~((medical))~~ supplies that do not require prior authorization. All requests for prior authorization must be accompanied by a completed General Information for Authorization form (HCA 13-835) in addition to any program specific forms as required within this chapter. Agency forms are available online at <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>.

(4) The agency evaluates such requests ~~((for LE))~~ under the provisions of WAC 182-501-0169, and grants prior authorization when it is medically necessary, as defined in WAC 182-500-0070.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-7300 Expedited prior authorization (EPA). (1) The expedited prior authorization process (EPA) is designed to eliminate the need for written and telephonic requests for prior authorization for selected ~~((durable))~~ medical equipment ~~((DME))~~ procedure codes.

(2) The medicaid agency requires a provider to create an authorization number for EPA for selected ~~((DME))~~ medical equipment procedure codes. The process and criteria used to create the authorization number is explained in the agency published ~~((DME-related))~~ medical equipment-related billing ~~((instructions))~~ guide. The authorization number must be used when the provider bills the agency.

(3) Upon request, a provider must provide documentation to the agency showing how the client's condition met the criteria for EPA.

(4) A written or telephone request for prior authorization is required when a situation does not meet the EPA criteria for selected ~~((DME))~~ medical equipment procedure codes.

(5) The agency may recoup any payment made to a provider under this section if the provider did not follow the expedited authorization process and criteria.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-8000 ~~((DME—))~~ Billing general. (1) A provider must not bill the medicaid agency for the rental or purchase of medical equipment supplied to the provider at no cost by ~~((suppliers/manufacturers))~~ suppliers or manufacturers.

(2) The agency does not pay a ~~((durable))~~ medical equipment ~~((DME))~~ provider for medical supplies used in conjunction with a physician office visit. The agency pays the office physician for these supplies when appropriate. Refer to the agency's physician-related ~~((services/health care))~~ professional services billing ~~((instructions))~~ guide.

(3) The agency does not pay for any prosthetics and orthotics required for surgery or placed during the hospital stay under this chapter. See chapter 182-550 WAC. In this situation, the prosthetics and orthotics are included in the hospital reimbursement rate.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-8100 ~~((DME—))~~ Billing for managed care clients. If a fee-for-service (FFS) client enrolls in a medicaid agency-contracted managed care organization (MCO), the following apply:

(1) The agency stops paying for any rented medical equipment on the last day of the month preceding the month in which the client becomes enrolled in the MCO.

(2) The plan determines the client's continuing need for the medical equipment and is responsible for paying the provider.

(3) A client may become an MCO enrollee before the agency completes the purchase of prescribed medical equipment. The agency considers the purchase complete when the product is delivered and the agency is notified of the serial number. If the client becomes an MCO enrollee before the agency completes the purchase:

(a) The agency rescinds the agency's authorization with the vendor until the MCO's primary care provider (PCP) evaluates the client; then

(b) The agency requires the PCP to write a new prescription if the PCP determines the equipment is still medically necessary as defined in WAC 182-500-0070; then

(c) The MCO's applicable reimbursement policies apply to the purchase or rental of the equipment.

(4) If a client is disenrolled from an MCO and placed into fee-for-service before the MCO completes the purchase of prescribed medical equipment:

(a) The agency rescinds the MCO's authorization with the vendor until the client's primary care provider (PCP) evaluates the client; then

(b) The agency requires the PCP to write a new prescription if the PCP determines the equipment is still medically necessary as defined in WAC 182-500-0070; then

(c) The agency does not pay for medical equipment and services provided to a client who is enrolled in an agency-contracted managed care organization (MCO), but who did not use one of the MCO's participating providers.

(d) The agency's applicable reimbursement policies apply to the purchase or rental of the equipment.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-8200 Billing for clients eligible for medicare and medicaid. If a client is eligible for both medicare and medicaid(~~, the following apply~~):

(1) The medicaid agency requires a provider to accept medicare assignment before any medicaid reimbursement;

(2) In accordance with WAC 182-502-0110(3):

(a) If the service provided is covered by medicare and medicaid, the agency pays only the deductible (~~(and/or)~~) or coinsurance up to medicare's or medicaid's allowed amount, whichever is less.

(b) If the service provided is covered by medicare but is not covered by the agency, the agency pays only the deductible (~~(and/or)~~) or coinsurance up to medicare's allowed amount.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-9000 (~~(DME and related supplies, complex rehabilitation, prosthetics, orthotics, medical supplies and related services)~~) General reimbursement.

(1) The medicaid agency pays qualified providers who meet all (~~(of the)~~) conditions in WAC 182-502-0100(~~, for durable~~) for medical equipment (~~((DME), supplies)~~), repairs, and related services provided on a fee-for-service (FFS) basis as follows:

(a) To agency-enrolled (~~(DME)~~) medical equipment providers, qualified complex rehabilitation technology (CRT) suppliers, pharmacies, and home health agencies under their national provider identifier (NPI) numbers, subject to the limitations of this chapter, and according to the procedures and codes in the agency's current (~~(DME)~~) medical equipment billing (~~(instructions; and)~~) guide;

(b) In accordance with the health care common procedure coding system (HCPCS) guidelines for product classification and code assignment; and

(c) Providers must code the specific brand and model of wheelchair or CRT products dispensed according to the centers for medicare and medicaid services' (CMS) pricing, data analysis, and coding (PDAC) web site.

(2) The agency sets, evaluates, and updates the maximum allowable fees for (~~(DME and related supplies, CRT, prosthetics, orthotics;)~~) medical (~~(supplies)~~) equipment and related services at least once yearly (~~((using available published information, including but not limited to)~~), unless oth-

erwise directed by the legislature or determined necessary by the agency.

(3) The agency sets the rates for medical equipment codes subject to the federal financial participation (FFP) limitation at the lesser of medicare's prevailing payment rates in the Durable Medical Equipment Prosthetics/Orthotics, and Supplies (DMEPOS) Fee Schedule or Competitive Bid Area (CBA) rate. For all other procedure codes, the agency sets rates using one of the following:

(a) (~~Commercial databases;~~

~~(b) Manufacturers' catalogs;~~

~~(c)) Medicare fee schedules; ((and~~

~~(d) Wholesale prices.~~

~~(3)) (b) Legislative direction;~~

(c) Input from stakeholders or relevant sources that the agency determines to be reliable and appropriate;

(d) Pricing clusters; or

(e) A by-report (BR) basis.

(4) The medicaid agency evaluates a by-report (BR) item, procedure, or service for its medical necessity, appropriateness and reimbursement value on a case-by-case basis. The agency's reimbursement rate is a percentage of the manufacturer's list or manufacturer's suggested retail price (MSRP), or a percentage of the wholesale acquisition cost (AC). The agency uses the following percentages:

(a) For basic standard wheelchairs, sixty-five percent of MSRP or one hundred forty percent of AC;

(b) For wheelchair parts and add-on CRT accessories and parts, eighty-four percent of MSRP or one hundred forty percent of AC;

(c) For wheelchair seat and back cushions, CRT manual wheelchair base, and up-charge modifications and seating systems, eighty percent of MSRP or one hundred forty percent of AC;

(d) For CRT power-drive wheelchair base, eighty-five percent of MSRP or one hundred forty percent of AC;

(e) For prosthetics and orthotics and medical supplies and related services, eighty-five percent of MSRP or one hundred twenty-five percent of AC;

(f) For other medical equipment, eighty percent of MSRP or one hundred twenty-five percent of AC;

(g) For medical supplies, eighty-five percent of MSRP or one hundred twenty-five percent of AC.

(5) When establishing reimbursement rates for medical equipment based on pricing clusters for a specific HCPCS code, the maximum allowable fee is the median or average amount of all items in the cluster. The pricing cluster is comprised of all the brands/models for which the agency obtains pricing information. However, the agency may limit the number of brands/models included in the pricing cluster due to:

(a) A client's medical needs;

(b) Product quality;

(c) Introduction, substitution or discontinuation of certain brands/models; and/or

(d) Cost.

(6) When there is only a rental rate on the DMEPOS fee schedule, the agency sets the maximum allowable purchase rate at either the DMEPOS rate divided by 0.15 or multiplied by ten. The agency sets the maximum allowable fee for daily rental at one-three-hundredth of the new purchase price or

one-thirtieth of the monthly rental rate on the DMEPOS fee schedule;

~~(7)~~ The agency may adopt policies, procedure codes, and/or rates that are inconsistent with those set by medicare if the agency determines that such actions are necessary(~~(-~~

~~(4)~~ ~~The agency updates the maximum allowable fees for DME and related supplies, CRT, prosthetics, orthotics, medical supplies and related services at least once per year, unless otherwise directed by the legislature or deemed necessary by the agency.~~

~~(5))~~ to:

(a) Assure that payments are sufficient to enlist providers and maintain access to care and services; or

(b) Comply with legislative budget directives.

~~(8)~~ The agency's maximum payment for ~~((DME and related supplies, CRT, prosthetics, orthotics, medical supplies))~~ medical equipment and related services is the lesser of either ~~((of the following))~~ the:

(a) Providers' usual and customary charges; or

(b) Established rates, except as provided in WAC 182-543-8200.

~~((6))~~ (9) The agency is the payor of last resort for clients with medicare or third-party insurance.

~~((7)~~ ~~The agency does not pay for medical equipment and/or services provided to a client who is enrolled in an agency contracted managed care plan, but who did not use one of the plan's participating providers.~~

~~(8))~~ (10) The agency's reimbursement for a prosthetic or orthotic includes the cost of any necessary molds, fitting, shipping, handling or any other administrative expenses related to provision of the prosthetic or orthotic to the client.

(11) The agency's reimbursement rate for purchased or rented covered ~~((DME and related supplies, prosthetics, orthotics, medical supplies))~~ medical equipment and related services includes all of the following:

(a) Any adjustments or modifications to the medical equipment ~~((that are))~~ required within three months of the date of delivery or ~~((are))~~ covered under the manufacturer's warranty. This does not apply to adjustments required because of changes in the client's medical condition;

(b) Any pick-up ~~((and/or))~~ or delivery fees or associated costs (e.g., mileage, travel time, gas, etc.);

(c) Telephone calls;

(d) Shipping, handling, and/or postage;

(e) Routine maintenance ~~((of DME))~~ that includes testing, cleaning, regulating, and assessing the client's equipment;

(f) Fitting ~~((and/or))~~ and set-up; and

(g) Instruction to the client or client's caregiver in the appropriate use of the medical equipment ~~((, device, and/or supplies)).~~

~~((9)~~ ~~DME, supplies, repairs;))~~ (12) Medical equipment and related services supplied to eligible clients under the following reimbursement methodologies are included in those methodologies and are not reimbursed under fee-for-service:

(a) Hospice providers' per diem reimbursement;

(b) Hospitals' diagnosis-related group (DRG) reimbursement;

(c) Managed care plans' capitation rate;

(d) Skilled nursing facilities' per diem rate; and

(e) Professional services' resource-based relative value system reimbursement (RBRVS) rate.

~~((10))~~ (13) The provider must make warranty information, including date of purchase, applicable serial number, model number or other unique identifier of the equipment, and warranty period, available to the agency upon request.

~~((11))~~ (14) The dispensing provider who furnishes the medical equipment ~~((, supply or device))~~ to a client is responsible for any costs incurred to have a different provider repair the equipment when:

(a) Any medical equipment ~~((that))~~ the agency considers purchased requires repair during the applicable warranty period;

(b) The provider refuses or is unable to fulfill the warranty; and

(c) The equipment ~~((, supply or device))~~ continues to be medically necessary.

~~((12))~~ (15) If the rental medical equipment ~~((, supply or device))~~ must be replaced during the warranty period, the agency recoups fifty percent of the total amount previously paid toward rental and eventual purchase of the medical equipment ~~((, supply or device))~~ delivered to the client if:

(a) The provider is unwilling or unable to fulfill the warranty; and

(b) The equipment ~~((, supply or device))~~ continues to be medically necessary.

~~((13)~~ ~~See WAC 182-543-9100, 182-543-9200, 182-543-9300, and 182-543-9400 for other reimbursement methodologies;))~~

(16) The agency does not reimburse for medical equipment, related services, and related repairs and labor charges under fee-for-service when the client is:

(a) An inpatient hospital client;

(b) Eligible for both medicare and medicaid, and is staying in a skilled nursing facility in lieu of hospitalization;

(c) Terminally ill and receiving hospice care; or

(d) Enrolled in a risk-based managed care plan that includes coverage for such items and/or services.

(17) The agency rescinds any purchase order for a prescribed item if the equipment was not delivered to the client before the client:

(a) Dies;

(b) Loses medical eligibility;

(c) Becomes covered by a hospice agency; or

(d) Becomes covered by a managed care organization.

(18) A provider may incur extra costs for customized equipment that may not be easily resold. In these cases, for purchase orders rescinded in subsection (7) of this section, the agency may pay the provider an amount it considers appropriate to help defray these extra costs. The agency requires the provider to submit justification sufficient to support such a claim.

(19) For clients residing in skilled nursing facilities, see WAC 182-543-5700.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 182-543-6000 DME and related supplies, medical supplies and related services—Non-covered.
- WAC 182-543-9100 Reimbursement method—Other DME.
- WAC 182-543-9200 Reimbursement method—Wheel-chairs.
- WAC 182-543-9250 Reimbursement method—Complex rehabilitation technology.
- WAC 182-543-9300 Reimbursement method—Prosthetics and orthotics.
- WAC 182-543-9400 Reimbursement method—Medical supplies and related services.

WSR 18-24-023

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed November 27, 2018, 3:28 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The agency is amending these rules as a result of federal regulations published in February 2016 under 42

C.F.R. 440.70, requiring that physicians document the occurrence of a face-to-face encounter (including through the use of telemedicine) within reasonable time frames when ordering home health services for medicaid eligible clients.

Nonphysician practitioners, including advanced registered nurse practitioners (ARNP), may perform the face-to-face encounter to determine the need for home health services, which must be documented by a physician. Only physicians may sign orders for home health services. Nonphysicians, including ARNPs, may no longer sign orders for these services.

The agency is also aligning these rules with the federal regulations to clarify that home health services are not restricted to clients who are homebound or to services furnished solely in the home. Services may be provided in any setting where normal life activities take place.

Citation of Rules Affected by this Order: New WAC 182-551-2040, 182-551-2122 and 182-551-2140; and amending WAC 182-551-2000, 182-551-2010, 182-551-2020, 182-551-2030, 182-551-2100, 182-551-2110, 182-551-2120, 182-551-2125, 182-551-2130, 182-551-2200, 182-551-2210, 182-551-2220, and 182-500-0075.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: 42 C.F.R. Section 440.70.

Adopted under notice filed as WSR 18-19-102 on September 19, 2018.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
WAC 182-551-2030 Home health skilled services—Requirements.		
Proposed	(1) The medicaid agency covers home health skilled services provided to eligible clients, subject to the restrictions or limitations in this section and other applicable published WAC.	The deleted language indicates coverage is restricted or limited based on some criteria apart from medical necessity or utilization controls.
Adopted	[(1)] The medicaid agency covers home health skilled services provided to eligible clients, subject to the restrictions or limitations provisions in this section and other applicable published WAC.	
WAC 182-551-2100 Home health services—Covered skilled nursing services.		
Proposed	(1) The medicaid agency covers the home health acute care skilled nursing services subject to the limitations in this section. The agency evaluates a request for covered home health acute care skilled nursing services that are: (a) In excess of the home health care program's limitations or restrictions, according to WAC 182-501-0169; and (b) Listed as noncovered, according to WAC 182-501-0160.	Language about limitations in the program does not reflect the standards that apply to this mandatory service. The reference to the limitation extension is especially a problem for people under age twenty-one covered by EPSDT, which requires reviewing treatment under medical necessity.

Proposed/ Adopted	WAC Subsection	Reason
Adopted	<p>(1) The medicaid agency covers the home health acute care skilled nursing services <u>without prior authorization</u> subject to the <u>limitations provisions</u> in this section. The agency evaluates a request for covered home health acute care skilled nursing services that are:</p> <p>(a) In excess of the home health care program's limitations or restriction,s according to WAC 182-501-0169; and</p> <p>(b) Listed as noncovered, according to WAC 182-501-0160. <u>Additional services require prior authorization and are granted if medically necessary, as defined in WAC 182-500-0070. The agency evaluates a request for home health acute care skilled nursing services that are listed as noncovered:</u></p> <p><u>(a) For a person age 21 and older, according to WAC 182-501-0160;</u></p> <p><u>(b) For a person age 20 and younger, under the early and periodic screening diagnosis and treatment (EPSDT) provisions in chapter 182-543 WAC; and</u></p> <p><u>(c) For a person age 19 or older that is under emergency related services only, according to WAC 182-507-0120.</u></p>	
WAC 182-551-2120 Covered aide services.		
Proposed	<p>(2) The medicaid agency pays for home health aide services, as defined in WAC 182-551-2010 only when the services are provided under the supervision of, and in conjunction with, practitioners who provide:</p> <p>(a) Skilled nursing services; or</p> <p>(b) Specialized therapy services.</p>	Revised to align with federal rules.
Adopted	<p>(2) The medicaid agency pays for home health aide services, as defined in WAC 182-551-2010, only when the services are provided under the supervision of, and in conjunction with, practitioners who provide:</p> <p>(a) Skilled nursing services; or</p> <p>(b) Specialized therapy services.</p> <p><u>in any setting where normal life activities take place.</u></p>	
Proposed	<p>(3) The medicaid agency covers home health aide services only when a registered nurse or licensed therapist visits the client at least once every fourteen days to monitor or supervise home health aide services, with or without the presence of the home health aide, in any setting where normal life activities take place.</p>	Revised to align with federal rules.
Adopted	<p>(3) The medicaid agency covers home health aide services only when a registered nurse or licensed therapist visits the client at least once every fourteen days to monitor or supervise home health aide services, with or without the presence of the home health aide, in any setting where normal life activities take place.</p>	

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-551-2130 Home health services—Noncovered services.		
Proposed	(1)(a)(ii) On a case-by-case basis, the medicaid agency may authorize long-term care skilled nursing visits or specialized therapy visits for a client for a limited time until a long-term care skilled nursing plan or specialized therapy plan is in place. Any services authorized are subject to the restrictions and limitations in this section and other applicable published WAC.	Using "restrictions and limitations" language here implies this service is limited beyond what federal law allows.
Adopted	(1)(a)(ii) On a case-by-case basis, the medicaid agency may authorize long-term care skilled nursing visits or specialized therapy visits for a client for a limited time until a long-term care skilled nursing plan or specialized therapy plan is in place. Any services authorized are subject to the restrictions and limitations <u>provisions</u> in this section and other applicable published WAC.	
Proposed	(g) Home health aide services that are not provided in conjunction with skilled nursing or specialized therapy services.	Revised to align with federal rules.
Adopted	(g) Home health aide services that are not provided in conjunction with skilled nursing or specialized therapy services.	
WAC 182-551-2220 Provider payments.		
Proposed	(3) For clients eligible for both medicaid and medicare, the medicaid agency may pay for services described in this chapter only when medicare does not cover those services. The maximum payment for each service is medicaid's maximum payment.	It is not accurate to say that for dual-eligible clients, medicaid pays only when the service is not covered by medicare.
Adopted	(3) For clients eligible for both medicaid and medicare, the medicaid agency may pay for services described in this chapter only when medicare does not cover those services <u>or pays less than the medicaid maximum payment.</u> The maximum payment for each service is medicaid's maximum payment.	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 3, Amended 13, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 13, Repealed 0.

Date Adopted: November 27, 2018.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-19-037, filed 9/11/13, effective 10/12/13)

WAC 182-500-0075 Medical assistance definitions—N. "National correct coding initiative (NCCI)" is a national standard for the accurate and consistent description of medical goods and services using procedural codes. The standard is based on coding conventions defined in the American Medical Association's Current Procedural Terminology (CPT®) manual, current standards of medical and surgical coding practice, input from specialty societies, and analysis of current coding practices. The Centers for Medicare and Medicaid Services (CMS) maintain NCCI policy. Information can be found at: <http://www.cms.hhs.gov/NationalCorrectCodInitEd/>.

"National provider indicator (NPI)" is a federal system for uniquely identifying all providers of health care services, supplies, and equipment.

"NCCI edit" is a software step used to determine if a claim is billing for a service that is not in accordance with

federal and state statutes, federal and state regulations, agency or the agency's designee's fee schedules, billing instructions, and other publications. The agency or the agency's designee has the final decision whether the NCCI edits allow automated payment for services that were not billed in accordance with governing law, NCCI standards or agency or agency's designee policy.

"Nonapplying spouse" see "spouse" in WAC 182-500-0100.

"Nonbilling provider" is a health care professional enrolled with the agency only as an ordering, referring, prescribing provider for the Washington medicaid program and who is not otherwise enrolled as a medicaid provider with the agency.

"Noncovered service" see "covered service" in WAC 182-500-0020.

"Nonphysician practitioner" means the following professionals who work in collaboration with an ordering physician: Nurse practitioner, clinical nurse specialist, certified nurse midwife, or physician assistant.

"Nursing facility" see "institution" in WAC 182-500-0050.

"Nursing facility long-term care services" are services in a nursing facility when a person does not meet the criteria for rehabilitation. Most long-term care assists people with support services. (Also called custodial care.)

"Nursing facility rehabilitative services" are the planned interventions and procedures which constitute a continuing and comprehensive effort to restore a person to the person's former functional and environmental status, or alternatively, to maintain or maximize remaining function.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2000 ((Home health services—))General. (1) The purpose of the medicaid agency's home health program is to reduce the costs of health care services by providing equally effective, less restrictive quality care to the client in ~~((the client's residence))~~ any setting where normal life activities take place, subject to the restrictions and limitations in subchapter II.

(2) A client does not have to be homebound or need nursing or therapy services to receive services under this chapter.

(3) Home health skilled services are provided for acute, intermittent, short-term, and intensive courses of treatment. See chapters 182-514 and 388-71 WAC for programs administered to clients who need chronic, long-term maintenance care.

(4) Home health services include the following services and items:

(a) Nursing service, see WAC 182-551-2100;

(b) Home health aide service, see WAC 182-551-2120;

(c) Medical supplies, equipment, and appliances suitable for use in any setting where normal life activities take place, see chapter 182-543 WAC; and

(d) Physical therapy, occupational therapy, or speech therapy, see WAC 182-551-2110, and audiology services, see WAC 182-531-0375.

(5) The agency evaluates medical equipment requests for medical necessity according to WAC 182-501-0165.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2010 ((Home health services—))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.

"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 ~~((of residence))~~.

"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 ~~((in the client's residence))~~ 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 (~~(licensed practitioner)~~) physician and a home health agency provider. The plan describes the home health care to be provided (~~(at the client's residence)~~) in any setting where the client's normal life activities take place. See WAC 182-551-2210.

~~("Residence" means a client's home or place of living. (See WAC 182-551-2030 (2)(g)(ii) for clients in residential facilities whose home health services are not covered through the medicaid agency's home health program.))~~

"**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 14-07-042, filed 3/12/14, effective 4/12/14)

WAC 182-551-2020 ((Home health services—Eligible persons)) Eligibility. (1) ~~((Persons))~~ Clients in the Washington apple health ~~((WAH) fee-for-service)~~ programs listed in the table in WAC 182-501-0060 are eligible to receive home health services subject to the ~~((limitations described))~~ provisions in this chapter. ~~((Persons))~~ Clients enrolled in an agency-contracted managed care organization (MCO) receive all home health services through their designated plan.

(2) The agency ~~((does not))~~ covers home health services ~~((under the home health program))~~ for ~~((persons))~~ clients in

the ~~((CNP-emergency))~~ alien emergency medical ~~((only and LCP-MNP-emergency medical only programs. The agency or its designee evaluates a request for home health skilled nursing visits on a case-by-case basis under the provisions of WAC 182-501-0165, and may cover up to two skilled nursing visits within the eligibility enrollment period if the following criteria are met:~~

~~(a) The person requires hospital care due to an emergency medical condition as described in WAC 182-500-0030; and~~

~~(b) The agency or its designee authorizes up to two skilled nursing visits for follow up care related to the emergent medical condition))~~ program under WAC 182-507-0120.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2030 ((Home health)) Skilled services—Requirements. (1) The medicaid agency ~~((reimburses for covered))~~ covers home health skilled services provided to eligible clients, subject to the ~~((restrictions or limitations))~~ provisions in this section and other applicable published WAC.

(2) Home health skilled services provided to eligible clients must:

(a) Meet the definition of "acute care" in WAC 182-551-2010.

(b) Provide for the treatment of an illness, injury, or disability.

(c) Be medically necessary as defined in WAC 182-500-0070.

(d) Be reasonable, based on the community standard of care, in amount, duration, and frequency.

(e) Meet face-to-face requirements described in WAC 182-551-2040.

(f) Be provided under a plan of care (POC), as defined in WAC 182-551-2010 and described in WAC 182-551-2210. Any statement in the POC must be supported by documentation in the client's medical records.

~~((f))~~ (g) Be used to prevent placement in a more restrictive setting. In addition, the client's medical records must justify the medical ~~((reason(s)))~~ reason or reasons that the services should be provided ~~((in the client's residence))~~ and why instructing the client would be most effectively done in any setting where the client's normal life activities take place instead of at an ordering ((licensed practitioner's)) physician's office, clinic, or other outpatient setting. ((This includes justification for services for a client's medical condition that requires teaching that would be most effectively accomplished in the client's home on a short-term basis.

~~((g))~~ (h) Be provided in ~~((the client's residence))~~ any setting where normal life activities take place.

(i) The medicaid agency does not ~~((reimburse))~~ pay for services ~~((if))~~ provided at ~~((the workplace, school, child day care))~~ a hospital, adult day care, skilled nursing facility, intermediate care facility for individuals with intellectual disabilities, or any ((other place that is not the client's place of residence)) setting in which payment is or could be made under medicaid for inpatient services that include room and board.

(ii) Clients in residential facilities contracted with the state and paid by other programs, such as home and community programs to provide limited skilled nursing services, are not eligible for medicaid agency-funded, limited skilled nursing services unless the services are prior authorized under WAC 182-501-0165.

~~((4))~~ (i) Be provided by:

(i) A home health agency that is Title XVIII (medicare)-certified;

(ii) A registered nurse (RN) prior authorized by the medicaid agency when no home health agency exists in the area where a client resides; or

(iii) An RN authorized by the medicaid agency when the RN cannot contract with a medicare-certified home health agency.

NEW SECTION

WAC 182-551-2040 Face-to-face encounter requirements. (1) The medicaid agency pays for home health services provided under this chapter only when the face-to-face encounter requirements in this section are met.

(2) For initiation of home health services, with the exception of medical equipment under WAC 182-551-2122, the face-to-face encounter must be related to the primary reason the client requires home health services and must occur within ninety days before or within the thirty days after the start of the services.

(3) For the initiation of medical equipment under WAC 182-551-2122, the face-to-face encounter must be related to the primary reason the client requires medical equipment and must occur no later than six months prior to the start of services.

(4) The face-to-face encounter may be conducted by the ordering physician, a nonphysician practitioner as described in WAC 182-500-0075, or the attending acute, or post-acute physician, for beneficiaries admitted to home health immediately after an acute or post-acute stay.

(5) If a nonphysician practitioner as described in WAC 182-500-0075 (or the attending physician when a client is discharged from an acute hospital stay) performs the face-to-face encounter, the nonphysician practitioner (or attending physician) must communicate the clinical findings of that face-to-face encounter to the ordering physician. Those clinical findings must be incorporated into a written or electronic document included in the client's medical record.

(6) For all home health services except medical equipment under WAC 182-551-2122, the physician responsible for ordering the services must:

(a) Document that the face-to-face encounter, which is related to the primary reason the client requires home health services, occurred within the required time frames described in subsection (2) of this section prior to the start of home health services; and

(b) Indicate the practitioner who conducted the encounter, and the date of the encounter.

(7) For medical equipment under WAC 182-551-2122, except as provided in (b) of this subsection, an ordering physician, a nonphysician practitioner as described in WAC 182-500-0075, except for certified nurse midwives, or the attend-

ing physician when a client is discharged from an acute hospital stay, must:

(a) Document that the face-to-face encounter, which is related to the primary reason the client requires home health services, occurred within the required time frames described in subsection (3) of this section prior to the start of home health services; and

(b) Indicate the practitioner who conducted the encounter, and the date of the encounter.

(8) The face-to-face encounter may occur through telemedicine. See WAC 182-551-2125.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2100 (~~Home health services~~) Covered skilled nursing services. (1) The medicaid agency covers the home health acute care skilled nursing services (~~listed~~) without prior authorization subject to the provisions in this section (~~when~~). Additional services require prior authorization and are granted if medically necessary, as defined in WAC 182-500-0070. The agency evaluates a request for home health acute care skilled nursing services that are listed as noncovered:

(a) For a person age 21 and older, according to WAC 182-501-0160;

(b) For a person age 20 and younger, under the early and periodic screening diagnosis and treatment (EPSDT) provisions in chapter 182-543 WAC; and

(c) For a person age 19 or older that is under emergency related services only, according to WAC 182-507-0120.

(2) The home health acute care skilled nursing services must be furnished by a qualified provider(~~The medicaid agency evaluates a request for covered services that are subject to limitations or restrictions, and approves the services beyond those limitations or restrictions when medically necessary, under the standard for covered services in WAC 182-501-0165~~) in any setting where normal life activities take place.

~~((2))~~ (3) The medicaid agency covers the following home health acute care skilled nursing services, subject to the (~~limitations~~) provisions in this section:

(a) Full skilled nursing services that require the skills of a registered nurse or a licensed practical nurse under the supervision of a registered nurse, if the services involve one or more of the following:

- (i) Observation;
- (ii) Assessment;
- (iii) Treatment;
- (iv) Teaching;
- (v) Training;
- (vi) Management; and
- (vii) Evaluation.

(b) A brief skilled nursing visit if only one of the following activities is performed during the visit:

- (i) An injection;
- (ii) Blood draw; or
- (iii) Placement of medications in containers (e.g., envelopes, cups, medisets).

(c) Home infusion therapy only if the client:

(i) Is willing and capable of learning and managing the client's infusion care; or

(ii) Has a volunteer caregiver willing and capable of learning and managing the client's infusion care.

(d) Infant phototherapy for an infant diagnosed with hyperbilirubinemia:

(i) When provided by a medicaid agency-approved infant phototherapy agency; and

(ii) For up to five skilled nursing visits per infant.

(e) Limited high-risk obstetrical services:

(i) For a medical diagnosis that complicates pregnancy and may result in a poor outcome for the mother, unborn, or newborn;

(ii) For up to three home health visits per pregnancy if ~~((A) Enrollment)~~ enrolled in or ((referral to the following providers of first steps has been verified:

~~((H) Maternity support services (MSS); or~~

~~((B) Maternity case management (MCM); and~~

~~((B)))~~ referred to a first steps maternity support services (MSS) provider. The visits are provided by a registered nurse who has either:

~~((H))~~ ~~((A))~~ National perinatal certification; or

~~((H))~~ ~~((B))~~ A minimum of one year of labor, delivery, and postpartum experience at a hospital within the last five years.

~~((3))~~ ~~((4))~~ The medicaid agency limits skilled nursing visits provided to eligible clients to two per day.

AMENDATORY SECTION (Amending WSR 16-04-026, filed 1/25/16, effective 3/1/16)

WAC 182-551-2110 ~~((Home health services—))~~ **Covered specialized therapy.** The medicaid agency covers outpatient rehabilitation and habilitative services ~~((in an in-home setting))~~ provided by a home health agency in any setting where normal life activities take place. Outpatient rehabilitation and habilitative services are described in chapter 182-545 WAC. Specialized therapy is defined in WAC 182-551-2010.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2120 ~~((Home health services—))~~ **Covered aide services.** (1) The medicaid agency pays for one home health aide visit, per client per day. Additional services require prior authorization and are granted if medically necessary, as defined in WAC 182-500-0070.

(2) The medicaid agency ~~((reimburses))~~ pays for home health aide services, as defined in WAC 182-551-2010, ~~((only when the services are provided under the supervision of, and in conjunction with, practitioners who provide:~~

~~((a) Skilled nursing services; or~~

~~((b) Specialized therapy services.~~

~~((3))~~ ~~The medicaid agency covers home health aide services only when a registered nurse or licensed therapist visits the client's residence at least once every fourteen days to monitor or supervise home health aide services, with or without the presence of the home health aide))~~ in any setting where normal life activities take place.

NEW SECTION

WAC 182-551-2122 Medical supplies, equipment, and appliances. The medical agency's home health program covers medical supplies, equipment, and appliances, as defined and described in chapter 182-543 WAC, that are suitable for use in any setting in which normal life activities take place.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2125 ~~((Home health services—))~~ **Delivered through telemedicine.** (1) The medicaid agency covers the delivery of home health services through telemedicine for clients who have been diagnosed with an unstable condition who may be at risk for hospitalization or a more costly level of care. The client must have a ~~((diagnosis(es)))~~ diagnosis or diagnoses where there is a high risk of sudden change in clinical status which could compromise health outcomes.

(2) The medicaid agency pays for one telemedicine interaction, per eligible client, per day, based on the ordering ~~((licensed practitioner's))~~ physician's home health plan of care.

(3) To receive payment for the delivery of home health services through telemedicine, the services must involve:

(a) An assessment, problem identification, and evaluation which includes:

(i) Assessment and monitoring of clinical data including, but not limited to, vital signs, pain levels and other biometric measures specified in the plan of care. Also includes assessment of response to previous changes in the plan of care; and

(ii) Detection of condition changes based on the telemedicine encounter that may indicate the need for a change in the plan of care; and

(b) Implementation of a management plan through one or more of the following:

(i) Teaching regarding medication management as appropriate based on the telemedicine findings for that encounter;

(ii) Teaching regarding other interventions as appropriate to both the patient and the caregiver;

(iii) Management and evaluation of the plan of care including changes in visit frequency or addition of other skilled services;

(iv) Coordination of care with the ordering ~~((licensed practitioner))~~ physician regarding telemedicine findings;

(v) Coordination and referral to other medical providers as needed; and

(vi) Referral to the emergency room as needed.

(4) The medicaid agency does not require prior authorization for the delivery of home health services through telemedicine.

(5) The medicaid agency does not pay for the purchase, rental, or repair of telemedicine equipment.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2130 (~~(Home health services—)~~)Non-covered services. (1) The medicaid agency does not cover the following home health services under the home health program, unless otherwise specified:

(a) Chronic long-term care skilled nursing visits or specialized therapy visits for a medically stable client when a long-term care skilled nursing plan or specialized therapy plan is in place through the department of social and health services' aging and (~~(disability services)~~) long-term support administration (~~((ADSA))~~) (AL TSA).

(i) The medicaid agency considers requests for interim chronic long-term care skilled nursing services or specialized therapy services for a client while the client is waiting for (~~((ADSA))~~) AL TSA to implement a long-term care skilled nursing plan or specialized therapy plan; and

(ii) On a case-by-case basis, the medicaid agency may authorize long-term care skilled nursing visits or specialized therapy visits for a client for a limited time until a long-term care skilled nursing plan or specialized therapy plan is in place. Any services authorized are subject to the (~~(restrictions and limitations)~~) provisions in this section and other applicable published WAC.

(b) Social work services.

(c) Psychiatric skilled nursing services.

(d) Pre- and postnatal skilled nursing services, except as listed under WAC 182-551-2100 (2)(e).

(e) Well-baby follow-up care.

(f) Services performed in hospitals, correctional facilities, skilled nursing facilities, or a residential facility with skilled nursing services available.

(g) (~~(Home health aide services that are not provided in conjunction with skilled nursing or specialized therapy services.~~

~~(h))~~ Health care for a medically stable client (e.g., one who does not have an acute episode, a disease exacerbation, or treatment change).

~~((+))~~ (h) Home health specialized therapies and home health aide visits for clients that are covered under the AEM categorically needy and medically needy programs and are in the following programs:

(i) (~~(ENP))~~ Categorically needy - Emergency medical only; and

(ii) (~~(LCP-MNP))~~ Medically needy - Emergency medical only.

~~((+))~~ (i) Skilled nursing visits for a client when a home health agency cannot safely meet the medical needs of that client within home health services program limitations (e.g., for a client to receive infusion therapy services, the caregiver must be willing and capable of managing the client's care).

~~((+))~~ (j) More than one of the same type of specialized therapy (~~(and/or)~~) and home health aide visit per day.

~~((+))~~ (k) The medicaid agency does not (~~(reimburse)~~) pay for duplicate services for any specialized therapy for the same client when both providers are performing the same or similar (~~(procedure(s))~~) procedure or procedures.

~~((+))~~ (l) Home health visits made without a written (~~(licensed practitioner's)~~) physician's order, unless the verbal order is:

(i) Documented before the visit; and

(ii) The document is signed by the ordering (~~(licensed practitioner))~~ physician within forty-five days of the order being given.

(2) The medicaid agency does not cover additional administrative costs billed above the visit rate (these costs are included in the visit rate and will not be paid separately).

(3) The medicaid agency evaluates a request for any service that is listed as noncovered under WAC 182-501-0160.

NEW SECTION

WAC 182-551-2140 Exceptions. The following services are not included in the home health benefit:

(1) More than one of the same type of specialized therapy and home health aide visit per day.

(2) Duplicate services for any specialized therapy for the same client when both providers are performing the same or similar procedure or procedures.

(3) Home health visits made without a written physician's order, unless the verbal order is:

(a) Documented before the visit; and

(b) The document is signed by the ordering physician within forty-five days of the order being given.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2200 (~~(Home health services—)~~)Eligible providers. The following may contract with the medicaid agency to provide home health services through the home health program, subject to the restrictions or limitations in this section and other applicable published WAC:

(1) A home health agency that:

(a) Is Title XVIII (medicare)-certified;

(b) Is department of health (DOH) licensed as a home health agency;

(c) Submits a completed, signed core provider agreement to the medicaid agency; and

(d) Is assigned a provider number.

(2) A registered nurse (RN) who:

(a) Is prior authorized by the medicaid agency to provide intermittent nursing services when no home health agency exists in the area (~~(a client resides))~~ where the client's normal life activities take place;

(b) Cannot contract with a medicare-certified home health agency;

(c) Submits a completed, signed core provider agreement to the medicaid agency; and

(d) Is assigned a provider number.

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2210 (~~(Home health services—))~~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 (~~((licensed practitioner's))~~) physician's orders and client's current health status;
 - (d) Contain specific goals and treatment plans;
 - (e) Be reviewed and revised by an ordering (~~((licensed practitioner))~~) physician at least every sixty calendar days, signed by the ordering (~~((licensed practitioner))~~) physician 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(s)))~~) date or dates of onset or exacerbation;
 - (d) The prognosis;
 - (e) The (~~((type(s)))~~) 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 (~~((the client's residence))~~) any setting where the client's life activities take place instead of an ordering (~~((licensed practitioner's))~~) physician'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 (~~((licensed practitioner's))~~) physician's orders, new orders, and change orders, with notation that the order was received before treatment;
 - (e) Signed (~~((licensed practitioner's))~~) physician'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 (~~((licensed practitioner))~~) physician; 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 (~~((licensed practitioner))~~) physician 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 16-03-035, filed 1/12/16, effective 2/12/16)

WAC 182-551-2220 (~~((Home health services))~~) Provider payments. (1) To be reimbursed, the home health provider must bill the medicaid agency according to the conditions of payment under WAC 182-502-0150 and other issuances.

- (2) Payment to home health providers is:
- (a) A set rate per visit for each discipline provided to a client;
 - (b) Based on the county location of the providing home health agency; and
 - (c) Updated by general vendor rate changes.
- (3) For clients eligible for both medicaid and medicare, the medicaid agency may pay for services described in this

chapter only when medicare does not cover those services or pays less than the medicaid maximum payment. The maximum payment for each service is medicaid's maximum payment.

(4) Providers must submit documentation to the medicaid agency during the home health agency's review period. Documentation includes, but is not limited to, the requirements listed in WAC 182-551-2210.

(5) After the medicaid agency receives the documentation, the medicaid agency's medical director or designee reviews the client's medical records for program compliance and quality of care.

(6) The medicaid agency may take back or deny payment for any insufficiently documented home health care service when the ~~((department's))~~ medicaid agency's medical director or designee determines that:

(a) The service did not meet the conditions described in WAC 182-550-2030; or

(b) The service was not in compliance with program policy.

(7) Covered home health services for clients enrolled in ~~((a Healthy Options))~~ an agency-contracted managed care ((plan)) organization (MCO) are paid for by that ~~((plan))~~ MCO.

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

Date Adopted: November 27, 2018.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-22-037, filed 10/31/13, effective 12/1/13)

WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? (1) The SSP is a payment from the state to certain SSI eligible people ~~((see))~~ as described in WAC 388-474-0012~~((t))~~.

(2) If you converted to the federal SSI program from state assistance in January 1974~~((t))~~ because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered client. Social Security calls you a ~~((mandatory))~~ minimum income level (MIL) client.

A change in living situation, cost-of-living adjustment (COLA),₂ or federal ~~((payment level (FPL)))~~ benefit rate (FBR) can affect a grandfathered ~~((MIL))~~ MIL client. A grandfathered ~~((MIL))~~ MIL client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal ~~((cost-of-living adjustments (COLA)))~~ COLA since then; or

(b) The current payment standard.

(3) The monthly SSP rate standards for eligible persons under WAC 388-474-0012 and individuals residing in an institution are:

SSP eligible persons	Standard
Individual (aged 65 and older)	\$40.00
Individual (blind as determined by SSA)	\$40.00
Individual with an ineligible spouse	\$40.00
Grandfathered (MIL)	Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77.
Medical institution	Monthly SSP Rate
Individual	((27.28)) <u>\$40.00</u>

(4) We may adjust the SSP rate standards at the end of the calendar year to comply with WAC 388-478-0057.

WSR 18-24-032
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed November 28, 2018, 10:47 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The department is amending WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)?, to increase the personal needs allowance (PNA) effective January 1, 2019, for those in medical institutions and residential settings in compliance with recent state legislation (SHB 2651).

Citation of Rules Affected by this Order: Amending WAC 388-478-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Adopted under notice filed as WSR 18-19-072 on September 17, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

WSR 18-24-046
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed November 28, 2018, 12:10 p.m., effective December 29, 2018]

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

Purpose: To provide for a more efficient process of evaluating applications and clarify criteria for awarding grants.

Citation of Rules Affected by this Order: Amending 1 [WAC 352-80-030 and 352-80-080].

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.070, and 79A.05.351.

Adopted under notice filed as WSR 18-19-044 on September 14, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 28, 2018.

Valeria Veasley
Management Analyst

AMENDATORY SECTION (Amending WSR 08-06-013, filed 2/21/08, effective 3/23/08)

WAC 352-80-030 Eligibility. Public agencies, private nonprofit organizations, formal school programs, informal after school programs, and community based programs within Washington state are eligible to apply for grants under this chapter. ~~((Programs that provide outdoor education opportunities to schools must be fully aligned with the state's essential academic learning requirements.))~~

AMENDATORY SECTION (Amending WSR 08-06-013, filed 2/21/08, effective 3/23/08)

WAC 352-80-080 Evaluation criteria and process. ~~((The following criteria are used to evaluate applications:~~

~~(1) Proposals that provide for public/private partnerships;~~

~~(2) Proposals that provide for innovative ways to increase the availability and use of outdoor recreation facilities;~~

~~(3) Proposals which show consideration for the economies of installation or implementation to provide greatest cost benefit ratio, for example, where private parties contribute more than the minimum amount;~~

~~(4) Proposals which contribute to the statewide network of facilities or programs;~~

~~(5) Proposals which demonstrate their compatibility with the legislative intent of RCW 79A.05.351;~~

~~(6) Programs that contribute to the reduction of academic failure and drop-out rates;~~

~~(7) Programs that make use of research-based, effective environmental, ecological, agricultural, or other natural resource based educational curriculum;~~

~~(8) Proposals which encourage sound environmental practices through changing education or recreational behavior;~~

~~(9) Proposals which target geographic areas as defined in RCW 79A.05.351;~~

~~(10) Proposals which encourage community involvement;~~

~~(11) Proposals which demonstrate innovative approaches to education or information;~~

~~(12) Programs that will commit matching and in-kind resources;~~

~~(13) Proposals that contribute to healthy lifestyles through outdoor recreation and sound nutrition;~~

~~(14) Proposals that use state park and other natural resource venues and personnel as a resource;~~

~~(15) Proposals that maximize the number of participants that can be served;~~

~~(16) Proposals that provide an opportunity to experience the out-of-doors directly and understand nature and the natural world; and~~

~~(17) Proposals that include ongoing program evaluation, assessment and reporting of their effectiveness.))~~ (1) The director shall adopt a competitive evaluation process to guide the allocation of grant funds.

(2) The director shall set priorities and develop criteria for awarding grants considering the following:

(a) Be developed, to a reasonable extent, through the participation of a grant program advisory committee;

(b) Be published in the grant program manual;

(c) Be designed for use by an advisory committee selected for this purpose;

(d) Be in accord with RCW 79A.05.351 and all other applicable statutes and federal laws and rules.

WSR 18-24-054
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2018-13—Filed November 28, 2018, 5:06 p.m., effective December 29, 2018]

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

Purpose: The commissioner has adopted this rule to update the accounting requirements for licensing in the state of Washington for charities offering charitable gift annuities to comport with a change in accounting rules.

Citation of Rules Affected by this Order: Amending WAC 284-38-010.

Statutory Authority for Adoption: RCW 48.02.060 and 48.38.075.

Other Authority: RCW 48.38.010.

Adopted under notice filed as WSR 18-21-159 on October 22, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 28, 2018.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 14-05-017, filed 2/10/14, effective 3/15/14)

WAC 284-38-010 Definitions. The definitions in this section apply throughout this chapter:

"Certificate holder" means any insurer or educational, religious, charitable, or scientific institution that has been issued a certificate of exemption by the commissioner to conduct a charitable gift annuity business.

"Complete filing" means a package of information containing charitable gift annuity contracts, supporting information, documents and exhibits submitted to the commissioner electronically using the system for electronic rate and form filing (SERFF).

"Contract" means a charitable gift annuity contract as described in chapter 48.38 RCW.

"Date filed" means the date a complete charitable gift annuity contract filing has been received and accepted by the commissioner.

"Filer" means a person, organization, or other entity that files charitable gift annuity contracts with the commissioner.

"Objection letter" means correspondence sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a charitable gift annuity contract under RCW 48.38.010(9), 48.18.110, 48.38.030, or 48.38.042.

"SERFF" means the system for electronic rate and form filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows filers to create and submit rate, rule, and form filings electronically to the commissioner.

"Unrestricted net assets" also means "net assets without donor restrictions."

WSR 18-24-057
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed November 29, 2018, 9:15 a.m., effective December 30, 2018]

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

Purpose: To clarify existing language and align disabled parking privileges with recent legislation.

Citation of Rules Affected by this Order: Amending chapter 308-96B WAC.

Statutory Authority for Adoption: RCW 46.01.110, 46.19.020, and 46.19.040.

Adopted under notice filed as WSR 18-21-128 on October 18, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 29, 2018.

Damon Monroe
Rules Coordinator

Chapter 308-96B WAC

~~((INDIVIDUALS WITH DISABILITIES VEHICLE LICENSE PRIVILEGES))~~ **SPECIAL PARKING PRIVILEGES FOR PERSONS WITH DISABILITIES**

AMENDATORY SECTION (Amending WSR 07-20-111, filed 10/3/07, effective 11/3/07)

WAC 308-96B-010 Definitions—~~((Individual with disabilities))~~ **Special parking privileges for persons with disabilities.** For the purposes of determining eligibility under ~~((RCW 46.16.381, for individual with disabilities special parking placards and license plates))~~ chapter 46.19 RCW, for special parking privileges for persons with disabilities, the following definitions apply:

(1) ~~("Application for individual" means the form provided by the department that must be completed by the individual and physician.~~

(2) ~~"Application for organization" means the form provided by the department that must be completed by the organization.~~

~~(3))~~ "Identification card" means the identification card bearing the name and date of birth of the person to whom the placard/plate/tab is issued.

~~((4))~~ "Licensed physician" is a health care provider to include: Chiropractor (DC), naturopath (ND), physician or

surgeon (MD or DO), podiatrist (DPM), advanced registered nurse practitioner (ARNP), physician's assistant (PA)-Licensed physician)) (2) "Health care practitioner" means that as defined in RCW 46.19.010(2). Health care practitioner does not include persons licensed in the professions of dentistry and optometry.

((5)) (3) "Permanent" means a ((licensed physician)) health care practitioner has certified the qualifying disability condition is expected to last at least five years.

((6)) (4) "Permit" means the eligibility for the temporary or permanent placard or special license plate(s), ((individual with disability)) license tab, and identification card.

((7) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities.

((8)) (5) "Privilege" means the right to utilize the benefits associated with the ((individuals with disabilities, parking placards, identification card, license plate(s) and tabs.

(9) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting)) special parking privileges for persons with disabilities.

((10)) (6) "Signature" means any memorandum, mark, stamp, or sign made with intent to authenticate an application for a placard/plate, or the subscription of any person.

AMENDATORY SECTION (Amending WSR 07-20-111, filed 10/3/07, effective 11/3/07)

WAC 308-96B-020 General provisions. (1) **How ((do I)) to qualify for ((an individual with disabilities parking privilege)) special parking privileges for persons with disabilities?** ((To qualify for temporary or permanent individual with disabilities parking privilege, a licensed physician as defined in WAC 308-96B-010(4)) A health care practitioner must certify, on a department approved application form and on a written authorization, that ((you have a disability that limits or impairs your ability to walk and that you meet the requirements listed in RCW 46.16.381(1). The physician must sign a declaration under penalty of perjury that you have a disability that limits or impairs the ability to walk and that you meet one of the following criteria:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Are severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Have such a severe disability that you cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Use portable oxygen;

(e) Are restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry, is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Are impaired by cardiovascular disease or cardiac condition to the extent that your functional limitations are

classified as class III or IV under standards accepted by the American Heart Association;

(g) Have a disability resulting from an acute sensitivity to automobile emissions which limits or impairs your ability to walk. Your personal physician as described in WAC 308-96B-010(4) must document that your disability is comparable in severity to the others listed in this subsection; or

(h) Is legally blind and has limited mobility;

(i) Limited by porphyria (acute sensitivity to light as defined in RCW 46.16.381).

The medical declaration is required on all original applications for permanent and temporary disability privileges and for permanent disability privileges that have been expired more than thirty days. A declaration is not required for renewal of existing Washington privileges for an individual with disabilities)) an individual has a qualifying disability in accordance with those listed in RCW 46.19.010(1).

(2) **How ((do I)) to apply for ((an individual with disabilities parking privilege? You)) special parking privileges for persons with disabilities?** The individual must complete and sign ((your)) the appropriate portion of the application. Once the ((licensed physician)) health care practitioner portion of the application is completed, ((you submit it to most)) and the health care practitioner has provided a written authorization, submit these documents to a vehicle licensing office((s) or the department ((as noted on the application)). The application and written authorization are required on all applications, originals and renewals.

(3) **Can the materials be submitted electronically?** No. The health care practitioner may send you the signed application and written authorization by electronic means of their choosing. You must remit the application and written authorization in hard copy to a vehicle licensing office or the department.

(4) **Can my health care practitioner combine the application and written authorization?** Yes. The application may be printed on the health care practitioner's letterhead or prescription paper and be submitted as a complete application.

((3)) (5) **Who may sign the application for an individual ((with disabilities)) who is unable to sign or is a minor?** An authorized representative of the individual ((with disabilities)) applying for the parking privilege may sign the application. The application must be accompanied by a copy of one of the following:

(a) A power of attorney;

(b) A Washington state court order or certification from the clerk of court confirming the court's action; or

(c) A declaration under penalty of perjury explaining why the applicant is unable to sign and explaining the signing person's association with the applicant. Example: Signature, Jane Doe, daughter.

((4) **When is the individual with disabilities parking privilege no longer valid?**

(a) The plates expire;

(b) The privilege expires;

(c) Upon death of the individual with disabilities;

(d) If the disability no longer exists;

(e) The special license plates have been canceled by department administrative action;

(f) If the privilege was issued in error; or
 (g) If the individual with disability is no longer shown on the department's record as being a registered owner of the vehicle.

~~(5) What do I receive when my application is approved for an individual with disabilities parking privilege? An individual with disabilities identification card and:~~

(a) If you have a temporary disability, you will receive one temporary placard;

(b) If you have a permanent disability, you receive up to two privileges. You may choose to receive:

(i) Up to two permanent placards; or

(ii) One permanent placard and one set of individual with disabilities license plates or individual with disabilities year tab. The year tab may only be displayed on qualifying plates. The individual with disabilities must be a registered owner of the vehicle to receive these plates or tab.

~~(6) When can the individual with disabilities parking privileges be used? When transporting the person to whom the plate or placard is issued.~~

~~(7)) (6) Why is the ((individual with disabilities)) identification card issued? The identification card is issued to identify the individual with ((disabilities)) the parking privilege and to ensure that only those who qualify use the parking privilege. The identification card must be available for display to law enforcement or parking enforcement officials.~~

If you have just applied for the parking privilege and have not yet received ((an individual with disabilities)) the identification card, show the receipt you received at the time of application when requested.

~~((8) How do I display the individual with disabilities parking placard?~~

(a) The placard is hung from the rearview mirror post; or

(b) The placard may be placed on the dashboard, (in the absence of the rearview mirror post).

~~The entire placard must be visible through the vehicle windshield.~~

~~(9)) (7) How long is the ((individuals with disabilities parking privilege)) special parking privilege for persons with disabilities valid?~~

(a) Temporary privileges are valid for up to ((six)) twelve months from the date of ((issuance by the department)) authorization by the health care practitioner. The privilege is valid until the last day of the month of expiration.

(b) Permanent privileges are issued for five years ((and expire on the last day of the month of issuance)) from the date of authorization by the health care practitioner. The privilege is valid until the last day of the month of expiration. The expiration date can be located on the identification card or as marked on the placard. ((For example: If your expiration date is May 2008, your privilege will expire on May 31, 2008.

Note: License plates carry the expiration date of your vehicle registration and must be renewed annually.

~~(10)) (8) How do I renew or extend my ((individual with disabilities)) parking privilege?~~

(a) ((You cannot renew)) For a temporary privilege((-)), if your condition continues beyond the expiration date, you ((can obtain a new temporary individual with disabilities parking placard and identification card by submitting a new

application completed and certified by a licensed physician, an advanced registered nurse practitioner, or a physician's assistant,) must apply for a new privilege as described in WAC 308-96B-010((4)) (2).

(b) ((You can renew)) For a permanent privilege((-)), the department will mail you a ((renewal)) notice before your privilege expires. ((Submit the completed renewal notice or a new application to most vehicle licensing offices to renew. You will receive your new parking placard(s) and new identification card through the mail.

(c) If permanent privilege has been expired more than thirty days you must submit a new application completed and certified by a licensed physician, an advanced registered nurse practitioner, or a physician's assistant, as described in WAC 308-96B-010.

((4)) You must apply for a new privilege as described in WAC 308-96B-010(2).

~~(9) What if the ((individual with disabilities)) parking placard or identification card is lost, mutilated, destroyed, or stolen? To replace your ((individual with disabilities)) parking placard or identification card, complete and sign ((a statement explaining what happened to the placard or identification card)) an authorized department of licensing form indicating such. A new ((individual with disabilities)) parking placard or identification card will be issued, indicating the original expiration date. The placard or identification card being replaced are no longer valid and should be destroyed if located.~~

~~((12)) (10) What should I do with my placard and identification card when they are no longer valid? ((When your placard and identification card are no longer valid;)) They should be destroyed.~~

((Note: If the vehicle has been reported stolen or if the department record indicates the vehicle has been stolen, the same number/letter combination will not be used. This is a law enforcement issue and is for the protection of the public.))

AMENDATORY SECTION (Amending WSR 06-19-079, filed 9/19/06, effective 10/20/06)

~~WAC 308-96B-030 ((Permanent placard and individual with disabilities special license plates)) Special parking privileges for persons with disabilities for organizations. (1) When can a qualifying organization use disabled ((person)) parking license plate(s) or parking placard(s)? Qualifying organizations may only use a disabled parking license plate(s) or parking placard(s) when transporting any person who meets the criteria under chapter 46.19 RCW ((46.16.381(1))).~~

(2) ((How does an organization qualify for individual with disabled parking license plates and permanent parking placards? The organization must:

(a) Service participants/clients who meet the criteria in RCW 46.16.381(3); and

(b) Report the status of each permanent individual with disabilities parking placard or disabled parking license plate to the department by April 30th each year.

~~(3)) How does a qualifying organization apply for ((disabled parking license plates and placards)) special parking privileges for persons with disabilities? The orga-~~

nization must submit a completed (~~individual with disabilities parking privileges organization~~) application with appropriate documentation as indicated on the application.

~~((4))~~ **When can a qualifying organization use disabled parking license plates or placards?** Qualifying organizations can only use disabled parking license plates or placards when transporting persons who meet the criteria for an individual with disabilities.

~~(5))~~ **(3) What ~~(ean)~~ does a qualifying organization receive when approved for parking privileges?**

(a) Disabled parking license plates ~~(ean)~~. These may be issued for vehicles registered to the organization ~~(, which regularly transport persons who have qualified or would qualify for this parking privilege)~~; or

(b) Parking placard(s) ~~(ean)~~. These may be used only when the vehicle in which they are displayed is transporting persons who have or would qualify for the ~~(disabled)~~ parking privilege.

~~((An organization may receive up to ninety nine placards, or disabled parking license plates can be issued to vehicles licensed in the name of the organization if used primarily for transporting persons who have or would qualify for the parking privileges. The department may approve exceptions.~~

~~(6) Where does a qualifying organization obtain individual with disabilities parking placard(s) or disabled parking license plates?~~ A qualifying organization can obtain disabled parking placard(s) and disabled parking license plates at most Washington vehicle licensing offices.

~~(7))~~ **(4) Is a qualifying organization issued an identification card?** No.

~~((8))~~ **(5) When do the disabled parking license plates or placard(s) for organizations expire?** The ~~(parking placard(s))~~ placard expires five years from the date of issuance, on the last day of the month specified on the placard. ~~((Example: If the placard is marked to expire in May 2008, it expires May 31, 2008.~~

Note: License plates also carry the expiration of your vehicle registration and must be renewed annually.

~~(9))~~ **(6) When are the disabled parking license plates and/or placard(s) no longer valid?** The individual with disabled parking license plates are no longer valid when:

- (a) The plates/placard(s) expire;
- (b) The privilege expires;
- (c) The vehicle is no longer being used for the purpose of transporting individuals with disabilities;
- (d) The disabled parking license plates/placard(s) have been canceled by department administrative action;
- (e) The organization no longer qualifies;
- (f) The organization's business license is canceled or expires; or
- (g) If the privilege was issued in error ~~(, or~~
- (h) If the organization fails to return the annual report by April 30th).

~~((10))~~ **(7) How does an organization replace placards or disabled parking license plates if they become lost, mutilated, destroyed, or stolen?** The organization must complete and sign a ~~(statement)~~ department form explaining what happened to the placard ~~(s)~~ or plate ~~(s and pay replacement fees)~~. A replacement ~~(permanent parking)~~ placard ~~(s)~~ or disabled parking license plate ~~(s)~~ will be

issued indicating the original expiration date. ~~((This voids the previously issued permanent placards or plates.~~

Note: If the license plate has been reported as stolen or if the department record indicates the vehicle has been stolen, the same number/letter combination will not be issued. This is a law-enforcement issue and is for the protection of the public.

~~(11))~~ **(8) How does an organization renew its permanent ~~(disabled)~~ parking placard(s)?** The department will send a ~~(renewal)~~ notice to the organization before the privilege expires. The organization must submit ~~((the completed and signed renewal notice or a new application. Upon approval of the completed and signed renewal notice or application, the department will issue new placards))~~ a completed application with appropriate documentation as indicated on the application.

~~((12))~~ **(9) Does an organization qualify for disabled parking license plate tabs?** No.

WSR 18-24-059

PERMANENT RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Filed November 29, 2018, 1:45 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: To create new, and amend existing, subsections of WAC 284-17-123 to clarify the special education condition found in RCW 48.17.380 (3)(d) for an adjuster license candidate.

Citation of Rules Affected by this Order: Amending WAC 284-17-123.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.005.

Adopted under notice filed as WSR 18-21-160 on October 22, 2018.

A final cost-benefit analysis is available by contacting David Forte, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7042, email davidf@oic.wa.gov.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 29, 2018.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 09-02-073, filed 1/6/09, effective 7/1/09)

WAC 284-17-123 Resident and nonresident adjuster licenses(~~(—Trainees)~~). (1) Applicants for a resident adjuster license may satisfy the experience or special training requirements of RCW 48.17.380(~~((4))~~) (3)(d) by employment as a "trainee" for a minimum period of (~~(not fewer than)~~) six months.

(a) Each trainee must be supervised by a resident licensed adjuster. Trainees must receive training in all adjusting activities and responsibilities. Activities of the trainee must be restricted to participation in factual investigation and tentative closing of losses. All adjusting transactions must be completed in the name of the supervising licensed adjuster who must review, confirm, and be responsible for all acts of the trainee. Compensation of a trainee must be on a salary basis only.

(b) Any person employing trainees must immediately advise the commissioner and provide the exact date that employment of the trainee begins and ends. The employer must submit an application completed by each trainee and one fingerprint card.

(c) Trainees are eligible to take the adjuster's examination required by the commissioner after completing (~~(# fewer than)~~) a minimum period of six months as a trainee.

(d) The maximum period a person may be designated as a trainee is one nine-month period.

(e) Any violation of this section or a violation of any provision of the insurance code subjects both the trainee and the supervisory adjuster to penalties of the code.

(2) Applicants for a resident adjuster license may satisfy the special education requirements of RCW 48.17.380 (3)(d) by:

(a) Successful completion of the chartered property casualty underwriter (CPCU) program and earning the CPCU professional designation from the American Institute for Chartered Property Casualty Underwriters, also known as the institutes;

(b) Successful completion of the associate in claims (AIC) program and earning the AIC professional designation from the American Institute for Chartered Property Casualty Underwriters, also known as the institutes; or

(c) Successful completion of the property program and earning the property claim law specialist (PCLS) professional designation from the American Educational Institute.

(3) Applicants who are not residents of Washington may be licensed as nonresident adjusters as follows:

(a) A nonresident adjuster license will be issued if the applicant has and maintains an adjuster license in good standing in his or her home state and the home state reciprocates and licenses Washington adjusters as nonresident adjusters.

(b) If the home state of an applicant for an adjuster license does not issue an adjuster license, the applicant must pass this state's written adjuster examination.

(c) If the home state of an applicant for a nonresident adjuster license does not issue an adjuster license but he or she has an active adjuster license as a nonresident in a state other than Washington that requires passing an examination, and he or she has taken and passed the examination and is in good standing with that state, the nonresident adjuster is

deemed by the commissioner to have satisfied the examination required for adjusters in this state.

WSR 18-24-071
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed November 30, 2018, 10:29 a.m., effective December 31, 2018]

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

Purpose: This rule adopts legal boundary descriptions for the exterior boundary and special management area (SMA) boundaries designated in the Columbia River Gorge National Scenic Area Act. The rule also amends the legal boundary descriptions of the urban area boundaries to show coincident angle points, to reflect new angle points where the exterior and SMA boundaries touch the urban area boundaries, and to conform terms, style, abbreviations and acronyms to the newer exterior and SMA boundary descriptions. No urban area boundaries are changed as a result of these amendments to the urban areas legal boundary descriptions. The rule is, in effect, an interpretation of the National Scenic Area Act. The rule will provide greater certainty for landowners and land managers about the precise location of the national scenic area boundaries. Where a legal boundary description in this rule differs from a prior interpretation of a national scenic area boundary, the legal boundary description will supersede the prior interpretation. Existing uses based on a prior interpretation will be managed in accordance with the existing uses provisions of the commission's management plan and county land use ordinances administering the plan. The rule does not change any national scenic area boundary; changes to boundaries may only occur as specified in the National Scenic Area Act, 16 U.S.C. § 544b.

Citation of Rules Affected by this Order: New 350-10-030A and 350-10-030B; and amending 350-10-000, 350-10-010, 350-10-020, 350-10-030, 350-10-030C, 350-10-040, and 350-10-050.

Statutory Authority for Adoption: RCW 43.97.015; ORS 196.150; 16 U.S.C. § 544b (a), (b), (e).

Adopted under notice filed as WSR 18-18-008 on August 23, 2018.

Changes Other than Editing from Proposed to Adopted Version: No substantive changes.

Number of Sections Adopted in Order to Comply with Federal Statute: New 2, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2018.

Nancy A. Andring
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 19-02 issue of the Register.

WSR 18-24-072
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed November 30, 2018, 10:30 a.m., effective December 31, 2018]

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

Purpose: These amendments to the Gorge Commission's National Scenic Area (NSA) Land Use Ordinance for Klickitat County make the ordinance consistent with recent amendments to the NSA management plan. The amendments add two definitions and specify when new development proposals must be reviewed for cumulative effects to scenic, cultural, natural, and recreational resources in the NSA. The amendments codify language already adopted into the management plan and largely codify the commission staff's existing practice.

Citation of Rules Affected by this Order: Amending 350-81-020, 350-81-540, 350-81-560, 350-81-570, 350-81-580, 350-81-590, and 350-81-600.

Statutory Authority for Adoption: 16 U.S.C. §§ 544e(c), 544f(1); RCW 43.97.015; ORS 196.150.

Adopted under notice filed as WSR 18-19-038 on September 13, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 7, Repealed 0; Federal Rules or Standards: New 0, Amended 7, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 30, 2018.

Nancy A. Andring
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 19-02 issue of the Register.

WSR 18-24-073

PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 30, 2018, 11:05 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: This rule adoption will amend the tables of classification base premium rates, experience rating plan parameters, experience modification factor calculation limitations, and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2019. Classification base rates were amended for updated loss and payroll experience. The department proposes a five percent overall average premium rate decrease.

This adoption is also notice that the director intends to transfer the amount of the accident and medical-aid funds combined that exceed ten percent of funded liabilities as required by RCW 51.44.023.

Amendments are also being adopted to align with the risk classification changes associated with rule making adopted on February 20, 2018, effective January 1, 2019, that repeals risk classification 6304 Department stores.

Citation of Rules Affected by this Order: Amending WAC 296-17-855 Experience modification, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing rates, 296-17-901 Risk classification hazard group table (remove repealed 6304 effective January 1, 2019), 296-17-920 Assessment for supplemental pension fund, 296-17B-540 Determining loss incurred for each claim, and 296-17B-900 Retrospective rating plans standard premium size ranges.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.18.010 (retrospective rating), and 51.04.020(1) (general authority).

Adopted under notice filed as WSR 18-19-081 on September 18, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 12, Repealed 0.

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

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

Date Adopted: November 30, 2018.

Joel Sacks
Director

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
(300)	Medical Only	0	0	0
3,000	Medical Only	70	70	0
3,000	Time Loss	3,000	3,000	0
30,000	Medical Only	27,070	23,779	3,291
30,000	Time Loss	30,000	25,070	4,930
130,000	PPD	130,000	40,810	89,190
500,000	TPD Pension	277,022	45,342	231,680
2,000,000	TPD Pension	277,022	45,342	231,680))
300	Medical Only	0	0	0
4,000	Medical Only	950	950	0
4,000	Timeloss	4,000	4,000	0
30,000	Medical Only	26,950	23,724	3,226
30,000	Timeloss	30,000	25,070	4,930
130,000	PPD	130,000	40,810	89,190
500,000	TPD Pension	286,074	45,484	240,590
2,000,000	TPD Pension	286,074	45,484	240,590

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

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

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

Where

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

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

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

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

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

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of \$20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{50,280}{(\text{Total loss} + 30,168)} \times \text{total loss}$$

For each claim, less than \$20,112 the full value of the claim shall be considered a primary loss.

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

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of ~~\$(2,930)~~ 3,050 or the total cost of the claim. Here are some examples for these claims:

Note: The deduction, ~~\$(2,930)~~ 3,050, 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 17-24-041, filed 11/30/17, effective 1/1/18)

WAC 296-17-875 Table I.

**Primary Losses for Selected Claim Values
Effective January 1, ((2018)) 2019**

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
20,112	20,112
29,834	25,000
44,627	30,000
69,102	35,000
100,000	38,627
117,385	40,000
200,000	43,690
((277,022 **	45,342))
<u>286,074 **</u>	<u>45,484</u>

** Maximum claim value

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

WAC 296-17-880 Table II.

**PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2018)) 2019**

Maximum Claim Value = \$((277,022)) 286,074

Average Death Value = \$((277,022)) 286,074

Expected Losses	Primary Credibility	Excess Credibility
((0 - 6,416	12%	7%
6,417 - 6,849	13%	7%
6,850 - 7,287	14%	7%
7,288 - 7,730	15%	7%
7,731 - 8,178	16%	7%
8,179 - 8,632	17%	7%
8,633 - 9,092	18%	7%
9,093 - 9,558	19%	7%
9,559 - 10,028	20%	7%
10,029 - 10,507	21%	7%
10,508 - 10,992	22%	7%
10,993 - 11,484	23%	7%
11,485 - 11,983	24%	7%
11,984 - 12,491	25%	7%
12,492 - 13,008	26%	7%

Expected Losses	Primary Credibility	Excess Credibility
13,009 - 13,530	27%	7%
13,531 - 14,063	28%	7%
14,064 - 14,604	29%	7%
14,605 - 15,156	30%	7%
15,157 - 15,721	31%	7%
15,722 - 16,292	32%	7%
16,293 - 16,878	33%	7%
16,879 - 17,476	34%	7%
17,477 - 18,087	35%	7%
18,088 - 18,712	36%	7%
18,713 - 19,352	37%	7%
19,353 - 20,013	38%	7%
20,014 - 20,686	39%	7%
20,687 - 21,382	40%	7%
21,383 - 22,098	41%	7%
22,099 - 22,838	42%	7%
22,839 - 23,603	43%	7%
23,604 - 24,397	44%	7%
24,398 - 25,222	45%	7%
25,223 - 26,086	46%	7%
26,087 - 26,989	47%	7%
26,990 - 27,943	48%	7%
27,944 - 28,955	49%	7%
28,956 - 30,032	50%	7%
30,033 - 31,197	51%	7%
31,198 - 32,473	52%	7%
32,474 - 33,894	53%	7%
33,895 - 34,039	54%	7%
34,040 - 35,532	54%	8%
35,533 - 37,534	55%	8%
37,535 - 56,805	56%	8%
56,806 - 62,610	57%	8%
62,611 - 89,430	57%	9%
89,431 - 92,111	57%	10%
92,112 - 116,415	58%	10%
116,416 - 127,415	58%	11%
127,416 - 143,568	59%	11%
143,569 - 162,722	59%	12%
162,723 - 170,884	60%	12%
170,885 - 198,029	60%	13%
198,030 - 198,375	61%	13%
198,376 - 226,036	61%	14%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility
226,037	- 233,333	61%	15%	904,143	- 913,502	81%	37%
233,334	- 253,870	62%	15%	913,503	- 939,450	81%	38%
253,871	- 268,640	62%	16%	939,451	- 945,808	82%	38%
268,641	- 281,877	63%	16%	945,809	- 974,756	82%	39%
281,878	- 303,946	63%	17%	974,757	- 978,334	83%	39%
303,947	- 310,062	64%	17%	978,335	- 1,010,062	83%	40%
310,063	- 338,424	64%	18%	1,010,063	- 1,011,079	84%	40%
338,425	- 339,250	64%	19%	1,011,080	- 1,044,047	84%	41%
339,251	- 366,969	65%	19%	1,044,048	- 1,045,365	84%	42%
366,970	- 374,557	65%	20%	1,045,366	- 1,077,239	85%	42%
374,558	- 395,691	66%	20%	1,077,240	- 1,080,672	85%	43%
395,692	- 409,863	66%	21%	1,080,673	- 1,110,662	86%	43%
409,864	- 424,597	67%	21%	1,110,663	- 1,115,979	86%	44%
424,598	- 445,169	67%	22%	1,115,980	- 1,144,312	87%	44%
445,170	- 453,689	68%	22%	1,144,313	- 1,151,284	87%	45%
453,690	- 480,472	68%	23%	1,151,285	- 1,178,196	88%	45%
480,473	- 482,967	69%	23%	1,178,197	- 1,186,591	88%	46%
482,968	- 512,433	69%	24%	1,186,592	- 1,212,313	89%	46%
512,434	- 515,778	69%	25%	1,212,314	- 1,221,895	89%	47%
515,779	- 542,089	70%	25%	1,221,896	- 1,246,670	90%	47%
542,090	- 551,086	70%	26%	1,246,671	- 1,257,202	90%	48%
551,087	- 571,938	71%	26%	1,257,203	- 1,281,263	91%	48%
571,939	- 586,392	71%	27%	1,281,264	- 1,292,506	91%	49%
586,393	- 601,981	72%	27%	1,292,507	- 1,316,099	92%	49%
601,982	- 621,697	72%	28%	1,316,100	- 1,327,814	92%	50%
621,698	- 632,219	73%	28%	1,327,815	- 1,351,180	93%	50%
632,220	- 657,003	73%	29%	1,351,181	- 1,363,119	93%	51%
657,004	- 662,654	74%	29%	1,363,120	- 1,386,510	94%	51%
662,655	- 692,309	74%	30%	1,386,511	- 1,398,424	94%	52%
692,310	- 693,292	75%	30%	1,398,425	- 1,422,088	95%	52%
693,293	- 724,128	75%	31%	1,422,089	- 1,433,730	95%	53%
724,129	- 727,615	75%	32%	1,433,731	- 1,457,918	96%	53%
727,616	- 755,170	76%	32%	1,457,919	- 1,469,036	96%	54%
755,171	- 762,921	76%	33%	1,469,037	- 1,494,004	97%	54%
762,922	- 786,415	77%	33%	1,494,005	- 1,504,341	97%	55%
786,416	- 798,226	77%	34%	1,504,342	- 1,530,347	98%	55%
798,227	- 817,872	78%	34%	1,530,348	- 1,539,647	98%	56%
817,873	- 833,532	78%	35%	1,539,648	- 1,566,951	99%	56%
833,533	- 849,535	79%	35%	1,566,952	- 1,574,952	99%	57%
849,536	- 868,838	79%	36%	1,574,953	- 1,603,819	100%	57%
868,839	- 881,411	80%	36%	1,603,820	- 1,640,954	100%	58%
881,412	- 904,142	80%	37%	1,640,955	- 1,678,358	100%	59%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>1,678,359</u>	-	<u>1,716,033</u>	100%	60%	<u>12,359</u>	=	<u>12,853</u>	27%	7%
<u>1,716,034</u>	-	<u>1,753,984</u>	100%	61%	<u>12,854</u>	=	<u>13,360</u>	28%	7%
<u>1,753,985</u>	-	<u>1,792,213</u>	100%	62%	<u>13,361</u>	=	<u>13,874</u>	29%	7%
<u>1,792,214</u>	-	<u>1,830,724</u>	100%	63%	<u>13,875</u>	=	<u>14,398</u>	30%	7%
<u>1,830,725</u>	-	<u>1,869,518</u>	100%	64%	<u>14,399</u>	=	<u>14,935</u>	31%	7%
<u>1,869,519</u>	-	<u>1,908,600</u>	100%	65%	<u>14,936</u>	=	<u>15,477</u>	32%	7%
<u>1,908,601</u>	-	<u>1,947,972</u>	100%	66%	<u>15,478</u>	=	<u>16,034</u>	33%	7%
<u>1,947,973</u>	-	<u>1,987,640</u>	100%	67%	<u>16,035</u>	=	<u>16,602</u>	34%	7%
<u>1,987,641</u>	-	<u>2,027,605</u>	100%	68%	<u>16,603</u>	=	<u>17,183</u>	35%	7%
<u>2,027,606</u>	-	<u>2,067,870</u>	100%	69%	<u>17,184</u>	=	<u>17,776</u>	36%	7%
<u>2,067,871</u>	-	<u>2,108,438</u>	100%	70%	<u>17,777</u>	=	<u>18,384</u>	37%	7%
<u>2,108,439</u>	-	<u>2,149,316</u>	100%	71%	<u>18,385</u>	=	<u>19,012</u>	38%	7%
<u>2,149,317</u>	-	<u>2,190,505</u>	100%	72%	<u>19,013</u>	=	<u>19,652</u>	39%	7%
<u>2,190,506</u>	-	<u>2,232,006</u>	100%	73%	<u>19,653</u>	=	<u>20,313</u>	40%	7%
<u>2,232,007</u>	-	<u>2,273,828</u>	100%	74%	<u>20,314</u>	=	<u>20,993</u>	41%	7%
<u>2,273,829</u>	-	<u>2,315,968</u>	100%	75%	<u>20,994</u>	=	<u>21,696</u>	42%	7%
<u>2,315,969</u>	-	<u>2,358,438</u>	100%	76%	<u>21,697</u>	=	<u>22,423</u>	43%	7%
<u>2,358,439</u>	-	<u>2,401,234</u>	100%	77%	<u>22,424</u>	=	<u>23,177</u>	44%	7%
<u>2,401,235</u>	-	<u>2,444,365</u>	100%	78%	<u>23,178</u>	=	<u>23,961</u>	45%	7%
<u>2,444,366</u>	-	<u>2,487,833</u>	100%	79%	<u>23,962</u>	=	<u>24,782</u>	46%	7%
<u>2,487,834</u>	-	<u>2,531,642</u>	100%	80%	<u>24,783</u>	=	<u>25,640</u>	47%	7%
<u>2,531,643</u>	-	<u>2,575,799</u>	100%	81%	<u>25,641</u>	=	<u>26,546</u>	48%	7%
<u>2,575,800</u>	-	<u>2,620,301</u>	100%	82%	<u>26,547</u>	=	<u>27,507</u>	49%	7%
<u>2,620,302</u>	-	<u>2,665,159</u>	100%	83%	<u>27,508</u>	=	<u>28,530</u>	50%	7%
<u>2,665,160</u>	-	<u>2,710,371</u>	100%	84%	<u>28,531</u>	=	<u>29,637</u>	51%	7%
<u>2,710,372</u>	-	<u>2,755,950</u>	100%	85%	<u>29,638</u>	=	<u>30,849</u>	52%	7%
<u>2,755,951</u>	-	<u>and higher</u>	100%	86%))	<u>30,850</u>	=	<u>32,199</u>	53%	7%
<u>0</u>	=	<u>6,095</u>	12%	7%	<u>32,200</u>	=	<u>32,337</u>	54%	7%
<u>6,096</u>	=	<u>6,507</u>	13%	7%	<u>32,338</u>	=	<u>33,755</u>	54%	8%
<u>6,508</u>	=	<u>6,923</u>	14%	7%	<u>33,756</u>	=	<u>35,657</u>	55%	8%
<u>6,924</u>	=	<u>7,343</u>	15%	7%	<u>35,658</u>	=	<u>53,965</u>	56%	8%
<u>7,344</u>	=	<u>7,769</u>	16%	7%	<u>53,966</u>	=	<u>59,479</u>	57%	8%
<u>7,770</u>	=	<u>8,200</u>	17%	7%	<u>59,480</u>	=	<u>84,958</u>	57%	9%
<u>8,201</u>	=	<u>8,637</u>	18%	7%	<u>84,959</u>	=	<u>87,505</u>	57%	10%
<u>8,638</u>	=	<u>9,080</u>	19%	7%	<u>87,506</u>	=	<u>110,594</u>	58%	10%
<u>9,081</u>	=	<u>9,527</u>	20%	7%	<u>110,595</u>	=	<u>121,044</u>	58%	11%
<u>9,528</u>	=	<u>9,982</u>	21%	7%	<u>121,045</u>	=	<u>136,390</u>	59%	11%
<u>9,983</u>	=	<u>10,442</u>	22%	7%	<u>136,391</u>	=	<u>154,586</u>	59%	12%
<u>10,443</u>	=	<u>10,910</u>	23%	7%	<u>154,587</u>	=	<u>162,340</u>	60%	12%
<u>10,911</u>	=	<u>11,384</u>	24%	7%	<u>162,341</u>	=	<u>188,128</u>	60%	13%
<u>11,385</u>	=	<u>11,866</u>	25%	7%	<u>188,129</u>	=	<u>188,456</u>	61%	13%
<u>11,867</u>	=	<u>12,358</u>	26%	7%	<u>188,457</u>	=	<u>214,734</u>	61%	14%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>214,735</u>	=	<u>221,666</u>	<u>61%</u>	<u>15%</u>	<u>858,936</u>	=	<u>867,827</u>	<u>81%</u>	<u>37%</u>
<u>221,667</u>	=	<u>241,176</u>	<u>62%</u>	<u>15%</u>	<u>867,828</u>	=	<u>892,477</u>	<u>81%</u>	<u>38%</u>
<u>241,177</u>	=	<u>255,208</u>	<u>62%</u>	<u>16%</u>	<u>892,478</u>	=	<u>898,518</u>	<u>82%</u>	<u>38%</u>
<u>255,209</u>	=	<u>267,783</u>	<u>63%</u>	<u>16%</u>	<u>898,519</u>	=	<u>926,018</u>	<u>82%</u>	<u>39%</u>
<u>267,784</u>	=	<u>288,749</u>	<u>63%</u>	<u>17%</u>	<u>926,019</u>	=	<u>929,417</u>	<u>83%</u>	<u>39%</u>
<u>288,750</u>	=	<u>294,559</u>	<u>64%</u>	<u>17%</u>	<u>929,418</u>	=	<u>959,559</u>	<u>83%</u>	<u>40%</u>
<u>294,560</u>	=	<u>321,503</u>	<u>64%</u>	<u>18%</u>	<u>959,560</u>	=	<u>960,525</u>	<u>84%</u>	<u>40%</u>
<u>321,504</u>	=	<u>322,287</u>	<u>64%</u>	<u>19%</u>	<u>960,526</u>	=	<u>991,845</u>	<u>84%</u>	<u>41%</u>
<u>322,288</u>	=	<u>348,621</u>	<u>65%</u>	<u>19%</u>	<u>991,846</u>	=	<u>993,097</u>	<u>84%</u>	<u>42%</u>
<u>348,622</u>	=	<u>355,829</u>	<u>65%</u>	<u>20%</u>	<u>993,098</u>	=	<u>1,023,377</u>	<u>85%</u>	<u>42%</u>
<u>355,830</u>	=	<u>375,906</u>	<u>66%</u>	<u>20%</u>	<u>1,023,378</u>	=	<u>1,026,638</u>	<u>85%</u>	<u>43%</u>
<u>375,907</u>	=	<u>389,370</u>	<u>66%</u>	<u>21%</u>	<u>1,026,639</u>	=	<u>1,055,129</u>	<u>86%</u>	<u>43%</u>
<u>389,371</u>	=	<u>403,367</u>	<u>67%</u>	<u>21%</u>	<u>1,055,130</u>	=	<u>1,060,180</u>	<u>86%</u>	<u>44%</u>
<u>403,368</u>	=	<u>422,911</u>	<u>67%</u>	<u>22%</u>	<u>1,060,181</u>	=	<u>1,087,096</u>	<u>87%</u>	<u>44%</u>
<u>422,912</u>	=	<u>431,005</u>	<u>68%</u>	<u>22%</u>	<u>1,087,097</u>	=	<u>1,093,720</u>	<u>87%</u>	<u>45%</u>
<u>431,006</u>	=	<u>456,448</u>	<u>68%</u>	<u>23%</u>	<u>1,093,721</u>	=	<u>1,119,286</u>	<u>88%</u>	<u>45%</u>
<u>456,449</u>	=	<u>458,819</u>	<u>69%</u>	<u>23%</u>	<u>1,119,287</u>	=	<u>1,127,261</u>	<u>88%</u>	<u>46%</u>
<u>458,820</u>	=	<u>486,811</u>	<u>69%</u>	<u>24%</u>	<u>1,127,262</u>	=	<u>1,151,697</u>	<u>89%</u>	<u>46%</u>
<u>486,812</u>	=	<u>489,989</u>	<u>69%</u>	<u>25%</u>	<u>1,151,698</u>	=	<u>1,160,800</u>	<u>89%</u>	<u>47%</u>
<u>489,990</u>	=	<u>514,985</u>	<u>70%</u>	<u>25%</u>	<u>1,160,801</u>	=	<u>1,184,336</u>	<u>90%</u>	<u>47%</u>
<u>514,986</u>	=	<u>523,532</u>	<u>70%</u>	<u>26%</u>	<u>1,184,337</u>	=	<u>1,194,342</u>	<u>90%</u>	<u>48%</u>
<u>523,533</u>	=	<u>543,341</u>	<u>71%</u>	<u>26%</u>	<u>1,194,343</u>	=	<u>1,217,200</u>	<u>91%</u>	<u>48%</u>
<u>543,342</u>	=	<u>557,072</u>	<u>71%</u>	<u>27%</u>	<u>1,217,201</u>	=	<u>1,227,881</u>	<u>91%</u>	<u>49%</u>
<u>557,073</u>	=	<u>571,882</u>	<u>72%</u>	<u>27%</u>	<u>1,227,882</u>	=	<u>1,250,294</u>	<u>92%</u>	<u>49%</u>
<u>571,883</u>	=	<u>590,612</u>	<u>72%</u>	<u>28%</u>	<u>1,250,295</u>	=	<u>1,261,423</u>	<u>92%</u>	<u>50%</u>
<u>590,613</u>	=	<u>600,608</u>	<u>73%</u>	<u>28%</u>	<u>1,261,424</u>	=	<u>1,283,621</u>	<u>93%</u>	<u>50%</u>
<u>600,609</u>	=	<u>624,153</u>	<u>73%</u>	<u>29%</u>	<u>1,283,622</u>	=	<u>1,294,963</u>	<u>93%</u>	<u>51%</u>
<u>624,154</u>	=	<u>629,521</u>	<u>74%</u>	<u>29%</u>	<u>1,294,964</u>	=	<u>1,317,184</u>	<u>94%</u>	<u>51%</u>
<u>629,522</u>	=	<u>657,694</u>	<u>74%</u>	<u>30%</u>	<u>1,317,185</u>	=	<u>1,328,503</u>	<u>94%</u>	<u>52%</u>
<u>657,695</u>	=	<u>658,627</u>	<u>75%</u>	<u>30%</u>	<u>1,328,504</u>	=	<u>1,350,984</u>	<u>95%</u>	<u>52%</u>
<u>658,628</u>	=	<u>687,922</u>	<u>75%</u>	<u>31%</u>	<u>1,350,985</u>	=	<u>1,362,043</u>	<u>95%</u>	<u>53%</u>
<u>687,923</u>	=	<u>691,234</u>	<u>75%</u>	<u>32%</u>	<u>1,362,044</u>	=	<u>1,385,022</u>	<u>96%</u>	<u>53%</u>
<u>691,235</u>	=	<u>717,411</u>	<u>76%</u>	<u>32%</u>	<u>1,385,023</u>	=	<u>1,395,584</u>	<u>96%</u>	<u>54%</u>
<u>717,412</u>	=	<u>724,775</u>	<u>76%</u>	<u>33%</u>	<u>1,395,585</u>	=	<u>1,419,304</u>	<u>97%</u>	<u>54%</u>
<u>724,776</u>	=	<u>747,094</u>	<u>77%</u>	<u>33%</u>	<u>1,419,305</u>	=	<u>1,429,124</u>	<u>97%</u>	<u>55%</u>
<u>747,095</u>	=	<u>758,315</u>	<u>77%</u>	<u>34%</u>	<u>1,429,125</u>	=	<u>1,453,830</u>	<u>98%</u>	<u>55%</u>
<u>758,316</u>	=	<u>776,978</u>	<u>78%</u>	<u>34%</u>	<u>1,453,831</u>	=	<u>1,462,665</u>	<u>98%</u>	<u>56%</u>
<u>776,979</u>	=	<u>791,855</u>	<u>78%</u>	<u>35%</u>	<u>1,462,666</u>	=	<u>1,488,603</u>	<u>99%</u>	<u>56%</u>
<u>791,856</u>	=	<u>807,058</u>	<u>79%</u>	<u>35%</u>	<u>1,488,604</u>	=	<u>1,496,204</u>	<u>99%</u>	<u>57%</u>
<u>807,059</u>	=	<u>825,396</u>	<u>79%</u>	<u>36%</u>	<u>1,496,205</u>	=	<u>1,523,628</u>	<u>100%</u>	<u>57%</u>
<u>825,397</u>	=	<u>837,340</u>	<u>80%</u>	<u>36%</u>	<u>1,523,629</u>	=	<u>1,558,906</u>	<u>100%</u>	<u>58%</u>
<u>837,341</u>	=	<u>858,935</u>	<u>80%</u>	<u>37%</u>	<u>1,558,907</u>	=	<u>1,594,440</u>	<u>100%</u>	<u>59%</u>

Expected Losses		Primary Credibility	Excess Credibility	((Class	2014	2015	2016	Primary Ratio
<u>1,594,441</u>	= <u>1,630,231</u>	<u>100%</u>	<u>60%</u>	0108	0.8770	0.7257	0.5855	0.436
<u>1,630,232</u>	= <u>1,666,285</u>	<u>100%</u>	<u>61%</u>	0112	0.6812	0.5672	0.4626	0.439
<u>1,666,286</u>	= <u>1,702,602</u>	<u>100%</u>	<u>62%</u>	0201	1.3612	1.1198	0.8946	0.430
<u>1,702,603</u>	= <u>1,739,188</u>	<u>100%</u>	<u>63%</u>	0202	1.9984	1.6504	1.3291	0.402
<u>1,739,189</u>	= <u>1,776,042</u>	<u>100%</u>	<u>64%</u>	0210	0.7181	0.5927	0.4760	0.429
<u>1,776,043</u>	= <u>1,813,170</u>	<u>100%</u>	<u>65%</u>	0212	1.0493	0.8658	0.6955	0.438
<u>1,813,171</u>	= <u>1,850,573</u>	<u>100%</u>	<u>66%</u>	0214	1.2260	1.0078	0.8034	0.463
<u>1,850,574</u>	= <u>1,888,258</u>	<u>100%</u>	<u>67%</u>	0217	1.1566	0.9577	0.7733	0.462
<u>1,888,259</u>	= <u>1,926,225</u>	<u>100%</u>	<u>68%</u>	0219	0.8110	0.6690	0.5372	0.419
<u>1,926,226</u>	= <u>1,964,476</u>	<u>100%</u>	<u>69%</u>	0301	0.7432	0.6223	0.5114	0.496
<u>1,964,477</u>	= <u>2,003,016</u>	<u>100%</u>	<u>70%</u>	0302	1.9293	1.5777	1.2475	0.438
<u>2,003,017</u>	= <u>2,041,850</u>	<u>100%</u>	<u>71%</u>	0303	1.7997	1.4852	1.1940	0.426
<u>2,041,851</u>	= <u>2,080,980</u>	<u>100%</u>	<u>72%</u>	0306	0.7645	0.6284	0.5003	0.484
<u>2,080,981</u>	= <u>2,120,406</u>	<u>100%</u>	<u>73%</u>	0307	0.7922	0.6541	0.5252	0.478
<u>2,120,407</u>	= <u>2,160,137</u>	<u>100%</u>	<u>74%</u>	0308	0.5898	0.4942	0.4064	0.533
<u>2,160,138</u>	= <u>2,200,170</u>	<u>100%</u>	<u>75%</u>	0403	1.7198	1.4249	1.1511	0.494
<u>2,200,171</u>	= <u>2,240,516</u>	<u>100%</u>	<u>76%</u>	0502	1.0892	0.8956	0.7146	0.470
<u>2,240,517</u>	= <u>2,281,172</u>	<u>100%</u>	<u>77%</u>	0504	1.8749	1.5677	1.2897	0.403
<u>2,281,173</u>	= <u>2,322,147</u>	<u>100%</u>	<u>78%</u>	0507	2.6935	2.2595	1.8671	0.435
<u>2,322,148</u>	= <u>2,363,441</u>	<u>100%</u>	<u>79%</u>	0508	1.1168	0.9217	0.7418	0.391
<u>2,363,442</u>	= <u>2,405,060</u>	<u>100%</u>	<u>80%</u>	0509	0.8123	0.6674	0.5322	0.408
<u>2,405,061</u>	= <u>2,447,009</u>	<u>100%</u>	<u>81%</u>	0510	2.0734	1.7335	1.4245	0.442
<u>2,447,010</u>	= <u>2,489,286</u>	<u>100%</u>	<u>82%</u>	0511	1.3647	1.1226	0.8950	0.494
<u>2,489,287</u>	= <u>2,531,901</u>	<u>100%</u>	<u>83%</u>	0512	1.1192	0.9302	0.7558	0.457
<u>2,531,902</u>	= <u>2,574,852</u>	<u>100%</u>	<u>84%</u>	0513	0.7975	0.6598	0.5319	0.477
<u>2,574,853</u>	= <u>2,618,152</u>	<u>100%</u>	<u>85%</u>	0514	1.3274	1.0966	0.8804	0.509
<u>2,618,153</u>	and higher	<u>100%</u>	<u>86%</u>	0516	1.2558	1.0420	0.8442	0.465

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

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, ((2018)) 2019**

((Class	2014	2015	2016	Primary Ratio
0101	0.9336	0.7691	0.6157	0.444
0103	1.4302	1.1909	0.9719	0.435
0104	0.8770	0.7257	0.5855	0.436
0105	1.0855	0.9004	0.7271	0.546
0106	2.0438	1.7009	1.3851	0.486
0107	0.8784	0.7247	0.5816	0.422
0601	0.4477	0.3696	0.2964	0.500
0602	0.5867	0.4794	0.3787	0.422
0603	0.5731	0.4722	0.3780	0.448
0604	1.0116	0.8437	0.6895	0.473
0606	0.5203	0.4312	0.3476	0.554
0607	0.6587	0.5455	0.4407	0.483
0608	0.3116	0.2570	0.2056	0.492
0701	1.3700	1.1068	0.8551	0.421
0803	0.4942	0.4068	0.3243	0.563
0901	1.0329	0.8525	0.6840	0.451
1002	0.7930	0.6586	0.5346	0.468

((Class	2014	2015	2016	Primary Ratio	((Class	2014	2015	2016	Primary Ratio
1003	0.6438	0.5331	0.4300	0.504	2204	0.2565	0.2143	0.1755	0.533
1004	0.4043	0.3310	0.2614	0.501	2401	0.3719	0.3063	0.2449	0.484
1005	7.2783	5.9886	4.7908	0.448	2903	0.6654	0.5584	0.4602	0.517
1006	0.1860	0.1534	0.1226	0.578	2904	0.6257	0.5179	0.4174	0.504
1007	0.2551	0.2108	0.1696	0.476	2905	0.4831	0.4025	0.3276	0.527
1101	0.9019	0.7462	0.6015	0.507	2906	0.3859	0.3242	0.2669	0.528
1102	1.3640	1.1220	0.8969	0.455	2907	0.4347	0.3616	0.2934	0.547
1103	1.0431	0.8640	0.6979	0.500	2908	0.9359	0.7864	0.6483	0.508
1104	0.6015	0.5018	0.4094	0.525	2909	0.3736	0.3132	0.2574	0.529
1105	0.7266	0.6018	0.4858	0.495	3101	0.7331	0.6054	0.4852	0.547
1106	0.3080	0.2592	0.2143	0.538	3102	0.2846	0.2359	0.1905	0.488
1108	0.4496	0.3748	0.3053	0.511	3103	0.3965	0.3305	0.2699	0.471
1109	1.2494	1.0371	0.8405	0.519	3104	0.5758	0.4778	0.3865	0.508
1301	0.5270	0.4321	0.3425	0.531	3105	0.7003	0.5856	0.4784	0.555
1303	0.3009	0.2471	0.1960	0.580	3303	0.3722	0.3089	0.2499	0.536
1304	0.0210	0.0173	0.0140	0.500	3304	0.5677	0.4767	0.3928	0.562
1305	0.4638	0.3822	0.3055	0.530	3309	0.4043	0.3374	0.2754	0.533
1401	0.2387	0.2029	0.1714	0.474	3402	0.4432	0.3686	0.2990	0.521
1404	0.7197	0.5981	0.4858	0.527	3403	0.1576	0.1311	0.1063	0.506
1405	0.7027	0.5816	0.4681	0.539	3404	0.4468	0.3707	0.2994	0.557
1407	0.5577	0.4625	0.3734	0.576	3405	0.2875	0.2396	0.1948	0.521
1501	0.6650	0.5474	0.4370	0.514	3406	0.2752	0.2291	0.1860	0.591
1507	0.5346	0.4445	0.3606	0.518	3407	0.6755	0.5574	0.4471	0.490
1701	0.6897	0.5665	0.4511	0.519	3408	0.2106	0.1733	0.1379	0.604
1702	1.2692	1.0446	0.8369	0.364	3409	0.1538	0.1281	0.1040	0.607
1703	0.7850	0.6427	0.5095	0.421	3410	0.1754	0.1463	0.1192	0.593
1704	0.6897	0.5665	0.4511	0.519	3411	0.4610	0.3808	0.3059	0.499
1801	0.3817	0.3164	0.2558	0.459	3412	0.5712	0.4703	0.3759	0.489
1802	0.6540	0.5406	0.4340	0.508	3414	0.6611	0.5506	0.4489	0.467
2002	0.7873	0.6539	0.5304	0.492	3415	0.6906	0.5751	0.4692	0.444
2004	0.5318	0.4428	0.3594	0.545	3501	0.9819	0.8151	0.6604	0.513
2007	0.6667	0.5595	0.4620	0.482	3503	0.3010	0.2521	0.2068	0.550
2008	0.3317	0.2769	0.2261	0.505	3506	0.6907	0.5708	0.4587	0.491
2009	0.3405	0.2840	0.2311	0.572	3509	0.3743	0.3117	0.2532	0.583
2101	0.5332	0.4492	0.3727	0.506	3510	0.3156	0.2638	0.2156	0.556
2102	0.6762	0.5593	0.4498	0.549	3511	0.6886	0.5705	0.4602	0.541
2104	0.3183	0.2697	0.2246	0.599	3512	0.3777	0.3134	0.2527	0.587
2105	0.6077	0.5027	0.4040	0.552	3513	0.5119	0.4299	0.3544	0.521
2106	0.4010	0.3366	0.2775	0.493	3602	0.0839	0.0697	0.0565	0.563
2201	0.2565	0.2143	0.1755	0.533	3603	0.4724	0.3967	0.3273	0.501
2202	0.6203	0.5135	0.4141	0.494	3604	0.6350	0.5339	0.4409	0.495
2203	0.4831	0.4049	0.3327	0.536	3605	0.4939	0.4080	0.3275	0.531

((Class	2014	2015	2016	Primary Ratio	((Class	2014	2015	2016	Primary Ratio
3701	0.2846	0.2359	0.1905	0.488	4901	0.0395	0.0325	0.0260	0.516
3702	0.4079	0.3400	0.2767	0.529	4902	0.1036	0.0860	0.0693	0.567
3708	0.6184	0.5131	0.4148	0.530	4903	0.1583	0.1312	0.1055	0.591
3802	0.1969	0.1644	0.1342	0.552	4904	0.0184	0.0154	0.0125	0.563
3808	0.3765	0.3113	0.2503	0.497	4905	0.4127	0.3486	0.2898	0.589
3901	0.1312	0.1103	0.0906	0.611	4906	0.1081	0.0892	0.0712	0.581
3902	0.4535	0.3795	0.3107	0.561	4907	0.0665	0.0558	0.0455	0.599
3903	1.0413	0.8768	0.7269	0.519	4908	0.0912	0.0764	0.0623	0.588
3905	0.1314	0.1104	0.0908	0.597	4909	0.0342	0.0292	0.0243	0.514
3906	0.4442	0.3728	0.3072	0.533	4910	0.4480	0.3728	0.3032	0.508
3909	0.2557	0.2155	0.1784	0.546	4911	0.0575	0.0479	0.0390	0.505
4101	0.2619	0.2172	0.1754	0.520	5001	6.2248	5.1902	4.2557	0.381
4103	0.5154	0.4289	0.3485	0.545	5002	0.5712	0.4714	0.3775	0.551
4107	0.1780	0.1476	0.1191	0.551	5003	1.7576	1.4434	1.1509	0.445
4108	0.1590	0.1325	0.1078	0.554	5004	0.7534	0.6335	0.5250	0.470
4109	0.1867	0.1564	0.1282	0.526	5005	0.7080	0.5872	0.4762	0.445
4201	0.6618	0.5412	0.4272	0.505	5006	1.1173	0.9240	0.7469	0.381
4301	0.7635	0.6396	0.5251	0.567	5101	0.8296	0.6851	0.5509	0.452
4302	0.8723	0.7262	0.5903	0.570	5103	0.7071	0.5928	0.4870	0.522
4304	0.9188	0.7769	0.6485	0.506	5106	0.7071	0.5928	0.4870	0.522
4305	1.1387	0.9323	0.7375	0.523	5108	0.7369	0.6113	0.4941	0.538
4401	0.4044	0.3402	0.2815	0.505	5109	0.5432	0.4470	0.3564	0.491
4402	0.6982	0.5771	0.4629	0.583	5201	0.2996	0.2470	0.1969	0.559
4404	0.4405	0.3672	0.2990	0.522	5204	0.8579	0.7080	0.5688	0.475
4501	0.1717	0.1429	0.1158	0.598	5206	0.3844	0.3192	0.2588	0.471
4502	0.0539	0.0446	0.0361	0.544	5207	0.1559	0.1311	0.1081	0.567
4504	0.1138	0.0948	0.0769	0.611	5208	0.6464	0.5368	0.4344	0.523
4802	0.3493	0.2933	0.2417	0.558	5209	0.5991	0.4968	0.4013	0.494
4803	0.3361	0.2841	0.2362	0.600	5300	0.0983	0.0813	0.0653	0.605
4804	0.5567	0.4688	0.3879	0.569	5301	0.0300	0.0250	0.0203	0.534
4805	0.3986	0.3337	0.2738	0.552	5302	0.0093	0.0078	0.0062	0.556
4806	0.0991	0.0836	0.0694	0.614	5305	0.0518	0.0430	0.0348	0.592
4808	0.4178	0.3495	0.2865	0.520	5306	0.0449	0.0375	0.0305	0.581
4809	0.3411	0.2873	0.2382	0.534	5307	0.6135	0.5045	0.4023	0.529
4810	0.2040	0.1723	0.1430	0.588	5308	0.0847	0.0707	0.0575	0.585
4811	0.4147	0.3511	0.2928	0.564	6103	0.0930	0.0779	0.0637	0.606
4812	0.4159	0.3477	0.2842	0.558	6104	0.4452	0.3697	0.2990	0.558
4813	0.2034	0.1726	0.1445	0.574	6105	0.3695	0.3062	0.2469	0.513
4814	0.1308	0.1116	0.0942	0.581	6107	0.1285	0.1086	0.0897	0.618
4815	0.2685	0.2298	0.1949	0.594	6108	0.3257	0.2730	0.2235	0.587
4816	0.3679	0.3145	0.2669	0.535	6109	0.1040	0.0856	0.0684	0.541
4900	0.1322	0.1087	0.0868	0.446	6110	0.5041	0.4188	0.3393	0.531

((Class	2014	2015	2016	Primary Ratio	((Class	2014	2015	2016	Primary Ratio
6120	0.2828	0.2336	0.1871	0.548	6605	0.2480	0.2059	0.1664	0.551
6121	0.3043	0.2527	0.2049	0.481	6607	0.1267	0.1061	0.0868	0.541
6201	0.3151	0.2618	0.2122	0.495	6608	0.5135	0.4200	0.3321	0.425
6202	0.6496	0.5399	0.4374	0.528	6620	3.0354	2.4869	1.9611	0.597
6203	0.1224	0.1033	0.0854	0.639	6704	0.1211	0.1006	0.0813	0.601
6204	0.1318	0.1099	0.0895	0.581	6705	0.7510	0.6307	0.5189	0.615
6205	0.1898	0.1590	0.1306	0.547	6706	0.2543	0.2145	0.1779	0.528
6206	0.1870	0.1559	0.1267	0.583	6707	10.1057	8.4099	6.8050	0.693
6207	1.1425	0.9584	0.7911	0.508	6708	8.0922	6.9748	5.9940	0.472
6208	0.2468	0.2073	0.1708	0.591	6709	0.2471	0.2066	0.1689	0.575
6209	0.2800	0.2361	0.1957	0.540	6801	0.6818	0.5513	0.4261	0.561
6301	0.1142	0.0937	0.0745	0.517	6802	0.7443	0.6157	0.4949	0.582
6303	0.0553	0.0459	0.0371	0.520	6803	0.5224	0.4287	0.3416	0.353
6304	0.2574	0.2171	0.1796	0.591	6804	0.2671	0.2229	0.1811	0.580
6305	0.1024	0.0855	0.0695	0.607	6809	4.9652	4.1772	3.4295	0.605
6306	0.3203	0.2654	0.2140	0.557	6901	0.0175	0.0163	0.0150	0.750
6308	0.0578	0.0478	0.0384	0.539	6902	0.7992	0.6616	0.5351	0.436
6309	0.1894	0.1576	0.1278	0.568	6903	5.5945	4.6657	3.8247	0.368
6402	0.2612	0.2182	0.1779	0.599	6904	0.8935	0.7319	0.5797	0.515
6403	0.1635	0.1362	0.1104	0.606	6905	0.6260	0.5124	0.4039	0.573
6404	0.3025	0.2540	0.2092	0.579	6906	0.2496	0.2241	0.2034	0.664
6405	0.4848	0.4017	0.3239	0.535	6907	0.9808	0.8133	0.6567	0.561
6406	0.1307	0.1092	0.0890	0.601	6908	0.3473	0.2892	0.2350	0.524
6407	0.2493	0.2083	0.1700	0.567	6909	0.1168	0.0972	0.0786	0.564
6408	0.4698	0.3917	0.3193	0.510	7100	0.0292	0.0245	0.0203	0.477
6409	0.5835	0.4844	0.3923	0.492	7101	0.0228	0.0189	0.0152	0.473
6410	0.3165	0.2614	0.2096	0.565	7103	0.8091	0.6628	0.5246	0.546
6411	0.0755	0.0634	0.0521	0.565	7104	0.0255	0.0213	0.0173	0.555
6501	0.1109	0.0916	0.0734	0.601	7105	0.0187	0.0154	0.0125	0.548
6502	0.0283	0.0237	0.0192	0.556	7106	0.2647	0.2211	0.1805	0.610
6503	0.0711	0.0584	0.0463	0.566	7107	0.2667	0.2260	0.1884	0.585
6504	0.3356	0.2821	0.2320	0.608	7108	0.1896	0.1586	0.1298	0.592
6505	0.1496	0.1256	0.1030	0.655	7109	0.1248	0.1041	0.0845	0.582
6506	0.1224	0.1023	0.0834	0.575	7110	0.3161	0.2651	0.2190	0.429
6509	0.2785	0.2336	0.1915	0.589	7111	0.3742	0.3067	0.2433	0.490
6510	0.3829	0.3186	0.2600	0.420	7112	0.9155	0.7606	0.6149	0.607
6511	0.3287	0.2743	0.2238	0.581	7113	0.4317	0.3611	0.2955	0.586
6512	0.0893	0.0742	0.0602	0.505	7114	0.7695	0.6418	0.5225	0.605
6601	0.2009	0.1674	0.1363	0.550	7115	0.5311	0.4435	0.3616	0.590
6602	0.5582	0.4689	0.3872	0.545	7116	0.4707	0.3930	0.3220	0.488
6603	0.2639	0.2188	0.1767	0.524	7117	1.2241	1.0191	0.8268	0.573
6604	0.0856	0.0712	0.0576	0.590	7118	1.5843	1.3188	1.0720	0.535

<u>Class</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>
7119	1.6113	1.3252	1.0553	0.588	507	2.4824	2.2000	1.8071	0.435
7120	5.6440	4.7012	3.8293	0.512	508	0.9932	0.8653	0.6878	0.380
7121	5.1607	4.2962	3.4934	0.514	509	0.6970	0.6035	0.4753	0.390
7122	0.3622	0.3022	0.2467	0.538	510	1.8963	1.6721	1.3621	0.431
7200	1.5696	1.2881	1.0243	0.505	511	1.2101	1.0496	0.8348	0.478
7201	1.5175	1.2471	0.9935	0.529	512	1.0140	0.8895	0.7197	0.457
7202	0.0258	0.0214	0.0173	0.524	513	0.7169	0.6257	0.5024	0.469
7203	0.1107	0.0942	0.0784	0.617	514	1.1645	1.0166	0.8177	0.496
7204	0.0000	0.0000	0.0000	0.500	516	1.1434	1.0004	0.8062	0.462
7205	0.0000	0.0000	0.0000	0.500	517	1.5159	1.3361	1.0855	0.402
7301	0.4816	0.4041	0.3326	0.541	518	0.9090	0.7909	0.6306	0.454
7302	0.8362	0.7029	0.5817	0.488	519	1.0715	0.9296	0.7406	0.488
7307	0.4617	0.3858	0.3157	0.553	521	0.4009	0.3535	0.2892	0.487
7308	0.2704	0.2283	0.1895	0.557	601	0.3916	0.3411	0.2735	0.491
7309	0.2816	0.2353	0.1920	0.608	602	0.5529	0.4775	0.3744	0.396
7400	1.8051	1.4813	1.1780	0.505))	603	0.5082	0.4411	0.3499	0.434
					604	0.9062	0.7932	0.6413	0.487
					606	0.4501	0.3930	0.3179	0.550
					607	0.6215	0.5416	0.4350	0.487
					608	0.3131	0.2714	0.2155	0.479
					701	1.2732	1.0841	0.8298	0.418
					803	0.4670	0.4046	0.3233	0.553
					901	0.9090	0.7909	0.6306	0.454
					1002	0.6875	0.6030	0.4872	0.439
					1003	0.5834	0.5096	0.4108	0.494
					1004	0.3608	0.3112	0.2449	0.491
					1005	6.7358	5.8476	4.6419	0.438
					1006	0.1723	0.1496	0.1201	0.565
					1007	0.2401	0.2092	0.1674	0.463
					1101	0.8904	0.7775	0.6265	0.489
					1102	1.3090	1.1351	0.9000	0.437
					1103	0.9243	0.8059	0.6490	0.502
					1104	0.5553	0.4875	0.3967	0.514
					1105	0.6515	0.5684	0.4571	0.493
					1106	0.2904	0.2567	0.2113	0.531
					1108	0.4187	0.3680	0.3000	0.514
					1109	1.2502	1.0918	0.8802	0.495
					1301	0.4967	0.4306	0.3429	0.502
					1303	0.3152	0.2729	0.2187	0.582
					1304	0.0180	0.0158	0.0127	0.492
					1305	0.4138	0.3592	0.2870	0.506
					1401	0.2238	0.2006	0.1683	0.473
<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>					
101	0.8104	0.7040	0.5600	0.445					
103	1.2210	1.0713	0.8658	0.433					
104	0.7676	0.6698	0.5362	0.436					
105	0.9434	0.8247	0.6665	0.524					
106	2.2532	1.9787	1.6055	0.466					
107	0.7921	0.6894	0.5487	0.414					
108	0.7676	0.6698	0.5362	0.436					
112	0.5774	0.5082	0.4126	0.435					
201	1.3159	1.1400	0.8998	0.409					
202	1.7703	1.5405	1.2235	0.393					
210	0.6383	0.5569	0.4451	0.431					
212	0.8365	0.7275	0.5791	0.430					
214	1.1572	1.0033	0.7946	0.430					
217	1.0326	0.9026	0.7266	0.464					
219	0.7424	0.6459	0.5136	0.416					
301	0.7009	0.6181	0.5063	0.492					
302	1.6445	1.4185	1.1133	0.430					
303	1.6442	1.4349	1.1468	0.406					
306	0.6470	0.5623	0.4484	0.474					
307	0.7170	0.6246	0.4999	0.474					
308	0.5102	0.4508	0.3710	0.516					
403	1.5844	1.3839	1.1163	0.493					
502	0.9842	0.8517	0.6749	0.476					
504	1.6851	1.4854	1.2081	0.413					

<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>
<u>1404</u>	<u>0.6336</u>	<u>0.5542</u>	<u>0.4492</u>	<u>0.515</u>	<u>3403</u>	<u>0.1402</u>	<u>0.1229</u>	<u>0.0995</u>	<u>0.500</u>
<u>1405</u>	<u>0.6163</u>	<u>0.5370</u>	<u>0.4325</u>	<u>0.535</u>	<u>3404</u>	<u>0.3907</u>	<u>0.3416</u>	<u>0.2769</u>	<u>0.551</u>
<u>1407</u>	<u>0.5000</u>	<u>0.4365</u>	<u>0.3542</u>	<u>0.572</u>	<u>3405</u>	<u>0.2628</u>	<u>0.2303</u>	<u>0.1868</u>	<u>0.508</u>
<u>1501</u>	<u>0.6596</u>	<u>0.5717</u>	<u>0.4554</u>	<u>0.500</u>	<u>3406</u>	<u>0.2537</u>	<u>0.2223</u>	<u>0.1814</u>	<u>0.580</u>
<u>1507</u>	<u>0.4704</u>	<u>0.4128</u>	<u>0.3358</u>	<u>0.521</u>	<u>3407</u>	<u>0.6217</u>	<u>0.5408</u>	<u>0.4328</u>	<u>0.485</u>
<u>1701</u>	<u>0.6147</u>	<u>0.5340</u>	<u>0.4269</u>	<u>0.498</u>	<u>3408</u>	<u>0.1896</u>	<u>0.1641</u>	<u>0.1311</u>	<u>0.584</u>
<u>1702</u>	<u>1.1671</u>	<u>1.0153</u>	<u>0.8034</u>	<u>0.347</u>	<u>3409</u>	<u>0.1378</u>	<u>0.1206</u>	<u>0.0986</u>	<u>0.598</u>
<u>1703</u>	<u>0.7240</u>	<u>0.6271</u>	<u>0.4948</u>	<u>0.411</u>	<u>3410</u>	<u>0.1544</u>	<u>0.1355</u>	<u>0.1109</u>	<u>0.585</u>
<u>1704</u>	<u>0.6147</u>	<u>0.5340</u>	<u>0.4269</u>	<u>0.498</u>	<u>3411</u>	<u>0.4428</u>	<u>0.3854</u>	<u>0.3085</u>	<u>0.484</u>
<u>1801</u>	<u>0.3462</u>	<u>0.3025</u>	<u>0.2429</u>	<u>0.441</u>	<u>3412</u>	<u>0.5314</u>	<u>0.4608</u>	<u>0.3662</u>	<u>0.471</u>
<u>1802</u>	<u>0.6009</u>	<u>0.5235</u>	<u>0.4191</u>	<u>0.500</u>	<u>3414</u>	<u>0.6083</u>	<u>0.5332</u>	<u>0.4315</u>	<u>0.469</u>
<u>2002</u>	<u>0.7296</u>	<u>0.6404</u>	<u>0.5192</u>	<u>0.468</u>	<u>3415</u>	<u>0.6481</u>	<u>0.5696</u>	<u>0.4624</u>	<u>0.447</u>
<u>2004</u>	<u>0.4678</u>	<u>0.4093</u>	<u>0.3316</u>	<u>0.543</u>	<u>3501</u>	<u>0.9194</u>	<u>0.8048</u>	<u>0.6519</u>	<u>0.504</u>
<u>2007</u>	<u>0.6076</u>	<u>0.5374</u>	<u>0.4412</u>	<u>0.475</u>	<u>3503</u>	<u>0.2680</u>	<u>0.2365</u>	<u>0.1941</u>	<u>0.532</u>
<u>2008</u>	<u>0.3046</u>	<u>0.2679</u>	<u>0.2184</u>	<u>0.496</u>	<u>3506</u>	<u>0.6416</u>	<u>0.5611</u>	<u>0.4516</u>	<u>0.467</u>
<u>2009</u>	<u>0.3352</u>	<u>0.2939</u>	<u>0.2397</u>	<u>0.569</u>	<u>3509</u>	<u>0.3450</u>	<u>0.3024</u>	<u>0.2470</u>	<u>0.569</u>
<u>2101</u>	<u>0.5078</u>	<u>0.4494</u>	<u>0.3708</u>	<u>0.523</u>	<u>3510</u>	<u>0.3156</u>	<u>0.2773</u>	<u>0.2266</u>	<u>0.551</u>
<u>2102</u>	<u>0.6264</u>	<u>0.5456</u>	<u>0.4396</u>	<u>0.538</u>	<u>3511</u>	<u>0.6344</u>	<u>0.5556</u>	<u>0.4504</u>	<u>0.514</u>
<u>2104</u>	<u>0.3148</u>	<u>0.2809</u>	<u>0.2355</u>	<u>0.593</u>	<u>3512</u>	<u>0.3380</u>	<u>0.2959</u>	<u>0.2407</u>	<u>0.592</u>
<u>2105</u>	<u>0.5464</u>	<u>0.4758</u>	<u>0.3830</u>	<u>0.548</u>	<u>3513</u>	<u>0.4291</u>	<u>0.3808</u>	<u>0.3146</u>	<u>0.504</u>
<u>2106</u>	<u>0.4066</u>	<u>0.3584</u>	<u>0.2930</u>	<u>0.504</u>	<u>3602</u>	<u>0.0805</u>	<u>0.0704</u>	<u>0.0571</u>	<u>0.563</u>
<u>2201</u>	<u>0.2422</u>	<u>0.2138</u>	<u>0.1754</u>	<u>0.508</u>	<u>3603</u>	<u>0.4634</u>	<u>0.4099</u>	<u>0.3365</u>	<u>0.480</u>
<u>2202</u>	<u>0.5477</u>	<u>0.4795</u>	<u>0.3875</u>	<u>0.488</u>	<u>3604</u>	<u>0.6002</u>	<u>0.5316</u>	<u>0.4373</u>	<u>0.486</u>
<u>2203</u>	<u>0.4236</u>	<u>0.3756</u>	<u>0.3104</u>	<u>0.509</u>	<u>3605</u>	<u>0.4539</u>	<u>0.3950</u>	<u>0.3170</u>	<u>0.523</u>
<u>2204</u>	<u>0.2422</u>	<u>0.2138</u>	<u>0.1754</u>	<u>0.508</u>	<u>3701</u>	<u>0.2805</u>	<u>0.2442</u>	<u>0.1953</u>	<u>0.480</u>
<u>2401</u>	<u>0.3603</u>	<u>0.3127</u>	<u>0.2494</u>	<u>0.485</u>	<u>3702</u>	<u>0.3625</u>	<u>0.3185</u>	<u>0.2592</u>	<u>0.514</u>
<u>2903</u>	<u>0.6155</u>	<u>0.5442</u>	<u>0.4481</u>	<u>0.523</u>	<u>3708</u>	<u>0.5852</u>	<u>0.5120</u>	<u>0.4151</u>	<u>0.530</u>
<u>2904</u>	<u>0.5877</u>	<u>0.5134</u>	<u>0.4128</u>	<u>0.471</u>	<u>3802</u>	<u>0.1748</u>	<u>0.1541</u>	<u>0.1264</u>	<u>0.533</u>
<u>2905</u>	<u>0.4093</u>	<u>0.3592</u>	<u>0.2919</u>	<u>0.517</u>	<u>3808</u>	<u>0.3406</u>	<u>0.2971</u>	<u>0.2385</u>	<u>0.482</u>
<u>2906</u>	<u>0.3859</u>	<u>0.3417</u>	<u>0.2811</u>	<u>0.522</u>	<u>3901</u>	<u>0.1295</u>	<u>0.1141</u>	<u>0.0941</u>	<u>0.607</u>
<u>2907</u>	<u>0.3989</u>	<u>0.3501</u>	<u>0.2853</u>	<u>0.535</u>	<u>3902</u>	<u>0.4326</u>	<u>0.3816</u>	<u>0.3136</u>	<u>0.541</u>
<u>2908</u>	<u>0.8644</u>	<u>0.7648</u>	<u>0.6288</u>	<u>0.516</u>	<u>3903</u>	<u>0.9627</u>	<u>0.8542</u>	<u>0.7075</u>	<u>0.511</u>
<u>2909</u>	<u>0.3419</u>	<u>0.3030</u>	<u>0.2498</u>	<u>0.509</u>	<u>3905</u>	<u>0.1170</u>	<u>0.1034</u>	<u>0.0856</u>	<u>0.602</u>
<u>3101</u>	<u>0.6610</u>	<u>0.5766</u>	<u>0.4648</u>	<u>0.521</u>	<u>3906</u>	<u>0.4287</u>	<u>0.3786</u>	<u>0.3114</u>	<u>0.524</u>
<u>3102</u>	<u>0.2805</u>	<u>0.2442</u>	<u>0.1953</u>	<u>0.480</u>	<u>3909</u>	<u>0.2484</u>	<u>0.2196</u>	<u>0.1812</u>	<u>0.563</u>
<u>3103</u>	<u>0.3514</u>	<u>0.3092</u>	<u>0.2512</u>	<u>0.458</u>	<u>4101</u>	<u>0.2286</u>	<u>0.2000</u>	<u>0.1620</u>	<u>0.520</u>
<u>3104</u>	<u>0.5496</u>	<u>0.4804</u>	<u>0.3885</u>	<u>0.524</u>	<u>4103</u>	<u>0.4810</u>	<u>0.4216</u>	<u>0.3430</u>	<u>0.531</u>
<u>3105</u>	<u>0.6369</u>	<u>0.5619</u>	<u>0.4610</u>	<u>0.541</u>	<u>4107</u>	<u>0.1674</u>	<u>0.1459</u>	<u>0.1175</u>	<u>0.535</u>
<u>3303</u>	<u>0.3390</u>	<u>0.2966</u>	<u>0.2406</u>	<u>0.540</u>	<u>4108</u>	<u>0.1431</u>	<u>0.1255</u>	<u>0.1025</u>	<u>0.552</u>
<u>3304</u>	<u>0.5481</u>	<u>0.4843</u>	<u>0.4000</u>	<u>0.551</u>	<u>4109</u>	<u>0.1748</u>	<u>0.1549</u>	<u>0.1276</u>	<u>0.516</u>
<u>3309</u>	<u>0.3780</u>	<u>0.3315</u>	<u>0.2701</u>	<u>0.531</u>	<u>4201</u>	<u>0.6503</u>	<u>0.5601</u>	<u>0.4411</u>	<u>0.495</u>
<u>3402</u>	<u>0.4132</u>	<u>0.3615</u>	<u>0.2926</u>	<u>0.520</u>	<u>4301</u>	<u>0.7522</u>	<u>0.6649</u>	<u>0.5495</u>	<u>0.552</u>

<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>
<u>4302</u>	<u>0.7462</u>	<u>0.6558</u>	<u>0.5370</u>	<u>0.550</u>	<u>5103</u>	<u>0.6784</u>	<u>0.5996</u>	<u>0.4923</u>	<u>0.516</u>
<u>4304</u>	<u>0.8970</u>	<u>0.8000</u>	<u>0.6679</u>	<u>0.514</u>	<u>5106</u>	<u>0.6784</u>	<u>0.5996</u>	<u>0.4923</u>	<u>0.516</u>
<u>4305</u>	<u>1.0475</u>	<u>0.9027</u>	<u>0.7136</u>	<u>0.527</u>	<u>5108</u>	<u>0.6934</u>	<u>0.6041</u>	<u>0.4866</u>	<u>0.539</u>
<u>4401</u>	<u>0.3766</u>	<u>0.3342</u>	<u>0.2761</u>	<u>0.495</u>	<u>5109</u>	<u>0.4913</u>	<u>0.4257</u>	<u>0.3380</u>	<u>0.485</u>
<u>4402</u>	<u>0.6397</u>	<u>0.5563</u>	<u>0.4485</u>	<u>0.573</u>	<u>5201</u>	<u>0.2610</u>	<u>0.2271</u>	<u>0.1820</u>	<u>0.548</u>
<u>4404</u>	<u>0.3854</u>	<u>0.3383</u>	<u>0.2751</u>	<u>0.524</u>	<u>5204</u>	<u>0.7936</u>	<u>0.6895</u>	<u>0.5500</u>	<u>0.463</u>
<u>4501</u>	<u>0.1575</u>	<u>0.1378</u>	<u>0.1122</u>	<u>0.594</u>	<u>5206</u>	<u>0.3627</u>	<u>0.3177</u>	<u>0.2564</u>	<u>0.462</u>
<u>4502</u>	<u>0.0533</u>	<u>0.0467</u>	<u>0.0376</u>	<u>0.530</u>	<u>5207</u>	<u>0.1443</u>	<u>0.1275</u>	<u>0.1054</u>	<u>0.561</u>
<u>4504</u>	<u>0.1059</u>	<u>0.0928</u>	<u>0.0756</u>	<u>0.612</u>	<u>5208</u>	<u>0.5811</u>	<u>0.5096</u>	<u>0.4132</u>	<u>0.507</u>
<u>4802</u>	<u>0.3472</u>	<u>0.3073</u>	<u>0.2541</u>	<u>0.544</u>	<u>5209</u>	<u>0.5282</u>	<u>0.4603</u>	<u>0.3700</u>	<u>0.514</u>
<u>4803</u>	<u>0.3187</u>	<u>0.2836</u>	<u>0.2372</u>	<u>0.590</u>	<u>5300</u>	<u>0.0875</u>	<u>0.0762</u>	<u>0.0617</u>	<u>0.589</u>
<u>4804</u>	<u>0.5208</u>	<u>0.4632</u>	<u>0.3859</u>	<u>0.538</u>	<u>5301</u>	<u>0.0284</u>	<u>0.0249</u>	<u>0.0201</u>	<u>0.509</u>
<u>4805</u>	<u>0.3564</u>	<u>0.3149</u>	<u>0.2596</u>	<u>0.549</u>	<u>5302</u>	<u>0.0084</u>	<u>0.0073</u>	<u>0.0059</u>	<u>0.551</u>
<u>4806</u>	<u>0.1020</u>	<u>0.0905</u>	<u>0.0755</u>	<u>0.619</u>	<u>5305</u>	<u>0.0458</u>	<u>0.0399</u>	<u>0.0323</u>	<u>0.584</u>
<u>4808</u>	<u>0.3981</u>	<u>0.3509</u>	<u>0.2870</u>	<u>0.497</u>	<u>5306</u>	<u>0.0399</u>	<u>0.0351</u>	<u>0.0288</u>	<u>0.576</u>
<u>4809</u>	<u>0.2991</u>	<u>0.2655</u>	<u>0.2198</u>	<u>0.507</u>	<u>5307</u>	<u>0.5652</u>	<u>0.4894</u>	<u>0.3898</u>	<u>0.514</u>
<u>4810</u>	<u>0.2041</u>	<u>0.1810</u>	<u>0.1507</u>	<u>0.572</u>	<u>5308</u>	<u>0.0806</u>	<u>0.0707</u>	<u>0.0576</u>	<u>0.585</u>
<u>4811</u>	<u>0.4007</u>	<u>0.3575</u>	<u>0.2993</u>	<u>0.557</u>	<u>6103</u>	<u>0.0857</u>	<u>0.0755</u>	<u>0.0623</u>	<u>0.603</u>
<u>4812</u>	<u>0.4009</u>	<u>0.3526</u>	<u>0.2886</u>	<u>0.544</u>	<u>6104</u>	<u>0.3898</u>	<u>0.3410</u>	<u>0.2770</u>	<u>0.561</u>
<u>4813</u>	<u>0.2034</u>	<u>0.1816</u>	<u>0.1526</u>	<u>0.580</u>	<u>6105</u>	<u>0.3567</u>	<u>0.3111</u>	<u>0.2498</u>	<u>0.497</u>
<u>4814</u>	<u>0.1206</u>	<u>0.1083</u>	<u>0.0918</u>	<u>0.574</u>	<u>6107</u>	<u>0.1243</u>	<u>0.1102</u>	<u>0.0917</u>	<u>0.634</u>
<u>4815</u>	<u>0.2477</u>	<u>0.2230</u>	<u>0.1903</u>	<u>0.588</u>	<u>6108</u>	<u>0.2934</u>	<u>0.2586</u>	<u>0.2126</u>	<u>0.577</u>
<u>4816</u>	<u>0.3409</u>	<u>0.3070</u>	<u>0.2605</u>	<u>0.527</u>	<u>6109</u>	<u>0.0958</u>	<u>0.0830</u>	<u>0.0663</u>	<u>0.532</u>
<u>4900</u>	<u>0.1059</u>	<u>0.0921</u>	<u>0.0733</u>	<u>0.438</u>	<u>6110</u>	<u>0.4553</u>	<u>0.3971</u>	<u>0.3200</u>	<u>0.523</u>
<u>4901</u>	<u>0.0352</u>	<u>0.0305</u>	<u>0.0243</u>	<u>0.510</u>	<u>6120</u>	<u>0.2748</u>	<u>0.2389</u>	<u>0.1919</u>	<u>0.547</u>
<u>4902</u>	<u>0.0887</u>	<u>0.0774</u>	<u>0.0627</u>	<u>0.569</u>	<u>6121</u>	<u>0.2805</u>	<u>0.2455</u>	<u>0.1980</u>	<u>0.467</u>
<u>4903</u>	<u>0.1440</u>	<u>0.1255</u>	<u>0.1013</u>	<u>0.580</u>	<u>6201</u>	<u>0.3383</u>	<u>0.2954</u>	<u>0.2377</u>	<u>0.494</u>
<u>4904</u>	<u>0.0158</u>	<u>0.0138</u>	<u>0.0113</u>	<u>0.565</u>	<u>6202</u>	<u>0.6592</u>	<u>0.5751</u>	<u>0.4637</u>	<u>0.536</u>
<u>4905</u>	<u>0.3758</u>	<u>0.3338</u>	<u>0.2788</u>	<u>0.576</u>	<u>6203</u>	<u>0.1052</u>	<u>0.0937</u>	<u>0.0784</u>	<u>0.636</u>
<u>4906</u>	<u>0.0979</u>	<u>0.0848</u>	<u>0.0680</u>	<u>0.578</u>	<u>6204</u>	<u>0.1286</u>	<u>0.1129</u>	<u>0.0924</u>	<u>0.589</u>
<u>4907</u>	<u>0.0607</u>	<u>0.0535</u>	<u>0.0441</u>	<u>0.603</u>	<u>6205</u>	<u>0.1737</u>	<u>0.1532</u>	<u>0.1255</u>	<u>0.535</u>
<u>4908</u>	<u>0.0825</u>	<u>0.0727</u>	<u>0.0594</u>	<u>0.581</u>	<u>6206</u>	<u>0.1760</u>	<u>0.1541</u>	<u>0.1257</u>	<u>0.583</u>
<u>4909</u>	<u>0.0317</u>	<u>0.0285</u>	<u>0.0237</u>	<u>0.506</u>	<u>6207</u>	<u>1.0281</u>	<u>0.9065</u>	<u>0.7430</u>	<u>0.502</u>
<u>4910</u>	<u>0.4188</u>	<u>0.3668</u>	<u>0.2977</u>	<u>0.513</u>	<u>6208</u>	<u>0.2290</u>	<u>0.2028</u>	<u>0.1683</u>	<u>0.585</u>
<u>4911</u>	<u>0.0485</u>	<u>0.0427</u>	<u>0.0347</u>	<u>0.483</u>	<u>6209</u>	<u>0.2562</u>	<u>0.2278</u>	<u>0.1891</u>	<u>0.530</u>
<u>5001</u>	<u>6.0798</u>	<u>5.3461</u>	<u>4.3191</u>	<u>0.380</u>	<u>6301</u>	<u>0.1036</u>	<u>0.0896</u>	<u>0.0711</u>	<u>0.515</u>
<u>5002</u>	<u>0.5247</u>	<u>0.4559</u>	<u>0.3658</u>	<u>0.544</u>	<u>6303</u>	<u>0.0494</u>	<u>0.0432</u>	<u>0.0349</u>	<u>0.519</u>
<u>5003</u>	<u>1.6454</u>	<u>1.4269</u>	<u>1.1317</u>	<u>0.437</u>	<u>6305</u>	<u>0.0884</u>	<u>0.0776</u>	<u>0.0637</u>	<u>0.594</u>
<u>5004</u>	<u>0.6923</u>	<u>0.6136</u>	<u>0.5056</u>	<u>0.460</u>	<u>6306</u>	<u>0.2884</u>	<u>0.2512</u>	<u>0.2028</u>	<u>0.560</u>
<u>5005</u>	<u>0.6759</u>	<u>0.5904</u>	<u>0.4736</u>	<u>0.426</u>	<u>6308</u>	<u>0.0522</u>	<u>0.0456</u>	<u>0.0368</u>	<u>0.532</u>
<u>5006</u>	<u>1.0012</u>	<u>0.8745</u>	<u>0.6980</u>	<u>0.369</u>	<u>6309</u>	<u>0.1793</u>	<u>0.1572</u>	<u>0.1285</u>	<u>0.579</u>
<u>5101</u>	<u>0.7912</u>	<u>0.6875</u>	<u>0.5468</u>	<u>0.446</u>	<u>6402</u>	<u>0.2352</u>	<u>0.2071</u>	<u>0.1703</u>	<u>0.586</u>

<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Primary Ratio</u>
<u>6403</u>	<u>0.1454</u>	<u>0.1273</u>	<u>0.1037</u>	<u>0.604</u>	<u>6905</u>	<u>0.5895</u>	<u>0.5082</u>	<u>0.4028</u>	<u>0.563</u>
<u>6404</u>	<u>0.2899</u>	<u>0.2563</u>	<u>0.2123</u>	<u>0.564</u>	<u>6906</u>	<u>0.2393</u>	<u>0.2259</u>	<u>0.2076</u>	<u>0.655</u>
<u>6405</u>	<u>0.4826</u>	<u>0.4208</u>	<u>0.3390</u>	<u>0.530</u>	<u>6907</u>	<u>0.8426</u>	<u>0.7351</u>	<u>0.5946</u>	<u>0.558</u>
<u>6406</u>	<u>0.1318</u>	<u>0.1157</u>	<u>0.0947</u>	<u>0.591</u>	<u>6908</u>	<u>0.3233</u>	<u>0.2833</u>	<u>0.2298</u>	<u>0.517</u>
<u>6407</u>	<u>0.2444</u>	<u>0.2146</u>	<u>0.1755</u>	<u>0.556</u>	<u>6909</u>	<u>0.1045</u>	<u>0.0916</u>	<u>0.0743</u>	<u>0.555</u>
<u>6408</u>	<u>0.4387</u>	<u>0.3845</u>	<u>0.3114</u>	<u>0.494</u>	<u>7100</u>	<u>0.0270</u>	<u>0.0239</u>	<u>0.0197</u>	<u>0.468</u>
<u>6409</u>	<u>0.5610</u>	<u>0.4908</u>	<u>0.3962</u>	<u>0.487</u>	<u>7101</u>	<u>0.0207</u>	<u>0.0181</u>	<u>0.0145</u>	<u>0.466</u>
<u>6410</u>	<u>0.2804</u>	<u>0.2442</u>	<u>0.1966</u>	<u>0.552</u>	<u>7103</u>	<u>0.7639</u>	<u>0.6571</u>	<u>0.5185</u>	<u>0.537</u>
<u>6411</u>	<u>0.0578</u>	<u>0.0511</u>	<u>0.0421</u>	<u>0.549</u>	<u>7104</u>	<u>0.0230</u>	<u>0.0201</u>	<u>0.0164</u>	<u>0.540</u>
<u>6501</u>	<u>0.0943</u>	<u>0.0821</u>	<u>0.0663</u>	<u>0.591</u>	<u>7105</u>	<u>0.0169</u>	<u>0.0148</u>	<u>0.0119</u>	<u>0.546</u>
<u>6502</u>	<u>0.0254</u>	<u>0.0223</u>	<u>0.0181</u>	<u>0.543</u>	<u>7106</u>	<u>0.2664</u>	<u>0.2330</u>	<u>0.1903</u>	<u>0.612</u>
<u>6503</u>	<u>0.0654</u>	<u>0.0565</u>	<u>0.0448</u>	<u>0.560</u>	<u>7107</u>	<u>0.2655</u>	<u>0.2363</u>	<u>0.1974</u>	<u>0.584</u>
<u>6504</u>	<u>0.3159</u>	<u>0.2790</u>	<u>0.2309</u>	<u>0.612</u>	<u>7108</u>	<u>0.1854</u>	<u>0.1627</u>	<u>0.1335</u>	<u>0.602</u>
<u>6505</u>	<u>0.1507</u>	<u>0.1329</u>	<u>0.1101</u>	<u>0.660</u>	<u>7109</u>	<u>0.1051</u>	<u>0.0922</u>	<u>0.0752</u>	<u>0.564</u>
<u>6506</u>	<u>0.1213</u>	<u>0.1063</u>	<u>0.0867</u>	<u>0.574</u>	<u>7110</u>	<u>0.3121</u>	<u>0.2759</u>	<u>0.2257</u>	<u>0.427</u>
<u>6509</u>	<u>0.2511</u>	<u>0.2216</u>	<u>0.1825</u>	<u>0.587</u>	<u>7111</u>	<u>0.3253</u>	<u>0.2809</u>	<u>0.2217</u>	<u>0.481</u>
<u>6510</u>	<u>0.3702</u>	<u>0.3253</u>	<u>0.2625</u>	<u>0.387</u>	<u>7112</u>	<u>0.7790</u>	<u>0.6821</u>	<u>0.5562</u>	<u>0.592</u>
<u>6511</u>	<u>0.2726</u>	<u>0.2395</u>	<u>0.1964</u>	<u>0.577</u>	<u>7113</u>	<u>0.3817</u>	<u>0.3358</u>	<u>0.2761</u>	<u>0.573</u>
<u>6512</u>	<u>0.0806</u>	<u>0.0704</u>	<u>0.0568</u>	<u>0.511</u>	<u>7114</u>	<u>0.7173</u>	<u>0.6292</u>	<u>0.5154</u>	<u>0.605</u>
<u>6601</u>	<u>0.1739</u>	<u>0.1527</u>	<u>0.1247</u>	<u>0.555</u>	<u>7115</u>	<u>0.4947</u>	<u>0.4355</u>	<u>0.3581</u>	<u>0.588</u>
<u>6602</u>	<u>0.5135</u>	<u>0.4546</u>	<u>0.3764</u>	<u>0.539</u>	<u>7116</u>	<u>0.3903</u>	<u>0.3441</u>	<u>0.2809</u>	<u>0.463</u>
<u>6603</u>	<u>0.2512</u>	<u>0.2194</u>	<u>0.1768</u>	<u>0.528</u>	<u>7117</u>	<u>1.1384</u>	<u>0.9981</u>	<u>0.8122</u>	<u>0.545</u>
<u>6604</u>	<u>0.0787</u>	<u>0.0689</u>	<u>0.0562</u>	<u>0.585</u>	<u>7118</u>	<u>1.4517</u>	<u>1.2718</u>	<u>1.0327</u>	<u>0.526</u>
<u>6605</u>	<u>0.2224</u>	<u>0.1944</u>	<u>0.1572</u>	<u>0.542</u>	<u>7119</u>	<u>1.4180</u>	<u>1.2282</u>	<u>0.9823</u>	<u>0.558</u>
<u>6607</u>	<u>0.1111</u>	<u>0.0980</u>	<u>0.0803</u>	<u>0.545</u>	<u>7120</u>	<u>5.1925</u>	<u>4.5577</u>	<u>3.7068</u>	<u>0.503</u>
<u>6608</u>	<u>0.4642</u>	<u>0.4004</u>	<u>0.3139</u>	<u>0.423</u>	<u>7121</u>	<u>4.7278</u>	<u>4.1472</u>	<u>3.3671</u>	<u>0.506</u>
<u>6620</u>	<u>2.7812</u>	<u>2.3981</u>	<u>1.9034</u>	<u>0.594</u>	<u>7122</u>	<u>0.3415</u>	<u>0.3011</u>	<u>0.2469</u>	<u>0.522</u>
<u>6704</u>	<u>0.1167</u>	<u>0.1018</u>	<u>0.0827</u>	<u>0.602</u>	<u>7200</u>	<u>1.4181</u>	<u>1.2252</u>	<u>0.9701</u>	<u>0.485</u>
<u>6705</u>	<u>0.6408</u>	<u>0.5672</u>	<u>0.4712</u>	<u>0.603</u>	<u>7201</u>	<u>1.3151</u>	<u>1.1379</u>	<u>0.9061</u>	<u>0.522</u>
<u>6706</u>	<u>0.2247</u>	<u>0.1998</u>	<u>0.1660</u>	<u>0.511</u>	<u>7202</u>	<u>0.0244</u>	<u>0.0213</u>	<u>0.0174</u>	<u>0.516</u>
<u>6707</u>	<u>11.5610</u>	<u>10.0747</u>	<u>8.2497</u>	<u>0.693</u>	<u>7203</u>	<u>0.1001</u>	<u>0.0895</u>	<u>0.0750</u>	<u>0.612</u>
<u>6708</u>	<u>7.6176</u>	<u>6.9223</u>	<u>5.9075</u>	<u>0.466</u>	<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>6709</u>	<u>0.2335</u>	<u>0.2053</u>	<u>0.1683</u>	<u>0.576</u>	<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>6801</u>	<u>0.6627</u>	<u>0.5613</u>	<u>0.4316</u>	<u>0.571</u>	<u>7301</u>	<u>0.4807</u>	<u>0.4271</u>	<u>0.3539</u>	<u>0.516</u>
<u>6802</u>	<u>0.7495</u>	<u>0.6511</u>	<u>0.5240</u>	<u>0.573</u>	<u>7302</u>	<u>0.7749</u>	<u>0.6859</u>	<u>0.5653</u>	<u>0.496</u>
<u>6803</u>	<u>0.4689</u>	<u>0.4056</u>	<u>0.3179</u>	<u>0.346</u>	<u>7307</u>	<u>0.4452</u>	<u>0.3911</u>	<u>0.3200</u>	<u>0.553</u>
<u>6804</u>	<u>0.2610</u>	<u>0.2285</u>	<u>0.1860</u>	<u>0.589</u>	<u>7308</u>	<u>0.2394</u>	<u>0.2130</u>	<u>0.1775</u>	<u>0.559</u>
<u>6809</u>	<u>4.1622</u>	<u>3.6934</u>	<u>3.0558</u>	<u>0.595</u>	<u>7309</u>	<u>0.2520</u>	<u>0.2217</u>	<u>0.1823</u>	<u>0.601</u>
<u>6901</u>	<u>0.0167</u>	<u>0.0161</u>	<u>0.0149</u>	<u>0.756</u>	<u>7400</u>	<u>1.6308</u>	<u>1.4090</u>	<u>1.1156</u>	<u>0.485</u>
<u>6902</u>	<u>0.7663</u>	<u>0.6714</u>	<u>0.5411</u>	<u>0.422</u>					
<u>6903</u>	<u>5.0143</u>	<u>4.4156</u>	<u>3.5720</u>	<u>0.358</u>					
<u>6904</u>	<u>0.8478</u>	<u>0.7317</u>	<u>0.5780</u>	<u>0.493</u>					

**Expected Loss Rates in Dollars Per Sq. Ft.
of Wallboard Installed**

Expected Loss Range

**Maximum Experience
Modification**

((Class	2014	2015	2016	Primary Ratio				
0540	0.0209	0.0173	0.0140	0.437	24,465	-	25,628	0.68
0541	0.0094	0.0078	0.0063	0.458	25,629	-	26,824	0.67
0550	0.0309	0.0255	0.0208	0.423	26,825	-	28,052	0.66
0551	0.0135	0.0112	0.0091	0.404))	28,053	-	29,311	0.65
					29,312	-	31,200	0.64
					31,201	-	34,034	0.63
					34,035	-	38,284	0.62
Class	2015	2016	2017	Primary Ratio	38,285	-	44,659	0.61
0540	<u>0.0191</u>	<u>0.0168</u>	<u>0.0135</u>	<u>0.439</u>	44,660	and higher		0.60))
0541	<u>0.0077</u>	<u>0.0067</u>	<u>0.0055</u>	<u>0.460</u>	1	=	<u>5,520</u>	<u>0.90</u>
0550	<u>0.0291</u>	<u>0.0254</u>	<u>0.0205</u>	<u>0.412</u>	<u>5,521</u>	=	<u>6,740</u>	<u>0.89</u>
0551	<u>0.0127</u>	<u>0.0112</u>	<u>0.0090</u>	<u>0.400</u>	<u>6,741</u>	=	<u>7,434</u>	<u>0.88</u>
					<u>7,435</u>	=	<u>8,128</u>	<u>0.87</u>
					<u>8,129</u>	=	<u>8,822</u>	<u>0.86</u>
					<u>8,823</u>	=	<u>9,516</u>	<u>0.85</u>
					<u>9,517</u>	=	<u>10,210</u>	<u>0.84</u>
					<u>10,211</u>	=	<u>10,904</u>	<u>0.83</u>
					<u>10,905</u>	=	<u>11,598</u>	<u>0.82</u>
					<u>11,599</u>	=	<u>12,314</u>	<u>0.81</u>
					<u>12,315</u>	=	<u>13,061</u>	<u>0.80</u>
					<u>13,062</u>	=	<u>13,838</u>	<u>0.79</u>
					<u>13,839</u>	=	<u>14,644</u>	<u>0.78</u>
					<u>14,645</u>	=	<u>15,481</u>	<u>0.77</u>
					<u>15,482</u>	=	<u>16,347</u>	<u>0.76</u>
					<u>16,348</u>	=	<u>17,243</u>	<u>0.75</u>
					<u>17,244</u>	=	<u>18,170</u>	<u>0.74</u>
					<u>18,171</u>	=	<u>19,126</u>	<u>0.73</u>
					<u>19,127</u>	=	<u>20,112</u>	<u>0.72</u>
					<u>20,113</u>	=	<u>21,128</u>	<u>0.71</u>
					<u>21,129</u>	=	<u>22,174</u>	<u>0.70</u>
					<u>22,175</u>	=	<u>23,249</u>	<u>0.69</u>
					<u>23,250</u>	=	<u>24,355</u>	<u>0.68</u>
					<u>24,356</u>	=	<u>25,491</u>	<u>0.67</u>
					<u>25,492</u>	=	<u>26,657</u>	<u>0.66</u>
					<u>26,658</u>	=	<u>27,852</u>	<u>0.65</u>
					<u>27,853</u>	=	<u>29,645</u>	<u>0.64</u>
					<u>29,646</u>	=	<u>32,335</u>	<u>0.63</u>
					<u>32,336</u>	=	<u>36,370</u>	<u>0.62</u>
					<u>36,371</u>	=	<u>42,423</u>	<u>0.61</u>
					<u>42,424</u>	and higher		<u>0.60</u>

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

WAC 296-17-890 Table IV.

**Maximum Experience Modifications
For Firms with No Compensable Accidents:
Effective January 1, ((2018)) 2019**

Expected Loss Range	Maximum Experience Modification
((1 - 5,811	0.90
5,812 - 7,095	0.89
7,096 - 7,825	0.88
7,826 - 8,556	0.87
8,557 - 9,286	0.86
9,287 - 10,017	0.85
10,018 - 10,747	0.84
10,748 - 11,478	0.83
11,479 - 12,208	0.82
12,209 - 12,961	0.81
12,962 - 13,745	0.80
13,746 - 14,561	0.79
14,562 - 15,409	0.78
15,410 - 16,289	0.77
16,290 - 17,200	0.76
17,201 - 18,143	0.75
18,144 - 19,117	0.74
19,118 - 20,123	0.73
20,124 - 21,161	0.72
21,162 - 22,230	0.71
22,231 - 23,331	0.70
23,332 - 24,464	0.69

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

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, ((2018)) 2019		
	Accident Fund	Stay at Work	Medical Aid Fund
((0101	1.7467	0.0227	0.6802
0103	2.4617	0.0317	1.2069
0104	1.5993	0.0207	0.6897
0105	1.6093	0.0205	0.9804
0106	3.2153	0.0412	1.7904
0107	1.7034	0.0222	0.6458
0108	1.5993	0.0207	0.6897
0112	1.1816	0.0152	0.5855
0201	2.6424	0.0344	0.9618
0202	3.8692	0.0503	1.4869
0210	1.3633	0.0177	0.5465
0212	1.9476	0.0253	0.7757
0214	2.2692	0.0295	0.8650
0217	2.0067	0.0259	0.9334
0219	1.5717	0.0205	0.5883
0301	1.1012	0.0140	0.7206
0302	3.8248	0.0500	1.2195
0303	3.3847	0.0440	1.3111
0306	1.3768	0.0179	0.5653
0307	1.3831	0.0179	0.6341
0308	0.8036	0.0101	0.5852
0403	2.8129	0.0362	1.4061
0502	1.9672	0.0255	0.7929
0504	3.2851	0.0423	1.6380
0507	4.3328	0.0554	2.5428
0508	2.2019	0.0287	0.8081
0509	1.6499	0.0215	0.5471
0510	3.3961	0.0435	1.8743
0511	2.4040	0.0311	1.0254
0512	1.9214	0.0247	0.9508
0513	1.3525	0.0174	0.6470
0514	2.1919	0.0282	1.0957
0516	2.1373	0.0275	1.0534
0517	2.9880	0.0385	1.4845
0518	1.9059	0.0247	0.8032

Class	Base Rates Effective January 1, ((2018)) 2019		
	Accident Fund	Stay at Work	Medical Aid Fund
0519	2.1438	0.0277	0.9399
0521	0.6488	0.0083	0.4076
0601	0.7636	0.0099	0.3653
0602	1.2050	0.0158	0.3650
0603	1.0640	0.0138	0.4237
0604	1.6288	0.0209	0.9082
0606	0.7684	0.0098	0.4666
0607	1.0885	0.0140	0.5342
0608	0.5448	0.0070	0.2460
0701	3.0927	0.0407	0.6989
0803	0.7571	0.0097	0.4000
0901	1.9059	0.0247	0.8032
1002	1.3264	0.0171	0.6648
1003	1.0339	0.0133	0.5380
1004	0.7243	0.0094	0.3002
1005	13.1578	0.1707	5.3591
1006	0.2711	0.0035	0.1589
1007	0.4381	0.0057	0.2017
1101	1.4405	0.0185	0.7366
1102	2.4760	0.0322	0.9709
1103	1.6792	0.0216	0.8438
1104	0.8798	0.0112	0.5722
1105	1.1951	0.0154	0.6058
1106	0.4124	0.0052	0.3314
1108	0.6990	0.0089	0.4267
1109	1.8817	0.0241	1.0683
1301	0.8788	0.0114	0.3875
1303	0.4529	0.0058	0.2375
1304	0.0340	0.0004	0.0176
1305	0.7369	0.0095	0.3629
1401	0.3037	0.0038	0.2727
1404	1.0431	0.0133	0.6238
1405	1.0761	0.0138	0.6064
1407	0.7690	0.0098	0.4882
1501	1.1050	0.0143	0.5026
1507	0.8174	0.0104	0.4781
1701	1.1280	0.0146	0.5118
1702	2.6890	0.0352	0.8290
1703	1.5790	0.0206	0.5025
1704	1.1280	0.0146	0.5118

Base Rates Effective January 1, ((2018)) 2019				Base Rates Effective January 1, ((2018)) 2019			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
1801	0.6730	0.0087	0.3174	3410	0.2202	0.0028	0.1678
1802	1.0868	0.0140	0.5774	3411	0.7665	0.0099	0.3697
2002	1.2678	0.0163	0.6726	3412	0.9868	0.0128	0.4320
2004	0.7929	0.0101	0.5160	3414	1.0829	0.0139	0.5827
2007	0.9856	0.0125	0.6594	3415	1.1747	0.0151	0.5920
2008	0.5059	0.0065	0.3094	3501	1.5016	0.0192	0.8512
2009	0.4676	0.0059	0.3379	3503	0.4087	0.0051	0.3157
2101	0.7428	0.0094	0.5678	3506	1.1876	0.0153	0.5628
2102	1.0122	0.0130	0.5711	3509	0.4945	0.0063	0.3527
2104	0.3551	0.0043	0.3933	3510	0.4341	0.0055	0.3192
2105	0.9152	0.0117	0.5238	3511	1.0290	0.0132	0.5995
2106	0.6012	0.0076	0.4109	3512	0.5310	0.0067	0.3721
2201	0.3587	0.0045	0.2452	3513	0.7165	0.0090	0.5451
2202	1.0278	0.0132	0.5154	3602	0.1206	0.0015	0.0810
2203	0.6675	0.0084	0.4896	3603	0.6814	0.0086	0.4861
2204	0.3587	0.0045	0.2452	3604	0.9456	0.0120	0.6642
2401	0.6482	0.0084	0.2846	3605	0.7763	0.0100	0.4140
2903	0.9312	0.0118	0.6833	3701	0.4792	0.0062	0.2425
2904	1.0157	0.0131	0.5229	3702	0.6049	0.0077	0.3852
2905	0.7145	0.0091	0.4558	3708	0.9478	0.0121	0.5421
2906	0.5583	0.0070	0.4241	3802	0.2737	0.0035	0.1907
2907	0.6341	0.0081	0.4089	3808	0.6291	0.0081	0.3114
2908	1.3812	0.0174	1.0089	3901	0.1547	0.0019	0.1453
2909	0.5245	0.0066	0.3924	3902	0.6113	0.0077	0.4606
3101	1.1344	0.0146	0.6053	3903	1.3960	0.0176	1.0822
3102	0.4792	0.0062	0.2425	3905	0.1591	0.0020	0.1452
3103	0.6343	0.0081	0.3576	3906	0.5980	0.0075	0.4531
3104	0.9179	0.0118	0.5016	3909	0.3362	0.0042	0.2825
3105	0.9830	0.0124	0.7170	4101	0.4119	0.0053	0.2288
3303	0.5525	0.0071	0.3314	4103	0.7422	0.0094	0.4748
3304	0.7194	0.0090	0.5866	4107	0.2642	0.0034	0.1579
3309	0.5865	0.0075	0.3743	4108	0.2207	0.0028	0.1468
3402	0.6846	0.0087	0.4067	4109	0.2706	0.0034	0.1928
3403	0.2540	0.0033	0.1415	4201	1.1775	0.0153	0.4473
3404	0.6540	0.0083	0.4087	4301	0.9748	0.0122	0.7666
3405	0.4406	0.0056	0.2714	4302	1.1757	0.0149	0.8023
3406	0.3591	0.0045	0.2627	4304	1.2137	0.0152	1.0182
3407	1.1481	0.0148	0.5269	4305	1.9322	0.0251	0.7966
3408	0.2957	0.0038	0.1771	4401	0.5708	0.0072	0.4249
3409	0.1949	0.0025	0.1437	4402	0.9893	0.0126	0.5929

Base Rates Effective January 1, ((2018)) 2019				Base Rates Effective January 1, ((2018)) 2019			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
4404	0.6626	0.0084	0.4242	5109	0.9601	0.0124	0.4186
4501	0.2266	0.0029	0.1672	5201	0.4741	0.0061	0.2619
4502	0.0805	0.0010	0.0503	5204	1.4709	0.0190	0.6460
4504	0.1479	0.0019	0.1171	5206	0.6557	0.0084	0.3269
4802	0.4462	0.0056	0.3662	5207	0.1969	0.0025	0.1666
4803	0.3711	0.0046	0.3890	5208	0.9988	0.0128	0.5911
4804	0.6814	0.0085	0.5911	5209	0.9962	0.0128	0.5103
4805	0.5327	0.0067	0.3997	5300	0.1339	0.0017	0.0879
4806	0.1096	0.0013	0.1145	5301	0.0454	0.0006	0.0282
4808	0.5994	0.0076	0.4097	5302	0.0146	0.0002	0.0083
4809	0.4461	0.0056	0.3677	5305	0.0700	0.0009	0.0486
4810	0.2329	0.0029	0.2267	5306	0.0600	0.0008	0.0448
4811	0.4886	0.0060	0.4916	5307	0.9915	0.0128	0.4604
4812	0.5739	0.0072	0.4173	5308	0.1145	0.0014	0.0868
4813	0.2295	0.0028	0.2460	6103	0.1145	0.0014	0.1000
4814	0.1353	0.0016	0.1642	6104	0.6408	0.0082	0.4026
4815	0.2512	0.0030	0.3418	6105	0.5983	0.0077	0.3184
4816	0.4043	0.0049	0.4570	6107	0.1544	0.0019	0.1704
4900	0.2521	0.0033	0.0960	6108	0.4278	0.0054	0.3546
4901	0.0672	0.0009	0.0322	6109	0.1661	0.0021	0.0863
4902	0.1487	0.0019	0.0924	6110	0.7593	0.0097	0.4520
4903	0.2227	0.0028	0.1446	6120	0.4394	0.0056	0.2354
4904	0.0260	0.0003	0.0188	6121	0.5039	0.0065	0.2541
4905	0.4612	0.0057	0.4595	6201	0.5123	0.0066	0.2785
4906	0.1588	0.0020	0.0905	6202	0.9911	0.0126	0.5992
4907	0.0840	0.0011	0.0694	6203	0.1344	0.0016	0.1500
4908	0.1223	0.0015	0.1104	6204	0.1744	0.0022	0.1307
4909	0.0503	0.0006	0.0563	6205	0.2578	0.0032	0.1985
4910	0.6862	0.0088	0.4021	6206	0.2508	0.0032	0.1849
4911	0.0906	0.0012	0.0532	6207	1.5705	0.0199	1.1285
5001	11.3189	0.1242	5.1745	6208	0.2937	0.0037	0.2667
5002	0.8755	0.0112	0.4793	6209	0.3623	0.0045	0.3197
5003	3.2727	0.0426	1.2129	6301	0.1951	0.0025	0.0841
5004	1.1271	0.0143	0.7275	6303	0.0876	0.0011	0.0494
5005	1.2131	0.0157	0.5685	6304	0.3059	0.0038	0.2940
5006	2.1904	0.0285	0.8105	6305	0.1290	0.0016	0.1032
5101	1.4926	0.0193	0.6461	6306	0.4724	0.0060	0.2810
5103	1.0221	0.0129	0.7455	6308	0.0890	0.0011	0.0506
5106	1.0221	0.0129	0.7455	6309	0.2639	0.0033	0.1806
5108	1.0999	0.0141	0.6487	6402	0.3327	0.0042	0.2698

Base Rates Effective January 1, ((2018)) 2019				Base Rates Effective January 1, ((2018)) 2019			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6403	0.2081	0.0026	0.1630	6903	10.6938	0.1386	4.4650
6404	0.3650	0.0046	0.3106	6904	1.5152	0.0196	0.6356
6405	0.7441	0.0095	0.4223	6905	1.0063	0.0130	0.4681
6406	0.1651	0.0021	0.1316	6906	0.0000	0.0000	0.4681
6407	0.3392	0.0043	0.2464	6907	1.4021	0.0179	0.8712
6408	0.7245	0.0092	0.4422	6908	0.5299	0.0068	0.3202
6409	0.9524	0.0122	0.5063	6909	0.1689	0.0021	0.1148
6410	0.4693	0.0060	0.2658	7100	0.0444	0.0006	0.0291
6411	0.0977	0.0012	0.0791	7101	0.0393	0.0005	0.0201
6501	0.1511	0.0019	0.0943	7103	1.3026	0.0169	0.5793
6502	0.0393	0.0005	0.0277	7104	0.0359	0.0005	0.0245
6503	0.1159	0.0015	0.0605	7105	0.0272	0.0003	0.0173
6504	0.3971	0.0049	0.3729	7106	0.3164	0.0040	0.2565
6505	0.1623	0.0020	0.1703	7107	0.3084	0.0038	0.3257
6506	0.1638	0.0021	0.1241	7108	0.2347	0.0029	0.1898
6509	0.3592	0.0045	0.3075	7109	0.1672	0.0021	0.1224
6510	0.6686	0.0086	0.3188	7110	0.5104	0.0065	0.2967
6511	0.4214	0.0053	0.3183	7111	0.6668	0.0087	0.2621
6512	0.1385	0.0018	0.0766	7112	1.1913	0.0150	0.8718
6601	0.2779	0.0035	0.1886	7113	0.5408	0.0068	0.4255
6602	0.7157	0.0090	0.5668	7114	0.9453	0.0119	0.7571
6603	0.4108	0.0053	0.2382	7115	0.6748	0.0085	0.5277
6604	0.1149	0.0015	0.0822	7116	0.7090	0.0090	0.4338
6605	0.3719	0.0047	0.2384	7117	1.6927	0.0214	1.1904
6607	0.1735	0.0022	0.1271	7118	2.3210	0.0296	1.4619
6608	1.0503	0.0137	0.3290	7119	2.2885	0.0293	1.2757
6620	4.6749	0.0601	2.4618	7120	8.5336	0.1089	5.1263
6704	0.1608	0.0020	0.1137	7121	7.9002	0.1008	4.7706
6705	0.8586	0.0107	0.7963	7122	0.5081	0.0064	0.3469
6706	0.3448	0.0043	0.2768	7200	2.6630	0.0345	1.1002
6707	10.3724	0.1287	9.6607	7201	2.4379	0.0315	1.1072
6708	9.7527	0.1187	11.2448	7202	0.0398	0.0005	0.0231
6709	0.3245	0.0041	0.2533	7203	0.1320	0.0016	0.1640
6801	1.1877	0.0155	0.4156	7204	0.0000	0.0000	0.0000
6802	1.0446	0.0133	0.6430	7205	0.0000	0.0000	0.0000
6803	1.1518	0.0151	0.3142	7301	0.6586	0.0083	0.5160
6804	0.3688	0.0046	0.2790	7302	1.2161	0.0154	0.8259
6809	6.3082	0.0778	6.2741	7307	0.6155	0.0078	0.4460
6901	0.0000	0.0000	0.0631	7308	0.3416	0.0042	0.3160
6902	1.4030	0.0182	0.6212	7309	0.3432	0.0043	0.2875

Base Rates Effective January 1, ((2018)) 2019				Base Rates Effective January 1, ((2018)) 2019			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
7400	3.0624	0.0397	1.2652))	603	0.9703	0.0141	0.3670
101	1.5016	0.0218	0.6002	604	1.4577	0.0210	0.7867
103	2.0919	0.0302	1.0231	606	0.6662	0.0095	0.4110
104	1.3892	0.0201	0.6059	607	1.0228	0.0148	0.4967
105	1.4318	0.0205	0.8635	608	0.5650	0.0082	0.2361
106	3.5957	0.0516	1.9986	701	2.8875	0.0426	0.6492
107	1.5485	0.0226	0.5819	803	0.7334	0.0106	0.3773
108	1.3892	0.0201	0.6059	901	1.6675	0.0242	0.7124
112	0.9820	0.0141	0.5165	1002	1.1885	0.0172	0.5788
201	2.6488	0.0387	0.8894	1003	0.9388	0.0135	0.4912
202	3.5049	0.0511	1.2625	1004	0.6537	0.0095	0.2662
210	1.1804	0.0171	0.5099	1005	12.2018	0.1773	4.9640
212	1.5704	0.0228	0.6147	1006	0.2563	0.0037	0.1495
214	2.2702	0.0331	0.8068	1007	0.4156	0.0060	0.1906
217	1.7453	0.0252	0.8573	1101	1.4340	0.0207	0.7365
219	1.4411	0.0210	0.5401	1102	2.4357	0.0355	0.9163
301	1.0307	0.0147	0.6741	1103	1.4763	0.0213	0.7416
302	3.2940	0.0482	1.0582	1104	0.8289	0.0118	0.5224
303	3.0785	0.0447	1.2339	1105	1.0840	0.0156	0.5432
306	1.1483	0.0166	0.5096	1106	0.3998	0.0056	0.3062
307	1.2493	0.0181	0.5851	1108	0.6309	0.0090	0.4058
308	0.7056	0.0100	0.5133	1109	1.9664	0.0283	1.0473
403	2.5748	0.0371	1.3175	1301	0.8432	0.0122	0.3795
502	1.7616	0.0256	0.7104	1303	0.4626	0.0066	0.2568
504	2.8685	0.0413	1.4637	1304	0.0298	0.0004	0.0151
507	3.8754	0.0554	2.3974	1305	0.6793	0.0098	0.3216
508	1.9789	0.0289	0.7110	1401	0.2773	0.0039	0.2530
509	1.4534	0.0213	0.4576	1404	0.9411	0.0135	0.5418
510	3.1185	0.0448	1.7019	1405	0.9450	0.0136	0.5283
511	2.1777	0.0316	0.9172	1407	0.6921	0.0099	0.4435
512	1.7039	0.0245	0.8826	1501	1.1171	0.0162	0.4929
513	1.2157	0.0176	0.5875	1507	0.7015	0.0100	0.4375
514	1.9156	0.0276	1.0069	1701	1.0130	0.0146	0.4769
516	1.9240	0.0277	0.9643	1702	2.4927	0.0365	0.7647
517	2.6371	0.0380	1.3025	1703	1.4341	0.0209	0.4865
518	1.6675	0.0242	0.7124	1704	1.0130	0.0146	0.4769
519	1.8589	0.0269	0.8183	1801	0.6222	0.0090	0.2815
521	0.6041	0.0086	0.3859	1802	1.0043	0.0144	0.5320
601	0.6700	0.0097	0.3297	2002	1.1916	0.0171	0.6379
602	1.1660	0.0171	0.3454	2004	0.7065	0.0101	0.4451

Base Rates Effective January 1, (2018) 2019				Base Rates Effective January 1, (2018) 2019			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>2007</u>	<u>0.9000</u>	<u>0.0128</u>	<u>0.6007</u>	<u>3415</u>	<u>1.0736</u>	<u>0.0155</u>	<u>0.5630</u>
<u>2008</u>	<u>0.4662</u>	<u>0.0067</u>	<u>0.2857</u>	<u>3501</u>	<u>1.4025</u>	<u>0.0201</u>	<u>0.8058</u>
<u>2009</u>	<u>0.4623</u>	<u>0.0066</u>	<u>0.3319</u>	<u>3503</u>	<u>0.3743</u>	<u>0.0053</u>	<u>0.2812</u>
<u>2101</u>	<u>0.6972</u>	<u>0.0098</u>	<u>0.5303</u>	<u>3506</u>	<u>1.1159</u>	<u>0.0161</u>	<u>0.5543</u>
<u>2102</u>	<u>0.9424</u>	<u>0.0135</u>	<u>0.5299</u>	<u>3509</u>	<u>0.4641</u>	<u>0.0066</u>	<u>0.3275</u>
<u>2104</u>	<u>0.3494</u>	<u>0.0048</u>	<u>0.3910</u>	<u>3510</u>	<u>0.4401</u>	<u>0.0062</u>	<u>0.3132</u>
<u>2105</u>	<u>0.8327</u>	<u>0.0119</u>	<u>0.4784</u>	<u>3511</u>	<u>0.9651</u>	<u>0.0138</u>	<u>0.5737</u>
<u>2106</u>	<u>0.6047</u>	<u>0.0086</u>	<u>0.4029</u>	<u>3512</u>	<u>0.4604</u>	<u>0.0065</u>	<u>0.3496</u>
<u>2201</u>	<u>0.3438</u>	<u>0.0049</u>	<u>0.2378</u>	<u>3513</u>	<u>0.6043</u>	<u>0.0085</u>	<u>0.4788</u>
<u>2202</u>	<u>0.8926</u>	<u>0.0128</u>	<u>0.4805</u>	<u>3602</u>	<u>0.1174</u>	<u>0.0017</u>	<u>0.0768</u>
<u>2203</u>	<u>0.5926</u>	<u>0.0084</u>	<u>0.4470</u>	<u>3603</u>	<u>0.6897</u>	<u>0.0098</u>	<u>0.4665</u>
<u>2204</u>	<u>0.3438</u>	<u>0.0049</u>	<u>0.2378</u>	<u>3604</u>	<u>0.8958</u>	<u>0.0127</u>	<u>0.6206</u>
<u>2401</u>	<u>0.6175</u>	<u>0.0089</u>	<u>0.2788</u>	<u>3605</u>	<u>0.7184</u>	<u>0.0103</u>	<u>0.3830</u>
<u>2903</u>	<u>0.8368</u>	<u>0.0118</u>	<u>0.6387</u>	<u>3701</u>	<u>0.4866</u>	<u>0.0070</u>	<u>0.2276</u>
<u>2904</u>	<u>0.9992</u>	<u>0.0144</u>	<u>0.4956</u>	<u>3702</u>	<u>0.5466</u>	<u>0.0078</u>	<u>0.3451</u>
<u>2905</u>	<u>0.6137</u>	<u>0.0088</u>	<u>0.3877</u>	<u>3708</u>	<u>0.8811</u>	<u>0.0126</u>	<u>0.5193</u>
<u>2906</u>	<u>0.5574</u>	<u>0.0079</u>	<u>0.4337</u>	<u>3802</u>	<u>0.2453</u>	<u>0.0035</u>	<u>0.1761</u>
<u>2907</u>	<u>0.5779</u>	<u>0.0082</u>	<u>0.3853</u>	<u>3808</u>	<u>0.5754</u>	<u>0.0083</u>	<u>0.2877</u>
<u>2908</u>	<u>1.2457</u>	<u>0.0176</u>	<u>0.9396</u>	<u>3901</u>	<u>0.1560</u>	<u>0.0022</u>	<u>0.1391</u>
<u>2909</u>	<u>0.4744</u>	<u>0.0067</u>	<u>0.3693</u>	<u>3902</u>	<u>0.5917</u>	<u>0.0084</u>	<u>0.4391</u>
<u>3101</u>	<u>1.0485</u>	<u>0.0151</u>	<u>0.5610</u>	<u>3903</u>	<u>1.2908</u>	<u>0.0182</u>	<u>1.0023</u>
<u>3102</u>	<u>0.4866</u>	<u>0.0070</u>	<u>0.2276</u>	<u>3905</u>	<u>0.1394</u>	<u>0.0019</u>	<u>0.1315</u>
<u>3103</u>	<u>0.5644</u>	<u>0.0081</u>	<u>0.3191</u>	<u>3906</u>	<u>0.5856</u>	<u>0.0083</u>	<u>0.4307</u>
<u>3104</u>	<u>0.8420</u>	<u>0.0121</u>	<u>0.4873</u>	<u>3909</u>	<u>0.3224</u>	<u>0.0045</u>	<u>0.2707</u>
<u>3105</u>	<u>0.8962</u>	<u>0.0127</u>	<u>0.6745</u>	<u>4101</u>	<u>0.3534</u>	<u>0.0051</u>	<u>0.2080</u>
<u>3303</u>	<u>0.4915</u>	<u>0.0070</u>	<u>0.3077</u>	<u>4103</u>	<u>0.7004</u>	<u>0.0100</u>	<u>0.4460</u>
<u>3304</u>	<u>0.7069</u>	<u>0.0100</u>	<u>0.5610</u>	<u>4107</u>	<u>0.2593</u>	<u>0.0037</u>	<u>0.1450</u>
<u>3309</u>	<u>0.5560</u>	<u>0.0079</u>	<u>0.3445</u>	<u>4108</u>	<u>0.1984</u>	<u>0.0028</u>	<u>0.1341</u>
<u>3402</u>	<u>0.6384</u>	<u>0.0091</u>	<u>0.3757</u>	<u>4109</u>	<u>0.2472</u>	<u>0.0035</u>	<u>0.1934</u>
<u>3403</u>	<u>0.2273</u>	<u>0.0033</u>	<u>0.1265</u>	<u>4201</u>	<u>1.1717</u>	<u>0.0171</u>	<u>0.4353</u>
<u>3404</u>	<u>0.5733</u>	<u>0.0082</u>	<u>0.3642</u>	<u>4301</u>	<u>0.9561</u>	<u>0.0134</u>	<u>0.7800</u>
<u>3405</u>	<u>0.4123</u>	<u>0.0059</u>	<u>0.2446</u>	<u>4302</u>	<u>1.0243</u>	<u>0.0145</u>	<u>0.7122</u>
<u>3406</u>	<u>0.3374</u>	<u>0.0048</u>	<u>0.2421</u>	<u>4304</u>	<u>1.1381</u>	<u>0.0159</u>	<u>1.0057</u>
<u>3407</u>	<u>1.0535</u>	<u>0.0152</u>	<u>0.4932</u>	<u>4305</u>	<u>1.7625</u>	<u>0.0256</u>	<u>0.7440</u>
<u>3408</u>	<u>0.2774</u>	<u>0.0040</u>	<u>0.1582</u>	<u>4401</u>	<u>0.5296</u>	<u>0.0075</u>	<u>0.3963</u>
<u>3409</u>	<u>0.1785</u>	<u>0.0025</u>	<u>0.1317</u>	<u>4402</u>	<u>0.9235</u>	<u>0.0132</u>	<u>0.5448</u>
<u>3410</u>	<u>0.1966</u>	<u>0.0028</u>	<u>0.1495</u>	<u>4404</u>	<u>0.5740</u>	<u>0.0082</u>	<u>0.3718</u>
<u>3411</u>	<u>0.7514</u>	<u>0.0109</u>	<u>0.3522</u>	<u>4501</u>	<u>0.2101</u>	<u>0.0030</u>	<u>0.1535</u>
<u>3412</u>	<u>0.9471</u>	<u>0.0137</u>	<u>0.3938</u>	<u>4502</u>	<u>0.0807</u>	<u>0.0012</u>	<u>0.0497</u>
<u>3414</u>	<u>0.9870</u>	<u>0.0142</u>	<u>0.5250</u>	<u>4504</u>	<u>0.1383</u>	<u>0.0019</u>	<u>0.1094</u>

Base Rates Effective January 1, (2018) 2019				Base Rates Effective January 1, (2018) 2019			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>4802</u>	<u>0.4429</u>	<u>0.0062</u>	<u>0.3640</u>	<u>5207</u>	<u>0.1829</u>	<u>0.0026</u>	<u>0.1518</u>
<u>4803</u>	<u>0.3564</u>	<u>0.0049</u>	<u>0.3733</u>	<u>5208</u>	<u>0.9010</u>	<u>0.0129</u>	<u>0.5457</u>
<u>4804</u>	<u>0.6531</u>	<u>0.0091</u>	<u>0.5686</u>	<u>5209</u>	<u>0.8604</u>	<u>0.0124</u>	<u>0.4503</u>
<u>4805</u>	<u>0.4648</u>	<u>0.0065</u>	<u>0.3711</u>	<u>5300</u>	<u>0.1219</u>	<u>0.0017</u>	<u>0.0792</u>
<u>4806</u>	<u>0.1114</u>	<u>0.0015</u>	<u>0.1173</u>	<u>5301</u>	<u>0.0448</u>	<u>0.0006</u>	<u>0.0262</u>
<u>4808</u>	<u>0.5929</u>	<u>0.0084</u>	<u>0.3870</u>	<u>5302</u>	<u>0.0132</u>	<u>0.0002</u>	<u>0.0073</u>
<u>4809</u>	<u>0.4093</u>	<u>0.0058</u>	<u>0.3190</u>	<u>5305</u>	<u>0.0645</u>	<u>0.0009</u>	<u>0.0425</u>
<u>4810</u>	<u>0.2418</u>	<u>0.0034</u>	<u>0.2224</u>	<u>5306</u>	<u>0.0532</u>	<u>0.0008</u>	<u>0.0409</u>
<u>4811</u>	<u>0.4701</u>	<u>0.0065</u>	<u>0.4785</u>	<u>5307</u>	<u>0.9377</u>	<u>0.0136</u>	<u>0.4219</u>
<u>4812</u>	<u>0.5644</u>	<u>0.0080</u>	<u>0.3923</u>	<u>5308</u>	<u>0.1095</u>	<u>0.0015</u>	<u>0.0832</u>
<u>4813</u>	<u>0.2234</u>	<u>0.0031</u>	<u>0.2459</u>	<u>6103</u>	<u>0.1052</u>	<u>0.0015</u>	<u>0.0933</u>
<u>4814</u>	<u>0.1247</u>	<u>0.0017</u>	<u>0.1519</u>	<u>6104</u>	<u>0.5486</u>	<u>0.0078</u>	<u>0.3633</u>
<u>4815</u>	<u>0.2313</u>	<u>0.0031</u>	<u>0.3166</u>	<u>6105</u>	<u>0.5992</u>	<u>0.0086</u>	<u>0.3046</u>
<u>4816</u>	<u>0.3728</u>	<u>0.0051</u>	<u>0.4234</u>	<u>6107</u>	<u>0.1466</u>	<u>0.0020</u>	<u>0.1660</u>
<u>4900</u>	<u>0.2023</u>	<u>0.0029</u>	<u>0.0801</u>	<u>6108</u>	<u>0.3923</u>	<u>0.0055</u>	<u>0.3226</u>
<u>4901</u>	<u>0.0599</u>	<u>0.0009</u>	<u>0.0290</u>	<u>6109</u>	<u>0.1569</u>	<u>0.0023</u>	<u>0.0786</u>
<u>4902</u>	<u>0.1258</u>	<u>0.0018</u>	<u>0.0802</u>	<u>6110</u>	<u>0.7116</u>	<u>0.0102</u>	<u>0.3952</u>
<u>4903</u>	<u>0.2079</u>	<u>0.0030</u>	<u>0.1309</u>	<u>6120</u>	<u>0.4286</u>	<u>0.0062</u>	<u>0.2339</u>
<u>4904</u>	<u>0.0221</u>	<u>0.0003</u>	<u>0.0160</u>	<u>6121</u>	<u>0.4734</u>	<u>0.0068</u>	<u>0.2320</u>
<u>4905</u>	<u>0.4308</u>	<u>0.0060</u>	<u>0.4191</u>	<u>6201</u>	<u>0.5513</u>	<u>0.0079</u>	<u>0.2934</u>
<u>4906</u>	<u>0.1459</u>	<u>0.0021</u>	<u>0.0816</u>	<u>6202</u>	<u>1.0078</u>	<u>0.0144</u>	<u>0.5965</u>
<u>4907</u>	<u>0.0764</u>	<u>0.0011</u>	<u>0.0685</u>	<u>6203</u>	<u>0.1147</u>	<u>0.0016</u>	<u>0.1364</u>
<u>4908</u>	<u>0.1122</u>	<u>0.0016</u>	<u>0.0989</u>	<u>6204</u>	<u>0.1656</u>	<u>0.0023</u>	<u>0.1271</u>
<u>4909</u>	<u>0.0463</u>	<u>0.0006</u>	<u>0.0517</u>	<u>6205</u>	<u>0.2428</u>	<u>0.0034</u>	<u>0.1789</u>
<u>4910</u>	<u>0.6344</u>	<u>0.0091</u>	<u>0.3739</u>	<u>6206</u>	<u>0.2368</u>	<u>0.0034</u>	<u>0.1731</u>
<u>4911</u>	<u>0.0789</u>	<u>0.0011</u>	<u>0.0468</u>	<u>6207</u>	<u>1.4349</u>	<u>0.0204</u>	<u>0.9866</u>
<u>5001</u>	<u>10.9970</u>	<u>0.1592</u>	<u>4.9292</u>	<u>6208</u>	<u>0.2717</u>	<u>0.0038</u>	<u>0.2535</u>
<u>5002</u>	<u>0.8109</u>	<u>0.0117</u>	<u>0.4437</u>	<u>6209</u>	<u>0.3281</u>	<u>0.0046</u>	<u>0.2948</u>
<u>5003</u>	<u>3.0397</u>	<u>0.0443</u>	<u>1.1514</u>	<u>6301</u>	<u>0.1767</u>	<u>0.0026</u>	<u>0.0772</u>
<u>5004</u>	<u>1.0444</u>	<u>0.0149</u>	<u>0.6621</u>	<u>6303</u>	<u>0.0766</u>	<u>0.0011</u>	<u>0.0452</u>
<u>5005</u>	<u>1.2032</u>	<u>0.0174</u>	<u>0.5237</u>	<u>6305</u>	<u>0.1135</u>	<u>0.0016</u>	<u>0.0908</u>
<u>5006</u>	<u>1.9702</u>	<u>0.0287</u>	<u>0.7225</u>	<u>6306</u>	<u>0.4254</u>	<u>0.0061</u>	<u>0.2543</u>
<u>5101</u>	<u>1.4437</u>	<u>0.0210</u>	<u>0.5953</u>	<u>6308</u>	<u>0.0801</u>	<u>0.0011</u>	<u>0.0464</u>
<u>5103</u>	<u>0.9793</u>	<u>0.0139</u>	<u>0.7232</u>	<u>6309</u>	<u>0.2398</u>	<u>0.0034</u>	<u>0.1768</u>
<u>5106</u>	<u>0.9793</u>	<u>0.0139</u>	<u>0.7232</u>	<u>6402</u>	<u>0.3019</u>	<u>0.0042</u>	<u>0.2486</u>
<u>5108</u>	<u>1.0468</u>	<u>0.0150</u>	<u>0.5948</u>	<u>6403</u>	<u>0.1866</u>	<u>0.0026</u>	<u>0.1445</u>
<u>5109</u>	<u>0.8801</u>	<u>0.0128</u>	<u>0.3804</u>	<u>6404</u>	<u>0.3561</u>	<u>0.0050</u>	<u>0.2965</u>
<u>5201</u>	<u>0.4182</u>	<u>0.0060</u>	<u>0.2433</u>	<u>6405</u>	<u>0.7502</u>	<u>0.0108</u>	<u>0.4168</u>
<u>5204</u>	<u>1.3891</u>	<u>0.0202</u>	<u>0.5821</u>	<u>6406</u>	<u>0.1704</u>	<u>0.0024</u>	<u>0.1307</u>
<u>5206</u>	<u>0.6182</u>	<u>0.0089</u>	<u>0.3117</u>	<u>6407</u>	<u>0.3416</u>	<u>0.0048</u>	<u>0.2393</u>

Base Rates Effective January 1, (2018) 2019				Base Rates Effective January 1, (2018) 2019			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6408	0.7010	0.0101	0.4003	6908	0.5008	0.0072	0.2956
6409	0.9059	0.0130	0.4860	6909	0.1529	0.0022	0.1033
6410	0.4217	0.0060	0.2438	7100	0.0411	0.0006	0.0267
6411	0.0761	0.0011	0.0611	7101	0.0357	0.0005	0.0182
6501	0.1298	0.0019	0.0818	7103	1.2786	0.0186	0.5242
6502	0.0373	0.0005	0.0238	7104	0.0337	0.0005	0.0217
6503	0.1081	0.0016	0.0564	7105	0.0248	0.0004	0.0159
6504	0.3735	0.0052	0.3576	7106	0.3300	0.0047	0.2474
6505	0.1629	0.0022	0.1715	7107	0.3097	0.0043	0.3166
6506	0.1660	0.0024	0.1192	7108	0.2293	0.0032	0.1820
6509	0.3234	0.0045	0.2779	7109	0.1455	0.0021	0.1044
6510	0.6680	0.0097	0.3007	7110	0.4996	0.0072	0.2881
6511	0.3490	0.0049	0.2692	7111	0.5866	0.0085	0.2276
6512	0.1239	0.0018	0.0684	7112	1.0276	0.0145	0.7606
6601	0.2341	0.0033	0.1673	7113	0.4894	0.0069	0.3769
6602	0.6506	0.0092	0.5265	7114	0.8853	0.0125	0.7165
6603	0.3912	0.0056	0.2324	7115	0.6155	0.0086	0.5105
6604	0.1062	0.0015	0.0767	7116	0.6020	0.0086	0.3613
6605	0.3405	0.0049	0.2171	7117	1.6310	0.0232	1.0962
6607	0.1511	0.0021	0.1136	7118	2.1539	0.0308	1.3329
6608	0.9453	0.0138	0.2969	7119	2.1123	0.0304	1.1251
6620	4.3208	0.0621	2.3222	7120	7.8824	0.1128	4.7317
6704	0.1559	0.0022	0.1093	7121	7.2755	0.1041	4.3794
6705	0.7418	0.0103	0.7073	7122	0.4736	0.0067	0.3395
6706	0.3074	0.0043	0.2464	7200	2.4920	0.0363	0.9706
6707	12.2291	0.1710	10.7834	7201	2.1380	0.0310	0.9560
6708	9.0596	0.1238	10.5073	7202	0.0376	0.0005	0.0219
6709	0.3070	0.0043	0.2398	7203	0.1198	0.0016	0.1485
6801	1.1649	0.0170	0.3806	7204	0.0000	0.0000	0.0000
6802	1.0784	0.0154	0.6287	7205	0.0000	0.0000	0.0000
6803	1.0463	0.0154	0.2713	7301	0.6481	0.0091	0.5379
6804	0.3576	0.0051	0.2651	7302	1.1060	0.0157	0.7676
6809	5.3182	0.0735	5.4676	7307	0.5980	0.0085	0.4263
6901	0.0000	0.0000	0.0590	7308	0.2933	0.0041	0.2857
6902	1.3180	0.0191	0.6181	7309	0.3095	0.0043	0.2614
6903	9.5845	0.1392	3.9507	7400	2.8658	0.0417	1.1163
6904	1.6496	0.0240	0.6278				
6905	1.1174	0.0162	0.4781				
6906	0.0000	0.0000	0.4521				
6907	1.2181	0.0174	0.7544				

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

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.

Class	Base Rates Effective January 1, (2018) 2019			
	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund
((0540	0.0378	0.0005	0.0165	0.0008
0541	0.0156	0.0002	0.0081	0.0008
0550	0.0559	0.0007	0.0237	0.0008
0551	0.0249	0.0003	0.0106	0.0008))
<u>0540</u>	<u>0.0345</u>	<u>0.0005</u>	<u>0.0154</u>	<u>0.0009</u>
<u>0541</u>	<u>0.0125</u>	<u>0.0002</u>	<u>0.0068</u>	<u>0.0009</u>
<u>0550</u>	<u>0.0523</u>	<u>0.0008</u>	<u>0.0229</u>	<u>0.0009</u>
<u>0551</u>	<u>0.0227</u>	<u>0.0003</u>	<u>0.0102</u>	<u>0.0009</u>

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

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, (~~2018~~) 2019

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund	Composite Rate
((6618	80.00*	2.00*	67.00*	1.00*	150.00*
6625	70.60**	1.02**	72.43**	10.30**	154.35*
6626	0.5994***	0.0091***	0.6885***	0.1030***	1.40*
6627	9.4016****	0.1359****	8.4400****	0.7725****	18.75*))
<u>6618</u>	<u>80.00*</u>	<u>2.00*</u>	<u>67.00*</u>	<u>1.00*</u>	<u>150.00*</u>
<u>6625</u>	<u>68.10**</u>	<u>1.10**</u>	<u>70.99**</u>	<u>11.20**</u>	<u>151.39**</u>
<u>6626</u>	<u>0.6009***</u>	<u>0.0090***</u>	<u>0.6481***</u>	<u>0.1120***</u>	<u>1.37***</u>
<u>6627</u>	<u>9.0993****</u>	<u>0.1467****</u>	<u>8.0340****</u>	<u>0.8400****</u>	<u>18.12****</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 17-24-041, filed 11/30/17, effective 1/1/18)

WAC 296-17-901 Risk classification hazard group table. Effective June 30, 2017.

Risk Classification	Hazard Group
101	9
103	9
104	8
105	4
106	7
107	9
108	9
112	7
201	9
202	9

Risk Classification	Hazard Group
210	9
212	9
214	8
217	8
219	8
301	5
302	9
303	9
306	8
307	7
308	3
403	7
502	8

Risk Classification	Hazard Group	Risk Classification	Hazard Group
504	9	1303	3
507	8	1304	5
508	9	1305	6
509	9	1401	8
510	7	1404	3
511	7	1405	3
512	9	1407	4
513	7	1501	5
514	6	1507	6
516	8	1701	6
517	9	1702	9
518	9	1703	9
519	8	1704	6
521	8	1801	7
540	9	1802	6
541	9	2002	6
550	9	2004	4
551	9	2007	7
601	7	2008	6
602	8	2009	3
603	9	2101	6
604	7	2102	5
606	4	2104	2
607	6	2105	3
608	7	2106	5
701	8	2201	4
803	4	2202	5
901	9	2203	3
1002	7	2204	4
1003	6	2401	4
1004	5	2903	4
1005	8	2904	4
1006	4	2905	5
1007	7	2906	5
1101	5	2907	2
1102	8	2908	7
1103	8	2909	4
1104	3	3101	5
1105	7	3102	6
1106	6	3103	7
1108	6	3104	6
1109	7	3105	5
1301	3	3303	3

Risk Classification	Hazard Group	Risk Classification	Hazard Group
3304	3	4201	6
3309	6	4301	4
3402	6	4302	4
3403	6	4304	5
3404	4	4305	5
3405	3	4401	6
3406	1	4402	1
3407	7	4404	6
3408	1	4501	1
3409	1	4502	5
3410	2	4504	1
3411	6	4601	6
3412	8	4802	6
3414	7	4803	2
3415	9	4804	2
3501	6	4805	2
3503	3	4806	3
3506	5	4808	6
3509	1	4809	3
3510	3	4810	2
3511	6	4811	3
3512	3	4812	3
3513	5	4813	3
3602	3	4814	2
3603	4	4815	1
3604	7	4816	5
3605	5	4900	9
3701	6	4901	5
3702	4	4902	3
3708	5	4903	2
3802	4	4904	2
3808	7	4905	1
3901	1	4906	2
3902	3	4907	3
3903	6	4908	1
3905	1	4909	5
3906	4	4910	6
3909	5	4911	6
4101	5	5001	9
4103	5	5002	4
4107	6	5003	9
4108	3	5004	7
4109	4	5005	9

Risk Classification	Hazard Group	Risk Classification	Hazard Group
5006	9	6309	3
5101	8	6402	1
5103	4	6403	2
5106	3	6404	3
5108	5	6405	5
5109	6	6406	3
5201	4	6407	2
5204	8	6408	7
5206	7	6409	6
5207	3	6410	3
5208	5	6411	1
5209	6	6501	1
5300	1	6502	3
5301	3	6503	4
5302	3	6504	1
5305	2	6505	1
5306	1	6506	2
5307	4	6509	2
5308	1	6510	8
6103	1	6511	3
6104	3	6512	7
6105	5	6601	4
6107	1	6602	4
6108	1	6603	4
6109	4	6604	1
6110	4	6605	2
6120	3	6607	4
6121	7	6608	9
6201	7	6620	1
6202	6	6704	1
6203	1	6705	1
6204	2	6706	4
6205	3	6707	1
6206	2	6708	7
6207	6	6709	3
6208	1	6801	5
6209	4	6802	3
6301	7	6803	9
6303	5	6804	4
(6304	4)	6809	1
6305	1	6901	1
6306	4	6902	9
6308	5	6903	9

Risk Classification	Hazard Group
6904	4
6905	3
6906	1
6907	5
6908	4
6909	3
7100	7
7101	7
7102	3
7103	5
7104	3
7105	3
7106	3
7107	2
7108	5
7109	4
7110	5
7111	3
7112	3
7113	3
7114	5
7115	3
7116	8
7117	5
7118	8
7119	6
7120	9
7121	9
7122	5
7200	6
7201	6
7202	5
7203	1
7301	6
7302	7
7307	4
7308	3
7309	1
7400	5

The following classes have no hazard group assigned to them

- 6618
- 6625

Risk Classification	Hazard Group
6626	
6627	
7204	
7205	

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ~~((51.5))~~ 56.0 mils ~~(((0.0515))~~ 0.056) 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.

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

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 ~~(((three hundred thirty-five thousand)))~~ three hundred fifty-seven thousand two hundred dollars as the claim's initial incurred loss for the claim, with ~~(((two hundred ninety-eight thousand eight hundred)))~~ three hundred twenty-three thousand dollars for accident fund incurred loss and ~~(((thirty-six thousand two hundred)))~~ thirty-four thousand two hundred dollars for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

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

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

(3) Applying the expected loss ratio factors:

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

AMENDATORY SECTION (Amending WSR 17-24-041, filed 11/30/17, effective 1/1/18)

WAC 296-17B-900 Retrospective rating plans standard premium size ranges.

RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES

Effective January 1, ((2018)) 2019

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
1	5,870	6,859	37	116,700	125,099
2	6,860	7,759	38	125,100	133,999
3	7,760	8,729	39	134,000	143,799
4	8,730	9,779	40	143,800	154,199
5	9,780	10,899	41	154,200	165,399
6	10,900	12,099	42	165,400	177,499
7	12,100	13,379	43	177,500	190,499
8	13,380	14,739	44	190,500	204,699
9	14,740	16,179	45	204,700	219,999
10	16,180	17,699	46	220,000	236,699
11	17,700	19,309	47	236,700	254,599
12	19,310	21,039	48	254,600	274,599
13	21,040	22,869	49	274,600	296,199
14	22,870	24,809	50	296,200	319,899
15	24,810	26,839	51	319,900	346,199
16	26,840	29,019	52	346,200	375,399
17	29,020	31,309	53	375,400	408,099
18	31,310	33,749	54	408,100	444,399
19	33,750	36,309	55	444,400	485,299
20	36,310	39,029	56	485,300	531,799
21	39,030	41,939	57	531,800	584,299
22	41,940	45,009	58	584,300	644,899
23	45,010	48,269	59	644,900	714,699
24	48,270	51,739	60	714,700	796,399
25	51,740	55,419	61	796,400	892,299
26	55,420	59,339	62	892,300	1,005,999
27	59,340	63,509	63	1,006,000	1,144,999
28	63,510	67,949	64	1,145,000	1,314,999
29	67,950	72,679	65	1,315,000	1,527,999
30	72,680	77,739	66	1,528,000	1,802,999
31	77,740	83,149	67	1,803,000	2,164,999
32	83,150	88,939	68	2,165,000	2,671,999
33	88,940	95,149	69	2,672,000	3,417,999
34	95,150	101,699	70	3,418,000	4,648,999
35	101,700	108,899	71	4,649,000	6,967,999
36	108,900	116,699	72	6,968,000	12,749,999
			73	12,750,000	32,629,999
			74	32,630,000	and over))
			<u>1</u>	<u>5.430</u>	<u>6.349</u>
			<u>2</u>	<u>6.350</u>	<u>7.179</u>
			<u>3</u>	<u>7.180</u>	<u>8.079</u>
			<u>4</u>	<u>8.080</u>	<u>9.049</u>

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
<u>5</u>	<u>9,050</u>	<u>10,079</u>	<u>47</u>	<u>218,900</u>	<u>235,499</u>
<u>6</u>	<u>10,080</u>	<u>11,189</u>	<u>48</u>	<u>235,500</u>	<u>253,999</u>
<u>7</u>	<u>11,190</u>	<u>12,379</u>	<u>49</u>	<u>254,000</u>	<u>273,999</u>
<u>8</u>	<u>12,380</u>	<u>13,629</u>	<u>50</u>	<u>274,000</u>	<u>295,899</u>
<u>9</u>	<u>13,630</u>	<u>14,969</u>	<u>51</u>	<u>295,900</u>	<u>320,199</u>
<u>10</u>	<u>14,970</u>	<u>16,369</u>	<u>52</u>	<u>320,200</u>	<u>347,199</u>
<u>11</u>	<u>16,370</u>	<u>17,859</u>	<u>53</u>	<u>347,200</u>	<u>377,499</u>
<u>12</u>	<u>17,860</u>	<u>19,459</u>	<u>54</u>	<u>377,500</u>	<u>411,099</u>
<u>13</u>	<u>19,460</u>	<u>21,149</u>	<u>55</u>	<u>411,100</u>	<u>448,899</u>
<u>14</u>	<u>21,150</u>	<u>22,949</u>	<u>56</u>	<u>448,900</u>	<u>491,899</u>
<u>15</u>	<u>22,950</u>	<u>24,829</u>	<u>57</u>	<u>491,900</u>	<u>540,499</u>
<u>16</u>	<u>24,830</u>	<u>26,839</u>	<u>58</u>	<u>540,500</u>	<u>596,499</u>
<u>17</u>	<u>26,840</u>	<u>28,959</u>	<u>59</u>	<u>596,500</u>	<u>661,099</u>
<u>18</u>	<u>28,960</u>	<u>31,219</u>	<u>60</u>	<u>661,100</u>	<u>736,699</u>
<u>19</u>	<u>31,220</u>	<u>33,589</u>	<u>61</u>	<u>736,700</u>	<u>825,399</u>
<u>20</u>	<u>33,590</u>	<u>36,099</u>	<u>62</u>	<u>825,400</u>	<u>930,599</u>
<u>21</u>	<u>36,100</u>	<u>38,789</u>	<u>63</u>	<u>930,600</u>	<u>1,058,999</u>
<u>22</u>	<u>38,790</u>	<u>41,629</u>	<u>64</u>	<u>1,059,000</u>	<u>1,215,999</u>
<u>23</u>	<u>41,630</u>	<u>44,649</u>	<u>65</u>	<u>1,216,000</u>	<u>1,412,999</u>
<u>24</u>	<u>44,650</u>	<u>47,859</u>	<u>66</u>	<u>1,413,000</u>	<u>1,667,999</u>
<u>25</u>	<u>47,860</u>	<u>51,259</u>	<u>67</u>	<u>1,668,000</u>	<u>2,002,999</u>
<u>26</u>	<u>51,260</u>	<u>54,889</u>	<u>68</u>	<u>2,003,000</u>	<u>2,471,999</u>
<u>27</u>	<u>54,890</u>	<u>58,749</u>	<u>69</u>	<u>2,472,000</u>	<u>3,161,999</u>
<u>28</u>	<u>58,750</u>	<u>62,849</u>	<u>70</u>	<u>3,162,000</u>	<u>4,299,999</u>
<u>29</u>	<u>62,850</u>	<u>67,229</u>	<u>71</u>	<u>4,300,000</u>	<u>6,444,999</u>
<u>30</u>	<u>67,230</u>	<u>71,909</u>	<u>72</u>	<u>6,445,000</u>	<u>11,789,999</u>
<u>31</u>	<u>71,910</u>	<u>76,909</u>	<u>73</u>	<u>11,790,000</u>	<u>30,179,999</u>
<u>32</u>	<u>76,910</u>	<u>82,269</u>	<u>74</u>	<u>30,180,000</u>	<u>and over</u>
<u>33</u>	<u>82,270</u>	<u>88,009</u>			
<u>34</u>	<u>88,010</u>	<u>94,069</u>			
<u>35</u>	<u>94,070</u>	<u>100,699</u>			
<u>36</u>	<u>100,700</u>	<u>107,899</u>			
<u>37</u>	<u>107,900</u>	<u>115,699</u>			
<u>38</u>	<u>115,700</u>	<u>123,999</u>			
<u>39</u>	<u>124,000</u>	<u>132,999</u>			
<u>40</u>	<u>133,000</u>	<u>142,599</u>			
<u>41</u>	<u>142,600</u>	<u>152,999</u>			
<u>42</u>	<u>153,000</u>	<u>164,199</u>			
<u>43</u>	<u>164,200</u>	<u>176,199</u>			
<u>44</u>	<u>176,200</u>	<u>189,299</u>			
<u>45</u>	<u>189,300</u>	<u>203,499</u>			
<u>46</u>	<u>203,500</u>	<u>218,899</u>			

WSR 18-24-074

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed November 30, 2018, 11:07 a.m., effective December 31, 2018]

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

Purpose: This rule is necessary to comply with chapter 304, Laws of 2018, passed by the 2018 legislature concerning campaign finance law enforcement and reporting. The effective date of chapter 304, Laws of 2018, was June 7, 2018.

Citation of Rules Affected by this Order: New WAC 390-05-002, 390-05-005, 390-05-007, 390-05-100, 390-05-120, 390-05-192, 390-05-507, 390-16-001, 390-16-043, 390-16-058, 390-16-059, 390-16-325, 390-19-045, 390-37-005, 390-37-042, 390-37-062 and 390-37-071; repealing WAC 390-05-040, 390-05-250, 390-05-295, 390-05-530, 390-12-040, 390-12-050, 390-12-170, 390-12-190, 390-12-200, 390-

16-038, 390-16-313, 390-17-013, 390-18-015, 390-18-060 and 390-37-041; and amending WAC 390-05-010, 390-05-020, 390-05-050, 390-05-190, 390-05-195, 390-05-200, 390-05-205, 390-05-210, 390-05-215, 390-05-220, 390-05-222, 390-05-225, 390-05-235, 390-05-243, 390-05-245, 390-05-255, 390-05-271, 390-05-273, 390-05-274, 390-05-275, 390-05-290, 390-05-300, 390-05-305, 390-05-400, 390-05-500, 390-05-505, 390-05-510, 390-05-515, 390-05-522, 390-05-525, 390-12-010, 390-12-250, 390-16-011, 390-16-011A, 390-16-012, 390-16-031, 390-16-032, 390-16-033, 390-16-034, 390-16-037, 390-16-039, 390-16-041, 390-16-042, 390-16-049, 390-16-050, 390-16-060, 390-16-063, 390-16-071, 390-16-105, 390-16-111, 390-16-115, 390-16-121, 390-16-125, 390-16-205, 390-16-206, 390-16-207, 390-16-226, 390-16-230, 390-16-236, 390-16-238, 390-16-240, 390-16-245, 390-16-307, 390-16-308, 390-16-309, 390-16-310, 390-16-312, 390-16-320, 390-17-015, 390-17-017, 390-17-019, 390-17-030, 390-17-060, 390-17-070, 390-17-071, 390-17-100, 390-17-105, 390-17-110, 390-17-200, 390-17-302, 390-17-303, 390-17-305, 390-17-310, 390-17-400, 390-17-405, 390-17-410, 390-18-010, 390-18-020, 390-18-025, 390-18-027, 390-18-030, 390-18-050, 390-19-010, 390-19-020, 390-19-040, 390-19-050, 390-37-001, 390-37-010, 390-37-020, 390-37-030, 390-37-040, 390-37-060, 390-37-061, 390-37-063, 390-37-070, 390-37-075, 390-37-090, 390-37-100, 390-37-103, 390-37-105, 390-19-120, 390-37-130, 390-37-134, 390-37-136, 390-37-140, 390-19-142, 390-19-143, 390-19-144, 390-19-150, and 390-19-182.

Statutory Authority for Adoption: RCW 42.17A.110(1) and chapter 304, Laws of 2018.

Adopted under notice filed as WSR 18-16-036 on July 25, 2018.

Changes Other than Editing from Proposed to Adopted Version:

WAC 390-05-305, changes reference for electronic filing to be provide[d] to the "PDC" replacing "commission."

WAC 390-16-207, changes reference from "C-3" to "C-4" regarding where an in-kind contribution must be reported.

WAC 390-18-030, changes the exemption of sponsor identification for stickers that are of a comparable size as worn by an individual.

WAC 390-18-050, makes several changes to the inspection of records for commercial advertisers, including:

- Several grammatical changes to the meaning of commercial advertiser;
- Explanation of requirements for commercial advertisers that sells advertising directly to the original purchaser;
- Eliminating reference to specific statutory citations, including reference to the definition of books of account;
- Requiring commercial advertisers to provide books of account and related materials electronically upon request or published on a web site, in addition to in person availability;
- Requiring book of account to include applicable identification for sponsoring entities;
- Requiring book of account to include the initial cost estimate of the advertising if the total cost is not available upon distribution; and

- Requiring book of account for digital communication platforms to include demographic information of the audiences targeted and reached.

WAC 390-37-050, allows for a shorter response period for complaints received within twenty-one days of an election.

WAC 390-37-060, provides for regular reports to the commission on complaints initiated and processed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 17, Amended 121, Repealed 15.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 17, Amended 121, Repealed 15.

Date Adopted: November 29, 2018.

B. G. Sandahl
Deputy Director

NEW SECTION

WAC 390-05-002 Mission and purpose. (1) The public disclosure commission was created by the passage of Initiative 276 in 1972 for the principal purpose of providing the public with accurate information about certain financial affairs of candidates and elected officials, about the financing of election campaigns and the sponsors of political advertising, and about expenditures made in the course of lobbying.

(2) The duties, responsibilities and powers of the commission, and provisions for establishing the commission and appointing the members thereof, are set forth in chapter 42.17A RCW.

NEW SECTION

WAC 390-05-005 Definition—Public disclosure commission. The "public disclosure commission" is the commission appointed by the governor pursuant to RCW 42.17A.100. The public disclosure commission shall hereinafter be referred to as the commission.

NEW SECTION

WAC 390-05-007 Public disclosure commission—Description of organization. (1) The public disclosure commission is a five-member commission appointed by the governor with the consent of the senate. The commission is assisted by a staff consisting of an executive director and such other employees as are necessary.

(2) Mailings to the commission should be addressed as follows: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-010 Purpose. The purpose of these ~~((regulations))~~ rules is to implement the provisions of chapter 42.17A RCW (Initiatives 276 and 134), ~~((hereinafter))~~ referred to throughout as the ~~((Public Disclosure Act or))~~ act, by declaring the policies of the commission, particularly with regard to the interpretation and enforcement of the act by the commission.

AMENDATORY SECTION (Amending Order 62, filed 8/26/75)

WAC 390-05-020 General administrative policy. Whereas the ~~((Public Disclosure))~~ act was adopted by the people for the general betterment of local and state government, it shall be the policy of the ~~((public disclosure))~~ commission to carry out and effectuate that policy to the full extent of its delegated powers, through efficient administration, appropriate regulations and rulings, and through strict, vigorous, uniform and fair enforcement of the provisions of the act.

AMENDATORY SECTION (Amending Order 77, filed 6/2/76)

WAC 390-05-050 Commission status under SEPA. (1) The public disclosure commission recognizes its responsibilities under RCW 43.21C.120 to adopt rules pertaining to the State Environmental Policy Act (SEPA) as that act relates to activities under the commission's jurisdiction. The commission has reviewed SEPA and its own programs and concludes that all actions which the commission is authorized to undertake are exempt ~~((by virtue of WAC 197-10-040(2), 197-10-150 through 197-10-190))~~. The commission, as an administrative agency, has statutory authority for information gathering, recordkeeping, and investigative and hearing procedures with respect to elected officials, candidates, political committees, and persons and entities involved in lobbying activities. None of these activities are potentially subject to the environmental impact statement requirements of RCW 43.21C.030.

(2) In accordance with WAC ~~((197-10-800))~~ 197-11-904(4), the commission adopts this statement in compliance with the requirements of chapter 43.21C RCW.

NEW SECTION

WAC 390-05-100 Public disclosure commission—Organization and structure—Officers—Terms. The officers of the public disclosure commission shall be chair and vice chair. Their terms shall be one year or until a successor is elected. Elections to fill commission offices shall be held annually at the regular June meeting of the commission, or at a special election called for that purpose between May 1st and June 30th of the calendar year in which the new terms

will commence. Vacancies in said offices may be filled by a vote of the commission at any regular meeting or any special meeting called for that purpose.

NEW SECTION

WAC 390-05-120 Public disclosure commission—Role of the executive director. (1) The executive director acts as the commission's chief administrative officer and is accountable to the commission for agency administration. In addition, the executive director will:

(a) Act as the appointing authority for agency staff, including the authority to hire, set salaries, promote, assign work, evaluate, take corrective action and, where appropriate, terminate staff.

(b) Propose agency budgets for commission approval and oversee fiscal management of the agency.

(c) Exercise such other management oversight, decision-making and administrative action to provide timely and meaningful public access to accurate information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to ensure compliance with and equitable enforcement of the act.

(d) Determine when appropriate and authorize enforcement alternatives set out in chapter 390-37 WAC to resolve complaints filed with the commission.

(e) Act as liaison between the commission and other public agencies.

(f) Research, develop, and draft policy positions, administrative rules, interpretations and advisory options for presentation to the commission.

(g) Enter into contracts and agreements on behalf of the commission.

(2) The executive director may delegate authority to subordinates, consistent with agency delegation of authority protocols as adopted by the commission, to act for the executive director as needed and appropriate.

(3) The executive director may perform other duties as authorized by chapter 42.17A RCW, Title 390 WAC, or as prescribed or delegated by the commission.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-190 ~~((Agent—))~~Definition—Agent. "Agent," as that term is used in chapter 42.17A RCW and Title 390 WAC, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:

(1) Is authorized by another to act on ~~((his or her))~~ their behalf; or

(2) Represents and acts for another with the authority or consent of the person represented~~((or~~

~~((3) Acts for or in place of another by authority from him or her)).~~

NEW SECTION

WAC 390-05-192 Definition—Aggregate. The term "aggregate," as used in the act and in these rules, means, for purposes of:

(1) A candidate for state or local office subject to contribution limits under RCW 42.17A.405, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the election cycle;

(2) A candidate for local office not subject to contribution limits under RCW 42.17A.405 or judicial office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the candidate's campaign;

(3) A bona fide political party or caucus political committee, the total amount of contributions received by the committee from January 1st of the current calendar year;

(4) A political committee, the total amount of contributions received by the committee from the date of organization;

(5) A continuing political committee, the total amount of contributions received by the committee from January 1st of the current calendar year;

(6) A contributor, the total amount of all contributions received from a person, and any person affiliated with the person, to any one candidate or political committee;

(7) A person making independent expenditures with respect to a candidate and the reporting and disclosure provisions of RCW 42.17A.255, 42.17A.630, and 42.17A.320, an independent expenditure made by a person in support of a candidate that shall be added to any independent expenditure by the same person in opposition to one or more of the candidate's opponents; and, for purposes of a person making independent expenditures with respect to a ballot proposition, an independent expenditure made by a person in support of a ballot proposition that shall be added to any independent expenditure by the same person in opposition to the ballot proposition or in support of an alternative ballot proposition;

(8) The special reports required by RCW 42.17A.265 and 42.17A.625, the total amount of contributions received or expenditures made by a single person or entity during the special reporting period;

(9) An employer of a registered lobbyist, the total amount of all contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a statewide ballot proposition during the preceding calendar year;

(10) The sponsor of a grass roots lobbying campaign, the total amount of contributions received since the beginning of the campaign and the total amount of expenditures made during the time frames specified in RCW 42.17A.640(1);

(11) RCW 42.17A.570, the total amount of all time and demand deposits in each financial institution on December 31st;

(12) RCW 42.17A.755, the total amount of monetary penalty that the commission may impose for multiple violations of the act.

AMENDATORY SECTION (Amending WSR 17-01-159, filed 12/21/16, effective 1/21/17)

WAC 390-05-195 (~~(Application of RCW 42.17A.140~~ **(4-))** Date of receipt of mailed items. (1) While the com-

mission strongly encourages the use of electronic filing to promote full and timely disclosure, in accordance with RCW 42.17A.140~~((1-))~~, the date of receipt of any properly addressed mailed application, report, statement, notice, ~~((or))~~ payment, or other item required under the provisions of chapter 42.17A RCW is the date shown by the post office cancellation mark on the envelope. ~~((The commission frequently receives mailed items that do not bear a post office cancellation mark.))~~

(2) The commission frequently receives mailed items that do not bear a post office cancellation mark. Any ~~((report))~~ item mailed to the commission under the provisions of chapter 42.17A RCW is presumed to be filed timely if received within five business days of the due date provided for in chapter 42.17A RCW.

(3) A mailed ~~((report))~~ item may not be substituted for ~~((a report))~~ an item required to be electronically filed under the provisions of chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-200 Definition—Candidates for public office—Time of filing. The following circumstances shall give rise to presumption that an individual is a "candidate" as that term is defined in RCW 42.17A.005~~((7))~~:

(1) The existence of a political committee promoting the election of such individual for public office with the knowledge and consent of that individual; or

(2) A public declaration of candidacy by an individual even if the candidacy is conditioned on a future occurrence; or

(3) Meeting the requirements set forth in WAC 390-16-230 ~~((1) or (2))~~.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-205 Definition ~~((of term ""))~~ Consumable. ~~((In RCW 42.17A.005 (13)(a), the definition of contribution excludes the actual cost of consumables furnished at a ticketed fund-raising event. This exclusion applies to the amount paid for food, beverages, preparation, catering or entertainment furnished at the event. For ((the)) this purpose of RCW 42.17A.005 ((13)(a)(iv)) the term "consumable" includes the amount paid for food, beverages, event preparation, catering or entertainment cost furnished at the event.~~

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-210 Definition—Contribution. (1) The term "contribution" as defined in ~~((RCW 42.17A.005))~~ the act and these rules shall be deemed to include, among other things, furnishing services ~~((or))~~, property or rights on ~~((a discriminatory))~~ an unequal basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution ~~((of goods or services))~~ is provided, it shall be reported at its fair market value per WAC 390-05-235 and, pursuant to RCW 42.17A.405 and 42.17A.410, the

fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

(2) **Duplicating political advertising.** The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, digital, or other form of political advertising prepared by a candidate, a political committee, or the authorized agent of a candidate or political committee is a contribution to the candidate or political committee.

(3) **Consulting with a state, local or judicial candidate.** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent when:

(a) Any arrangement, coordination or direction by the candidate, the candidate's authorized committee or agent is given to the expending person prior to the publication, distribution (digital or otherwise), display or broadcast, of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that candidate or opposing one or more of that candidate's opponents; or

(b) An expenditure is made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's authorized committee or agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the candidate's authorized committee; or

(d) ~~(The)~~ An expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, the candidate's authorized committee or agent. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(4) **Consulting with a caucus political committee.** An expenditure(;;) that does not qualify as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, is a contribution to such caucus political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, when:

(a) Any arrangement, coordination or direction by the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus is given

to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that caucus political committee or one or more of the candidates supported by it or opposing one or more of those candidates' opponents; or

(b) An expenditure is made based on information about the caucus political committee's plans, projects or needs provided to the expending person by the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the caucus political committee or another political committee financed, controlled or operated by the caucus; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(5) **Consulting with a bona fide political party.** An expenditure(;;) that does not qualify as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party or its agent, is a contribution to such bona fide political party. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party, when:

(a) Any arrangement, coordination or direction by the bona fide political party, its agent or a political committee financed, controlled or operated by the party is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that bona fide political party or one or more of the candidates supported by it or opposing one or more of those candidates' opponents; or

(b) An expenditure is made based on information about the bona fide political party's plans, projects or needs provided to the expending person by the bona fide political party or its agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the bona fide political party or a political committee financed, controlled or operated by the bona fide political party; or

(d) ~~((The))~~ An expenditure is made by, through, or in consultation with, any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the bona fide political party, its agent or a political committee financed, controlled or operated by the bona fide political party. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of the bona fide political party, a political committee financed, controlled, or operated by a bona fide political party or their agents, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(6) **Consulting with other political committees.** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee is a contribution to such political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee when:

(a) Any arrangement, coordination or direction by the political committee, its agent or another political committee financed, controlled or operated by the committee is given to the expending person prior to the publication, distribution (digital or otherwise), display or broadcast of political advertising or prior to an expenditure being made by that person benefiting that political committee; or

(b) An expenditure is made based on information about the political committee's plans, projects or needs provided to the expending person by the political committee or its agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the political committee or another political committee financed, controlled or operated by the committee; or

(d) An expenditure is made by, through, or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the political committee, its agent or another political committee financed, controlled or operated by the committee. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-215 Receipt of a campaign contribution. "Receipt" of a campaign contribution, as that term is used in (~~chapter 42.17A RCW~~) the act and in these rules, shall be deemed to occur (~~at the earliest of the following~~) as follows:

(1) For online or credit card contributions, the contribution is considered received at the time the transfer is made from the merchant account to a candidate or political committee account, except that a contribution made to a candidate who is a state official or legislator outside the restriction period established in RCW 42.17A.560, but transferred to the candidate's account within the restricted period, is considered received outside of the restriction period.

(2) For all other contributions, receipt shall be deemed to occur at the earliest date of the following:

(a) The date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or (~~similarly situated campaign official~~) agent obtains possession of the contribution(~~(5)~~); or

~~((2))~~ (b) The date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or (~~similarly situated campaign official~~) agent is informed of the contribution, or becomes aware that the campaign, or in the case of an earmarked contribution, the intermediary or conduit, has possession of the contribution(~~(5)~~); or

~~((3))~~ (c) The date that the contribution becomes available for use by the candidate or committee.

AMENDATORY SECTION (Amending WSR 85-15-020, filed 7/9/85)

WAC 390-05-220 Definition—Consideration. (~~The term~~) "Consideration" as that term is used in the act and in these rules shall be deemed to include anything of value promised or paid or transferred in return for a person's property or services rendered or to be rendered, including but not limited to reimbursement for traveling or other expenses.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-222 Definition—Domestic partner(~~—Definition~~). "Domestic partner" or "domestic partners," as those terms are used in (~~chapter 42.17A RCW and Title 390 WAC~~) the act and in these rules, means "state registered domestic partners" as defined in RCW 26.60.020(~~((4))~~).

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-225 Registered voters—Count or number of. In accordance with RCW 29A.08.130, (~~for purposes of chapter 42.17A RCW and Title 390 WAC,~~) the count or number of registered voters, as used in the act or in these rules, shall not include inactive voters.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-235 Definition—Fair market value. (1) "Fair market value" in this act and in these rules means the amount of money which a purchaser willing, but not obliged, to buy would pay a seller willing, but not obligated, to sell, for property, goods or services.

(2)(a) In reference to real property "fair market value" or "value," (~~when used~~) in the act (~~(or)~~) and in these rules is

the amount in cash which a well-informed buyer or lessee, willing but not obligated to buy or lease that property, would pay, and which a well-informed seller, or lessor, willing but not obligated to sell or lease it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

(b) If, in determining "fair market value" or "value," the amount a buyer would pay and the amount a seller would accept would be based on varying standards, then the fair market value of the contribution shall be based on the amount the contributor would ordinarily accept for selling the property, rather than the amount the candidate or political committee would ordinarily pay. For example, if a contributor who sells property in the ordinary course of ~~((this or her))~~ their business at a wholesale price donates such property to a candidate or political committee who would ordinarily pay the retail price as a consumer, then the fair market value of the contribution shall be the wholesale price.

~~((2))~~ (3)(a) Any person who donates an item for sale, raffle, auction or awarding at a fund-raising event is making a contribution to the recipient candidate or political committee in an amount equal to the fair market value of the item donated.

(b) Any person who buys a donated item makes a contribution equal in value to the difference between the purchase or auction price and the fair market value of the donated item.

(c) If the purchase or auction price is the same as the fair market value, the buyer's contribution is zero. If the purchase or auction price is less than the fair market value, the buyer's contribution is zero and the donor's contribution is reduced to the amount of the sale or auction price.

~~((3))~~ (4) The value of any in-kind contribution donated to any candidate or political committee subject to contribution limits pursuant to RCW 42.17A.405 or 42.17A.410 shall not, when combined with other contributions to that candidate or political committee, exceed the donor's applicable contribution limit as set forth in RCW 42.17A.405 or 42.17A.410. The value of an in-kind contribution donated as an exempt contribution to a bona fide political party committee or other political committee eligible to receive exempt funds is only subject to the limit imposed by RCW 42.17A.420.

~~((4))~~ (5)(a) Except as provided in WAC 390-16-207, if a person permits a candidate, a candidate's authorized committee or a political committee to use the telephones of a business, union, organization or other entity without charge for the purpose of making local campaign-related calls, the telephone usage is an in-kind contribution and shall be valued at its fair market value or, if no fair market value is ascertainable, \$1 per telephone per calendar day or part thereof.

(b) If toll calls are permitted, the toll charges are also an in-kind contribution unless the candidate, the candidate's authorized committee or the political committee reimburses the person in full within ~~((30))~~ thirty days of making the toll calls.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-243 Ministerial functions by persons holding administrative offices. ~~((For the purposes of RCW 42.17A.005 and 42.17A.205:))~~ As used in the act and in these rules:

(1) "Ministerial functions" means the activities and duties of an administrative office that satisfy RCW 42.17A.005 ~~((13) and (33))~~ and require:

- (a) Data entry for a candidate or political committee;
- (b) Filing reports that have been reviewed and approved for filing by the candidate or political committee officer;
- (c) Maintaining campaign finance and other similar records including making them available for inspection upon direction by the candidate or political committee officer;
- (d) Writing and depositing checks at the direction of the candidate or political committee officer;
- (e) Communications related to ministerial functions (to respond to questions about data entry, to discuss or review a candidate or committee's bank account balance, to schedule times to receive contribution checks at events, to review reports with the candidate or committee prior to filing, and similar communications) but do not involve attending strategy or campaign planning meetings or portions of meetings with candidates or political committee officers or their agents; or
- (f) Other similar campaign finance activities and duties.

(2) "Administrative office" means a person performing campaign finance related clerical support or recordkeeping activities on behalf of candidates and political committees, when, for the purposes of RCW 42.17A.005 ~~((13) and (33))~~, those activities:

- (a) Are directed by the candidate or political committee officer and require performance of activities by the administrative office in a prescribed manner;
- (b) Are approved by the candidate or political committee officer for whom the services are performed;
- (c) Do not involve the exercise of personal judgment or discretion, including authorizing expenditures;
- (d) Do not involve the disclosure, except as required by law, of any information regarding a candidate or committee's plans, projects, activities or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available, or otherwise engage in activity that is a contribution; and
- (e) Do not involve the performance of functions other than ministerial functions.

(3) A person performing only ministerial functions on behalf of two or more candidates or political committees is not:

- (a) Considered an agent so long as ~~((he or she has))~~ they have no authority to authorize expenditures or make decisions on behalf of the candidate or committee; or
- (b) An officer pursuant to WAC 390-05-245. However, that person's name, address and title must be reported on the C-1 or C-1pc registration form.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-245 Definition—Officer of a candidate's committee or of a political committee~~((Definition)).~~ ~~((For purposes of chapter 42.17A RCW and Title 390 WAC))~~ As used in the act and in these rules, "officer of a candidate's authorized committee," or "officer of a candidate's committee" or "officer of a political committee" includes the following persons: Any person designated by the committee as an officer on the C-1 or C-1pc registration statement and any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee.

AMENDATORY SECTION (Amending WSR 17-03-028, filed 1/6/17, effective 2/6/17)

WAC 390-05-255 Definition ((of terms—))—"Day" and "business day." (1) "Day" as that term is used in ~~((chapter 42.17A RCW and Title 390 WAC))~~ the act and in these rules, unless otherwise specified, means a calendar day, including Saturday, Sunday and legal holidays.

(2) "Business day" as used in ~~((chapter 42.17A RCW and Title 390 WAC))~~ the act and in these rules, means a calendar day, excluding Saturday, Sunday and legal holidays defined in WAC 357-31-005.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-271 General applications of RCW 42.17A.555. (1) RCW 42.17A.555 does not restrict the right of any individual to express ~~((his or her))~~ their own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency.

(2) RCW 42.17A.555 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-273 Definition ((of))—Normal and regular conduct. Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17A.555, means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-274 Party affiliation, party preference, etc. (1) "Party affiliation," as ~~((that term is used in chapter 42.17A RCW and Title 390 WAC))~~ used in the act and in these rules, means the candidate's party preference as expressed on ~~((his or her))~~ their declaration of candidacy. A candidate's preference does not imply that the candidate is nominated or endorsed by that party, or that the party approves of or associates with that candidate.

(2) A reference to "political party affiliation," "political party," or "party" on disclosure forms adopted by the commission and in Title 390 WAC refers to the candidate's self-identified party preference.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-275 Definition—Party organization. "Party organization," as that term is used in ~~((chapter 42.17A RCW and Title 390 WAC))~~ the act and in these rules, means a bona fide political party as defined in RCW 42.17A.005 and applied in WAC ~~((390-05-196))~~ 390-05-210.

AMENDATORY SECTION (Amending WSR 13-12-017, filed 5/24/13, effective 6/24/13)

WAC 390-05-290 Political advertising definitions. (1) "Mass communication," as that term is used in the act and in these rules, means a communication, digital or otherwise, intended to reach a large audience through any of the following methods:

- (a) Advertising displays, newspaper advertising, billboards, signs;
- (b) Brochures, articles, tabloids, fliers, periodicals;
- (c) Radio or television presentations;
- (d) Sample ballots (see WAC 390-17-030);
- (e) Online or other electronic transmission methods;
- (f) One hundred or more letters, emails, text messages or similar communications that are identical or substantially similar in nature, directed to specific recipients, and sent within a thirty-day period; and
- (g) Other mass means of disseminating political advertising, unless excluded by chapter 42.17A RCW or ~~((commission rule))~~ Title 390 WAC.

(2) "Online" means disseminating through a network of interconnected computers or devices, such as the internet or similar systems enabling electronic dissemination or exchange of communications. Examples include, but are not limited to, internet web sites, ~~((web-based social media (such as Facebook, Twitter, and other electronic publishing platforms);))~~ social media and other digital platforms, emails, and text messages.

(3) "Political advertising" is defined under RCW 42.17A.005 to include a mass communication used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

(4) Political advertising does not include letters to the editor, news or feature articles, editorial comment or replies

thereto in a regularly published newspaper, periodical, or on a radio or television broadcast where payment for the space or time is not normally required.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-300 Suspension of reporting requirements. From the effective date of RCW 42.17A.135, the following reporting requirements are suspended in jurisdictions with ~~((less))~~ fewer than one thousand registered voters as of the date of the most recent general election in the jurisdiction:

(1) The F-1 financial reports of public officials required by RCW 42.17A.700 and WAC 390-24-010, 390-24-020 and 390-24-025;

(2) The L-5 public agency lobbying reports required by RCW 42.17A.635 and WAC 390-20-120;

(3) The C-1 through C-4 campaign finance reports required for ballot issues by RCW 42.17A.205 through 42.17A.240 and 42.17A.425, and WAC 390-16-011, 390-16-031, 390-16-036, 390-16-041, and independent campaign expenditure reports (C-6) required for ballot issues by RCW 42.17A.255 and WAC 390-16-050: Provided, that reporting requirements shall be reinstated by order of the commission at its next regular or special meeting if:

(a) A certified "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters of the jurisdiction as of the date of the most recent general election in the jurisdiction is filed with the commission; or

(b) The jurisdiction has by ordinance, resolution or other official action petitioned the commission to void the suspension with respect to elected officials, candidates and ballot propositions for the jurisdiction.

If reporting requirements are reinstated by petition, the commission shall promptly notify all known affected candidates and incumbent elected officials of their duty to file disclosure reports. Such individuals and committees shall be

ordered to file the required statements within thirty days of the commission order.

AMENDATORY SECTION (Amending WSR 92-05-080, filed 2/18/92, effective 3/20/92)

WAC 390-05-305 Petition for disclosure—Form. (1)

A petition for disclosure shall be filed electronically using the means provided by the PDC, or shall be legible, on 8-1/2 x 11" paper, and shall include the following information:

(a) The name of the jurisdiction;

(b) A request that public disclosure be required;

(c) The names and addresses of all known candidates and ballot proposition committees in the jurisdiction who will be required to report;

(d) The legibly printed name and address and the legal signature of at least fifteen percent of the number of registered voters in the jurisdiction as of the date of the most recent general election in the jurisdiction.

(2) The petition shall be verified and certified by the auditor or elections officer of the county or counties in which the jurisdiction is located. The signatures shall be verified by comparing the signatures on the petition to the signatures on the voter registration roll. The auditor shall place his seal on each verified page of the petition in order to certify it to the commission.

(3) A suggested form for petition is:

"We, the undersigned citizens and registered voters of (name of jurisdiction), request that the Public Disclosure Commission order disclosure in (name of jurisdiction)."

(4) A suggested form for the petition of a jurisdiction by ordinance, resolution or other official action is:

"We, the (governing board) of (name of jurisdiction) request that the Public Disclosure Commission order disclosure in (name of jurisdiction). This request is made pursuant to RCW ~~((42.17.405))~~ 42.17A.135 and WAC 390-05-305~~((4))~~."

AMENDATORY SECTION (Amending WSR 16-04-080, filed 1/29/16, effective 2/29/16)

WAC 390-05-400 Changes in dollar amounts. Pursuant to the requirement in RCW 42.17A.125 that the commission biennially revise the dollar amounts found in Initiative 134 and RCW 42.17A.410 to reflect changes in economic conditions, the ~~((following revisions))~~ current amounts are ~~((made))~~:

Code Section	Subject Matter	((Amount Enacted or Last Revised))	((2016 Revision))
		<u>Previous</u>	<u>Current</u>
.005	Definition of "Independent Expenditure"	\$950	(((\$1,000)))*
.445(3)	Reimbursement of candidate for loan to own campaign	\$5,500	\$6,000
.630(1)	Report—		
	Applicability of provisions to		
	Persons who made contributions	\$19,000	\$20,000
	Persons who made independent expenditures	\$950	\$1,000

Code Section	Subject Matter	((Amount Enacted or Last Revised))	
		Previous	(2016 Revision) Current
.405(2)	Contribution Limits—		
	Candidates for state leg. office	\$950	\$1,000
	Candidates for county office	\$950	\$1,000
	Candidates for other state office	\$1,900	\$2,000
	Candidates for special purpose districts	\$1,900	\$2,000
	Candidates for city council office	\$950	\$1,000
	Candidates for mayoral office	\$950	\$1,000
	Candidates for school board office	\$950	\$1,000
	Candidates for hospital district	\$950	\$1,000
.405(3)	Contribution Limits—		
	State official up for recall or pol comm. supporting recall—		
	State Legislative Office	\$950	\$1,000
	Other State Office	\$1,900	\$2,000
.405(4)	Contribution Limits—		
	Contributions made by political parties and caucus committees		
	State parties and caucus committees	.95 per voter	\$1.00 per registered voter
	County and leg. district parties	.50 per voter	.50 per registered voter
	Limit for all county and leg. district parties to a candidate	.50 per voter	.50 per registered voter
.405(5)	Contribution Limits—		
	Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall		
	State parties and caucuses	.95 per voter	\$1.00 per registered voter
	County and leg. district parties	.50 per voter	.50 per registered voter
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	.50 per voter	.50 per registered voter
.405(7)	Limits on contributions to political parties and caucus committees		
	To caucus committee	\$950	\$1,000
	To political party	\$5,000	\$5,500
.410(1)	Candidates for judicial office	\$1,900	\$2,000
.475	Contribution must be made by written instrument	\$95	\$100

* Chapter 304, Laws of 2018 amended the definition of independent expenditure, changing the dollar-threshold element of that definition to one-half the contribution limit from an individual per election.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-500 Definition—Debate or forum. "Debate or forum" means qualifying events under RCW 42.17A.005 (~~((19)(b)(ii))~~) where candidates are invited based upon predefined objective criteria, including where only one candidate in an uncontested race participates.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-505 Electioneering communication exclusions. (1) "Electioneering communication," as used in the act and in these rules, does not include communications listed in RCW 42.17A.005 (~~((19))~~)(22)(b).

(2) "Electioneering communication" also does not include:

(a) Letters to the editor or comparable communications to news media described in RCW 42.17A.005 (~~((19))~~)(22)(b)(iii);

(b) Communications conveyed through web sites, emails, telephone calls, or in-person leaflet/pamphlet drops at street addresses; or

(c) Communications conveyed in a manner not specified in RCW 42.17A.005(~~((19))~~)(22).

NEW SECTION

WAC 390-05-507 Definition—Funding sources for electioneering communications. (1) "Source of funds" means a person who contributes anything of value for the communication, including a loan, gift, advance, payment, pledge, or personal or professional services for less than full consideration.

(2) Goods, services, property or rights other than money or its equivalent are deemed to have a monetary value equivalent to their fair market value.

(3) "Source of funds" does not include those things of value specified in RCW 42.17A.005 (16)(a)(i).

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

WAC 390-05-510 Definition—General treasury funds. "General treasury funds," as used in the act and in these rules, means a collective designation of all of the assets of an organization which furnish the means for defraying the necessary, usual, ordinary running and incidental expenses of an organization. General treasury funds are typically not derived from a special solicitation, effort, or receipt, but derive from regular, planned for, and ongoing revenue streams or sources.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-515 Member. In determining whether a communication is to a "member" as that term is used in RCW 42.17A.005 and 42.17A.255, and for the purposes of RCW 42.17A.405, 42.17A.410 and 42.17A.420:

(1) The commission will examine whether the organization is a legitimate membership organization with common interest goals and objectives, taking into account such factors as the organization's permanence, structure and whether it has formal organizing documents, membership criteria and services it provides its members.

(2) With respect to the status of members of an organization, the commission will examine whether a valid, active relationship exists between the organization and its members or classes of members for purposes other than influencing the outcome of an election, taking into account such factors as whether the members affirmatively accept membership and the rights and obligations conferred on members by the organization including whether members have the right to vote for:

(a) Election of directors or officers; or

(b) Changes to the articles or bylaws; or

(c) The disposition of all or substantially all of the assets of the organization or on a merger or dissolution.

A required payment of a predetermined amount of membership dues is also a factor; however, an organization will not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."

(3) If a membership organization and its members satisfy the criteria regarding "membership associations" and "members" established by the Federal Election Commission (FEC) in 11 C.F.R. Sec. 100.134 (e)-(g), the commission will consider the organization and its members as qualifying for the exemption in RCW 42.17A.005 (~~((13))~~)(16)(b)(v) and (~~((19))~~)(22)(b)(vii), unless the communication was not sent primarily to members. However, these FEC criteria are not the only indicators of legitimate membership organizations or valid members, a determination that will be made by the commission on a case-by-case basis as necessary.

(4) In determining whether an internal political communication is "primarily" limited to the members of an organization or political committee, the commission will consider whether any distribution to nonmembers is incidental and isolated.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-522 Definition—Place of business(~~—Definition~~). "A place of business in the state of Washington" as that term is used in RCW 42.17A.250 (1)(f) means the business is headquartered in or has a primary place of business in Washington state.

For example, if a national corporation headquartered outside of Washington state has retail outlets in Washington and that national corporation contributes two hundred fifty dollars to an out-of-state political committee that is subject to reporting under RCW 42.17A.250, the out-of-state committee is not required to disclose the national corporation as a contributor under RCW 42.17A.250 (1)(f).

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

WAC 390-05-525 Definition—Public service announcement. (1) "Public service announcement," as used in the act and in these rules, means a communication that meets all the following criteria. The communication is:

- (a) Designed to benefit or promote the community's health, safety or welfare or nonprofit community events;
- (b) Not selling a product or service;
- (c) Sponsored by an organization with a history of routinely providing the community such outreach public service messages in the service area of the organization;
- (d) Of primary interest to the general public and is not targeted to reach only voters or voters in a specific jurisdiction;
- (e) Not coordinated with or controlled or paid for by a candidate's authorized committee or political committee;
- (f) Subject to the policies for public service announcements of the entity broadcasting, transmitting, mailing, erecting, distributing or otherwise publishing the communication including policies regarding length, timing and manner of distribution; and
- (g) One for which the arrangements to include a reference or depiction of the candidate or candidates in the communication were made at least six months before the candidate became a candidate.

(2) Examples of public service announcements include but are not limited to communications regarding nonprofit community events, outreach or awareness activities (~~such as: Breast cancer screening, heart disease, domestic violence, organ donation, emergency or other disaster relief for organizations such as the Red Cross, programs designed to encourage reading by school children, childhood safety, fund drives for charitable programs such as United Way, and similar matters~~).

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 390-05-040 Public Disclosure Act—Violation of other law.
- WAC 390-05-250 Definition—Public disclosure commission.
- WAC 390-05-295 Definition—Promise or promise to pay.
- WAC 390-05-530 Funding sources for electioneering communications.

AMENDATORY SECTION (Amending WSR 06-07-001, filed 3/1/06, effective 4/1/06)

WAC 390-12-010 Public disclosure commission—((Regular)) Meetings. (1) Pursuant to RCW 42.30.075, regular meetings of the public disclosure commission are scheduled to be held monthly on the fourth Thursday of each month at ~~((9:00))~~ 9:30 a.m. unless a different time is noted on an agenda, except November and December when a combined meeting ~~((is))~~ may be scheduled to be held during the

first or second week of December. ~~((The meetings shall be held in the commission meeting room, second floor, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington, unless circumstances require relocating to another site. If relocating is required, the meeting shall be held at a place designated by the executive director of the commission.))~~

(2) Commissioners meet monthly to consider and act on policy matters, enforcement matters, rule makings and interpretations, adjudicative proceedings, modification requests, agency management, budget, legislative matters, public and stakeholder input, education and assistance, and other matters consistent with its oversight responsibilities to ensure the agency's mission is fulfilled and to ensure compliance with, and equitable and effective enforcement of, the act. All meetings are conducted in accordance with the Open Public Meetings Act (chapter 42.30 RCW) the Administrative Procedure Act (chapter 34.05 RCW), and Sturgis Standard Code of Parliamentary Procedure. The passage of any motion adopting, amending or repealing any rule, or recommending changes to the act shall require a majority vote of the members of the commission as distinguished from a quorum of the commissioners.

AMENDATORY SECTION (Amending WSR 17-03-028, filed 1/6/17, effective 2/6/17)

WAC 390-12-250 Declaratory order—Petition requisites—Consideration—Disposition. (1) Any person may submit a petition for a declaratory order pursuant to RCW 34.05.240 in any form so long as it:

- (a) Clearly states the question the declaratory order is to answer; and
 - (b) Provides a statement of the facts which raise the question.
- (2) The executive director may conduct an independent investigation in order to fully develop the relevant facts.
- (3) The executive director will present the petition to the commission at the first meeting when it is practical to do so and will provide the petitioner with at least five business days notice of the time and place of such meeting. Such notice may be waived by the petitioner.

(4) The petitioner may present additional material and/or argument at any time prior to the issuance of the declaratory order.

(5) The commission may issue either a binding or a non-binding order or decline to issue any order.

(6) The commission may decide that a public hearing would assist its deliberations and decisions. If such a hearing is ordered, it will be placed on the agenda of a meeting and at least five business days notice of such meeting shall be provided to the petitioner.

(7) If an order is to be issued, the petitioner shall be provided a copy of the proposed order and invited to comment.

(8) The declaratory order cannot be a substitute for a compliance action and is intended to be prospective in effect.

(9) The commission will decline to consider a petition for a declaratory order or to issue an order when (a) the petition requests advice regarding a factual situation which has actually taken place, or (b) when a pending investigation or compliance action involves a similar factual situation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 390-12-040 Public disclosure commission—Description of central and field organization.
- WAC 390-12-050 Operations and procedures.
- WAC 390-12-170 Public disclosure commission—Organization and structure—Officers—Terms.
- WAC 390-12-190 Public disclosure commission—Elections—Vacancies.
- WAC 390-12-200 Public disclosure commission—Role of the executive director.

Chapter 390-16 WAC**((FORMS FOR)) CAMPAIGN ((FINANCING)) FINANCE REPORTING((—CONTRIBUTIONS))**NEW SECTION

WAC 390-16-001 Campaign finance disclosure. Pursuant to chapter 42.17A RCW, candidates, political committees and other persons participating in elections are subject to reporting requirements with the public disclosure commission. This chapter provides information on how to meet those requirements. To provide the public with full and immediate disclosure, electronic filing is preferred and sometimes required. The executive director may waive the electronic filing requirement and allow for the use of another written format on the basis of hardship. Links to electronic filing systems, forms and the instructions for filing can be found on the PDC web site.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-011 ((Forms—))Registration statement for political committees. The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1pc." ~~((Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any attachments shall be on 8 1/2" x 11" white paper.))~~

AMENDATORY SECTION (Amending WSR 12-01-047, filed 12/14/11, effective 1/14/12)

WAC 390-16-011A ((Sponsor of a)) Sponsored political committee. (1) "Sponsored political committees," "sponsors of political committees," and "authorized committees," as those terms are used in the act and these rules, are defined in RCW 42.17A.005. This rule applies to political committees that are not authorized ~~((committees. This rule~~

~~does not apply to political committees that filed final C-4 reports as of December 31, 2011.~~

~~(2) "Sponsor" of a political committee is defined under RCW 42.17A.005 (42)(b).~~

~~(3)) by a candidate, or by the public official against whom recall charges have been filed.~~

~~(2) A sponsored political committee ((that registers on or after January 1, 2012,)) shall include on its C-1pc the name of at least one sponsor in the committee's name.~~

~~((4) A political committee registered before January 1, 2012, shall amend its registration by January 31, 2012. A sponsored political committee shall include on its amended C-1pc the name of at least one sponsor in the committee's name.~~

~~(5)) (3) To determine if a political committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders under RCW 42.17A.005 ((42)(b)(i):~~

~~(a) A political committee not organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received January 1, 2011, through the date of filing the amended C-1pc.~~

~~(b) A political committee organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received from the time the committee was organized or filed its initial C-1pc, whichever is earlier.~~

~~(6)) (46), the political committee organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received by the committee in the previous twelve months.~~

~~(4) A sponsored political committee must amend its C-1pc sixty days before an election in which it participates if the committee's name on its most recently filed C-1pc does not include at least one current sponsor. To determine if the committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders under RCW 42.17A.005 ((42)(b)(i)) (46) at the time of the amendment:~~

~~(a) A political committee not organized to support or oppose a particular candidate or ballot proposition ((with)) shall consider all contributions received in the previous twelve months through the date of filing the amended C-1pc.~~

~~(b) A committee organized to support or oppose a particular candidate or ballot proposition ((with)) shall consider all contributions received from the time the committee was organized or filed its initial C-1pc, whichever is earlier.~~

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-012 ((Forms—))Registration statement for candidates. The official form for providing the statement of organization by candidates and ~~((candidate's))~~ candidate committees, for designating a campaign treasurer and depository, and for reporting information required to qualify for mini campaign finance reporting is designated "C-1." ~~((Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any attachments shall be on 8 1/2" x 11" white paper.))~~

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-031 (~~(Forms for)~~) **Statement of contributions deposit.** The official form for statement of contributions deposit, as required by RCW 42.17A.235, is designated "C-3." (~~Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any paper attachments shall be on 8 1/2" x 11" white paper.~~)

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-032 (~~(Forms—)~~) **Auction report.** The official form for reporting items donated and sold at auctions, as required by RCW 42.17A.240(2)(~~b~~), is designated "Attachment Au." This attachment shall accompany each C-3 which reports the receipt of funds from an auction. (~~Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington.~~)

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-033 **Earmarked contributions—(Reporting Form) How to report.** The official form for reporting the details surrounding an earmarked contribution, as required by RCW 42.17A.270, is designated "Special Report E." This report shall be filed within two business days of receiving a contribution earmarked for another candidate or committee. (~~Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington.~~)

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-034 **Additional contribution reporting requirements.** Pursuant to RCW 42.17A.240, each report required under RCW 42.17A.235 shall disclose, in addition to the name and address of each person who has made one or more contributions in the aggregate amount of more than one hundred dollars, (~~the~~) their occupation, and the name and address of (~~the person's~~) their employer.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-037 **Purpose of campaign expenditures—(Reporting) How to report.** (1) Any person required to report the "purpose" of an expenditure under RCW 42.17A.240(6), or 42.17A.255 (5)(b) shall identify any candidate(s) or ballot proposition(s) that are supported or opposed by the expenditure unless such candidate(s) or ballot proposition(s) have been previously identified in a statement of organization of the person required to be filed under RCW 42.17A.205 (2)(f) and (g);

(2) Whenever an expenditure is made to a candidate or a political committee pursuant to an agreement or understand-

ing of any kind regarding how the recipient will use the expenditure, the report shall describe in detail that agreement or understanding(~~and~~

~~(3) Describe in detail~~) and the goods and/or services to be provided (~~by the recipient of the expenditure~~).

Example A: If an expenditure is made directly to a vendor for (~~a~~) get-out-the-vote (campaign) (GOTV) phone calls or robocalls, the purpose shall include the following details:

Vendor Name	Purpose	Amount
(XYZ Consulting) <u>ABC Robocall</u>	GOTV—phone bank 28th and 29th Legislative districts	\$1,000

Example B: If an expenditure is made directly to a vendor for printing, the purpose shall include the following details:

Vendor Name	Purpose	Amount
ABC Printing	5,000 brochures	\$3,000

~~(Example C: If an expenditure is for broadcast political advertisements, the purpose shall include the following details:~~

Vendor Name	Purpose	Amount
Media King	Television ads	\$50,000
	WZUB-TV	\$30,000
	WXXX-TV	\$10,000
	WCRB-TV	\$10,000

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-039 **Total contributions and expenditures—(Reporting) How to report.** (1) A continuing political committee which is not organized to support or oppose a particular candidate or ballot proposition shall report total contributions and expenditures based on a calendar year, or upon the basis of a fiscal year if the commission expressly authorizes this method. The report filed by such a continuing political committee covering January (or the first month thereafter for which a report would be required by RCW 42.17A.225 and 42.17A.235) shall contain in summary the following items remaining at the end of the year:

- (a) Funds on hand;
- (b) The total of outstanding pledges;
- (c) Unpaid loans and outstanding obligations;
- (d) Pledges given to others but not yet paid.

(2) Each candidate, each political committee and each continuing political committee organized to support or oppose a particular candidate or ballot proposition shall report total contributions and expenditures for the period beginning at the time the person becomes a candidate or when the committee is organized, whichever is earlier, and ending when the candidacy or committee is terminated.

(3) This rule shall not require a report unless such report would otherwise be required by chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-041 (~~(Forms—)~~) **Summary of total contributions and expenditures.** ((+)) The official form for reports of contributions and expenditures by candidates and political committees who use the "full" reporting option is designated "C-4," and includes Schedule A, Schedule B, Schedule C, and Schedule L.

~~((2) Copies of these forms are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any paper attachments shall be on 8 1/2" x 11" white paper.))~~

AMENDATORY SECTION (Amending WSR 89-20-068, filed 10/4/89, effective 11/4/89)

WAC 390-16-042 **Debts and obligations—Contingent liabilities—(Reporting) How to report.** (1) Pursuant to RCW 42.17A.240 and 42.17A.005, "promise," "promise to pay," "debt" and "obligations" mean:

(a) Any oral or written order or agreement placed for goods, services, or anything else of value;

(b) Any offer to purchase advertising space, broadcast time, or other written, broadcast or digital advertising-related product or service;

(c) Any contractual contingent liability; or

(d) Provided that the amount of the debt or obligation in (a), (b), or (c) of this subsection owed to a vendor is more than seven hundred fifty dollars, and the vendor has not been paid in full for the goods received, invoices submitted, or services performed within the time periods specified below:

(i) For reports due within thirty days of an election, debts or obligations of more than seven hundred fifty dollars must be reported if the debt or obligation has been outstanding for more than five business days as of the last day of the reporting period.

(ii) For reports due during any other reporting period, debts or obligations of more than seven hundred fifty dollars must be reported if the debt or obligation has been outstanding for more than ten business days as of the last day of the reporting period.

(2) A contractual contingent liability (e.g., an additional fee to be paid to a political consultant or other person (~~whose services are used by a candidate who wins~~)) conditioned upon the candidate winning the election) is reportable as a debt or obligation (~~(on Form C-4, Schedule B,)~~) from the time the contract or agreement is entered into until the liability is voided, paid or otherwise satisfied.

(3) Regularly recurring expenditures, of the same type and same or similar amount that have been reported at least once, need not be reported as debt unless they are past due as of the last day of the reporting period. Examples of recurring obligations that can be reported as recurring expenditures rather than debt include rent, utilities, insurance, cellular phone costs, and payments to campaign staff.

(4) There is no requirement for a candidate or political committee to report any debt owed by a third party such as a

consultant or vendor provided that the obligation or expenditure to the third party has already been reported by the candidate or political committee.

NEW SECTION

WAC 390-16-043 **Candidates and political committees—Public inspection of books of account.** (1) RCW 42.17A.005 defines "books of account" for candidates and political committees as "a ledger or similar listing of contributions, expenditures, and debts, such as a campaign or committee is required to file regularly with the commission, current as of the most recent business day."

(2) RCW 42.17A.225 and 42.17A.235 require that candidates and political committees participating in an election as defined in RCW 42.17A.005, must make their books of account available for public inspection. The public inspection of books of account is not intended to be an exhaustive audit of all contributions received and expenditures made.

(3) Any individual who requests to publicly inspect the books of account of a candidate or political committee, must make the request during the period beginning ten calendar days before a primary, general, or special election, by contacting the filer's email address listed on the C-1 report for a candidate, or the C-1pc report for a political committee.

(4) The inspection of the books of account may occur on weekdays, unless the treasurer for the candidate or committee agrees otherwise, beginning on the eighth day before the election, excluding legal holidays, for at least two consecutive hours between 9:00 a.m. and 5:00 p.m. at a location that is agreed upon by the treasurer and the individual requesting the inspection. The inspection must be allowed within forty-eight hours of the date and time the request was made at the agreed-upon location, provided that if the request is not made by 3:00 p.m. on the third day preceding an election, the candidate or political committee need only make best efforts to accommodate the request.

(5) The treasurer for the candidate or committee may make the books of account available electronically, in lieu of scheduling an in-person inspection, or if a location cannot be agreed upon by both parties. If the campaign's only copy of its books of account is maintained electronically with security protections, the person requesting the inspection must be given sufficient instruction to allow the inspection to proceed.

(6) The books of account, ledger and other supporting documentation must be maintained by the treasurer and kept current within one business day. The books of account of a candidate or political committee include the following: A ledger, spreadsheet, or similar listing of contributions, expenditures, loans, debts and obligations to substantiate the information disclosed on the PDC campaign finance reports. If a ledger is not sufficiently kept, the books of account must include the underlying source documents such as receipts, invoices, copies of contribution checks, copies of canceled checks for expenditures, notes or other documentation concerning expenditures, orders placed, and loans. In the absence of those types of source documents, the campaign or committee must make the check register available. The campaign or committee is not required to provide the name and address of

contributors who gave twenty-five dollars or less in the aggregate in total contributions.

(7) The candidate or political committee is not required to make copies of its books of account for the requestor. Videotaping, photographing or photocopying of the records is not required to be permitted but may be agreed to by both parties during or in advance of the inspection.

(8) At the time of making the appointment, the person requesting to inspect the books of account must provide the name(s) and contact information for all individuals who will be in attendance for the inspection. The requestor(s) must show photo identification prior to the inspection beginning, and the candidate or political committee may deny the inspection from occurring if photo identification is not provided.

(9) The records required by this section shall be available for audit or examination by the PDC at any time upon request from the PDC.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-049 Out-of-state political committees~~((Implementation of RCW 42.17A.250))~~. (1) RCW 42.17A.250 governs campaign reporting in Washington state by committees located outside of Washington. ~~((The statute directs that an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state (and that is not otherwise required to report as an in-state committee) reports the information listed in RCW 42.17A.250 on a C5 form (WAC 390-16-050).))~~ The committee begins reporting ~~((on a C5 form))~~ when it makes an expenditure supporting or opposing a Washington state candidate or political committee.

(2) To file as an out-of-state political committee, all the criteria in (a) and (b) of this subsection must be satisfied:

(a) **Out-of-state.** First, the committee must be located out-of-state. It must ~~((be maintaining))~~ maintain its office or headquarters in another U.S. state or the District of Columbia, and ~~((has))~~ have no office, street address or corporate registered agent in Washington state. If there is no office or headquarters in another state or the District of Columbia, and no corporate registered agent in Washington state, the political committee is deemed out-of-state if its treasurer resides in another U.S. state or the District of Columbia.

(b) **Organizational purpose and campaign activities.** Second, the committee must also be currently organized primarily for engaging in campaign activities in another state. Therefore, to qualify as a current out-of-state committee, the committee must also:

(i) Be currently registered and actively filing campaign disclosure reports in one or more other states and has been so filing for the preceding two years; and

(ii) Have organizational documents showing it was originally formed and is currently organized for the purpose of making expenditures in another state or soliciting contributions for use in another state's election campaigns; and

(iii) Have spent less than twenty percent of its aggregate expenditures for all political campaign activity nationwide at any point in any calendar year to support and/or oppose

Washington candidates for state, local and judicial office, Washington ballot measures and/or Washington political committees.

(3) A committee that does not satisfy the criteria in subsection (2) of this section shall file as an in-state committee under chapter 42.17A RCW, including RCW 42.17A.205 through 42.17A.240.

(4) Out-of-state political committees reporting under RCW 42.17A.250 are also subject to reporting pursuant to RCW 42.17A.260 (political advertising independent expenditures) and RCW 42.17A.305 through 42.17A.315 (electioneering communications).

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees. The official form for the report required by RCW 42.17A.250 of contributions and expenditures of an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state, that is not otherwise required to report under RCW 42.17A.205 through 42.17A.240, is designated "C-5." ~~((Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any paper attachments shall be on 8 1/2" x 11" white paper.))~~

NEW SECTION

WAC 390-16-058 Independent expenditure—Definition and application. (1) "Independent expenditure," as that term is used in chapter 42.17A RCW and in these rules, except RCW 42.17A.255, means an "expenditure" as defined in RCW 42.17A.005 that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for public office subject to the filing requirements in chapter 42.17A RCW, by a person who is not:

(i) A candidate for that office;

(ii) An authorized committee of that candidate for that office;

(iii) A person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office.

(b) It is made in support of any or in opposition to a candidate for office by a person with whom the candidate has not collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(c) The expenditure pays in whole or in part for any political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name;

(d) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value equal to or greater than one-half the contribution limit from an individual per election. A series of expenditures, each of which is

under one-half the contribution limit from an individual per election, constitutes one independent expenditure if their cumulative value is equal to or greater than one-half the contribution limit from an individual per election; and

(e) The expenditure is not a contribution as defined in RCW 42.17A.005 and clarified by WAC 390-05-210.

(2) Exempt activities. The following activities are not considered independent expenditures for purposes of RCW 42.17A.255, 42.17A.630, or 42.17A.320:

(a) Ordinary home hospitality;

(b) A news item, feature, commentary, or editorial, or communications with journalists or editorial staff designed to elicit the same, in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(c) Participation in the creation of a publicly funded voters' pamphlet statement in written or video form;

(d) An internal political communication primarily limited to:

(i) The members of or contributors to a political party organization or political committee;

(ii) The officers, management staff or stockholders of a corporation or similar enterprise; or

(iii) The members of a labor organization or other membership organization.

(e) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or the property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made shall be reported as an in-kind contribution at its fair market value and counts toward any applicable contribution limit of the person providing the facility; or

(f) The rendering of personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of two hundred fifty dollars personally paid by the worker.

NEW SECTION

WAC 390-16-059 Electioneering communication reporting threshold. (1) A "sponsor" of an electioneering communication is defined in RCW 42.17A.005(46).

(2) For the purposes of RCW 42.17A.005(22), an electioneering communication is reportable by the sponsor to the commission when the communication, alone or in combination:

(a) Identifies the same candidate in one or more communications satisfying RCW 42.17A.005 (22)(a)(i) and (ii) or these rules;

(b) Is made by the same sponsor of one or more of the communications;

(c) When it, either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market or aggregate value of one thousand dollars or more; and

(d) Is not a communication exempted from reporting under RCW 42.17A.005(23) or commission rule.

(3) When the electioneering communication or communications (including radio or television transmissions, mailings, billboards, newspapers and/or periodicals) reach the one thousand dollar threshold, the sponsor shall electronically report to the commission as required by RCW 42.17A.305 within twenty-four hours of, or on the first working day after, the date the electioneering communication is first broadcast, transmitted, erected, distributed, or otherwise published.

(4) Once the one thousand dollar threshold is reached, all subsequent electioneering communications by the sponsor identifying the same candidate are reportable as provided in RCW 42.17A.305 and this rule.

(5) When more than one sponsor pays for the electioneering communication, the entire fair market value of the communication is attributable to all sponsors. All sponsors of the same communication are responsible for reporting once the one thousand dollar threshold is met. A failure to report by one joint sponsor is not attributable to all joint sponsors of a specific communication or communications if the remaining sponsors have reported properly.

(6) Consistent with WAC 390-16-060 and the requirements of PDC Form C-6, a prorated portion of independent expenditure and electioneering communications expenditures shall be attributed to each candidate or ballot proposition identified in the advertisement or communication. That proration shall be based on a reasonable, good faith estimate of the value of the portion of the advertisement or communication relating to each candidate or proposition identified.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-060 (~~Forms for report of~~) Independent expenditures and electioneering communications—How to report. ((+)) The official form for reports of independent expenditures and electioneering communications as required by RCW 42.17A.255, 42.17A.260 and 42.17A.305 is designated "C-6." ~~((Copies of this form are available at the Commission Office, Olympia, Washington and online at www.pdc.wa.gov. Any paper attachments shall be on 8 1/2" x 11" white paper.~~

~~(2) The C-6 report may be filed electronically consistent with WAC 390-19-040 by using an electronic filing alternative provided or approved by the commission. C-6 reports of electioneering communications shall be filed electronically as provided in RCW 42.17A.305.)~~

AMENDATORY SECTION (Amending WSR 14-12-012, filed 5/22/14, effective 6/22/14)

WAC 390-16-063 Additional information regarding independent expenditures and C-6 report filing. (1) RCW 42.17A.255 requires a person not otherwise subject to the disclosure requirements of Chapter 42.17A RCW to disclose an independent expenditure of one hundred dollars or more that supports or opposes a candidate or ballot measure. RCW 42.17A.260 requires the disclosure of political advertising with a fair market value of one thousand dollars or more that is presented to the public within twenty-one days of an elec-

tion, that supports or opposes a candidate or ballot measure, and that qualifies as an independent expenditure.

(a) **Prorating and attributing independent expenditures that support or oppose multiple candidates or ballot measures.** Whether to disclose an independent expenditure that supports or opposes multiple candidates or ballot measures is determined by prorating and attributing the cost of the expenditure among all candidates or ballot measures that are the subject of the expenditure. Disclosure is required when:

(i) The pro rata cost for a single candidate or ballot measure reaches or exceeds the statutory threshold and none of the subject candidates are seeking election to the same office and none of the subject ballot measures are competing measures; or

(ii) The sum of the pro rata costs attributable to all candidates seeking election to the same office or the sum of the pro rata costs attributable to competing ballot measures reaches or exceeds the statutory threshold.

Example 1 (prorating): A mailer/postcard supports one candidate and one ballot measure at a total cost of \$3,200. One side of the postcard is entirely devoted to the ballot measure. The other side is split evenly between the candidate and the ballot measure. The ballot measure's pro rata share is \$2,400 (75%) and the candidate's pro rata share is \$800 (25%).

Example 2 (prorating and attributing): An independent expenditure ad appears in the newspaper two weeks before the election. The ad costs \$1,000; 50% of the ad supports a candidate and the other 50% opposes the candidate's opponent. The independent expenditure is disclosed under RCW 42.17A.260 because the sum of the pro rata share for the two candidates who seek the same office is \$1,000.

(b) **Disclosing independent expenditures that support or oppose multiple candidates or ballot measures.** When a pro rata, attributable cost reaches or exceeds the statutory threshold, the entire independent expenditure must be disclosed. Include the amounts attributable to all candidates and ballot propositions supported or opposed by the expenditure.

(c) **Other applications of prorating and attributing independent expenditures.** Use the prorating and attribution steps explained in (a)(i) and (ii) of this section to determine when an independent expenditure as defined in RCW 42.17A.005(~~((26))~~) must comply with the "no candidate authorized this ad" sponsor identification and, if applicable, the "top 5" contributors required by RCW 42.17A.320(~~((2))~~) and WAC 390-18-010.

(2) A political committee reporting pursuant to RCW 42.17A.225, 42.17A.235 and 42.17A.240 is exempt from providing on a C-6 form (~~(itemized information concerning its)~~) the sources of any funds ((giving in excess of two hundred fifty dollars)) received by the committee for an electioneering communication, unless the committee received funds that were ((requested or)) earmarked or otherwise designated for the communication.

(3) An out-of-state political committee shall report pursuant to RCW 42.17A.305 if it sponsors an electioneering communication defined in RCW 42.17A.005.

(4) The sponsor of an electioneering communication shall report pursuant to RCW 42.17A.305 and (~~(commis-~~

~~sion))~~ these rules regarding electioneering communications, even if the expenditure also satisfies the definition of independent expenditure in RCW 42.17A.005 or 42.17A.255. Persons in compliance with this subsection are deemed in compliance with RCW 42.17A.255 or 42.17A.260.

(5) Any person making an expenditure that is reportable under RCW 42.17A.640, grass roots lobbying campaigns, that also satisfies the definition of electioneering communication in RCW 42.17A.005, shall file pursuant to RCW 42.17A.305 and (~~(commission))~~ these rules regarding electioneering communications.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

WAC 390-16-071 Annual report of major contributors and persons making independent expenditures. RCW 42.17A.630 requires that:

(1) Any person, other than an individual (a) who made contributions to state office candidates and statewide ballot proposition committees totaling more than the aggregate amount during the preceding calendar year for contributions referenced in WAC 390-05-400, (~~(code section 180(1)),~~) or (b) who made independent expenditures regarding state office candidates and statewide ballot propositions totaling more than the aggregate amount during the preceding calendar year for independent expenditures referenced in WAC 390-05-400, (~~(code section 180(1)),~~) shall file with the commission an annual report (~~((required pursuant to RCW 42.17A.630))~~). This report shall not be required of a lobbyist employer filing an annual L-3 report pursuant to RCW 42.17A.630 or of a candidate's authorized committee or a political committee provided the information has been properly reported pursuant to RCW 42.17A.235 and 42.17A.240.

(2) The report is entitled "Special Political Expenditures" and is designated "C-7." (~~(Copies of this form are available on the commission's web site, www.pde.wa.gov, and at the Commission Office, Olympia, Washington. Any attachments shall be on 8 1/2" x 11" white paper.)~~)

AMENDATORY SECTION (Amending WSR 14-12-010, filed 5/22/14, effective 6/22/14)

WAC 390-16-105 Mini campaign reporting—Eligibility. (1) A candidate or candidate's authorized committee, as those terms are defined in RCW 42.17A.005, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 (~~(when))~~, if the committee selects the mini reporting option on its registration and meets both of the following conditions ((are present)):

(a) Neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed five thousand dollars; and

(b) No contribution or contributions from any person other than the candidate exceed five hundred dollars in the aggregate. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

(2) A political committee, as that term is defined in RCW 42.17A.005, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 ~~((when)), if the committee selects the mini reporting option on its registration and meets~~ both of the following conditions ~~((are present))~~:

(a) Neither aggregate contributions nor aggregate expenditures exceed five thousand dollars; and

(b) No contribution or contributions from any person exceed five hundred dollars in the aggregate.

(3) A continuing political committee, as that term is defined in RCW 42.17A.005, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 ~~((when)), if the committee selects the mini reporting option on its registration and meets~~ both of the following conditions ~~((are present))~~:

(a) Neither aggregate contributions nor aggregate expenditures during a calendar year exceed five thousand dollars; and

(b) No contribution or contributions from any person exceed five hundred dollars in the aggregate.

(4) A candidate or political committee that exceeds one or both of the thresholds set out in either subsection (1), (2), or (3) of this section after registering as a mini reporting campaign shall no longer qualify for the mini reporting option and shall comply with the provisions of chapter 42.17A RCW, including, but not limited to, disclosure of contributions and expenditures, disclosure of last minute contributions, applicable contribution limits, false political advertising, sponsor identification and public inspection of campaign books of account.

(5) Candidates and political committees eligible for mini campaign reporting are required to comply with all applicable provisions of chapter 42.17A RCW including, but not limited to, false political advertising, sponsor identification and public inspection of campaign books of account unless specifically exempted under subsections (1) through (3) of this section.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-111 Mini campaign reporting—Special fund-raising events. The term "any person" as used in WAC 390-16-105 does not mean a fund-raising activity conducted pursuant to RCW 42.17A.225. Candidates and committees using mini reporting as ~~((provided in chapter 390-16-WAC))~~ permitted under WAC 390-16-105 shall not be limited to receiving five hundred dollars from a fund-raising event provided that the payments from any person do not exceed five hundred dollars from all fund raising conducted during a campaign or calendar year ~~((as provided in WAC 390-16-105))~~.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-115 Mini campaign reporting—((Conditions for granting use)) Registration and recordkeep-

ing. The exemptions allowed in WAC 390-16-105 shall be granted to a candidate or political committee, including a continuing political committee, only upon compliance with the following conditions~~((:))~~:

(1) A candidate shall~~((:))~~ file a C-1 registration with the commission within fourteen days of first:

(a) Receiving contributions, making expenditures, reserving space or facilities or purchasing commercial advertising space or broadcast time to promote his or her candidacy;

(b) Giving his or her consent to another person to take on behalf of the candidate any of the action in (a) of this subsection; or

(c) Announcing publicly or filing a declaration of candidacy with the appropriate elections official~~((, file the C-1 registration statement with the commission. The statement must declare that the candidate will not exceed the contribution or expenditure limits set out in WAC 390-16-105))~~.

(2) A political committee shall~~((:))~~ file a C-1pc registration with the commission within fourteen days after its organization or after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier~~((, file the C-1pc registration statement with the commission))~~.

(3) The statement filed under subsections (1) and (2) of this section shall declare that the political committee will not exceed the contribution or expenditure limits set out in WAC 390-16-105.

(4) In addition to complying with subsections (2) and (3) of this section, a continuing political committee shall also file a C-1pc between January 1st and January 31st for each year in which the committee intends to use the mini reporting system. Failure to file a new registration statement during January will automatically terminate the committee's entitlement to use the mini reporting system until such time as a new C-1pc is filed.

(5) A candidate or political committee using the mini reporting option shall keep current records in sufficient detail to allow the candidate or political committee to make reports otherwise required by RCW 42.17A.205 through 42.17A.240 in the event that the filing of such reports becomes necessary as a result of exceeding the contribution or expenditure limitation pursuant to the provisions of WAC 390-16-125.

(6) ~~((A))~~ The candidate or political committee treasurer shall~~((, during the eight days immediately preceding the date of the election, maintain records of contributions and expenditures current within one business day. These records shall be open for public inspection during the hours designated on the registration statement at the principal campaign headquarters or, if there is no campaign headquarters, at a local address of the campaign treasurer or such other place as may be authorized by the commission.~~

(7) The records of contributions and expenditures shall be available for audit or examination by representatives of the public disclosure commission at any time upon request from the commission)) comply with the requirements for public inspection of campaign books pursuant to WAC 390-16-043.

AMENDATORY SECTION (Amending WSR 89-20-068, filed 10/4/89, effective 11/4/89)

WAC 390-16-121 Mini reporting committees—Last minute committee(§) registration. For purposes of compliance with WAC 390-16-115 (~~and 390-16-120~~), a political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election, shall file the registration statement within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

AMENDATORY SECTION (Amending WSR 14-12-010, filed 5/22/14, effective 6/22/14)

WAC 390-16-125 Mini campaign reporting—Exceeding limitations. (1) A candidate or political committee wishing to change from mini to full reporting must apply in electronic writing to the (~~commission~~) PDC for authorization to change reporting options before the limitations specified in WAC 390-16-105 are exceeded. A complete application shall include all of the following documents:

(a) An amended registration statement (Form C-1 for candidates, Form C-1pc for political committees) selecting the full reporting option as provided in RCW 42.17A.225 through 42.17A.240;

(b) PDC forms C-3 and C-4 with relevant schedules and attachments disclosing all contributions and expenditures to date reportable under RCW 42.17A.240 for the election campaign, or in the case of continuing political committees, for the calendar year; and

(c)(i) If the applicant is a candidate, a statement affirming that all candidates registered with the (~~commission~~) PDC for the office being sought have been notified personally in writing of the application, and the manner and date of such notification;

(ii) If the applicant is the treasurer of a political committee supporting or opposing a ballot proposition, a statement affirming that all treasurers of all political committees registered with the commission as supporting or opposing the proposition have been notified personally in writing of the application, and the manner and date of such notification; or

(iii) If the applicant is the treasurer of a county or legislative district party committee, a statement affirming that the treasurer of that party committee's counterpart in any other major political party has been notified personally in writing of the application, and the manner and date of such notification.

(2) An application that is submitted without the required documents described in subsection (1) of this section is incomplete and will not be processed or approved. If the applicant provides the missing documents, the application will be determined to be complete on the date the documents are received by the commission.

(3) If a complete application is received by the (~~commission~~) PDC on or before August 31st for the general election or thirty business days prior to the date of (~~an election other than the general~~) other elections, the executive director will approve the application. (~~An application to change~~

~~reporting options before the general election must be received by the commission on or before August 31.~~)

(4) If a complete application is received by the commission (~~on or~~) after the deadlines set out in subsection (3) of this section, the executive director will approve the application only if one or more of the following factors are present:

(a) (~~The applicant's campaign had its respective C-1 or C-1pc on file with the commission when notice of the upcoming application deadline to change reporting options was sent and the commission staff did not send to the applicant's campaign in a timely and proper manner, either electronically or by other mail delivery service, a notice that the deadline for unrestricted changes in reporting options is approaching. To be timely and proper, this notice must be sent at least two weeks before the application deadline to the campaign's electronic mail address or postal service mailing address specified on the registration statement;~~

(~~b~~)) (b) The applicant is a candidate and, after the application deadline, a write-in opponent has filed for office in accordance with chapter 29A.24 RCW;

(~~c~~)) (c) After the application deadline, an independent expenditure as defined in RCW 42.17A.005 is made in support of the applicant's opponent or in opposition to the applicant; or

(~~d~~)) (d) When a candidate or political committee on one side of an election campaign or proposition has been approved to change reporting options under this section, each opponent of that candidate or political committee is approved to change options as of the date that opponent's complete application is received by the (~~commission~~;

~~5) Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section constitutes one or more violations of chapter 42.17A RCW or 390-17 WAC.~~

(~~6~~)) PDC.

(5) The executive director may approve an application to change reporting options after the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 have been exceeded only if the applicant (a) meets the deadlines provided in subsection (3) of this section; (~~and~~) (b) acknowledges the violation and demonstrates compliance with WAC 390-16-105(4)(~~Approval of an application under this subsection does not absolve a candidate or political committee from liability for any violation or violations of subsection (5) of this section~~); and (c) takes any other action required by the PDC to address the violation.

AMENDATORY SECTION (Amending WSR 04-01-128, filed 12/18/03, effective 1/18/04)

WAC 390-16-205 Expenditures by agents(~~employees—Reporting~~) and agents' subvendors—How to report. (1) Expenditures made on behalf of a candidate or political committee by any person, agency, consultant, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the candidate's or committee's efforts shall be deemed expenditures by the candidate or committee. In accordance with WAC 390-16-037, such expenditures shall be reported by the candidate or

committee as if made or incurred by the candidate or committee directly.

(2) If any person, agency, consultant, firm, organization, etc., employed or retained by the candidate or political committee, subcontracts or otherwise has an agreement with a subvendor or other third party to provide or perform services, the expenditures paid to that subvendor or other third party must also be disclosed.

(3) Fees paid to consultants or other agents must be disclosed by candidates or political committees as an expenditure. In addition, when subvendors are used, the candidate or political committee must disclose any portion of the expenditure retained by the consultant or other agent.

Example A: If a ~~((campaign))~~ candidate or political committee pays a consultant \$5,000 to prepare and mail a political advertising brochure, all costs associated with the project shall be itemized by identifying each service provided, ~~((vendor utilized))~~ subvendor(s) used and amount attributable to each:

Vendor Name	Purpose	Amount
Jones Consulting	<u>Jones Consulting (fee)</u>	(\$5,000) <u>5,500</u>
	ABC Graphics	\$1,200
	XYZ Printing Co. (5,000 pieces)	\$3,000
	Your Mailhouse	\$800

Or, if Jones Consulting completes the project through a combination of services provided by its principals or employees and ~~((subcontractors))~~ its subvendors:

Vendor Name	Purpose	Amount
Jones Consulting	<u>Jones Consulting (fee)</u>	(\$5,000) <u>5,500</u>
	<u>Jones Consulting (graphic design)</u>	\$1,200
	XYZ Printing Co. (5,000 pieces)	\$3,000
	Your Mailhouse	\$800

Example B: If a ~~((campaign))~~ candidate or political committee pays a consultant or other agent directly to perform tasks such as fund-raising, survey design or campaign plan development, and the consultant does not ~~((subcontract with other vendors))~~ use subvendors, the expense shall be reported as follows:

Vendor Name	Purpose	Amount
Jones Consulting	Fund-raising, survey design, campaign plan development	\$5,000

Example C: If an expenditure is made directly to a vendor to purchase broadcast political advertisement, the pur-

pose shall include the following details for both the vendor and commercial advertiser:

Vendor Name	Purpose	Amount
Media King	Television ads	\$51,000
	<u>WZUB TV</u>	<u>\$30,000</u>
	<u>WXXX TV</u>	<u>\$10,000</u>
	<u>WCRB TV</u>	<u>\$10,000</u>
	<u>Media King (fee)</u>	<u>\$1,000</u>

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-206 Ratings and endorsements. (1) Any person making a measurable expenditure of funds to communicate a rating, evaluation, endorsement or recommendation for or against a candidate or ballot proposition shall report such expenditure including all costs of preparation and distribution in accordance with chapter 42.17A RCW. However, rating, endorsement or recommendation expenditures governed by the following provisions are not reportable: The news media exemptions provided in RCW 42.17A.005 ~~((13))~~ (16)(b)(iv) and ~~((19))~~ (22)(b)(iii), and WAC 390-16-313 ~~((2)(b))~~, and the political advertising exemption in WAC 390-05-290.

(2) A candidate or sponsor of a ballot proposition who, or a political committee which, is the subject of the rating, evaluation, endorsement or recommendation shall not be required to report such expenditure as a contribution unless the candidate, sponsor, committee or an agent thereof advises, counsels or otherwise encourages the person to make the expenditure.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-207 In-kind contributions—Explanation and reporting. (1) An in-kind contribution must be reported on the C-4 report. An in-kind contribution, as that term is used in the act and these rules, occurs when a person provides goods, services or anything of value, other than money or its equivalent, to a candidate or political committee free-of-charge or for less than fair market value, unless the item or service given is not a contribution according to RCW 42.17A.005 or WAC 390-17-405.

~~((2))~~ An in-kind contribution ((also occurs when a person makes)) includes an expenditure that:

- Supports or opposes a candidate or a ballot measure;
- Meets the definition of contribution in RCW 42.17A.005 or WAC 390-05-210; ~~((and))~~
- Is an electioneering communication that is a contribution as provided in RCW 42.17A.310; and
- Is other than a monetary contribution made directly to a candidate or political committee.

For example, an in-kind contribution occurs when a person, after collaborating with a candidate or a candidate's agent, purchases space in a newspaper for political advertising supporting that candidate or opposing that candidate's opponent.

~~((3)) An in-kind contribution also occurs when a person makes an electioneering communication that is a contribution as provided in RCW 42.17A.310.~~

~~(4))~~ (2) According to RCW 42.17A.430 and WAC 390-16-238, a candidate may not use his or her campaign funds to make a contribution, including an in-kind contribution, to another candidate or a political committee. However, under RCW 42.17A.430, a candidate may use surplus funds as defined in RCW 42.17A.005 to make a contribution to a political party or caucus political committee.

~~((5))~~ (3) **Valuing in-kind contributions.**

~~(a) For purposes of determining the value of goods or services provided as in-kind contributions, refer to WAC 390-05-235 Definition—Fair market value.~~

~~(b) If an expenditure that constitutes an in-kind contribution is made, the value of the in-kind contribution to a particular candidate or political committee is the portion of the expense that benefits the candidate or political committee.~~

(4) **In-kind contributions to recipients who have limits under RCW 42.17A.405 or 42.17A.410.**

(a) If a candidate receives in-kind contributions from any person valued at more than ~~((25))~~ twenty-five dollars in the aggregate for an election, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405 or 42.17A.410.

(b) If a bona fide political party or legislative caucus committee receives in-kind contributions from any person valued at more than ~~((25))~~ twenty-five dollars in the aggregate during a calendar year, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405.

(c) If an elected official against whom recall charges have been filed or a political committee supporting the recall of an elected official receives in-kind contributions from any person valued at more than ~~((25))~~ twenty-five dollars in the aggregate during a recall campaign, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limits provided in RCW 42.17A.405 or 42.17A.410.

~~((6))~~ (5) **Political committees that make in-kind contributions.** Except as provided for in subsection (5) of this section, a political committee that makes in-kind contributions to a candidate or political committee totaling more than ~~((50))~~ fifty dollars in the aggregate during a reporting period must identify the recipient and the amount of the contribution as part of its C-4 report covering that period.

If the in-kind contribution is in the form of an expenditure that has been obligated, but not yet paid, the identity of the recipient candidate or political committee, along with a good faith estimate of the value of the contribution, must be disclosed in part 3 of Schedule B, in addition to the other information required by the ~~((form))~~ C-4 report. When the expense is paid, the recipient's name and the amount of the

contribution must be disclosed on Schedule A, ~~((along with))~~ in addition to the other information required by the ~~((form))~~ C-4 report.

If a political committee provides equipment, property or anything else of value owned, leased or controlled by it to a candidate or political committee, the contributing committee must attach a statement to its C-4 report showing the name of the candidate or political committee to whom the contribution was made and the date, description and fair market value of the in-kind contribution.

~~((7))~~ (6) **Reporting by recipients.** Except as provided in subsection (5) of this section, in-kind contributions from one source are not reportable by the recipient candidate or political committee until the aggregate value of all in-kind contributions received from that source during a reporting period is more than ~~((50))~~ fifty dollars. If this threshold is met, the in-kind contributions must be reported in part 1 of Schedule B to the C-4 report covering that reporting period.

~~((8))~~ **Valuing in-kind contributions.**

~~(a) For purposes of determining the value of goods or services provided as in-kind contributions, refer to WAC 390-05-235, Definition—Fair market value.~~

~~(b) If an expenditure that constitutes an in-kind contribution is made, the value of the in-kind contribution to a particular candidate or political committee is the portion of the expense that benefits the candidate or political committee.~~

~~((9))~~ (7) **Application of RCW 42.17A.420—Last-minute contributions.**

(a) If an expenditure that constitutes an in-kind contribution is made no later than twenty-two days before a general election and written notice of the in-kind contribution is in the possession of the recipient candidate committee or political committee twenty-two or more days before that general election, the contribution is not subject to the respective ~~((5,000 or 50,000))~~ five thousand dollars or fifty thousand dollars maximum amounts specified in RCW 42.17A.420.

(b) If an in-kind contribution is in the form of personal services donated to a campaign for the duration of the twenty-one days before a general election, and if written notice of the value of this donation is in the possession of the recipient candidate or political committee twenty-two or more days before the election, that in-kind contribution is not subject to the respective ~~((5,000 or 50,000))~~ five thousand dollars or fifty thousand dollars maximum amounts specified in RCW 42.17A.420.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-226 Loans. (1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds under RCW 42.17A.005 and 42.17A.430 may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate, as described in subsections (2) and (3).

(2) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. See WAC 390-17-

305. Such funds are considered a contribution from the original source of the contribution under chapter 42.17A RCW *and*, unless the loan meets the exemption provided in RCW 42.17A.465(3) and this subsection, the contribution is subject to the contribution limits provided in chapter 42.17A RCW.

(a) If a candidate or candidate's own political committee or campaign or authorized committee receives a loan from a commercial lending institution, the loan is exempt from the contribution limits of RCW 42.17A.405 and WAC 390-16-310 only if all the following criteria are met:

- (i) The loan is not guaranteed by any other person;
- (ii) The loan is made in the regular course of business; and,
- (iii) The loan is made on the same terms ordinarily available to the public.

(b) A commercial loan to a candidate's own committee or campaign or authorized committee is presumed to be guaranteed by the candidate. The presumption is rebuttable by clear, cogent and convincing evidence.

(3) The amount of campaign contributions which may be used to repay a loan made by the candidate to the candidate's own political committee or campaign, or to repay a commercial loan to a candidate's own political committee or campaign where the candidate is the borrower or guarantor, is limited to the loan repayment limit in RCW 42.17A.445(3) as adjusted by WAC 390-05-400. For purposes of the loan repayment limit, these loans are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

(4) If a candidate makes documented out-of-pocket campaign expenditures on behalf of ~~((his or her))~~ their campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within ~~((2+))~~ twenty-one days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-230 Surplus campaign funds—Use in future. (1) If ~~((at any time in the future or))~~ after the last day of the election cycle for candidates as defined in RCW 42.17A.005~~((7))~~ any contribution is received or an expenditure is made from surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or political committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or political committee shall file (a) a final report for the previous campaign as provided in RCW 42.17A.235 and 42.17A.240; and (b) a statement of organization and initial report for the new campaign

as provided by RCW 42.17A.205, 42.17A.235 and 42.17A.-240. The surplus funds may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." All augmentations to and all expenditures made from the retained surplus funds after the last day of the election cycle shall be reported in detail as to source, recipient, purpose, amount and date of each transaction.

(2) For candidates as defined in RCW 42.17A.005~~((7))~~, if at any time after the last day of the election cycle, any contribution is received or expenditure is made from such surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or authorized committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or authorized committee shall file (a) a final report for the previous campaign as provided in RCW 42.17A.235 and 42.17A.240; and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17A.205, 42.17A.235 and 42.17A.240. The surplus funds as of the last day of the election cycle may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." "Funds from previous campaign" carried forward by a candidate to his or her new campaign are not subject to contribution limits set forth in RCW 42.17A.405.

(3) A political committee formed to support or oppose a particular ballot proposition or particular candidates which retains surplus funds to use in support or opposition of other candidates or of other ballot propositions has become a continuing political committee and must thereafter register and report in accordance with chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 17-01-160, filed 12/21/16, effective 1/21/17)

WAC 390-16-236 Surplus funds accounts—Disclosure. (1) **Registering a surplus funds account.**

(a) Any person who opens an account into which surplus funds will be deposited shall register the account by filing PDC Form C-1, Candidate Registration with the ~~((public disclosure))~~ commission. The committee name on the C-1 will be the name used by the campaign committee that raised the surplus funds followed by the designation, "surplus funds account." The C-1 must identify by name the treasurer of the account and the bank or depository where the account is held.

(b) The C-1 must be filed within two weeks after the date the account is opened.

(2) **Depositing surplus funds.**

(a) After a surplus funds account is established, a candidate may deposit into the account all surplus funds from subsequent campaigns.

(b) Only surplus funds may be deposited in a surplus funds account.

(c) A candidate who deposits surplus funds into a surplus funds account discloses an expenditure of campaign funds

with the description "transfer to surplus funds account," the amount transferred, and the date the transfer occurred.

(3) ((Disclosing)) Reporting surplus funds expenditures.

(a) The treasurer shall file with the commission a report on the tenth day of each month detailing expenditures made in the preceding calendar month. This report need only be filed if the total expenditures made since the last such report exceeded two hundred dollars. The report shall be on PDC Form C-4, Campaign Summary Receipt & Expenditures.

(b) The treasurer shall file reports as required by (a) of this subsection until the account is closed, at which time a final report shall be filed.

(c) All reports filed disclosing expenditures from the surplus funds account shall be certified as correct by the treasurer.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-238 Personal use of contributions—Standard. (1) Except as specifically allowed by chapter 42.17A RCW, any expenditure of a candidate's campaign funds that is not directly related to the candidate's election campaign is a personal use of campaign funds prohibited under RCW 42.17A.445.

(2) An expenditure of a candidate's campaign funds shall be considered personal use if it fulfills or pays for any commitment, obligation or expense that would exist irrespective of the candidate's election campaign.

(3) If an activity or expenditure is both personal and campaign-related, the campaign may pay no more than the fair market value of its share of the activity or expenditure. For example, if a candidate uses a personal vehicle for campaign purposes, the campaign may reimburse the candidate for:

(a) The prorated share of documented gasoline, maintenance and insurance costs directly related to the campaign's usage of the vehicle; or

(b) The standard mileage rate established by the Internal Revenue Service for those documented miles directly related to the campaign's usage.

(4) Examples of expenditures presumed to be for personal use include, but are not limited to:

(a) Mortgage, rent, utility, telephone, or maintenance expenses for personal living accommodations;

(b) Clothing purchases and maintenance expenses not related to the campaign;

(c) Automobile expenses not related to the campaign;

(d) Travel expenses not related to the campaign;

(e) Household food items;

(f) Restaurant expenses except for in-person fund-raising or campaign organizational activities;

(g) Tuition payments not related to the campaign;

(h) Admission to sporting events, concerts, theaters, or other forms of entertainment unless the event is primarily related to the candidate's campaign;

(i) ((Country)) Club membership fees, dues and payments;

(j) Health club or recreational facility membership fees, dues and payments;

(k) Social, civic, fraternal, or professional membership dues, fees and payments unless the expenditure occurs during an election year and membership is required to gain access to the organization's mailing list for campaign purposes or other facilities for the candidate's campaign;

(l) Home or business internet service provider costs;

(m) Home or business newspaper and periodical subscriptions;

(n) Greeting cards to persons who would customarily receive such cards (e.g., family, friends and business associates).

AMENDATORY SECTION (Amending WSR 17-03-028, filed 1/6/17, effective 2/6/17)

WAC 390-16-240 Earmarked contributions—Definition and use. (1) Earmarked contributions, as that term is used in RCW 42.17A.270 and 42.17A.460, means any contribution given to an intermediary or conduit, either a political committee, candidate or third party, with a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which is intended to result in or which does result in all or any part of the contribution being made to or for the promotion of a certain candidate, state official, or ballot proposition.

(2) For purposes of RCW 42.17A.405 and 42.17A.410, an earmarked contribution is deemed to be for the promotion of, and attributable to any limit applicable to the candidate, authorized committee, bona fide political party, caucus of the state legislature or political committee designated by the original contributor.

(3) If an earmarked contribution is given to an intermediary or conduit to be spent on behalf of a candidate and the entire amount given is not used for this purpose, the remainder of the contribution shall be given to the designated candidate unless its use is redesignated by the original contributor. If the conduit or intermediary exercises any direction or control over the use of the remainder of the contribution, then the amount of the remainder shall be considered a contribution from the original contributor and the conduit or intermediary to the recipient.

(4) The intermediary or conduit receiving the earmarked contribution shall notify the candidate or political committee for whose use or benefit the contribution is designated within two business days after receipt of the contribution.

(5) If an earmarked contribution is refused by the designated recipient candidate or political committee, the earmarked contribution must be returned by the intermediary or conduit to the original contributor within five business days of refusal.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-245 Pledges. (1) "Pledge," as that term is used in the act and these rules, means a promise to make a future contribution. A pledge shall not be made or redeemed within twenty-one days of an election specified in RCW 42.17A.420 if the amount of the pledge or redemption

exceeds the maximum amount provided in RCW 42.17A.-420. However, if payment of a pledge is in the possession of the recipient twenty-two or more days before the election, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.220.

(2) If a pledge is made in an election campaign subject to the contribution limits provided in RCW 42.17A.405 and 42.17A.410:

(a) Except as provided in WAC 390-17-302, a pledge made with respect to the primary election shall not be made or redeemed after the date of the primary; however, if the payment of a pledge is made on or before the date of the primary, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.220; and

(b) A pledge made with respect to the general election shall not be made or redeemed after the final day of the applicable election cycle; however, if the payment of a pledge is made on or before the final day of the election cycle, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.-220.

(3) During the time limit specified in RCW 42.17A.560, a state official or a person employed by or acting on behalf of a state official shall not solicit or accept a pledge or the redemption of a pledge for any purpose specified in RCW 42.17A.560.

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

WAC 390-16-307 Contributions by controlled entities. (1) **Corporations.** Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch or department of a corporation that is participating in an election campaign or making contributions.

(2) A corporation is participating in an election campaign if it:

(a) Makes either a monetary or an in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication;

(c) Endorses a candidate prior to contributions being made by a subsidiary, branch or department of the corporation with respect to a candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed prior to a contribution being made by a subsidiary, branch or department of the corporation; or

(e) Directly or indirectly collaborates or consults with its subsidiary, branch or department on matters relating to the support of or opposition to a candidate, including the amount of a contribution, when a contribution should be given, or what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

(3) **Trade associations, labor unions, collective bargaining organizations.** Two or more entities are treated as a single entity if one of the two or more entities is a local unit

or branch of a trade association, labor union or collective bargaining association that is participating in an election campaign or making contributions.

(4) A trade association, labor union or collective bargaining organization is participating in an election campaign if it:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication;

(c) Endorses a candidate prior to contributions being made by a local unit or branch of the association, union or organization with respect to a candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed prior to a contribution being made by a local unit or branch of the association, union or organization; or

(e) Directly or indirectly collaborates or consults with its local unit or branch on matters relating to the support of or opposition to a candidate, including the amount of a contribution, when a contribution should be given, or what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

AMENDATORY SECTION (Amending WSR 02-03-018, filed 1/4/02, effective 2/4/02)

WAC 390-16-308 Identification of source of contribution. Any person who makes a contribution shall inform the candidate or treasurer, at the time the contribution is made, of the true and actual source of funds from which the contribution is made. To identify the source of a contribution received by check or other written instrument in the absence of other information, a candidate or treasurer shall apply the following:

Provided, that in cases where the source of the contribution is known and differs from the guidelines set forth below, the known source of the contribution shall be reported;

Provided further, that contributions made through an intermediary or conduit or transmitted by an intermediary shall identify the true and actual source of the funds.

(1) A contribution drawn upon a single account shall be attributed to the account holder as identified by the name printed on the face of the check or negotiable instrument.

(2) A contribution drawn upon a joint account shall be attributed in equal proportion to each of the account holders as identified by the names printed on the face of the check or negotiable instrument unless the candidate or treasurer is notified in writing that the contribution should be allocated in different proportions.

(3) A contribution made by a sole proprietor or drawn upon the account of a business which is a sole proprietorship shall be attributed to the owner of the business entity.

(4) A contribution drawn upon the account of a partnership shall be attributed to the partnership as a separate entity except that((;)) any check drawn upon the partnership account but which is to be paid from the capital account of one or more individual partners shall identify at the time of

transmittal to the candidate or treasurer the name(s) of the contributing partner(s) and shall be attributed to the contributing partner(s).

(5) A contribution drawn upon the account of a corporation, union, association or other organization shall be attributed to the corporation, union, association or other organization as a separate entity unless that entity is affiliated with another entity pursuant to WAC 390-16-309 in which case a contribution from one of those entities is attributed to both entities.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-309 Identification of affiliated entities.

(1) Two or more entities are treated as a single person and share one contribution limit under RCW 42.17A.405 and 42.17A.410 if one of the entities is:

(a) A corporation and the other is a subsidiary, branch or division of the corporation;

(b) A national or international labor union, or state body of such national or international labor union, and the other is a local union or other subordinate organization of such national or international labor union or state body;

(c) A trade association or state body of such trade association and the other is a branch or local unit of such trade association;

(d) A national or state collective bargaining organization and the other is a branch or local unit of such national or state collective bargaining organization;

(e) A national or international federation of labor unions, or a state federation of labor unions, and the other is a local body of such federation;

(f) A membership organization and the other is a local unit or branch of such membership organization;

(g) Any entity referenced in (a) through (f) above and a political committee established, financed, maintained or controlled by that entity.

(2) For purposes of RCW 42.17A.405 and 42.17A.410, two entities shall not be treated as a single entity solely because one of the entities is a dues paying member of the other entity.

(3) In addition to ~~((paragraph (1) above))~~ subsection (1) of this section, two or more entities shall be treated as one entity and share a contribution limit under RCW 42.17A.405 and 42.17A.410 if one of the entities is established, financed, maintained or controlled by the other, as evidenced by any one or more of the following factors:

(a) Whether one entity owns a controlling interest in the voting stock or securities of another entity; or

(b) Whether one entity has authority or the ability to direct or participate, other than through a vote as a member, in the governance of another entity through provisions of constitution, bylaws, contract or other formal or informal procedure or has authority or the ability to hire, appoint, demote or otherwise control, other than through a vote as a member, the officers or other decision making employees or members of another entity; or

(c) Whether (i) one entity has a common or overlapping membership with another which indicates either a formal or

ongoing relationship between the two organizations or the creation of a successor entity; and (ii) the entity has an active or significant role in the formation of the other entity; and (iii) the entities have similar patterns of contributions or contributors which indicate a formal or ongoing relationship between the entities; or

(d) Whether one entity provides, causes or arranges, funds, services or goods in a significant amount or on an ongoing basis, through direct or indirect means to the other entity, for less than full consideration. Full consideration includes the payment of membership dues.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-310 Limitations on contributions. The limitations on contributions as provided in RCW 42.17A.420, 42.17A.405, and 42.17A.410 shall be as follows:

(1)(a) The limitation on contributions in RCW 42.17A.405 or 42.17A.410 shall not apply to a "candidate" as that term is defined in RCW 42.17A.005 when the candidate is contributing to his or her own campaign using his or her own personal funds as defined in WAC 390-17-305.

(b) The limitation on contributions in RCW 42.17A.420, 42.17A.405, or 42.17A.410 shall apply to contributions to the candidate from the candidate's spouse, domestic partner or other immediate family members.

(2) Contributions by ~~((a husband and wife))~~ spouses are considered separate contributions. Contributions by domestic partners are considered separate contributions.

(3) Emancipated minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions and the contribution is properly attributed to the emancipated minor child if:

(a) The decision to contribute is made knowingly and voluntarily by the emancipated minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the emancipated minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another person.

Contributions by emancipated minor children which do not meet these requirements and contributions by unemancipated minor children shall be considered contributions by the child's parents. Fifty percent of the contributions will be attributed to each parent, or in the case of a single custodial parent, the total amount is attributed to that parent.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship shall be aggregated for purposes of determining the limitations of contributions under RCW 42.17A.420, 42.17A.405, or 42.17A.410.

(5) The limitations on contributions shall apply separately to the contributions made by a partnership, limited liability partnership and limited liability corporation from the contributions made by an individual partner or member. However, contributions made from or charged against the

capital account of an individual partner, or member of a limited liability partnership or limited liability corporation shall be aggregated with the partner's or member's individual contributions for purposes of determining the limitations on contributions under RCW 42.17A.420, 42.17A.405, or 42.17A.410.

(6) The limitations on contributions in RCW 42.17A.420, 42.17A.405, and 42.17A.410 shall apply separately to the contributions made by an entity (corporation, subsidiary or branch, national union and local unions, collective bargaining organizations and local units, membership organizations and local units and other organizations and their local units) unless the criteria in RCW 42.17A.455 and WAC 390-16-309 are met.

AMENDATORY SECTION (Amending WSR 17-03-028, filed 1/6/17, effective 2/6/17)

WAC 390-16-312 Handling contributions of uncertain origin. No contribution shall be deposited by any candidate or treasurer who believes, from the face of the contribution instrument or for any other reason, the contribution was made in a fictitious name, by one person through an agent, relative, political committee, or any other person so as to conceal the source of the contribution or to exceed the contribution limits provided in RCW 42.17A.420, 42.17A.405, or 42.17A.410 or otherwise violate the act. The candidate or treasurer shall return such contributions within ten days to the original contributor if his or her identity is known. Otherwise, the contribution instrument shall be endorsed and made payable to "Washington state treasurer" and the contribution sent to the ~~((public disclosure))~~ commission for deposit in the state's general fund.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-16-320 Candidates in small political subdivisions—Reporting. (1) According to RCW 42.17A.200 and 42.17A.135(7), a candidate for election in any political subdivision must report pursuant to chapter 42.17A RCW and Title 390 WAC if the candidate receives five thousand dollars or more in contributions or expects to receive five thousand dollars or more in contributions during an election cycle.

(2) It is presumed the candidate "expects to receive" five thousand dollars or more when any one of the following first occurs:

(a) The candidate or candidate's authorized committee receives at least five thousand dollars in aggregate contributions, including contributions from the candidate;

(b) The candidate is seeking the same office last sought, the candidate's election is in the current calendar year, and his or her campaign contributions in the previous election for the same office were five thousand dollars or more in the aggregate;

(c) The contributions received on or before March 31st of the election year total one thousand two hundred fifty dollars or more;

(d) The contributions received on or before June 30th of the election year total two thousand five hundred dollars or more;

(e) The contributions received on or before September 30th of the election year total three thousand seven hundred fifty dollars or more; or

(f) The candidate otherwise anticipates that five thousand dollars or more will be received during the election cycle.

(3) Surplus funds carried over from a candidate's previous campaign are not contributions to the candidate's new campaign and do not count toward the five thousand dollar reporting threshold.

(4) A candidate or candidate's authorized committee that receives, or expects to receive, five thousand dollars or more shall:

(a) Within two weeks of the date the reporting obligation begins under subsection (1) or (2) of this section, file:

(i) A candidate registration, PDC form C-1;

(ii) A personal financial affairs statement, PDC form F1 and, if relevant, the F1 Supplement; and

(iii) Contribution and expenditure reports, PDC forms C3 and C4 with appropriate attachments and schedules; and

(b) Otherwise comply with the campaign finance reporting and other provisions of chapter 42.17A RCW and Title 390 WAC.

NEW SECTION

WAC 390-16-325 Dissolution of committees. (1) Dissolution is the process by which a committee officially ceases doing business, pursuant to RCW 42.17A.225 and 42.17A.235. Dissolution does not relieve the candidate, elected official, or officers from any obligations to address violations that occurred before the committee was dissolved.

(2) To initiate dissolution, the committee must file a notice of intent to dissolve.

(3) The official form for filing a notice of intent to dissolve a committee is designated "D-1." The D-1 must be filed using the electronic filing system provided by the commission. The commission is required to post each committee's notice of intent to dissolve on the commission web site upon receipt.

(4) On the D-1 form, the candidate or authorized committee officer must attest to the following:

(a) The committee has concluded its activities in all respects and has ceased to function and intends to dissolve;

(b) The committee has no outstanding debts or obligations, will not make any expenditure other than those related to the dissolution process, and will not engage in any political activity or any other activity that generates additional reporting requirements;

(c) The committee has filed a final report;

(d) No complaint or court action under chapter 42.17A RCW is pending against the committee and it has not been informed by the commission of any possible violations or technical corrections which remain unresolved;

(e) The committee has no outstanding penalties under chapter 42.17A RCW as assessed by the commission or a court;

(f) The committee accepts an ongoing obligation to maintain compliance with these conditions and an affirmative duty to notify the commission of any noncompliance;

(g) The committee understands that the committee's bank account may not be closed before the political committee has dissolved; and

(h) The treasurer is obligated to preserve books of account, bills, receipts, and all other financial records for five years, or as otherwise required by chapter 42.17A RCW.

(5) If, sixty days after a committee has filed its D-1, the committee is in compliance with the above requirements and has not notified the commission in writing that it revokes its intent to dissolve, the committee shall be deemed to be dissolved.

(6) The executive director will promptly acknowledge by electronic writing the committee's dissolution. The acknowledgment of dissolution will be posted on the commission's web site when sent to the committee.

(7) If the committee has not met the requirements for dissolution, the executive director will promptly notify the committee by electronic writing that it is not eligible to dissolve, and explain the reasons for its ineligibility. The committee may initiate the process again once it has come into compliance with the requirements.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 390-16-038 Definition—Aggregate.

WAC 390-16-313 Independent expenditure—Definition and application.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-015 Conduit—Definition. (1) "Conduit," as that term is used in (~~chapter 42.17A RCW~~) the act and these rules, is defined as a person, other than an individual, (~~who~~) that receives and spends earmarked contributions on behalf of a designated candidate, bona fide political party, caucus of the state legislature or other political committee.

(2) Pursuant to RCW 42.17A.470, a conduit may not make or transmit contributions on behalf of another.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-017 Definition—Facilities(~~—Definition~~). "Facilities," as that term is used (~~in RCW 42.17A.005 (7)~~) to define candidate in the act and in these rules means that which facilitates or makes some campaign activity possible(~~s~~) including, but not limited to: Use of (~~stationary~~) stationery, postage, machines and equipment, use of employees of an entity during working hours, vehicles, office space, room or building, publications of an entity or client list of an entity.

AMENDATORY SECTION (Amending WSR 16-10-080, filed 5/3/16, effective 6/3/16)

WAC 390-17-019 Contribution limits to affiliated committees. (~~(1) Intent. The public disclosure commission enforces campaign contribution limits and other provisions of chapter 42.17A RCW. The commission finds that persons subject to contribution limits may establish, maintain, or control multiple political committees.~~) This rule sets out which committees, excluding ballot measure committees, are affiliated for the purpose of receiving contributions.

(~~(2)~~) Persons subject to contribution limits who establish, maintain, or control multiple political committees may not circumvent those contribution limits through contributions made to the various committees (~~(controlled by that person)~~).

(~~(3)~~) (1) The following committees are affiliated for purposes of this rule:

(a) The authorized committee of a candidate subject to contribution limits set out in RCW 42.17A.405 or 42.17A.410 and any other political committee established, maintained, or controlled primarily by that candidate are affiliated for the purpose of receiving contributions.

(b) A caucus campaign committee and any other political committee established, maintained, or controlled primarily by the same legislative caucus as a whole or the officers of that caucus are affiliated for the purpose of receiving contributions.

(~~(4)~~) (2) As used in this rule, the terms "established, maintained, or controlled" means the ability to direct or participate, other than through a vote as a member, in the governance of another entity through provisions of constitution, bylaws, contract or other formal or informal procedure.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-030 Sample ballots and slate cards. (1) **Intent.** (~~The commission finds that,~~) Under certain conditions, expenditures for slate cards and other candidate listings fall within the scope of RCW 42.17A.405(15) and are, therefore, exempt from contribution limits and eligible for payment with a bona fide political party's exempt funds. Slate cards and other candidate listings remain reportable under chapter 42.17A RCW and subject to the political advertising provisions of the (~~law~~) act.

The purpose of this exemption from the contribution limits is to allow political parties, political committees, and other sponsors to tell the general public which candidates they support. The exemption is not intended as a device to circumvent the contribution limits and full reporting requirements (~~by undertaking any degree of significant campaigning on behalf of candidates~~).

(2) For purposes of RCW 42.17A.005(~~(19)~~) (22) and 42.17A.405(15), "sample ballots" means slate cards, or other candidate listings, whether written or oral, that satisfy the qualifying criteria specified in subsection (10) of this section.

(~~(3)~~) Sample ballots constitute political advertising for a slate or list of candidates and must (~~be properly identified~~) include sponsor identification and otherwise be in compli-

ance with the provisions of RCW 42.17A.320 through 42.17A.340.

~~((4))~~ (3)(a) A bona fide political party may use contributions it receives pursuant to RCW 42.17A.405(15) to produce and distribute sample ballots.

(b) Expenditures for sample ballots do not count against a bona fide political party's contribution limit to the candidates listed on the sample ballot. Further, when reporting sample ballot expenditures, a bona fide political party is not required to attribute a portion of the expenditure to each of the candidates listed on the sample ballot, but the names of the candidates must be reported along with the other information required by chapter 42.17A RCW and chapter 390-17 WAC.

~~((5))~~ (4) Any person, as defined by RCW 42.17A.005, who makes an expenditure for sample ballots has made an expenditure that does not count against that person's contribution limit to the candidates listed.

~~((6))~~ (5) An in-state political committee, when disclosing expenditures for sample ballots as part of its C-4 report, is not required to attribute a portion of the expenditure to the candidates listed on the sample ballot, but the names of the candidates and their respective party affiliations must be reported along with other information required by chapter 42.17A RCW and chapter 390-17 WAC.

~~((7))~~ (6) An out-of-state committee, when disclosing expenditures for sample ballots on a C-5 report, is not required to ~~((allocate))~~ attribute a portion of the expenditure to the candidates listed on the sample ballot, but must report that an expenditure for sample ballots was made, the name and address of the person to whom the expenditure was made, the full amount of the expenditure, and the name, office sought and party affiliation of each candidate listed on the sample ballot. The report is due no later than the 10th day of the month following the month in which the expenditure was made.

~~((8))~~ (7) If a lobbyist or lobbyist employer makes expenditures for sample ballots, those expenditures are required to be reported in detail on the lobbyist's monthly L-2 report. Itemization of these expenditures must include the names and respective party affiliations of the candidates listed on the sample ballot, but no portion of the expenditure need be ~~((allocated))~~ attributed to individual candidates listed on the sample ballot.

~~((9))~~ (8) The candidates listed on a sample ballot are not required to report any portion of the expenditure as an in-kind contribution to their campaigns.

~~((10))~~ (9) Qualifying criteria for sample ballots, slate cards and other candidate listings. In order not to count against a person's contribution limit to the candidates listed on a sample ballot and, in the case of a bona fide political party, in order to be eligible for payment with contributions received pursuant to RCW 42.17A.405(15), a sample ballot must satisfy all of the criteria in (a) through (d) of this subsection.

(a) The sample ballot must list the names of at least three candidates for election to public office in Washington state and be distributed in a geographical area where voters are eligible to vote for at least three candidates listed. The candidate listing may include any combination of three or more candi-

dates, whether the candidates are seeking federal, state or local office in Washington.

(b) The sample ballot must not be distributed through public political advertising; for example, through broadcast media, newspapers, magazines, billboards or the like. The sample ballot may be distributed through direct mail, telephone, electronic mail, web sites, electronic bulletin boards, electronic billboards or personal delivery by volunteers.

(c) The content of a sample ballot is limited to:

- The identification of each candidate (pictures may be used);
- The office or position currently held;
- The office sought;
- Party affiliation; and
- Information about voting hours and locations.

Therefore, the sample ballot must exclude any additional biographical data on candidates and their positions on issues as well as statements about the sponsor's philosophy, goals or accomplishments. The list must also exclude any statements, check marks or other indications showing support of or opposition to ballot propositions.

(d) The sample ballot is a stand-alone political advertisement. It must not be a portion of a more comprehensive message or combined in the same mailing or packet with any other information, including get-out-the-vote material, candidate brochures, or statements about the sponsor's philosophy, goals or accomplishments. ~~((On Web sites, electronic bulletin boards or electronic billboards, the sample ballot must be a separate document.))~~

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-060 Exempt contributions and activities—Definitions, reporting. (1)(a) "Exempt contributions" are contributions made to a political committee which are earmarked for exempt activities as described in RCW 42.17A.405. Such contributions are required to be reported under RCW 42.17A.240, are subject to the restrictions in RCW 42.17A.420, but are not subject to the contribution limits in RCW 42.17A.405. Any written solicitation for exempt contributions must be so designated. Suggested designations are "not for individual candidates" or "for exempt activities."

(b) Contributions made to a caucus political committee, to a candidate or candidate's authorized committee which are earmarked for voter registration, absentee ballot information, get-out-the-vote campaigns, or sample ballots are presumed to be for the purpose of promoting individual candidates and therefore not exempt contributions and are subject to the contribution limits in RCW 42.17A.405.

(c) Contributions made to a caucus political committee, to a candidate or candidate's authorized committee which are earmarked for internal organization expenditures or fundraising are presumed to be with direct association with individual candidates and therefore not exempt contributions and are subject to the contribution limits in RCW 42.17A.405.

(2) "Exempt contributions account" is the separate bank account into which only exempt contributions are deposited

and out of which only expenditures for exempt activities shall be made.

(3) "Exempt activities" are those activities referenced in RCW 42.17A.405 as further clarified by subsections (4), (5), and (6) of this section. Only exempt activities are eligible for payment with exempt contributions.

(4)(a) Activities referenced in RCW 42.17A.405 (15)(a) that do not promote, or constitute political advertising for, one or more clearly identified candidates qualify as exempt activities. For example, get-out-the-vote telephone bank activity that only encourages persons called to "vote republican" or "vote democratic" in the upcoming election may be paid for with exempt contributions regardless of the number of candidates who are benefited by this message. Expenditures or contributions for electioneering communications made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent do not qualify as exempt activities, under WAC 390-05-210.

(b) Except as permitted under WAC 390-17-030, Sample ballots and slate cards, activities referenced in RCW 42.17A.405 (15)(a) that promote or constitute political advertising for one or more clearly identified candidates do not qualify as exempt activities.

(c) A candidate is deemed to be clearly identified if the name of the candidate is used, a photograph or likeness of the candidate appears, or the identity of the candidate is apparent by unambiguous reference.

(5)(a) "Internal organization expenditures" referenced in RCW 42.17A.405 (15)(b) are expenditures for organization purposes, including legal and accounting services, rental and purchase of equipment and office space, utilities and telephones, postage and printing of newsletters for the organization's members or contributors or staff when engaged in organizational activities such as those previously listed, all without direct association with individual candidates.

(b) "Fund-raising expenditures" referenced in RCW 42.17A.405 (15)(b) are expenditures for fund-raising purposes, including facilities for fund-raisers, consumables furnished at the event and the cost of holding social events and party conventions, all without direct association with individual candidates.

(c) If expenditures made pursuant to (a) and (b) of this subsection are made in direct association with individual candidates, they shall not be paid with exempt contributions.

(6) For purposes of RCW 42.17A.405 and this section, activities that oppose one or more clearly identified candidates are presumed to promote the opponent(s) of the candidate(s) opposed.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-070 Trade association—Definition. "Trade association," as that term is used in RCW 42.17A.455 and in these rules, means a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind

ordinarily carried on for profit, and for which no part of net earnings inures to the benefit of any member.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-071 Collective bargaining association—Definition. "Collective bargaining association" and "collective bargaining organization" as those terms are used in RCW 42.17A.455 and in these rules means any organization which negotiates, on behalf of labor or management, with respect to wages, hours or conditions of employment.

AMENDATORY SECTION (Amending WSR 13-12-016, filed 5/24/13, effective 6/24/13)

WAC 390-17-100 Contribution withholding authorizations for payroll deductions. (1) Each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington shall have on file the individual's written authorization before withholding or diverting the individual's wages or salary for:

(a) The purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17A.205, 42.17A.215, 42.17A.225, 42.17A.235 or 42.17A.240; or

(b) Use, specifically designated by the contributing employee, for political contributions to candidates for state or local office.

(2) Forms used for payroll deduction may either conform to the suggested format below or be in a different format including an electronic format if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name of each political committee or candidate for which contributions are to be withheld;

(d) If more than one political committee or candidate is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee or candidate;

(e) A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing;

(f) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee"; or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495;

(g) The individual's signature or other reliable and secure verification that the individual is authorizing the withholding or diversion; and

(h) The date on which the form was completed.

(3) Forms used for payroll deduction may have information in addition to that listed in subsection (2) of this section. A form that satisfies subsection (2) of this section constitutes

- (i) The failure to contribute to;
- (ii) The failure in any way to support or oppose; or
- (iii) In any way supporting or opposing a candidate, ballot proposition, political party, or political committee."

(b) The written notification shall be provided by the employer or labor organization. The employer or labor organization may agree on which entity shall send the notification.

(2)(a) Pursuant to RCW 42.17A.495(3), (~~by June 30, 2003, and~~) at least annually by June 30th (~~thereafter~~), each employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries shall ensure written notification is directly provided to the employees from whom funds are being withheld for contributions to a candidate or political committee stating that the employee authorization for withholding of wages or salary for such contributions may be revoked at any time. The employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries and the candidate, political committee, or sponsor of the political committee may agree on which of them shall send the notification.

(b) The written notification shall identify where an employee can submit the revocation, which shall be either:

- (i) The name and address of employer's contact; or
- (ii) The name and address of the person or entity responsible for the disbursement of funds in payment of wages or salaries.

(c) The employee withholding authorization is revoked as of:

- (i) The date specified in the revocation; or
- (ii) If no date is specified, as of the date the written notification is received by the employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries pursuant to RCW 42.17A.495.

(3) "Written notification" means notice provided by mail, email, newsletter, payroll insert or other similar direct communication in writing that is addressed to the employee. Posting information on web sites, bulletin boards and other passive communication vehicles shall not constitute notification under RCW 42.17A.495. If the written notification appears in a newsletter or similar publication, the notice shall be prominently displayed or announced on the first page of the written communication.

(4) Each employer or other person who provides notice pursuant to subsection (1) or (2) of this section shall maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years.

AMENDATORY SECTION (Amending WSR 02-23-001, filed 11/6/02, effective 12/7/02)

WAC 390-17-200 Major political party organizations. (1) With respect to a major political party, each of the following is considered a separate organization for purposes of making and receiving contributions: Governing body of the state organization, county central committee, and legislative district committee.

(2) Each major political party is restricted to one state central committee, one county central committee per county,

and one legislative district committee per legislative district for making and receiving contributions.

(3) Each major political party shall designate each county central committee and each legislative district committee and shall notify the commission in writing of the names, addresses, telephone numbers, and email addresses of each committee officer within two weeks following the designation.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-302 Contributions after the primary election. (1) Pursuant to RCW 42.17A.405 and 42.17A.410, the date of the primary is the last day for making primary-related contributions unless a candidate subject to contribution limits loses in the primary, that candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary, and the contributions are used to satisfy this outstanding debt.

(2) For purposes of the contribution limit in RCW 42.17A.405 and 42.17A.410, any contribution made up to thirty days after the primary election pursuant to RCW 42.17A.405 and 42.17A.410 is aggregated with contributions made on or before the date of the primary from the same contributor and any person with whom that contributor shares a limit under RCW 42.17A.455 and WAC 390-16-309.

(3) The day following the primary election is considered the first day of the thirty-day period during which contributions may be made to candidates subject to contribution limits who lose in the primary election and who have outstanding primary debts.

(4) For purposes of RCW 42.17A.405 and 42.17A.410, "outstanding primary debts," "outstanding debts" and "debts outstanding" all mean:

(a) Unpaid primary-election-related debts incurred on or before the date of the primary by the authorized committee of a candidate who lost the primary election for an office subject to contribution limits; and

(b) Reasonable costs associated with activities of the losing candidate's authorized committee necessary to retire the (~~primary-related~~) primary-election-related debts it incurred on or before the date of the primary. Examples of such reasonable costs include:

(i) Necessary administrative expenses (office space rental, staff wages, taxes, supplies, telephone and computer costs, postage, and the like) for activities actually and directly related to retiring the committee's debt; and

(ii) Necessary expenses actually and directly related to the fund-raising activities undertaken to retire the debt, as long as all persons solicited for contributions are notified that the contributions are subject to that contributor's primary election limit for that losing candidate.

(5) Nothing in this section is to be construed as authorizing contributors to make, or candidates subject to contribution limits who lose the primary to receive, contributions that are used for a purpose not specifically authorized by RCW 42.17A.405 or 42.17A.410, including use for some future election or as surplus funds.

(6) All contributions received in excess of the sum needed to satisfy outstanding primary debts shall be returned to the original contributors in an amount not to exceed the amount contributed in accordance with the first in, first out accounting principle wherein the most recent contribution received is the first to be returned until all excess funds are returned to contributors.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-303 Superior court candidates—Eligibility to receive contributions. (1) Candidates for judicial office are subject to the contribution limits in RCW 42.17A.410 and the timing restriction on contributions of a candidate's personal funds in RCW 42.17A.420. Pursuant to Article 4, Section 29, Amendment 41 of the state Constitution and RCW 42.17A.410, candidates for the office of judge of the superior court may only receive contributions for each election in which the candidate is on the ballot or appears as a write-in candidate.

(2) For purposes of RCW 42.17A.410:

(a) Only superior court candidates who appear on the primary election ballot or as write-in candidates in the primary election may receive contributions with respect to that primary; and

(b) Only superior court candidates who appear on the general election ballot or as write-in candidates in the general election may receive contributions with respect to that general election.

(3)(a) A superior court candidate who is issued a certificate of election before the primary election and whose name does not appear on either the primary or general election ballot may receive contributions pursuant to RCW 42.17A.410:

(i) Through the last day for withdrawal of declarations of candidacy pursuant to RCW 29A.24.131; or

(ii) If there is a reopening of filing for the position and no other candidate files, the last day for reopening of filing pursuant to RCW 29A.24.171 and 29A.24.181.

(b) Contributions remaining in the account of such a superior court candidate who is issued a certificate of election must be returned to contributors within two weeks of certification. Primary_election_related contributions are to be returned using the first-in, first-out accounting method. Any contributions received with respect to the general election must be returned in full to contributors.

(4) A superior court candidate who is issued a certificate of election after the primary election and whose name does not appear on the general election ballot may receive contributions pursuant to RCW 42.17A.410. However, contributions received with respect to the general election must be returned in full to contributors within two weeks of certification.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-305 Personal funds of a candidate. (1) The personal funds of a candidate include:

(a) Assets which the candidate has legal access to or control over, and which he or she has legal title to or an equitable interest in, at the time of candidacy;

(b) Income from employment;

(c) Dividends and proceeds from stocks and other investments;

(d) Income from trusts, if established before candidacy;

(e) Income from trusts established from bequests, even if established after candidacy;

(f) Personal gifts, if customarily received; and

(g) Proceeds from lotteries and similar games of chance.

(2) A candidate may also use, as personal funds, his or her portion of assets owned jointly with a spouse or domestic partner. If the candidate's financial interest is not specified, then the candidate's share is deemed to be half the value of the asset.

(3) If any person gives or loans the candidate funds in connection with ~~((his or her))~~ their campaign, the funds are not considered personal funds of the candidate. Such funds are considered a contribution under chapter 42.17A RCW unless the loan meets the exemption provided in RCW 42.17A.465(3).

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-310 Definition—Doing business in Washington. A corporation or business entity is "doing business in Washington state" for purposes of RCW 42.17A.405 if it conducts continuous or substantial activities in Washington state of such character as to give rise to a legal obligation.

In determining whether a corporation or business entity is doing business in Washington state, the commission will take into consideration the following nonexclusive list of indicators:

- Purposefully availing itself of the privilege of conducting business in the state by invoking both benefits and protections of state law.
- Appointing an agent for service of process in Washington state.
- Registering as a corporation in Washington.
- Operating business locations in Washington.
- Hiring employees to work in Washington.
- Purchasing or selling goods or services in Washington.
- Operating an interactive internet web site for the purpose of conducting business.

AMENDATORY SECTION (Amending WSR 16-04-081, filed 1/29/16, effective 2/29/16)

WAC 390-17-400 Time limit to solicit or accept contributions. The purpose of this rule is to clarify and implement the restriction period set forth in RCW 42.17A.560.

(1) "Campaign debt," as used in RCW 42.17A.560 and ~~((this))~~ these rules, means any debt incurred by a candidate seeking election to a Washington state nonfederal public office, including campaigns for state, county, city, town, school district, special district or other state political subdivision elective office.

(2) "Known candidates" means individuals who are, or who become, candidates for state or local office during a legislative session freeze period.

(3) "Legislative session freeze period" means the period of time in RCW 42.17A.560 within which contributions shall not be solicited or accepted by a state official or a person employed by or acting on behalf of a state official.

(a) The freeze period begins at 12:01 a.m. on the thirtieth day before the start of the regular legislative session and ends at 11:59 p.m. on the day of adjournment of the regular legislative session.

(b) If a special session is held immediately following the end of the regular legislative session, the freeze period ends at 11:59 p.m. on the day the special session adjourns.

(c) If a special session is held other than within thirty days before a regular legislative session, the freeze period begins at 12:01 a.m. on the first day of the special session and ends at 11:59 p.m. on the final day of the special session.

(4) A successful candidate for state office who does not already hold a state office is not required to comply with RCW 42.17A.560 until sworn into office.

(5) A state official must comply with RCW 42.17A.560 until he or she no longer holds state office.

(6) Activities allowed during a freeze period. During a legislative session freeze period, the activities in which state officials may engage include, but are not limited to:

(a) Soliciting or accepting contributions to assist (~~his or her~~) their own campaign for federal office;

(b) Accepting gifts or other items permitted under chapter 42.52 RCW, so long as the gift or other item is not

- A contribution to an incumbent state official or known candidate,
- A contribution to a public office fund,
- Used to pay a nonreimbursed public office related expense, or
- Used to retire a campaign debt;

(c) Attending and speaking at a fund-raising event held by or on behalf of a bona fide political party, so long as the contributions raised are not earmarked or otherwise designated for any incumbent state official or known candidate;

(d) Attending a fund-raiser held by a candidate who is not subject to RCW 42.17A.560, provided the state official does not solicit or accept any contributions in connection with the fund-raiser.

(i) The state official's planned attendance may be included in publicity for the fund-raiser.

(ii) The state official may receive complimentary admission from the candidate so long as the official attends to show support for the candidate and the attendance does not assist the official's own campaign.

(e) Transferring their own personal funds, as defined in WAC 390-17-305, or their own surplus funds, as defined in RCW 42.17A.005, to their own campaign account, so long as the funds are properly reported;

(f) Soliciting or accepting contributions on behalf of a nonprofit charity; or

(g) Soliciting or accepting contributions on behalf of any political committee, including a caucus political committee, a

bona fide political party or a ballot measure committee, so long as the political committee does not spend the contributions for the benefit of incumbent state officials or known candidates.

(7) Activities not allowed during a freeze period. During a legislative session freeze period, a state official, or a person employed by or acting on behalf of a state official, may not solicit or accept contributions that:

- (a) Go to an incumbent state official or known candidate;
- (b) Go to a public office fund;
- (c) Are used to pay a nonreimbursed public office related expense;
- (d) Are used to retire a campaign debt;
- (e) Go to a caucus political committee if the committee spends the contributions for the benefit of incumbent state officials or known candidates; or

(f) Go to a bona fide political party or a political committee if the political party or committee spends the contributions for the benefit of incumbent state officials or known candidates.

(8) "Person employed by or acting on behalf of a state official" includes a caucus political committee or any political committee financed or controlled by a legislative caucus as a whole or by one or more officers of a caucus political committee.

(a) During a legislative session freeze period, a person employed by or acting on behalf of a state official may not solicit or accept contributions for any of the purposes specified in subsection (7) of this section.

(b) During a legislative session freeze period, a caucus political committee may solicit or accept contributions from caucus members if the members make the contributions with their own personal funds, as defined in WAC 390-17-305, or with their own surplus funds, as defined in RCW 42.17A.-005.

(c) During a legislative session freeze period, a caucus political committee may not solicit or accept contributions for any of the purposes specified in subsection (7) of this rule.

(9) Bona fide political parties. During a legislative session freeze period, a bona fide political party may not solicit or accept contributions that are

- Used for a public office fund,
- Used for a state official's nonreimbursed public office related expenses,
- Used for retiring a state official's campaign debt, or
- Earmarked contributions to specific incumbent state officials or known candidates.

However, a bona fide political party may solicit or accept contributions for its own fund-raising purposes.

(10) Segregating session freeze funds. During a legislative session freeze period, if a state official, a caucus political committee, or another person employed by or acting on behalf of a state official solicits or accepts contributions to

- A caucus political committee,
- A bona fide political party, or

- Any political committee that supports or opposes state or local office candidates, the contributions are presumed to violate RCW 42.17A.560, unless the contributions are deposited into a separate bank account and not spent for the benefit of incumbent state officials or known candidates.
- ((~~• Deposited into a separate bank account and~~
- ~~• Not spent for the benefit of incumbent state officials or known candidates.~~))
- A poll or survey is produced, conducted, tabulated and analyzed according to the terms of a written confidentiality agreement and, if the agreement is breached, all reasonable steps are taken to enforce it, and
- The results of a poll or survey are not provided by the spender, or with the spender's permission or prior knowledge, to incumbent state officials, known candidates or their agents.

However, nothing in this subsection authorizes a state official, a caucus political committee or any person employed by or acting on behalf of a state official to take any of the actions prohibited by subsection (7) or (8)(c) of this section.

(11) Session freeze solicitations. If a person is solicited for a contribution during the legislative session freeze period

- ((~~• By a state official, a caucus political committee, or another person employed by or acting on behalf of a state official, and~~
- ~~• The contribution is to a caucus political committee, a bona fide political party, or a political committee that supports or opposes candidates for state or local office, and~~
- ~~• The person makes a contribution during or after the freeze period in response to this solicitation, the contribution is subject to RCW 42.17A.560 and subsection (12) of this section.~~))

by a state official, a caucus political committee, or another person employed by or acting on behalf of a state official; and the contribution is to a caucus political committee, a bona fide political party, or a political committee that supports or opposes candidates for state or local office; and the person makes a contribution during or after the freeze period in response to this solicitation; then the contribution is subject to RCW 42.17A.560 and subsection (12) of this section.

(12) Spending contributions to benefit incumbents or known candidates. For purposes of complying with subsections (6)(g), (7)(e) and (f), and (10) of this section, contributions are considered spent for the benefit of incumbent state officials or known candidates if the contributions are used at any time for one or more of the following purposes((-):

- (a) Contributions to incumbent state officials or known candidates((-):
- (b) Independent expenditures supporting incumbent state officials or known candidates, or opposing their opponents, whether or not the opponents are themselves known candidates during a legislative session freeze period((-):
- (c) Payments to staff, consultants or advisors for performing activities that directly assist or promote the election of incumbent state officials or known candidates((-): or

(d) Polls or surveys that relate to incumbent state officials, known candidates or their districts, or to general voter attitudes or preferences, unless

However, candidate recruitment poll or survey results may be provided to an individual who later becomes a known candidate without the expenditure being considered as benefiting a known candidate so long as the poll or survey does not constitute a contribution to the individual or does not otherwise support or promote his or her election to state or local office. For purposes of this subsection, a "candidate recruitment poll or survey" is a poll or survey that is conducted for the sole purpose of recruiting candidates to run for public office and only determines

- The respondent's party preference((-):
- The level of support the incumbent currently has and how strong that support is, but not why he or she has that support((-):
- Whether respondents recognize the names of individuals who may decide to seek that elective office((-):
- Whether respondents currently hold a favorable opinion about these individuals, their abilities or fitness for elective office, but not why such opinions are held((-):
- Whether respondents would likely vote for one or more of these individuals were they to seek office, but not why respondents would vote in the manner they indicated or whether they could be persuaded to change their vote((-): and
- The validity of the poll or survey results.

(e) Any other expenditure that directly benefits or promotes the election to state or local office of incumbent state officials or known candidates.

(13) For online or credit card contributions, the contribution is considered received at the time the transfer is made from the merchant account to a candidate or political committee account, except that a contribution made to a candidate who is a state official or legislator outside the restriction period established in RCW 42.17A.560, but transferred to the candidate's account within the restricted period, is considered received outside of the restriction period.

(a) Any such contributions should be reported as received on the date the transfer is made from the merchant account to a candidate or political committee account.

(b) The PDC may request that the state official or legislator document that the contribution was received by the merchant account outside the restriction period.

AMENDATORY SECTION (Amending WSR 13-12-017, filed 5/24/13, effective 6/24/13)

WAC 390-17-405 Volunteer services. (1) In accordance with RCW 42.17A.005 ~~((13))~~ (16)(b)(vi), an individual may perform services or labor for a candidate or political committee without ~~((incurring))~~ it constituting a contribution, so long as the individual is not compensated by any person for the services or labor rendered and the services are of the kind commonly performed by volunteer campaign workers. These commonly performed services include:

- (a) Office staffing;
- (b) Doorbelling or leaflet drops;
- (c) Mail handling (folding, stuffing, sorting and postal preparation, processing emails to and from the campaign);
- (d) Political or fund-raising event staffing;
- (e) Telephone bank activity (conducting voter identification, surveys or polling, and get-out-the-vote campaigns);
- (f) Construction and placement of yard signs, hand-held signs or in-door signs;
- (g) Acting as a driver for candidate or candidate or committee staff;
- (h) Scheduling of campaign appointments and events;
- (i) Transporting voters to polling places on election day;
- (j) Except as provided in subsection (2) of this section, preparing campaign disclosure reports required by chapter 42.17A RCW and otherwise helping to ensure compliance with state election or public disclosure laws;
- (k) Campaign consulting and management services, polling and survey design, public relations and advertising (including online advertising), or fund-raising performed by any individual, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service;
- (l) Creating, designing, posting to and maintaining a candidate or political committee's official campaign web site or online forum, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service; and
- (m) All similar activities as determined by the ~~((commission))~~ PDC.

(2) An attorney or accountant may donate ~~((his or her))~~ their professional services to a candidate, a candidate's authorized committee, a political party or a caucus political committee, without ~~((making))~~ it constituting a contribution in accordance with RCW 42.17A.005 ~~((13))~~ (16)(b)(viii), if the attorney or accountant is:

- (a) Employed and ~~((his or her))~~ their employer is paying for the services rendered;
- (b) Self-employed; or
- (c) Performing services for which no compensation is paid by any person.

However, neither RCW 42.17A.005 ~~((13))~~ (16)(b)(viii) nor this section authorizes the services of an attorney or an accountant to be provided to a political committee without a contribution ensuing, unless the political committee is a candidate's authorized committee, political party or caucus political committee and the conditions of RCW 42.17A.005 ~~((13))~~ (16)(b)(viii) and (a), (b) or (c) of this subsection are satisfied, or unless the political committee pays the fair market value of the services rendered.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-410 Electioneering communications may constitute contributions and be subject to limit. (1) Electioneering communications are contributions when they satisfy the definition of contribution in RCW 42.17A.-005~~((13))~~ (16) or 42.17A.310.

(2) Contributions are subject to all applicable provisions of chapter 42.17A RCW and Title 390 WAC, including RCW 42.17A.405, 42.17A.410 and 42.17A.420.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-17-013 Committee—Definition.

AMENDATORY SECTION (Amending WSR 13-12-015, filed 5/24/13, effective 6/24/13)

WAC 390-18-010 Sponsor identification of advertising, political advertising, electioneering communications, and independent expenditures. (1) For the purposes of chapter 42.17A RCW and Title 390 WAC:

(a) "Sponsor of ~~((an))~~ political advertising, electioneering communication, or independent expenditure ~~((or political advertising))~~" is, as used in the act and in these rules, and defined in RCW 42.17A.005.

(b) Unless the context clearly provides otherwise, "advertising" or "advertisement" means political advertising, ~~((electioneering communications, or))~~ independent expenditures that are for political advertising and/or electioneering communications subject to the provisions of chapter 42.17A RCW and as defined in RCW 42.17A.005 or 42.17A.255.

(2) ~~((With advertising for which no payment is demanded or for which a cost is not readily ascertainable, the sponsor is the candidate, political committee or person who solicits or arranges for the advertising to be displayed or broadcast.~~

~~((3) If more than one person sponsors specific advertising, the identity of each sponsor must be shown. However, if a person contributes in cash or in kind to a candidate or political committee to assist in paying the cost of advertising, that person is not deemed a sponsor provided the contribution is reported in accordance with applicable provisions of chapter 42.17A RCW and Title 390 WAC.~~

~~((4) Printed))~~ All advertising shall clearly state, in an area set apart from any other printed matter, that it has been paid for by the sponsor (Example: (1) Paid for by the XYZ committee, mailing address, city, state, zip code; (2) Vote for John Doe, paid for by John Doe, mailing address, city, state, zip code). Additional requirements apply for the following:

(a) Political committees that sponsor political advertising costing or having a fair market value of one thousand dollars or more supporting or opposing a ballot measure must clearly ~~((state))~~ identify the "top five contributors" to that political committee pursuant to WAC 390-18-025.

(b) ~~((Printed))~~ Advertising undertaken as an independent expenditure or electioneering communication shall comply

with the "no candidate authorized this ad" sponsor identification and, if relevant, the "top five contributors" and identification of the individual, corporation, union, association, or other entity that established, maintains, or controls the sponsoring political committee provisions of RCW 42.17A.320 (~~and provide this information in an area set apart from any other printed matter~~)).

(c) Political committees that sponsor independent expenditure or electioneering communication printed advertising are required to (~~provide~~) identify the "top five contributors" to that political committee pursuant to WAC 390-18-025(~~; however,~~). This requirement does not apply to bona fide political parties sponsoring independent expenditures.

~~((5(a)))~~ (3) Required sponsor identification shall be displayed in printed advertisements:

(a) In an area set apart from other printed matter:

(b) On the first page or fold of advertising consisting of more than one page (~~but~~) that is intended to be presented as a single item (e.g., 3-page letter with return envelope) (~~must identify the sponsor on the first page or fold of the advertising~~). Identification on an enclosed return envelope or the envelope in which the advertising is sent is not sufficient(~~(- (b))~~);

(c) By respective sponsor on advertising which is a collection of several items relating to more than one candidate or committee and distributed simultaneously (~~must show the respective sponsor on the respective items~~.

~~(6) The name of the sponsor of all radio or television advertising shall be clearly spoken or identified as required in RCW 42.17A.320.~~

~~(a) Political committees that sponsor political advertising costing one thousand dollars or more supporting or opposing a ballot measure shall comply with the "top five contributors" provisions of RCW 42.17A.320 and this information shall be clearly spoken or identified as provided in RCW 42.17A.320. The "top five" contributors shall be identified pursuant to WAC 390-18-025.~~

~~(b) All radio, telephone and television advertising undertaken as an independent expenditure as defined in RCW 42.17A.005 shall comply with the "no candidate authorized this ad" sponsor identification and, if relevant, the "top five contributors" provisions of RCW 42.17A.320 and this information shall be clearly spoken or identified as provided in RCW 42.17A.320.~~

~~(c) All radio and television advertising undertaken as an electioneering communication as defined in RCW 42.17A.005 shall comply with the "no candidate authorized this ad" sponsor identification and, if relevant, the "top five contributors" provisions of RCW 42.17A.320 and this information shall be clearly spoken or identified as provided in RCW 42.17A.320.~~

~~(d) Political committees that sponsor independent expenditure or electioneering communication radio and television advertising are required to clearly speak or otherwise identify the "top five contributors" to that political committee pursuant to WAC 390-18-025; however, this requirement does not apply to bona fide political parties sponsoring independent expenditures).~~

(4) Required sponsor identification shall be clearly identified or spoken in advertising on radio, by telephone, or on television.

(5) Required sponsor identification shall be clearly identified, spoken or displayed on advertising on web sites, social media and other digital communication. Political committee web sites and other online forums created by a political committee must include sponsor identification.

(6) With advertising for which no payment is demanded or for which a cost or fair market value is not readily ascertainable, the sponsor is the candidate, political committee or person who solicits or arranges for the advertising to be displayed, disseminated or broadcast.

(7) If more than one person sponsors specific advertising, the identity of each sponsor must be identified. However, if a person contributes in cash or in-kind to a candidate or political committee to assist in paying the cost of advertising, that person is not deemed a sponsor provided the contribution is not earmarked for the advertising and is reported in accordance with applicable provisions of chapter 42.17A RCW and Title 390 WAC.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-18-020 Advertising—Political party identification. (1) ~~((According to))~~ RCW 42.17A.320(~~(;))~~ requires sponsors of electioneering communications identifying a candidate or advertising supporting or opposing a candidate (~~(who has expressed a party or independent preference on the declaration of candidacy must))~~ to clearly identify the candidate's political party or independent status in the advertising when the candidate has expressed a party or independent preference on the declaration of candidacy.

~~(2) ((According to RCW 42.17A.320, sponsors of electioneering communications identifying a candidate who has expressed a party or independent preference on the declaration of candidacy must clearly identify the candidate's political party or independent status in the advertising.~~

~~(3))~~ To assist sponsors in complying with this requirement, the commission shall publish a list of abbreviations or symbols that clearly identify political party affiliation or independent status. These abbreviations may be used by sponsors to identify a candidate's political party.

AMENDATORY SECTION (Amending WSR 13-12-015, filed 5/24/13, effective 6/24/13)

WAC 390-18-025 Advertising—Identification of "top five contributors." (1) For purposes of RCW 42.17A.-320 (2), (4), (5) and (6), "top five contributors" means the five persons, as defined in RCW 42.17A.005, giving the largest aggregate contributions exceeding seven hundred dollars during the twelve-month period preceding the date on which the advertisement is published or otherwise presented to the public. If more than five contributors give an amount equal to the largest aggregate contribution exceeding seven hundred dollars and the funds are received during the relevant twelve-month period, the political committee sponsoring the advertisement shall select five of these contributors to identify as the top five contributors.

(2) ~~((For independent expenditure advertisements or electioneering communications, the "top five contributors" identification requirement of RCW 42.17A.320 applies to all political committees that make independent expenditures, including continuing political committees and out-of-state political committees subject to chapter 42.17A RCW other than a bona fide political party committee.~~

(3) ~~For political advertisements supporting or opposing ballot measures costing one thousand dollars, the "top five contributors" identification requirement of RCW 42.17A.320 applies to all political committees.~~

(4)) If a political committee keeps records necessary to track contributions according to the use intended by contributors, and the committee subsequently makes independent expenditures for advertisements supporting or opposing a candidate or slate of candidates or an electioneering communication identifying a specific candidate or slate of candidates, that committee may identify the top five contributors giving for that purpose, as opposed to identifying the overall top five contributors to the committee as is otherwise required by RCW 42.17A.320 and this section.

However, a contributor's contributions earmarked for independent expenditures supporting or opposing a specific candidate or slate of candidates or electioneering communications identifying a specific candidate or slate of candidates shall not be used with respect to a different candidate or slate of candidates without the contributor being identified as one of the top five contributors for the actual expenditure if that contributor is one of the top five contributors for that expenditure.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-18-027 Definition—Medium that does not include a visual image. (1) For electioneering communications identifying sponsors and top five contributors as required by RCW 42.17A.320, a "medium that does not include a visual image" means radio.

(2) For independent expenditures identifying sponsors and top five contributors as required by RCW 42.17A.320, a "medium that does not include a visual image" means radio or telephone transmissions.

AMENDATORY SECTION (Amending WSR 13-12-017, filed 5/24/13, effective 6/24/13)

WAC 390-18-030 Advertising—Exemptions from sponsor identification and alternatives for online advertising. (1) RCW 42.17A.320 requires that political advertising must identify certain information. The commission is authorized to exempt advertising where the sponsor identification disclosures required by RCW 42.17A.320 (1) and (2) are impractical. In addition, other political advertising is exempt from providing certain disclosures.

(2) The following forms of advertising need not include the sponsor's name and address, the "no candidate authorized this ad" sponsor identification, the "top five contributors," or the identification of the individual, corporation, union, association, or other entity that established, maintains, or controls the sponsoring political committee as otherwise required by

RCW 42.17A.320 (1) and (2) because such identification is impractical: Ashtrays, badges and badge holders, balloons, bingo chips, brushes, bumper stickers - size 4" x 15" or smaller, buttons, cigarette lighters, clothes pins, clothing, coasters, combs, cups, earrings, emery boards, envelopes, erasers, frisbees, glasses, golf balls, golf tees, hand-held signs, hats, horns, ice scrapers, inscriptions, key rings, knives, labels, letter openers, magnifying glasses, matchbooks, nail clippers, nail files, newspaper ads of one column inch or less (excluding online ads), noisemakers, paper and plastic cups, paper and plastic plates, paper weights, pencils, pendants, pennants, pens, pinwheels, plastic tableware, pocket protectors, pot holders, reader boards where message is affixed in ~~((moveable))~~ movable letters, ribbons, 12-inch or shorter rulers, shoe horns, skywriting, staple removers, stickers ~~((size 2-3/4" x 1" or smaller))~~ of a comparable size as worn by an individual, sunglasses, sun visors, swizzle sticks, state or local ~~((voters))~~ voter's pamphlets published pursuant to law, tickets to fund-raisers, water towers, whistles, yard signs - size 4' x 8' or smaller, yo-yos, and all other similar items.

(3) Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. As an alternative, small online advertising may provide the required disclosures by using an automatic display with the advertising that takes the reader directly to the required disclosures.

(a) These automatic displays must be clear and conspicuous, unavoidable, immediately visible, remain visible for at least four seconds, and display a color contrast as to be legible. Online advertising that includes only audio must include the disclosures in a manner that is clearly spoken.

(b) Examples include nonblockable pop-ups, roll-overs, a separate text box or link that automatically appears with or in the advertising that automatically takes the reader directly to the required disclosures upon being clicked once, or other similar mechanisms that disclose the information required in RCW 42.17A.320.

(4) Political advertising created and distributed by an individual using ~~((his or her))~~ their own modest resources is not required to provide the disclosures in RCW 42.17A.320, when all of the following criteria are satisfied:

(a) The individual spends in the aggregate less than one hundred dollars to produce and distribute the advertising or less than fifty dollars to produce and distribute online ~~((political))~~ advertising;

(b) The individual acts independently and not as an agent of a candidate, authorized committee, political committee, corporation, union, business association, or other organization or entity;

(c) The advertising is not a contribution under RCW 42.17A.005 ~~((43))~~ (16)(a)(ii) or (iii) or WAC 390-05-210;

(d) The individual does not receive donations, contributions, or payments from others for the advertising, and is not compensated for producing or distributing the advertising; and

(e) The advertising is either:

• A letter, flier, handbill, text ~~((or))~~, email or other digital communications from the individual that does not appear in a newspaper or other similar mass publication (except for let-

ters to the editor and similar communications addressed in WAC 390-05-490(4)); or

- Disseminated on the individual's social media site, personal web site, or an individual's similar online forum where information is produced and disseminated only by the individual.

(5) Political advertising that is internal political communications to members is not required to separately include the disclosures in RCW 42.17A.320 where the sponsor's name is otherwise apparent on the face of the communication.

AMENDATORY SECTION (Amending WSR 15-12-058, filed 5/28/15, effective 6/28/15)

WAC 390-18-050 Commercial advertisers—Public inspection of records. (1) "Commercial advertiser" as that term is used in the act and these rules means any person, as defined in the act, including individuals and entities, that sells the service of communicating messages or producing material for broadcast or distribution to the general public or segments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboard, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communications used for the purpose of appealing, directly or indirectly for votes or for financial or other support in any election campaign.

(2) Any person that hosts political advertising or electioneering communications on a digital communication platform or other media is not required to maintain records on such advertising or communications if it has been purchased directly through another commercial advertiser, however the commercial advertiser that directly sells the advertising or communications to the original purchaser must maintain the information as required in this section.

(3) Pursuant to RCW 42.17A.345, ((any person, without reference to or permission from the public disclosure commission, is entitled to inspect a commercial advertiser's political advertising or electioneering communications documents and books of account.

~~(2) No commercial advertiser shall be required to make available for public inspection))~~ each commercial advertiser who has accepted or provided political advertising, or electioneering communications, as defined in RCW 42.17A.005, must maintain current books of account and related materials as required by this section. Such information must be available for public inspection by any person, without reference to, or permission from, the PDC, and provided:

(a) In person during normal business hours; and

(b) If requested electronically, in machine readable format and structured in a way that enables the data to be fully discoverable and useable by the end user:

(i) By digital transmission, such as email, promptly upon request; or

(ii) By online publication in one of the following formats:

(A) On the advertiser's primary web site;

(B) On a web site controlled by the advertiser, created for purposes of publishing the information required by this section, if a link is prominently displayed on the advertiser's

primary web site directing users to the web site on which the information is provided; or

(C) On the PDC's open access platform, if one is provided by the PDC for such purpose.

(4) Information regarding political advertising or electioneering communications ((prior to)) must be made available within twenty-four hours of the time when the advertisement or communication ((has)) initially ((received public distribution)) has been publicly distributed or broadcast, and within twenty-four hours of any update or change to such information. Such records must be maintained for a period of no less than three years after the date of the applicable election.

~~((3))~~ (5) The ((documents)) information and books of account that must be maintained open for public inspection pursuant to RCW 42.17A.345((H)) are:

(a) The name of the candidate or ballot measure supported or opposed or the name of the candidate otherwise identified, and whether the advertising or communication supports or opposes the candidate or ballot measure;

(b) The name and address of the ((person who sponsored)) sponsoring person or persons actually paying for the advertising or electioneering communication, including the federal employee identification number, or other verifiable identification, if any, of an entity, so that the public can know who paid for the advertising or communication, without having to locate and identify any affiliated entities;

(c) The total cost of the advertising or electioneering communication, or initial cost estimate if the total cost is not available upon initial distribution or broadcast, how much of that amount has been paid, as updated, who made the payment, when it was paid, and what method of payment was used; and

(d) Date(s) the commercial advertiser rendered service.

~~((4))~~ (6) In addition to subsection ((3)) (5) of this section and pursuant to RCW 42.17A.345 ((1)(b), the documents), the materials and books of account open for public inspection must include the political advertisement or electioneering communication itself, and a description of the major work components or tasks, as specified in (a) through ((F)) (g) of this subsection, that were required to provide the advertising or communications services.

(a) For printers, reproducers and other persons who provide commercial duplicating services: Quantity of items, item description, design, layout, typesetting, photography, printing, silk screening, binding.

(b) For mailing services: Quantity of items mailed, binding, stuffing, labeling, list or directory services, postage or delivery.

(c) For broadcast media: Air time and number of spot advertisements. If the broadcaster provides additional services such as copy writing, talent, production, and tape reproduction, some type of record or notation evidencing the additional service must be available.

(d) For billboard or sign companies: Number and location of signs, design, printing and art work, erection/removal costs.

(e) For specialty or novelty commercial advertisers: Quantity of items provided, silk screening, design, printing and art work.

(f) For newspapers and other print media: Amount of advertising space and dates of publication. If the advertiser provides additional services such as design or layout, some type of record evidencing such additional services must be available.

(g) For digital communication platforms: A description of the demographic information (e.g., age, gender, race, location, etc.) of the audiences targeted and reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business, and the total number of impressions generated by the advertisement of communication.

(7) At the request of the PDC, each commercial advertiser required to comply with this section shall provide to the PDC copies of the information described above.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 390-18-015 Online political advertising.

WAC 390-18-060 Electioneering communication reporting threshold and sponsors.

AMENDATORY SECTION (Amending WSR 01-22-052, filed 10/31/01, effective 1/1/02)

WAC 390-19-010 Intent of electronic filing. (1) The public disclosure commission (PDC) was created and empowered by initiative of the people to provide timely and meaningful public access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to insure compliance with contribution limits and other campaign finance restrictions.

(2) Full and prompt access to the political finance data filed by persons subject to the law is best realized through wide-spread use of electronic filing alternatives. The Washington state legislature has mandated that certain filers submit their PDC reports electronically. The ~~((commission))~~ PDC makes available to all candidates, public officials, lobbyists, lobbyist employers, and political committees that are required to file reports under this chapter electronic filing alternatives for submitting reports, and encourages all persons required to report under the disclosure law to utilize the electronic filing alternatives provided by the PDC.

AMENDATORY SECTION (Amending WSR 16-04-027, filed 1/25/16, effective 2/25/16)

WAC 390-19-020 Electronic filing—Mandatory filing. (1) RCW 42.17A.245 mandates that persons ~~((satisfying))~~ meeting the qualifying criteria in that section file all contribution and expenditure reports by electronic means.

(2) Persons filing by electronic means shall register with the PDC and receive a filer identification number and password. Filers must have a current C-1 Candidate Registration Statement or a C-1pc Committee Registration Statement on

file with the PDC prior to receiving a filer identification number.

(3) A filer subject to RCW 42.17A.245 shall file all PDC C-3 and C-4 reports and all appropriate schedules electronically in compliance with subsection (5) of this section.

(4) Any filer required to file electronically, but who files on paper, is in violation of RCW 42.17A.245 and may be subject to enforcement action unless the filer is a candidate who has sought and been granted an exception from electronic filing under WAC 390-19-050.

(5) A filer subject to electronic filing shall file reports using one of the following:

(a) The ORCA software (Online Reporting of Campaign Activity) provided free-of-charge by the PDC; or

(b) Any other electronic filing application provided or approved by the PDC.

(6) Pursuant to RCW 42.17A.055, state agencies reporting their legislative activities under RCW 42.17A.635 are required to file electronically.

AMENDATORY SECTION (Amending WSR 01-22-052, filed 10/31/01, effective 1/1/02)

WAC 390-19-040 Electronic filing—Verification and amendments. (1) An electronic report is filed when it is received and validated by the ~~((public disclosure commission))~~ ~~((PDC))~~ PDC computer system. The PDC shall notify the filer that the electronic report has been received.

(2) An electronic report is timely filed if received on or before 11:59 p.m. Pacific Time on the prescribed filing date.

(3) An electronic report that is infected with a virus, damaged, or is improperly formatted is not properly filed with the PDC and shall be rejected.

(4) To amend an electronically filed report, the filer shall electronically refile the entire report.

NEW SECTION

WAC 390-19-045 Electronic filing system—Inoperable. (1) For the purpose of RCW 42.17A.055, "electronic filing system" means the specific PDC-provided application or functionality necessary to file a specific report and does not include software provided by third parties;

(2) For the purpose of RCW 42.17A.055, "inoperable" means the electronic filing system used by the filer is unable to prepare or receive the required report except as provided in subsection (3) of this section;

(3) The electronic filing system is not considered inoperable during regular maintenance periods lasting less than thirty minutes between the hours of 11:00 p.m. and 5:00 a.m. Pacific Time or unscheduled events lasting less than fifteen minutes in any twenty-four-hour period;

(4) The PDC will provide notification for all periods of inoperability on its web site and will provide an option for individuals to also be notified by electronic notification upon request.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-19-050 Electronic filing—Exceptions. (1) The ~~((commission))~~ PDC may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports electronically.

(2) A candidate seeking an exception under RCW 42.17A.245 shall file with the PDC a written statement of reasons why the authorized committee lacks the ability to file reports electronically.

Chapter 390-37 WAC

ENFORCEMENT ~~((HEARING (ADJUDICATIVE PROCEEDING)))~~ RULES

AMENDATORY SECTION (Amending WSR 12-18-015, filed 8/24/12, effective 9/24/12)

WAC 390-37-001 Enforcement cases—Jurisdiction. The public disclosure commission (PDC) enforces chapter 42.17A RCW concerning campaign financing, lobbyist reporting, reporting of public officials' financial affairs, reporting by public treasurers, political advertising, campaign contribution limitations and the other provisions in chapter 42.17A RCW. ~~(The ((commission)) PDC does not enforce the Public Records Act under chapter 42.56 RCW. RCW 42.56.550 provides for direct review by the superior courts for persons seeking to enforce chapter 42.56 RCW.)~~

NEW SECTION

WAC 390-37-005 Complaint review and categorization. (1) PDC staff, upon receiving or initiating a complaint, will promptly conduct an initial review and preliminarily assign matters to certain categories.

(2) Upon initial review, a matter may be preliminarily categorized as:

(a) Unfounded or frivolous, pursuant to WAC 390-37-060;

(b) A remedial violation, pursuant to RCW 42.17A.005;

(c) Appropriate for resolution as a technical correction, pursuant to RCW 42.17A.005;

(d) A minor violation, appropriate for alternative resolution alternatives, pursuant to WAC 390-37-061;

(e) Appropriate for investigation as to whether or not there has been a material actual violation eligible for resolution pursuant to RCW 42.17A.005(2);

(f) Appropriate for referral to the attorney general, pursuant to WAC 390-37-042; or

(g) Other status as authorized and appropriate under chapter 42.17A RCW or Title 390 WAC.

(3) Each enforcement matter will be posted by PDC staff on the PDC's public case-tracking database, where its status will be updated from time to time as appropriate until the matter is closed.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-010 Enforcement procedures—General. This chapter provides the procedures for the PDC's enforcement of compliance with chapter 42.17A RCW, including categorization of enforcement matters, complaint processes, alternative resolutions, investigations, and adjudicative proceedings (enforcement hearings) in compliance cases under the commission's jurisdiction. The procedures are also governed by RCW 42.17A.755, and the adjudicative proceedings provisions of chapter 34.05 RCW. Unless they differ or are otherwise specifically addressed in this chapter, the procedures, are supplemented by the model rules of procedure in chapter 10-08 WAC. In lieu of holding an adjudicative proceeding or issuing an order as a result of such a proceeding, the commission may refer the matter to the attorney general or other law enforcement agency at any time, pursuant to RCW 42.17A.105~~((5))~~ and 42.17A.755.

In addition, the procedures for ~~((requesting))~~ a person required to file a report under this chapter to request a hearing on a petition to modify or suspend reporting requirements are provided in RCW 42.17A.120 and chapters 390-24 and 390-28 WAC.

The policy of the ~~((commission))~~ PDC is to facilitate the resolution of compliance matters in a fair and expeditious manner. The ~~((commission))~~ PDC encourages the parties to consider corrections, alternative resolution ((or)), partial resolution, statements of understanding, settlement and stipulation procedures as set forth in WAC 390-37-040, 390-37-060, 390-37-062, 390-37-075, ~~((or))~~ 390-37-090, ~~((when))~~ or 390-37-142 whenever appropriate. Informal settlements are encouraged by RCW 34.05.060.

AMENDATORY SECTION (Amending WSR 15-12-079, filed 5/29/15, effective 6/29/15)

WAC 390-37-020 Enforcement procedures—~~((Alleging a violation))~~ Who may allege a violation with the PDC. Alleged violations of chapter 42.17A RCW may be brought to the attention of the ~~((commission))~~ PDC staff by:

(1) A member of the public;

(2) The ~~((commission))~~ PDC staff;

(3) A commission member, who shall ~~((then be disqualified))~~ thereafter, in their discretion, determine whether disqualification from participating in the ~~((decision))~~ adjudication of an enforcement matter that may arise from a complaint regarding the alleged violation(s) is appropriate;

(4) Referral from the office of the attorney general or any other law enforcement agency; or

(5) A state agency, local agency or member of a state or local agency.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-030 Enforcement procedures—~~((Citizen complaints filed with the commission))~~ Standing and notice for complainants. (1) When a ~~((citizen))~~ complaint ~~((has been filed with the agency))~~ is filed with the PDC other than by PDC staff pursuant to WAC 390-37-040, neither the

complainant nor any other person shall have special standing to participate or intervene in ~~((the))~~ any investigation or consideration of the complaint by the commission or its staff. However, the staff shall give notice to the complainant of any ~~((open))~~ commission hearings on the matter and the complainant may be called as a witness in any enforcement hearing or investigative proceeding. The commission's presiding officer has the discretion to allow comment by a person other than the respondent during the consideration of a complaint by the commission. Any person who wishes to comment should notify staff at least three business days before the proceeding.

(2) The complainant or any other person may submit documentary evidence and/or written factual or legal statements to the staff at any time up to and including the fifth calendar day before the date of any enforcement hearing or proceeding, but complainants are encouraged to provide as much information as possible at the time of filing a complaint to help ensure the complaint review and investigation processes are as thorough as possible. Complainants and others are encouraged to submit evidence electronically wherever feasible.

~~((3) A person not satisfied with the dismissal of a complaint by the commission or its executive director may pursue an appropriate remedy under RCW 42.17A.765(4).))~~

AMENDATORY SECTION (Amending WSR 15-12-079, filed 5/29/15, effective 6/29/15)

WAC 390-37-040 Enforcement procedures—Procedures for filing complaints with the ~~((commission))~~ PDC. (1) A complaint filed with the ~~((commission))~~ PDC must be ~~((in))~~ by electronic writing. Complainants ~~((are encouraged to))~~ must use the ~~((complaint form))~~ form(s) provided by the ~~((commission))~~ PDC on its web site. The executive director may waive this requirement and allow for the use of another written format on the basis of hardship.

(2) A complaint must include:

(a) A statement of the nature of the alleged violation or violations, referencing chapter 42.17A RCW and/or Title 390 WAC (if known), date, time and place of each occurrence and name of person or persons believed to be responsible, and a description of the impact of the alleged violation on the public;

(b) All available documentation and other evidence which the complainant is able to supply that supports the allegations made in the complaint. Information about where documents or evidence can be obtained and any relevant contact information should be included for any items that cannot be supplied with the complaint;

(c) The names and telephone numbers, email addresses, and U.S. mail address, if known, of any witnesses or other persons who have knowledge of facts ~~((that support))~~ related to the complaint;

(d) The complainant's name, email address which will be the PDC's official method of communication, U.S. mail address, and telephone number; ~~((and))~~

(e) The signature of the complainant certifying under penalty of perjury under the laws of the state of Washington that the information provided with the complaint is true and

correct to the best of ~~((his or her))~~ their knowledge and belief; and

(f) Other pertinent information, as required by the PDC.

(3) The person or entity against whom a complaint is filed is known as the respondent.

NEW SECTION

WAC 390-37-042 Enforcement procedures—Process and criteria for referring enforcement matters to the attorney general. (1) When a complaint is filed or initiated by the PDC, the PDC may refer the matter at any time to the attorney general in accordance with RCW 42.17A.755. The determination to refer a matter to the attorney general will be made by either:

(a) A majority vote of the commission at a regular or special commission meeting; or

(b) By the executive director with the documented concurrence by electronic writing of either the chair or vice chair of the commission.

Any referral to the attorney general will be made in writing and may be made by electronic transmission.

(2) Enforcement matters potentially appropriate for referral may be brought to the executive director's attention by members of the commission, by PDC staff, by another party, or by the attorney general.

(3) Where the attorney general has requested referral of a matter and addressed the relevant criteria under RCW 42.17A.755, the executive director shall respond to the request within two business days. Both the request and the response shall be in writing and may be by electronic transmission.

(4) The executive director shall report at each regular commission meeting all referrals made by the executive director to the attorney general and all requests for referral by the attorney general since the prior commission meeting.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

WAC 390-37-050 Enforcement procedures—Respondent's notice of complaint. (1) Within ten days of receipt by the ~~((commission))~~ PDC of a complaint which on its face appears to have merit, the ~~((commission))~~ PDC staff shall notify the respondent that a complaint has been filed~~((-))~~, along with an explanation of possible next steps, including the categorization process under WAC 390-37-005. Sending the complaint to the respondent's email address of record as provided to the PDC shall constitute sufficient notice.

(2) The notice shall set forth the nature of the complaint and ~~((its origin (citizen complaint, commission or other) and the statutory provision alleged to have been violated. If an alternative response to the alleged violation has been issued as provided by this chapter, the notice shall also describe that response, including any conditions the respondent is required to meet))~~ the statutory and/or rule provision(s) alleged to have been violated.

(3) Respondents who wish to respond must file their response electronically within fourteen days of being notified by PDC staff, addressing the alleged noncompliance in the

complaint. The response may address the respondent's view of which category or categories appropriately address the alleged noncompliance pursuant to WAC 390-37-005 (remedial, technical corrections, etc.). The PDC staff may provide for a shorter response period for complaints received within sixty days of an election.

(4) If an alternative response to the alleged violation has been issued as provided by this chapter, the notice shall also describe that response, including any conditions the respondent is required to meet.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

WAC 390-37-060 Enforcement procedures—Alternative responses to noncompliance—Investigation of complaints—Initiation of adjudicative proceeding. (1) Upon receipt of a complaint, the ~~((executive director))~~ PDC staff will conduct an initial review of the complaint ~~((to determine what action will be taken. An initial review is a preliminary investigation to determine whether the allegations are limited to minor or technical violations of chapter 42.17A or if there is sufficient ground indicating that a material violation of chapter 42.17A RCW may have occurred so as to warrant a formal investigation))~~ pursuant to WAC 390-37-005.

(a) If the executive director determines that any complaint is obviously unfounded or frivolous, or outside of the PDC's jurisdiction, the executive director will inform the complainant and, as appropriate, the respondent why no further ~~((investigation))~~ action is warranted.

(b) The executive director may resolve a matter as a technical correction pursuant to RCW 42.17A.755. PDC staff will notify the respondent of the need to make a correction and the deadline by which that correction must be made. The deadline will be no less than five days and no more than thirty days from the date of the notification. The failure to make the requested correction may result in the initiation of an investigation or other enforcement action.

(c) The executive director may resolve a matter as a remedial violation pursuant to RCW 42.17A.755.

(d) The executive director may resolve any complaint that alleges minor ~~((or technical))~~ violations of chapter 42.17A by issuing a formal written warning. If the resolution is conditioned upon the respondent reaching or maintaining compliance, specific expectations and any deadlines ~~((should))~~ will be clearly explained in the written warning. A respondent's failure to meet conditions may result in a complaint being reopened.

~~((e))~~ (e) The executive director may use the complaint publication process set out in WAC 390-32-030 to resolve any complaint that alleges minor or technical violations of chapter 42.17A RCW.

~~((f))~~ (f) The executive director ~~((shall))~~ may initiate ~~((a formal))~~ an investigation whenever an initial review of a complaint indicates that a material violation ~~((of chapter 42.17A RCW))~~ may have occurred.

(g) The executive director shall report at each regular commission meeting a summary covering the period since the previous commission meeting of all complaints initiated or received; how they were categorized; the nature of the alle-

gations; conformance to required timelines; and actions taken and resolutions achieved pursuant to the alternatives provided for under chapter 42.17A RCW, such as dismissals, requests for technical correction, warning letters, complaint publication, statements of understanding, initiations of investigations, status reviews, stipulations, referrals to the attorney general's office, brief adjudicative proceedings, or commission hearings.

(2) If the executive director determines ~~((a formal))~~ an investigation will require the expenditure of substantial resources, the executive director may request review and concurrence by the commission before proceeding.

(3) ~~((The executive director shall initiate an adjudicative proceeding or provide a report to the commission whenever a formal investigation reveals facts that the executive director has reason to believe are a material violation of chapter 42.17A RCW and do not constitute substantial compliance.~~

(4)) If the executive director determines an investigation is warranted, an initial hearing (also referred to as a "case status review") shall be held pursuant to WAC 390-37-071 within ninety days.

(4) Following the initial hearing (case status review), and further investigation if needed, the executive director may initiate an adjudicative proceeding whenever the facts support that an actual violation has occurred and the matter is not appropriate for a dismissal or an alternative resolution.

(5) The respondent and complainant shall be notified of the date of the adjudicative proceeding or a report on an enforcement matter resulting from a complaint no later than ten calendar days before that date. The notice shall contain the information required by RCW 34.05.434, the staff investigative report, and any charges to be adjudicated. The notice, whenever possible, will be delivered electronically.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-061 Enforcement procedures—Alternative responses to noncompliance—Goals and objectives—Factors to be considered. (1) In considering appropriate responses to ~~((noncompliance with chapter 42.17A RCW or Title 390 WAC, the commission))~~ actual violations, as that term is used in the act, the PDC staff considers whether ~~((a formal))~~ an investigation or adjudicative proceeding constitutes an efficient and effective use of public funds; or whether an alternative response better meets the ~~((commission's))~~ PDC's mission and public expectations by allowing the expedited resolution of minor ~~((and technical alleged))~~ violations, and the focusing of ~~((staff and commission))~~ resources on ~~((major alleged))~~ more significant violations of chapter 42.17A RCW and Title 390 WAC.

(2) A minor violation is an actual violation that occurs;
(a) When required information is not timely disclosed,
~~((however))~~ but the public is not deprived of critical information((-

A technical violation occurs when)); or

(b) When incomplete information is disclosed, but a good faith effort to comply with disclosure is made, ~~((but incomplete information is disclosed))~~ and the public is not deprived of critical information.

~~((2))~~ (c) When any other violation of chapter 42.17A RCW has occurred that does not materially affect the public interest.

(3) In authorizing an alternative response to alleged non-compliance, the executive director may consider the nature of the alleged violation and any relevant circumstances including, but not limited to, the factors described in subsection ~~((3))~~ (4) of this section: Provided, that, if after weighing the

relevant circumstances and factors, the executive director determines that there is evidence that so warrants, the allegations shall be addressed through ~~((a-formal))~~ an investigation as provided by WAC 390-37-060.

~~((3))~~ (4) The factors the executive director may consider in permitting an alternative response to noncompliance, ~~((a-formal))~~ an investigation, or an adjudicative proceeding include, but are not limited to:

An alternative response to noncompliance may be appropriate if ...	((A-formal)) <u>An</u> investigation and possible adjudicative hearing may be appropriate if ...
It appears that noncompliance resulted from a good-faith error, omission, or misunderstanding.	It appears that the noncompliance may have resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior.
The respondent is a first-time filer.	The respondent has experience in complying with the applicable requirements.
The respondent's compliance history indicates the noncompliance was isolated or limited in nature, and not indicative of systematic or ongoing problems.	The noncompliance is part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization.
The impact of the noncompliance on the public was minimal.	The noncompliance deprived the public of timely or accurate information during a time-sensitive period in a campaign, legislative session, etc., or otherwise had a significant or material impact on the public.
The respondent's organization or campaign was relatively unsophisticated or small.	The respondent or the respondent's organization or campaign demonstrated a relatively high level of sophistication, or was well financed and staffed.
The total expenditures by the respondent in the campaign or statement period were relatively modest.	The campaign or statement period involved significant expenditures by the respondent.
The amount of late-reported activity, or the duration of the untimely disclosure, was small in proportion to the amount of activity that was timely reported by the respondent.	The late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period.
There is no evidence that any person, including an entity or organization, benefited politically or economically from the noncompliance.	It appears the respondent or anyone else benefited politically or economically from the noncompliance.
Personal emergency or illness of the respondent or member of his or her immediate family contributed to the noncompliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.
Other emergencies such as fire, flood, or utility failure prevented compliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.
((Commission)) <u>PDC</u> staff or equipment error, including technical problems at the agency prevented or delayed electronic filing.	((Commission)) <u>PDC</u> staff or equipment error did not appear to contribute to the noncompliance.
The noncompliance resulted from the respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions, a lack of clarity in the rule or statute, or uncertainty concerning the valid application of the commission's rules.	It appears the respondent understood the application of staff's guidance or instructions, and did not dispute the valid application of the commission's rules.

An alternative response to noncompliance may be appropriate if ...	((A formal)) An investigation and possible adjudicative hearing may be appropriate if ...
The respondent quickly took corrective action or initiated other remedial measures prior to any complaint, or when non-compliance was brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or over limit contributions).	The respondent appeared negligent or unwilling to address the noncompliance.
The respondent made a good-faith effort to comply, including by consulting with ((commission)) PDC staff following a complaint and cooperating during any preliminary investigation, or demonstrated a wish to acknowledge and take responsibility for the alleged violation.	The respondent failed to provide a timely or adequate response to the complaint, or was otherwise uncooperative.
The alleged violation was or is being addressed under an analogous local ordinance, regulation, or policy.	The commission has primary jurisdiction over the alleged violation.
The alleged violation presents a new question or issue for the commission's interpretation.	The alleged violation does not present a case of first impression.
Other factors relevant to a particular case	

NEW SECTION

WAC 390-37-062 Enforcement procedures—Alternative responses—Cases resolvable by stipulation prior to completion of investigation—Penalty schedule. (1) The purpose of WAC 390-37-062 is to set forth a schedule of violations and penalties that may be agreed to by a respondent pursuant to a stipulation prior to an investigation, as authorized by RCW 42.17A.755. That schedule appears in the table below.

(2) A violation not set forth in the schedule may be resolved pursuant to a stipulation, provided that the proposed penalty amount is within the dollar ranges listed in the schedule.

(3) "Occasion" as used in the schedule means an "actual violation," as defined in RCW 42.17A.005, found by the commission.

(4) Only actual violations within the last five years will be considered for determining whether the violation under consideration shall be deemed a second or third occasion.

(5) Any proposed stipulation shall be in writing, must include a brief recitation of the facts, violations, and penalty, and be signed by each party to the stipulation or their representative and provided by 4:00 p.m. three business days preceding the commission meeting. The executive director shall sign for PDC staff.

(6) The commission has the option of accepting, modifying or rejecting the proposed stipulation. If the commission accepts the stipulation, or modifies the stipulation with the agreement of the parties, the commission shall enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation, the commission staff may consider whether:

- (a) An investigation should be initiated; or
- (b) The matter may appropriately be resolved in another manner.

(7) In determining whether to accept the stipulation, the commission may consider the nature of the violation(s), and any aggravating and/or mitigating factors as provided in WAC 390-37-182.

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report) / (2) Candidate Registration / (C-1 report) / (3) Lobbyist Monthly Expense Report (L-2 report) / (4) Lobbyist Employer Annual Report (L-3 report) and (5) Local Treasurer's Annual Report (T-1 report).			
	1st Occasion	2nd Occasion	3rd Occasion
Filed missing report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Report is filed late and is incomplete or inaccurate.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Respondent failed to file or timely file accurate and complete campaign disclosure reports:			
Cash Receipts Monetary Contributions Report (C-3 report)			
Filed missing C-3 report or amended C-3 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250

Failed to timely deposit monetary contributions within five business days of receipt.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to include employer and occupation information for contributors of more than \$100.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Campaign Summary Receipts and Expenditures Report (C-4 report)			
Filed missing C-4 report or amended C-4 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to report a contractual contingent liability.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly dispose of surplus funds.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Independent Expenditure Report (C-6 report)			
Filed missing C-6 report or amended C-6 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Report is incomplete or inaccurate.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Out-of-State Political Committee Report (C-5 report)			
Filed missing C-5 report or amended C-5 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Last Minute Contribution Report (LMC report)			
Filed missing LMC report or amended LMC report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Exceeding Contribution Limits			
Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Other Alleged Violations			
Exceeding Mini Reporting Threshold			
Filed C-3 and C-4 reports for full reporting after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failure to file electronically			
Filed C-3 and C-4 reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition.			

Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failure to file Lobbyist Registration report (L-1 report)			
Filed missing L-1 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Failure to File Agency Lobbying Report (L-5 report)			
Filed missing L-5 report or amended L-5 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Grassroots Lobbying Report (L-6 report)			
Filed missing L-6 report or amended L-6 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Sponsor identification requirements for political advertising			
Political advertising failed to include any sponsor identification, or included improper or misleading sponsor identification.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Party preference requirement for political advertising			
Political advertising failed to include a candidate's party preference.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Use of current picture requirement in political advertising			
Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Political advertising or electioneering communication—Libel or defamation per se			
Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Commercial advertisers—Public inspection of documents			
Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain documents or books of account as required by WAC 390-16-050.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Candidates and political committees—Public inspection of books of accounts			
Candidates or political committees who fail to accommodate requests for public inspection as required by WAC 390-16-043.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400

Limitations on employers or labor organizations			
Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400

(8) In a matter where the PDC staff have completed an investigation or resolved the matter as a technical correction, as authorized in RCW 42.17A.755, the schedule set forth in the table above is not applicable.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-37-063 Enforcement procedures—Demand for information—Subpoenas. (1) During the course of ~~((an))~~ a PDC audit or ~~((an))~~ investigation, the executive director may issue a subpoena directed to any person who probably possesses information which is relevant and material to the audit or the investigation. The subpoena shall:

- (a) Specifically describe the information which is sought, and
- (b) Set forth a reasonable time and place for the production of the information, and
- (c) Notify the person that if the information is not produced, the executive director will apply to the superior court for an appropriate order or other remedy.

The subpoena may be personally delivered or sent by certified mail, return receipt requested.

(2) The commission or the presiding officer may issue a subpoena under RCW 42.17A.110(6) and WAC 390-37-120 to compel persons to appear and give testimony and may require the production of any books, papers, correspondence, ~~((memorandums))~~ memoranda or other ~~((documents which))~~ evidence that the commission deems relevant and material.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-070 Enforcement procedures—Complaints dismissed by executive director after an investigation has been commenced. The executive director, ~~((with the concurrence of the chair or the chair's designee commissioner,))~~ at any time prior to consideration by the commission, may dismiss a complaint which on its face, or as shown by investigation, does ~~((not show))~~ provide reason to believe that a ~~((material))~~ violation ~~((of the sections of chapter 42.17A RCW that are enforced by the commission))~~ has occurred, shows that the respondent is in substantial compliance with the relevant statutes or rules, or shows that formal enforcement action is not warranted. The executive director shall report at each regular commission meeting all complaints dismissed.

NEW SECTION

WAC 390-37-071 Enforcement procedures—Initial hearing (case status review prior to ninety days). (1) After initiating an investigation pursuant to WAC 390-37-060, the executive director will conduct a case status review, referred

to as an initial hearing in RCW 42.17A.755. The case status review is not an adjudicative proceeding conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW). Its purpose is to ensure the investigation, is being conducted expeditiously and to provide an opportunity to discuss possible alternative resolutions.

(2) The case status review will be conducted within ninety days of the complaint being filed in the matter, and may be held by telephone conference or in-person at a time and place specified by PDC staff. Notice of the case status review will be delivered electronically whenever possible.

(3) Participation in the case status review by the respondent is not mandatory. The failure to participate in the hearing will not prejudice any rights of the respondent with respect to the investigation or potential adjudication of the matter.

(4) The case status review shall have a set time limit as determined by the executive director.

(5) At the case status review, the executive director shall have the authority to:

- (a) Provide the respondent with a brief opportunity to explain the respondent's view of the matter, including why further investigation may not be warranted;
- (b) Identify any available options to resolve the matter;
- (c) When appropriate, encourage the parties to enter into a stipulated agreement as authorized by RCW 42.17A.755 and WAC 390-37-062; and
- (d) Consider such other matters as may aid in the investigation, disposition or resolution of the matter.

(6) Following the case status review, the executive director shall direct PDC staff to update the PDC's public case-tracking database pursuant to WAC 390-37-005.

(7) The executive director shall report to the commission, no later than the next regular commission meeting, any case status reviews held. The executive director's report shall include an overview of matters addressed and any review outcomes.

(8) Nothing in this section shall limit the authority of the commission or its staff to resolve a complaint or refer a matter to the attorney general at any time.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-075 Enforcement procedures—Deferred enforcement(~~((Process))~~) after an investigation has been commenced. (1) As provided by WAC 390-37-060, the chair or the chair's designee commissioner may authorize deferred enforcement:

- (a) Following a ~~((formal investigation))~~ case status review provided for in WAC 390-37-071, referred to as an initial hearing in RCW 42.17A.755, in lieu of a formal investigation;

(b) Following an investigation, in lieu of a notice of administrative charges for an adjudicative proceeding; or

~~((b))~~ (c) After a notice of administrative charges, prior to an adjudicative proceeding.

(2) The executive director will recommend to the chair or the chair's designee commissioner the conditions of a deferred enforcement. The conditions shall be clearly defined and agreed to by the respondent, along with the consequences for failure to meet the conditions of the deferral. Negotiations regarding deferred enforcement shall be informal and without prejudice to rights of a participant in the negotiations.

(3) With concurrence of the chair or the chair's designee commissioner, the executive director or designee (commission staff) shall memorialize the pertinent facts and the conditions of the deferral ~~((in))~~ by electronic writing to the respondent, together with the consequences for failure to meet the conditions of the deferral. The agreement shall be signed by ~~((staff))~~ the executive director and the respondent. Staff shall notify the respondent that any administrative charges issued in the matter are stayed pending satisfaction of the deferral conditions.

(4) Once the deferral conditions are met, the complaint shall be dismissed with no further investigation or action as provided by WAC 390-37-070.

(5) If the deferral conditions are not met, the complaint shall proceed in accordance with WAC 390-37-060.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-090 Enforcement procedures—Cases resolvable by stipulation after an investigation and prior to an enforcement hearing (adjudicative proceeding)~~((or by other alternative dispute mechanisms))~~. (1) RCW 34.05.060 authorizes agencies to establish by rule specific procedures for attempting and executing informal settlement of matters. The following procedures are available for informal dispute resolution prior to an adjudicative proceeding that may make more elaborate proceedings under the Administrative Procedure Act unnecessary.

(a) Any enforcement matter before the commission which has not yet been heard in an adjudicative proceeding may be resolved by settlement. The respondent shall communicate ~~((his or her))~~ their request to the executive director or designee (commission staff), setting forth all pertinent facts and the desired remedy. Settlement negotiations shall be informal and without prejudice to rights of a participant in the negotiations.

(b) ~~((When))~~ The executive director and respondent may also agree to ~~((terms of any))~~ a stipulation of facts, violations, and/or penalty~~((s))~~. The commission staff shall prepare the stipulation for presentation to the commission.

(c) Any proposed stipulation shall be in writing, must include a brief recitation of the facts, violations and penalty, and be signed by each party to the stipulation or ~~((his or her))~~ their representative. The executive director shall sign for ~~((commission))~~ PDC staff. Any stipulation to facts, violations, or penalty shall be provided by 4:00 p.m. three business days preceding the hearing. The commission has the option of accepting, rejecting, or modifying the proposed stipulation

or asking for additional facts to be presented. If the commission accepts the stipulation or modifies the stipulation with the agreement of the ~~((opposing party))~~ parties, the commission shall enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation or ~~((the opposing))~~ either party does not agree to the commission's proposed modifications to the stipulation, and if no revised stipulation or staff report is presented to the commission, then an adjudicative proceeding shall be scheduled and held.

(2) Parties are encouraged to be creative in resolving cases without further litigation where appropriate.

(3) ~~((Following a))~~ As part of the commission's review of any proposed stipulation of facts ~~((or))~~, violations and law or other alternative resolution ruled on at a hearing, if the commission determines certain additional sanctions or other steps are required by the respondent ~~((as a result of the alternative dispute resolution including stipulations))~~ and states on the record that ~~((it))~~ the commission intends to enter an order, and the respondent does not timely raise an objection at the hearing, it shall be presumed that the respondent has waived objections and appeals, and agrees to the entry of the order.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

WAC 390-37-100 Enforcement procedures—Conduct of hearings (adjudicative proceedings). (1) An enforcement hearing (adjudicative proceeding) shall be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW). Chapter 390-37 WAC further governs these proceedings, as supplemented by chapter 10-08 WAC. To the extent chapters 390-37 and 10-08 WAC differ, chapter 390-37 WAC controls.

(2) An adjudicative proceeding shall be heard by the commission, except for brief adjudicative proceedings which are conducted by the chair or the chair's designee.

(3) The commission or the presiding officer shall have the authority to:

- (a) Determine the order of presentation of evidence;
- (b) Administer oaths and affirmations;
- (c) Rule on procedural matters, objections, and motions;
- (d) Rule on offers of proof and receive relevant evidence;

(e) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(f) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(g) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(h) Take official notice of facts pursuant to RCW 34.05.452(5);

(i) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

(j) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(k) Issue an order of default pursuant to RCW 34.05.440;
 (l) Take any other action necessary and authorized by any applicable statute or rule;

(m) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver; and

(n) The commission chair or the chair's designee may conduct the procedural aspects of the adjudicative proceeding under (a) through (m) of this subsection, unless a majority of members present vote to seek a full commission decision on any particular matter.

(4) The commission may decide dispositive motions, and any other matters referred to it by the presiding officer at a prehearing conference.

(5) After an adjudicative proceeding by the commission, the commission may (~~find that~~):

(a) Find that the respondent did not violate ((the act)) chapter 42.17A RCW, as alleged, and dismiss the case; or

(b) Find that the respondent violated chapter 42.17A RCW, as alleged, and determine the sanction, if any, to be imposed; or

(c) Find that the respondent is in apparent violation of chapter 42.17A RCW, ((its own)) and that the commission's statutory remedies are inadequate, and enter ((its)) an order referring the matter to the attorney general or another appropriate law enforcement agency as provided in RCW 42.17A.105 and 42.17A.755.

(6) Upon the conclusion of an adjudicative proceeding or after submission of memos, briefs or proposed findings when requested by the presiding officer, the commission:

(a) Shall set forth in writing its findings of fact, conclusions of law and decision on the merits of the case and enter an order within thirty days, unless extended by the presiding officer due to the complexity of the case or other good cause; and

(b) Shall serve the ((respondent)) parties by electronic communication a copy of the findings of fact, conclusions of law and decision and order.

(7) Once the commission has drafted and approved an order, the executive director is authorized to sign orders on behalf of the commission at the discretion of the commission.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-103 Enforcement procedures—Commission options following receipt of a staff report on alleged violations. Upon receipt of a PDC staff report concerning alleged violations (~~((of those sections of chapter 42.17A RCW that the commission enforces))~~), the commission may:

(1) Direct the executive director to ((issue)) pursue an alternative ((response)) resolution as provided in WAC 390-37-060;

(2) Defer enforcement as provided in WAC 390-37-075;

(3) Issue an order; or

(4) Refer the matter or apparent violations to the attorney general or other enforcement agency pursuant to RCW 42.17A.105(5) and ~~((42.17A.750))~~ 42.17A.755.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

WAC 390-37-105 Enforcement hearings (adjudicative proceedings)—Prehearing conference(~~(—Rule))~~. (1)

In any prehearing conference prior to an enforcement hearing (adjudicative proceeding), the ~~((chair or the chair's designee upon his/her))~~ presiding officer upon their own motion or upon request by one of the parties or their qualified representative, may direct the parties to appear at a specified time and place for a conference to consider:

(a) Identifying and simplifying issues;

(b) The necessity of any amendments to the ~~((pleadings))~~ case documents;

(c) The possibility of obtaining stipulations, admissions of facts and of documents;

(d) Limiting the number and consolidation of the examination of witnesses; ~~((and))~~

(e) Submitting proposed orders;

(f) Deadlines for briefs, exhibit and witness lists and objections thereto, proposed orders, and other procedural ((and such other)) matters as may aid in the conduct of the proceeding.

(2) Prehearing conferences may be presided over by the chair or ~~((his/her))~~ designee commissioner as presiding officer.

(3) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.

(4) In a prehearing conference, the presiding officer may hear prehearing motions regarding preliminary matters such as motions *in limine*, discovery motions, and other similar matters. The presiding officer shall not consider dispositive motions in a prehearing conference and such motions will automatically be scheduled for consideration before the commission.

(5) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken and decisions made at the conference and the date on which objections to the order are to be filed and served. If no objection to the order is timely filed with the presiding officer, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(6) When the chair or ~~((his/her))~~ designee commissioner presides over a prehearing conference, ((he or she)) the presiding officer is acting as a quasi-judicial body which relates to a quasi-judicial matter between named parties. Therefore, a prehearing conference is not subject to chapter 42.30 RCW, Open Public Meetings Act.

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

WAC 390-37-120 Enforcement hearings (adjudicative proceedings)—Subpoenas—Discovery—Hearings.

(1) The commission, or presiding officer, may issue subpoenas for discovery, subpoenas to persons to appear and give testimony, and may require the production of any books, papers, correspondence, memorandums, or other records deemed relevant or material and the commission or presiding officer may issue protective orders as a part of an enforce-

ment hearing. The ~~((agency))~~ PDC staff or its legal representative may issue subpoenas as may the attorney of the party against whom action is being taken. Upon request of the commission or presiding officer, all subpoenas must be filed with the commission, together with proof of proper service. Such subpoenas will issue and may be enforced in the form and manner set forth in RCW 34.05.446 and WAC 10-08-120(4). The subpoena may be personally delivered or sent by certified mail, return receipt requested.

(2) The commission, or presiding officer, upon motion or before the time specified in the subpoena for compliance therewith, may:

(a) Quash or modify the subpoena if it is unreasonable and oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(3) The attendance of witnesses and such production of evidence may be required from any place within the state of Washington to any location where a hearing is being conducted.

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

WAC 390-37-130 Enforcement hearings (adjudicative proceedings)—Depositions and interrogatories—Right to take. Unless otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the hearing. The deposition of a commissioner, the executive director, or ~~((assistant director))~~ other staff, may only be taken upon application to the commission, for good cause shown, and only in those circumstances where the statements or depositions of other staff members would not reveal the information, evidence, or details needed by the party for the case. The attendance of witnesses to a deposition may be compelled by use of a subpoena. Depositions shall be taken only in accordance with this rule and the rules on subpoenas.

AMENDATORY SECTION (Amending WSR 03-18-003, filed 8/20/03, effective 9/20/03)

WAC 390-37-134 Enforcement hearings (adjudicative proceedings)—Depositions and interrogatories (~~in enforcement hearings (adjudicative proceedings))~~—Protection of parties and deponents. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the commission or the presiding officer in a prehearing conference may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or the commission may make any other order which

justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or the deponent, and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the commission or the presiding officer in a prehearing conference may order the officer conducting the examination to cease forthwith from taking the deposition or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed only upon the order of the agency. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

WAC 390-37-136 Enforcement hearings (adjudicative proceedings)—Production of documents and use at hearing and other hearing procedures (~~(adjudicative proceedings))~~. (1) Unless a prehearing order states otherwise, the provisions of this rule apply to evidence and written argument (legal briefs) filed and served in hearings (adjudicative proceedings). Parties or the executive director may request a prehearing conference if provisions of this rule need to be adjusted or if the provisions are not adhered to by the parties.

(2) The parties are encouraged to exchange copies of proposed exhibits, exhibit lists and witness lists prior to the deadline specified in subsection (3)(a) of this section. The parties are encouraged to exchange documents by email whenever possible. The parties are encouraged to confer and determine whether there are any objections to the evidence and whether any agreements or stipulations can be reached regarding proposed exhibits, witnesses, and legal and factual issues.

(3)(a) Unless the commission determines otherwise, when evidence is to be offered at the adjudicative proceeding or when briefs are to be submitted at the adjudicative proceeding, the party offering the evidence or brief shall file with the commission and serve on all parties a copy of proposed exhibits, exhibit lists, witness lists, and briefs with the commission via an email to the executive director or his or her designee by the date and time designated by the executive director or designee, which is typically by 1:00 p.m. Pacific Time at least eight days prior to the hearing. The email shall provide the name of the party submitting the documents, the total number of pages, the software used to prepare the document, and the name, address, telephone number and email address of the person sending the email message.

(b) In the event electronic submission is not readily available to a *pro se* respondent or the evidence is not suited to email transmission, other means of providing these materials to the commission may be approved by the chair or the executive director, or their designees if requested in advance of the date and time in (a) of this subsection.

(c) ~~((On the day the parties provide these materials electronically to the commission, they shall also mail or other~~

wise deliver a paper (or hard copy) set of the materials to the commission.

~~(d))~~ The parties shall confirm in advance with the executive director that any documents provided electronically are able to be accessed by software available at the agency. If they are not accessible, the executive director shall direct how the documents are to be submitted.

~~((e))~~ (d) The documents are considered filed when received during actual business hours at the commission office. If received after actual business hours, they will be deemed filed the next business day.

(4) Respondent's exhibits shall be numbered R-1, R-2, etc. ~~(Commission)~~ PDC staff exhibits shall be numbered S-1, S-2, etc. Jointly submitted exhibits shall be numbered J-1, J-2, etc. If an exhibit is not jointly submitted but there is no objection to it by the responding party, the party offering the exhibit shall designate agreed-to exhibits on the party's exhibit list.

(5) Briefs shall contain the name of the respondent in the caption and the cause number. Briefs shall be no more than twenty-five pages, double-spaced, excluding attachments or exhibits.

(6) The parties shall inform the executive director of any special equipment necessary for the adjudicative proceeding at the time documents are filed with the commission.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-140 Brief enforcement hearings (brief adjudicative proceedings)—Authority. (1) The commission may provide a brief adjudicative proceeding for violations ~~((of the sections of chapter 42.17A RCW that it enforces))~~ in which the facts are undisputed, the violations appear to be relatively minor in nature, and a penalty no greater than \$1,000 will be assessed for the violations. Typical matters to be heard in a brief adjudicative proceeding include, but are not limited to, the following:

- (a) Failure to file or late filing of required reports;
- (b) Failure to report or accurately report campaign contributions or expenditures or funds spent in lobbying;
- (c) Use of public office facilities in election campaigns when the value of public funds expended was minimal; and
- (d) Infractions of political advertising law regarding sponsor identification or political party identification.

(2) The commission may utilize a penalty schedule for brief adjudicative proceedings.

(3) Brief adjudicative proceedings are set forth in RCW 34.05.482 through 34.05.494.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

WAC 390-37-142 Brief enforcement hearing (brief adjudicative proceeding)—Procedure. (1) A brief adjudicative proceeding may be presided over by the chair, or a member of the commission designated by the chair.

(2) When a violation, as described in WAC 390-37-140, is alleged, before taking action, the executive director shall send the ~~((alleged violator))~~ respondent notice, which shall include:

- (a) Alleged violation;
- (b) The maximum amount of the penalty that can be imposed at the hearing, relevant penalty schedules, and the amount of any proposed fine; and

(c) Person's right to respond either ~~((in))~~ by electronic writing or in person ~~((to explain his/her view of the matter))~~.

(3) As provided in RCW 34.05.050, a respondent ~~((who has been notified of a brief adjudicative proceeding))~~ may waive the opportunity for a hearing by providing the following ~~((prior to the hearing))~~:

- (a) A signed statement of understanding;
- (b) Any missing required reports; and
- (c) A penalty payment specified by the executive director in accordance with the penalty authority of WAC 390-37-140 and the brief enforcement hearing penalty schedules of this chapter.

(4) As used in this section, the term "statement of understanding" means a written statement signed by the respondent that:

- (a) Acknowledges a violation of chapter 42.17A RCW and any relevant rules; and
- (b) Expresses the respondent's understanding that the commission will not hold any adjudicative proceeding concerning the violation.

(5) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than one thousand dollars, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an adjudicative proceeding by the full commission.

(6) ~~((At the time any unfavorable action is taken the presiding officer))~~ Within thirty days after the hearing, the commission shall serve upon each party a written statement describing the violation, the reasons for the decision, ~~((and))~~ the penalty imposed ~~((Within ten days, the presiding officer shall give the parties a brief written statement of the reasons for the decision))~~, and information about any internal administrative review or reconsideration available. The executive director is authorized to sign the decision on behalf of the presiding officer.

(7) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

AMENDATORY SECTION (Amending WSR 18-10-088, filed 5/1/18, effective 6/1/18)

WAC 390-37-143 Brief enforcement hearings (brief adjudicative proceeding)—Penalty schedule. The presiding officer may assess a penalty up to one thousand dollars upon finding a violation of chapter 42.17A RCW or Title 390 WAC.

(1) Base penalty amounts:

Violation	1st Occasion	2nd Occasion	3rd Occasion
Failure to timely file an accurate and complete statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Candidate's failure to timely file an accurate and complete registration statement (C-1)/statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 per report	\$150 - \$300 per report	\$300 - \$600 per report up to \$1,000
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 per report	\$300 per report	\$600 per report up to \$1,000
Failed to file report by date of enforcement hearing.	\$250 per report	\$500 per report	consideration by full commission
Failure to timely file an accurate and complete lobbyist monthly expense report (L-2):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Failure to timely file an accurate and complete lobbyist employer report (L-3):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Failure to timely file accurate and complete disclosure reports:			
Political committee registration (C-1pc).	\$150	\$300	\$600
Statement of contributions deposit (C-3).	\$150	\$300	\$600
Summary of total contributions and expenditures (C-4).	\$150	\$300	\$600
Independent expenditures and electioneering communications (C-6).	\$150	\$300	\$600
Last minute contribution report (LMC).	\$150	\$300	\$600
Out-of-state committee report (C-5).	\$150	\$300	\$600
Annual report of major contributors (C-7).	\$150	\$300	\$600
Failure to timely file accurate and complete reports disclosing lobbying activities:			
Lobbyist registration (L-1).	\$150	\$300	\$600
Public agency lobbying report (L-5).	\$150	\$300	\$600
Grass roots lobbying report (L-6).	\$150	\$300	\$600
Failure to file electronically.	\$350	\$650	\$1,000
Exceeding contribution limits.	\$150	\$300	\$600
Exceeding mini reporting threshold.	\$150	\$300	\$600

Violation	1st Occasion	2nd Occasion	3rd Occasion
Failure to comply with political advertising sponsor identification requirements.	\$150	\$300	\$600
Failure to include required candidate's party preference in political advertising.	\$150	\$300	\$600
Failure to comply with other political advertising requirements, RCW 42.17A.330 through 42.17A.345.	\$150	\$300	\$600
Use of public facilities to assist a campaign for election or promote a ballot measure.	\$150	\$300	\$600
Treasurer's failure to timely file an accurate and complete annual treasurer's report (T-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000

"Occasion" means established violation. Only violations in the last five years will be considered for the purpose of determining second and third occasions.

(2) In determining the appropriate penalty, the presiding officer may consider the nature of the violation and aggravating and mitigating factors, including:

- (a) Whether the respondent is a first-time filer;
- (b) The respondent's compliance history for the last five years, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;
- (c) The respondent's unpaid penalties from a previous enforcement action;
- (d) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;
- (e) The amount of financial activity by the respondent during the statement period or election cycle;
- (f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;
- (g) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention;
- (h) Good faith efforts to comply, including consultation with ~~((commission))~~ PDC staff prior to initiation of enforcement action and cooperation with ~~((commission))~~ PDC staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;
- (i) Personal emergency or illness of the respondent or member of his or her immediate family;
- (j) Other emergencies such as fire, flood, or utility failure preventing filing;

- (k) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization; and
- (l) ~~((Commission))~~ PDC staff, third-party vendor, or equipment error, including technical problems at the agency preventing or delaying electronic filing.

(3) The presiding officer has authority to suspend all or a portion of an assessed penalty under the conditions to be determined by that officer including, but not limited to, payment of the nonsuspended portion of the penalty within five business days of the date of the entry of the order in that case.

(4) If, on the third occasion, a respondent has outstanding penalties or judgments, the matter will be directed to the full commission for consideration.

(5) The presiding officer may direct a matter to the full commission if the officer believes one thousand dollars would be an insufficient penalty or the matter warrants consideration by the full commission. Cases will automatically be scheduled before the full commission for an enforcement action when the respondent:

- (a) Was found in violation during a previous reporting period;
- (b) The violation remains in effect following any appeals; and
- (c) The person has not filed the disclosure forms that were the subject of the prior violation at the time the current hearing notice is being sent.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

WAC 390-37-144 Brief enforcement hearing (brief adjudicative proceedings)—~~((Administrative review procedures))~~ Process for full commission review. (1) The commission shall conduct a review of the initial order upon the electronic written ~~((or oral))~~ request of a party if the commission receives the request within twenty-one days after the service of the initial order. "Service" is defined as the date the order was deposited in the U.S. mail per RCW 34.05.010(19), electronically distributed or personally served. The party

seeking review shall state the reason for the review, and identify what alleged errors are contained in the initial order.

(2) If ~~((the parties have))~~ a party has not requested review, the commission may conduct a review of the initial order upon its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(3) The order on review shall be ~~((in))~~ by electronic writing stating the findings made, and the reasons for the decision, and notice that reconsideration and judicial review are available. The order on review shall be entered within twenty days after the date of the initial order or of the request for review, whichever is later.

(4) If the commission is not scheduled to meet within twenty days after the date of the initial order or request for review and therefore cannot dispose of the request within that time period, the request is:

(a) Deemed denied under RCW 34.05.491(5) and the initial order becomes final;

(b) Considered a request for reconsideration under WAC 390-37-150; and

(c) Scheduled for consideration and disposition at the next commission meeting at which it is practicable to do so.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

WAC 390-37-150 Commission reconsideration and judicial review of decisions. (1) For purposes of this rule, "decision" means any findings, conclusions, order, or other action by the commission which is reviewable by a court.

(2) A decision may be reconsidered only upon (a) the ~~((written))~~ request of a party ~~((thereby))~~ by electronic writing or (b) the motion or written request, by electronic writing, of a commissioner who voted on the prevailing side when that decision was made.

(3) Such a request or motion for reconsideration shall be filed electronically at the office of the public disclosure commission (PDC), or motion made, within ten days of service of the decision of which reconsideration is sought. Copies of the request or motion shall be served electronically on all parties of record at the time the request for reconsideration or motion is filed.

(4) A request or motion for reconsideration shall specify the grounds therefor. Grounds for reconsideration shall be limited to:

(a) A request for review was deemed denied in accordance with WAC 390-37-144(4);

(b) New facts or legal authorities that could not have been brought to the commission's attention with reasonable diligence in time for the review process in WAC 390-37-144. If errors of fact are alleged, the requester must identify the specific evidence in the prior proceeding on which the requester is relying. If errors of law are alleged, the requester must identify the specific citation; or

(c) Significant typographical or ministerial errors in the order.

(5) Upon being served with a decision, the respondent may treat that decision as final for the purpose of petitioning

for judicial review. The commission may not reconsider any decision after being served with a petition for judicial review.

(6) When a request for reconsideration is served, or motion made, enforcement of the decision of which reconsideration is sought shall be stayed and the decision shall not be final until the commission has acted on the request or motion for reconsideration.

(7) The commission is deemed to have denied the request or motion for reconsideration ~~((or motion))~~ if, within twenty days from the date the request or motion is filed, the commission does not either (a) dispose of the request or motion, or (b) serve the parties with written notice specifying the date it will act upon the request or motion.

(8) The commission shall act on the reconsideration request or motion, at the next meeting at which it practicably may do so, by:

(a) Deciding whether to reconsider its decision; and

(b) If it decides to do so, either:

(i) Affirming its decision; or

(ii) Withdrawing or modifying the final order; or

(iii) Setting the matter for further hearing.

Provided, that before a decision may be amended other than by lowering a penalty, the respondent shall be given notice and an opportunity to be heard if, and in the same manner as, required for the original decision.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

WAC 390-37-182 Penalty factors. (1) In assessing a penalty, the commission considers the purposes of chapter 42.17A RCW, including the public's right to know of the financing of political campaigns, lobbying and the financial affairs of elected officials and candidates as declared in the policy of RCW 42.17A.001; and, promoting compliance with the law. The commission also considers and applies RCW 42.17A.755 and may consider any of the additional factors described in subsection (3) of this section.

(2) Under RCW 42.17A.755, the commission:

(a) May waive a penalty for a first-time actual violation;

(b) Shall assess a penalty for a second actual violation ~~((of the same rule))~~ by the same person or individual, regardless if the person or individual committed the violation for a different political committee;

(c) Shall assess successively increased penalties for succeeding actual violations ~~((of the same rule.))~~ pursuant to the following schedule:

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report) / (2) Candidate Registration / (C-1 report) / (3) Lobbyist Monthly Expense Report (L-2 report) / (4) Lobbyist Employer Annual Report (L-3 report) and (5) Local Treasurer's Annual Report (T-1 report).			
	<u>1st Occasion</u>	<u>2nd Occasion</u>	<u>3rd Occasion</u>
<u>Filed missing report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Report is filed late and is incomplete or inaccurate.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,000 - \$3,000</u>
Respondent failed to file or timely file accurate and complete campaign disclosure reports:			
<u>Cash Receipts Monetary Contributions Report (C-3 report)</u>			
<u>Filed missing C-3 report or amended C-3 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to timely deposit monetary contributions within five business days of receipt.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to include employer and occupation information for contributors of more than \$100.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Campaign Summary Receipts and Expenditures Report (C-4 report)</u>			
<u>Filed missing C-4 report or amended C-4 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to report a contractual contingent liability.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to properly dispose of surplus funds.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500- \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Independent Expenditure Report (C-6 report)</u>			
<u>Filed missing C-6 report or amended C-6 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Report is filed late and is incomplete or inaccurate.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Out-of-State Political Committee Report (C-5 report)</u>			
<u>Filed missing C-5 report or amended C-5 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Last Minute Contribution Report (LMC report)</u>			
<u>Filed missing LMC report or amended LMC report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>

<u>Exceeding contribution limits</u>			
<u>Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Other Alleged Violations:</u>			
<u>Exceeding mini reporting threshold</u>			
<u>Filed C-3 and C-4 reports for full reporting after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Failure to file electronically</u>			
<u>Filed C-3 and C-4 reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition</u>			
<u>Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Failure to File Lobbyist Registration Report (L-1 report)</u>			
<u>Filed missing L-1 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Failure to File Agency Lobbying Report (L-5 report)</u>			
<u>Filed missing L-5 report or amended L-5 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Grassroots Lobbying Report (L-6 report)</u>			
<u>Filed missing L-6 report or amended L-6 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Sponsor identification requirements for political advertising</u>			
<u>Political advertising failed to include any sponsor identification or included improper or misleading sponsor identification.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Party preference requirement for political advertising</u>			
<u>Political advertising failed to include a candidate's party preference.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Use of current picture requirement in political advertising</u>			
<u>Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,000</u>	<u>\$1,000 - \$1,500</u>
<u>Political advertising or electioneering communication—Libel or defamation per se</u>			
<u>Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>

<u>Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.</u>	\$0 - \$500	\$500 - \$1,500	\$1,500 - \$2,500
<u>Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.</u>	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Commercial advertisers—Public inspection of documents			
<u>Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain documents or books of account as required by WAC 390-18-050.</u>	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Candidates and political committees—Public inspection of books of account			
<u>Candidates or political committees who fail to accommodate requests for public inspections as required by WAC 390-16-043.</u>	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Limitations on employers or labor organizations			
<u>Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.</u>	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400

(3) In addition to the requirements of RCW 42.17A.755, the commission may consider the nature of the violation and any relevant circumstances, including the following factors:

- (a) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;
- (b) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;
- (c) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;
- (d) Amount of financial activity by the respondent during the statement period or election cycle;
- (e) Whether the noncompliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior;
- (f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;
- (g) Whether the respondent or any person, including an entity or organization, benefited politically or economically from the noncompliance;
- (h) Personal emergency or illness of the respondent or member of his or her immediate family;
- (i) Other emergencies such as fire, flood, or utility failure preventing filing;

(j) ~~((Commission))~~ PDC staff or equipment error, including technical problems at the ~~((agency))~~ PDC preventing or delaying electronic filing;

- (k) The respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions;
- (l) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or overlimit contributions);
- (m) Whether the respondent is a first-time filer;
- (n) Good faith efforts to comply, including consultation with ~~((commission))~~ PDC staff prior to initiation of enforcement action and cooperation with ~~((commission))~~ PDC staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;
- (o) Penalties imposed in factually similar cases; and
- (p) Other factors relevant to a particular case.

(4) The commission~~((, and the presiding officer in brief adjudicative proceedings,))~~ may consider the factors in subsections (1) through (3) of this section in determining whether to suspend a portion or all of a penalty upon identified conditions, and whether to accept, reject, or modify a stipulated penalty amount recommended by the parties.

(5) ~~((The presiding officer in brief adjudicative proceedings may consider whether any of the factors in subsections (1) through (3) of this section are factors that warrant directing a case to the full commission.))~~ Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-37-041 Citizen action notice procedures—Allegations submitted to the attorney general's office and/or prosecuting attorneys.

WSR 18-24-077

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed November 30, 2018, 1:49 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: This rule making is necessary to implement SSB 5883 which directs the agency to develop and implement a three-year pilot program to test the effect that enhanced dental benefits for adult medicaid clients with diabetes and pregnant medicaid clients have on access to dental care, health outcomes, and medical care costs. The pilot program must include enhanced reimbursement rates for specific current dental terminology codes for participating providers and an increase in the allowable number of periodontal treatments to up to four per calendar year.

Citation of Rules Affected by this Order: New WAC 182-535-1270.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, SSB 5883.

Adopted under notice filed as WSR 18-20-118 on October 3, 2018.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
WAC 182-535-1270 Oral health connection pilot project.		
Proposed	(3)(a) Age twenty-one or older;	Medicare clients are excluded from participation. The agency clarified age-range to align with age limits for medicare eligibility.
Adopted	(3)(a) Age twenty-one to sixty-four;	
Proposed	(3)(c) Receiving services under this oral health connections pilot project in Cowlitz, Spokane, or Thurston counties; and	Clarified what services the agency is referencing in (3)(c).
Adopted	(3)(c) Receiving services in subsection (6) of this section in Cowlitz, Spokane, or Thurston counties; and	
Proposed	(3)(d) Referred by a nondental primary health care provider or a designated community organization to a qualified oral health connections pilot project dental provider.	Added "managed care organizations" to clarify that managed care organizations can refer enrollees to the pilot program.
Adopted	(3)(d) Referred by a nondental primary health care provider, managed care organization, or a designated community organization to a qualified oral health connections pilot project dental provider.	
Proposed	(6)(a) One comprehensive oral exam, per client, per provider;	Added frequency as frequency is listed for other services in this WAC.
Adopted	(6)(a) One comprehensive oral exam, per client, per provider in a five-year period;	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: November 30, 2018.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-535-1270 Oral health connections pilot project. (1) The oral health connections pilot project is effective for dates of service from January 1, 2019, through December 31, 2021.

(2) The purpose of the oral health connections pilot project is to test the effect that enhanced oral health services have on the overall health of diabetic or pregnant medicaid clients receiving services in Cowlitz, Spokane, and Thurston counties.

(3) To be eligible for the oral health connections pilot project, a client must be:

(a) Age twenty-one to sixty-four;

(b) Pregnant, diabetic, or both;

(c) Receiving services under subsection (6) of this section in Cowlitz, Spokane, or Thurston counties; and

(d) Referred by a nondental primary health care provider, managed care organization, or a designated community organization to a qualified oral health connections pilot project dental provider. For the purposes of this section, a designated community organization is defined as an auxiliary group or groups that partner with the agency and Arcora foundation to implement the oral health connections pilot project.

(4) A client who qualifies for the oral health connections pilot project due to pregnancy may continue receiving services through the duration of the maternity cycle as defined in WAC 182-533-0315, but must actually be pregnant at the start of services.

(5) The following are excluded from the oral health connections pilot project:

(a) Family planning only and TAKE CHARGE programs under chapter 182-532 WAC;

(b) Medical care services (MCS) program under WAC 182-508-0005; and

(c) Clients who are enrolled in both medicaid and medicare.

(6) Under the oral health connections pilot project, the medicaid agency pays an enhanced rate for the following services:

(a) One comprehensive oral exam, per client, per provider in a five-year period;

(b) One complete series of intraoral radiographic images per client in a three-year period;

(c) Four bitewing x-rays (radiographs) once per client in a twelve-month period;

(d) Periodontal scaling and root planing - Four or more teeth per quadrant, once per quadrant per client in a two-year period;

(e) Periodontal scaling and root planing - Three or more teeth per quadrant, once per quadrant per client in a two-year period; and

(f) Up to three additional periodontal maintenance visits in a twelve-month period. At least ninety days must elapse following periodontal scaling and root planing or at least ninety days must elapse following initial periodontal maintenance, and then every ninety days afterwards for a total of three additional periodontal maintenance visits per eligible client in a twelve-month period.

(7) The services listed in subsection (6) of this section are the only services the agency pays at the enhanced rate. The agency pays for all other covered dental services at the standard rate.

(8) To receive the enhanced rate, dental providers must:

(a) Be enrolled to participate in the oral health connections pilot project;

(b) Meet the qualifications in WAC 182-535-1070;

(c) Provide the services in Cowlitz, Spokane, or Thurston counties; and

(d) Complete training designed specifically for the oral health connections pilot project.

(9) The agency assigns a special identifier to providers who complete the training in subsection (8)(d) of this section which allows them to receive the enhanced rate.

WSR 18-24-082

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed December 3, 2018, 11:51 a.m., effective January 3, 2019]

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

Purpose: WAC 246-976-580 and 246-976-700, trauma designation process and trauma service standards, the department of health (department) has adopted changes to existing rules that outline the process and service standards for trauma designated facilities. The adopted rules provide a necessary update to the existing standards to establish requirements that will be used to evaluate trauma services to the most current and nationally recognized standards available.

Citation of Rules Affected by this Order: Amending WAC 246-976-580 and 246-976-700.

Statutory Authority for Adoption: RCW 70.168.060.

Other Authority: RCW 70.168.070.

Adopted under notice filed as WSR 18-15-057 on July 16, 2018.

Changes Other than Editing from Proposed to Adopted Version: The adopted rule is different from the text of the proposed rule as published in the Washington State Register as follows:

WAC 246-976-700 (3)(g), the department deleted a proposed requirement for trauma designated facilities to provide a full-time trauma program manager position if the annual trauma registry volume is greater than five hundred trauma patient admissions and less than seven hundred and fifty trauma patient admissions annually.

The adopted rule is different from the text of the proposed rule as published in the Washington State Register since the department has no statutory authority to mandate staffing levels at hospitals.

A final cost-benefit analysis is available by contacting Anthony Bledsoe, P.O. Box 47853, Olympia, WA 98504-7853, phone 360-236-2871, fax 360-236-2830, TTY 360-833-6388 or 711, email anthony.bledsoe@doh.wa.gov, web site doh.wa.gov.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 14, 2018.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 09-23-085, filed 11/16/09, effective 12/17/09)

WAC 246-976-580 Trauma designation process. The department designates health care facilities to provide adult and pediatric acute care trauma services ("trauma services") and adult and pediatric trauma rehabilitation services ("trauma rehabilitation services") as part of the statewide emergency medical services and trauma care (~~((EMS/TC))~~ EMS&TC) system. This section describes the designation process.

(1) The department must:

(a) Provide written notification to all licensed hospitals and to other health care facilities that a new designation period is beginning. The written notification and the ~~((EMS/TC))~~ EMS&TC regional plans are posted on the department's web site;

(b) Provide a trauma designation application schedule outlining the steps and timeline requirements for a facility to apply for trauma service designation. The schedule must provide each facility at least ninety days to complete an application for trauma designation. The application schedule is posted on the department's web site;

(c) Provide an application for each level, type and combination of designation. Designation applications are released region by region, according to the established schedule;

(d) Conduct a site review for any hospital applying for level I, II, or III adult ~~((and/or))~~ and pediatric trauma service designation to determine compliance with required standards;

(e) Initiate a three-year contract with successful applicants to authorize participation in the trauma system.

(2) To apply for trauma service designation the health care facility must do the following according to the application schedule:

(a) Request an application;

(b) Submit a letter of intent to apply for trauma service designation indicating what level they are applying for;

(c) Submit a completed application(s);

(d) For health care facilities applying for level I, II, III adult ~~((and/or))~~ and pediatric trauma service designation, the facility must complete a site review arranged and conducted by the department according to the following process:

(i) The department will contract with trauma surgeons and trauma nurses to conduct the site review. The review team members must:

(A) Work outside the state of Washington, for level I and II site reviews;

(B) Work outside the applicant's EMS&TC region, for level III site reviews;

(C) Maintain the confidentiality of all documents examined, in accordance with RCW 70.41.200 and 70.168.070. This includes, but is not limited to, all trauma patient data, staff discussions, patient, provider, and facility care outcomes, and any reports resulting from the site review;

(D) Present their preliminary findings to the health care facility at the end of the site review visit;

(ii) The department will provide the applicant the names of review team members prior to the site review. Any objections must be sent to the department within ten days of receiving the department's notification of review team members;

(iii) A site review fee, as established in WAC 246-976-990, is charged and must be paid by the health care facility to the department prior to the site review. A standard fee schedule is posted on the department's web site. For facilities applying for more than one type of designation or for joint designation, fee rates can be obtained by contacting the department;

(iv) The applicant must provide the department and the site review team full access to the facility, facility staff, and all records and documents concerning trauma care including trauma patient data, education, training and credentialing documentation, standards of care, policies, procedures, protocols, call schedules, medical records, quality improvement materials, receiving facility patient feedback, and other relevant documents;

(e) For health care facilities applying for level IV or V trauma service designation, level I ~~((I, II, or III))~~ or II trauma rehabilitation service designation or level I pediatric trauma rehabilitation service designation, the department may, at its discretion, conduct a site review as part of the application process to determine compliance with required standards. If a site review is conducted, the process will be the same as identified in (d) of this subsection, except a site review fee will not be charged.

(3) The department will designate the health care facilities it considers most qualified to provide trauma care services including when there is competition for trauma service designation within a region. There is competition for designation within a region when the number of applications for a level and type of designation is more than the maximum number of trauma services identified in the approved ~~((EMS/TC))~~ EMS&TC regional plan. The department will evaluate, at ~~((least))~~ a minimum, the following in making its decisions:

(a) The quality of the health care facility's performance ~~((s))~~ based on:

(i) The submitted application, attachments, and any other information the department requests from the facility to verify compliance, or the ability to comply with trauma standards;

(ii) Recommendations from the site review team;

(iii) Trauma patient outcomes during the previous designation period, if applicable;

(iv) Compliance with the contract during the previous designation period, if applicable;

(b) The health care facility's conformity with the ((EMS/TC)) EMS&TC regional and state plans, based on:

- (i) The impact of the facility's designation on the effectiveness of the trauma system;
- (ii) Patient volumes for the area;
- (iii) The number, level, and distribution of trauma services identified in the state and approved regional plans;
- (iv) The facility's ability to comply with state and regional ((EMS/TC)) EMS&TC plan goals.

(4) After trauma service designation decisions are made in a region, the department will:

(a) Notify each applicant in writing of the department's designation decision;

(b) Send each applicant a written report summarizing the department's findings, recommendations and additional requirements to maintain designation. If a site review was conducted as part of the application process, the review team findings and recommendations are also included in the written report. Reports are sent:

(i) Within sixty days of announcing designation decisions for level IV and V trauma services and trauma rehabilitation services;

(ii) Within one hundred twenty days of the site review for level I, II and III adult and pediatric trauma services and any other facility that received a site review as part of the application process;

(c) Notify the ((EMS/TC)) EMS&TC regional council of designation decisions within the region and all subsequent changes in designation status;

(d) Initiate a trauma designation contract with successful applicants. The contract will include:

(i) Authority from the department to participate in the state trauma system, receive trauma patients from EMS agencies, and provide trauma care services for a three-year period;

(ii) The contractual and financial requirements and responsibilities of the department and the trauma service;

(iii) A provision to allow the department to monitor compliance with trauma service standards;

(iv) A provision to allow the department to have full access to trauma patient data((;)), the facility, equipment, staff and their credentials, education, ((and)) training documentation, and all trauma care documents such as: Standards of care, policies, procedures, protocols, call schedules, medical records, quality improvement documents, receiving facility patient feedback, and other relevant documents;

(v) The requirement to maintain confidentiality of information relating to individual patient's, provider's and facility's care outcomes under RCW 70.41.200 and 70.168.070;

(e) Notify the designated trauma service and other interested parties in the region of the next trauma designation application process at least one hundred fifty days before the contract expires.

(5) Designated trauma services may ask the department to conduct a site review for technical assistance at any time during the designation period. The department has the right to require reimbursement for the costs of conducting the site review.

(6) The department will not approve an application for trauma service designation if the applicant:

(a) Is not the most qualified, when there is competition for designation; or

(b) Does not meet the trauma care standards for the level applied for; or

(c) Does not meet the requirements of the approved ((EMS/TC)) EMS&TC regional plan; or

(d) Has made a false statement about a material fact in its designation application; or

(e) Refuses to permit the department to examine any part of the facility that relates to the delivery of trauma care services, including, but not limited to, records, documentation, or files.

(7) If the department denies an application, the department will send the facility a written notice to explain the reasons for denial and to explain the facility's right to appeal the department's decision in accordance with chapters 34.05 RCW and 246-10 WAC.

(8) To ensure adequate trauma care in the state, the department may:

(a) Provisionally designate health care facilities that are not able to meet all the requirements of this chapter. The provisional designation will not be for more than two years. A department-approved plan of correction must be prepared by the health care facility specifying steps necessary to bring the facility into compliance and an expected date of compliance. The department may conduct a site review to verify compliance with required standards. If a site review is conducted, the department has the right to require reimbursement for the cost of conducting the site review;

(b) Consider additional applications at any time, regardless of the established schedule, if necessary to attain the numbers and levels of trauma services identified in the approved ((EMS/TC)) EMS&TC regional and state plan;

(c) Consider applications from hospitals located and licensed in adjacent states. The department will evaluate an out-of-state application in the same manner as all other applications. However, if the out-of-state applicant is designated as a trauma service in an adjacent state with an established trauma system whose standards meet or exceed Washington's standards and there is no competition for designation at that level, then the department may use the administrative findings, conclusions, and decisions of the adjacent state's designation evaluation to make the decision to designate. Additional information may be requested by the department to make a final decision.

(9) The department may suspend or revoke a trauma designation if the facility or any owner, officer, director, or managing employee:

(a) Is substantially out of compliance with trauma care standards WAC 246-976-700 through 246-976-800 or chapter 70.168 RCW and has refused or is unwilling to comply after a reasonable period of time;

(b) Makes a false statement of a material fact in the designation application, or in any document required or requested by the department, or in a matter under investigation;

(c) Prevents, interferes with, or attempts to impede in any way, the work of a department representative in the law-

ful enforcement of chapter 246-976 WAC, 34.05 RCW, 246-10 WAC, or 70.168 RCW;

(d) Uses false, fraudulent, or misleading advertising, or makes any public claims regarding the facility's ability to care for nontrauma patients based on its trauma designation status;

(e) Misrepresents or is fraudulent in any aspect of conducting business.

(10) The Administrative Procedure Act, chapter 34.05 RCW, and chapter 246-10 WAC govern the suspension and revocation process. The department will use the following process to suspend or revoke a facility's trauma designation:

(a) The department will send the facility a written notice to explain the reasons it intends to suspend or revoke the designation and to explain the facility's right to a hearing to contest the department's intended action under WAC 246-10-201 through 246-10-205;

(b) The notice will be sent at least twenty-eight days before the department takes action, unless it is a summary suspension, as provided for in the Administrative Procedure Act, chapter 34.05 RCW and WAC 246-10-301 through 246-10-306;

(c) If a facility requests a hearing within twenty-eight days of the date the notice was mailed, a hearing before a health law judge will be scheduled. If the department does not receive the facility's request for a hearing within twenty-eight days of the date the notice was mailed, the facility will be considered in default under WAC 246-10-204;

(d) For nonsummary suspensions, in addition to its request for a hearing, the facility may submit a plan within twenty-eight days of receiving the notice of the department's intent to suspend, describing how it will correct deficiencies:

(i) The department will approve or disapprove the plan within thirty days of receipt;

(ii) If the department approves the plan, the facility must begin to implement it within thirty days;

(iii) The facility must notify the department when the problems are corrected;

(iv) If, prior to sixty days before the scheduled hearing, the facility is able to successfully demonstrate to the department that it is meeting the requirements of chapters 246-976 WAC and 70.168 RCW, which may require a site review at the facility's expense, the department will withdraw its notice of intent to suspend designation;

(e) The department will notify the regional EMS&TC council of the actions it has taken.

(11) A facility may seek judicial review of the department's final decision under the Administrative Procedure Act, RCW 34.05.510 through 34.05.598.

(12) A newly designated or upgraded trauma service must meet education requirements for all applicable personnel according to the following schedule:

(a) At the time of the new designation, twenty-five percent of all personnel must meet the education and training requirements in WAC 246-976-700 through 246-976-800;

(b) At the end of the first year of designation, fifty percent of all personnel must meet the education and training requirements in WAC 246-976-700 through 246-976-800;

(c) At the end of the second year of designation, seventy-five percent of all personnel must meet the education and training requirements defined in WAC 246-976-700 through 246-976-800;

(d) At the end of the third year of designation, and all subsequent designation periods, ninety percent of all personnel must meet the education and training requirements defined in WAC 246-976-700 through 246-976-800.

(13) All currently designated trauma services must have a written education plan with a process for tracking and assuring that new physicians and staff meet all trauma education requirements within the first eighteen months of employment.

AMENDATORY SECTION (Amending WSR 09-23-085, filed 11/16/09, effective 12/17/09)

WAC 246-976-700 Trauma service standards.

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(1) A written trauma scope of service outlining the trauma care resources and capabilities available twenty-four hours every day for:	X	X	X	X	X	X	X	X
(a) Adult and pediatric trauma patient care;	X	X	X	X	X			
(b) Pediatric trauma patient care.						X	X	X
(2) A trauma medical director responsible for the organization and direction of the trauma service(;) who:	X	X	X	X	X	<u>X</u>	<u>X</u>	<u>X</u>
(a) Is currently certified in advanced trauma life support (ATLS);	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
((a)) (b) Is a board-certified general surgeon;	X	X						
((b)) (c) Is a board-certified general surgeon(;) or ((a)) general surgeon trained in advanced cardiac life support (ACLS) ((trained with current certification in advanced trauma life support (ATLS)));			X					

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
((e)) (d) Is a board-certified general surgeon ((e)) , emergency physician, ((e)) a general surgeon ACLS trained with current certification in <u>advanced trauma life support (ATLS)</u> or a physician ACLS trained ((with)) <u>and</u> current certification in ATLS;				X				
((d)) (e) Is a board-certified general surgeon ((e)) , emergency physician, ((e)) a physician ACLS trained with current certification in ATLS, or a physician assistant or advanced registered nurse practitioner ACLS trained ((and)) who ((audits)) <u>is currently certified in ATLS ((every four years))</u> ;					X			
((e)) (f) Is a board-certified pediatric surgeon ((;)) or a board-certified general surgeon ((;)) with special competence in the care of pediatric patients;						X	X	
((f)) (g) Is a board-certified general surgeon ((;)) with special competence in the care of pediatric patients ((;)) or a general surgeon ACLS trained ((, with current certification in ATLS)) and with special competence in the care of pediatric patients;								X
<u>(h) Must complete thirty-six hours in three years of verifiable, external, trauma-related continuing medical education (CME);</u>	X	X				X	X	
((g)) (i) Meets the pediatric education requirement (PER) as defined in subsection (27) of this section ((;)) ;	X	X	X	X	X	X	X	X
<u>(j) Must have responsibility and authority for determining each general surgeon's ability to participate on the trauma call panel based on an annual review, conducted in conjunction with medical staffing and with authority through the trauma quality improvement program and hospital policy;</u>	X	X	X			X	X	X
<u>(k) Is a member of and actively participates in a regional or national trauma organizations.</u>	X	X				X	X	
(3) A trauma program manager or trauma service coordinator responsible for the overall operation of trauma service ((;)) who:								
(a) Is a registered nurse;	X	X	X	X	X	X	X	X
(b) Has taken ACLS;	X	X	X	X	X	X	X	X
(c) Has successfully completed a trauma nursing core course (TNCC) or a department approved equivalent course, and ((thereafter completes twelve hours of trauma-related education every three-year designation period)) <u>successfully completes thirty-six hours of trauma-related education every three years in either external continuing education or in an internal education process conducted by the trauma program.</u> The trauma education must include, but is not limited to, the following topics:	X	X	X	X	X	X	X	X
(i) Mechanism of injury;	X	X	X	X	X	X	X	X
(ii) Shock and fluid resuscitation;	X	X	X	X	X	X	X	X
(iii) Initial assessment;	X	X	X	X	X	X	X	X
(iv) Stabilization and transport ((;)) ;	X	X	X	X	X	X	X	X
(d) Has taken pediatric advanced life support (PALS) or emergency nursing pediatric course (ENPC), and thereafter meets the PER contact hours as defined in subsection (27) of this section;	X	X	X	X	X			
(e) Has current PALS or ENPC certification;						X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(f) Has attended a trauma program manager orientation course provided by the department or a department approved equivalent, within the first eighteen months in the role((-);	X	X	X	X	X	X	X	X
<u>(g) Is responsible for the overall supervision of the trauma registry and the quality of data submitted to the registry.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
(4) A multidisciplinary trauma quality improvement program that must:	X	X	X	X	X	X	X	X
(a) Be (lead) <u>led</u> by the multidisciplinary trauma service committee ((with the trauma medical director as chair of the committee););	X	X	X	X	X	X	X	X
<u>(i) The trauma medical director serves as chair of the multidisciplinary trauma service committee;</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>(ii) The trauma medical director must attend a minimum of fifty percent of the peer review committee meetings;</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>(iii) The trauma medical director and trauma program manager must have the authority and be empowered by the hospital governing body to lead the program to ensure compliance with trauma service standards.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
(b) Demonstrate a continuous quality improvement process supported by a reliable method of data collection that consistently obtains the information necessary to identify opportunities for improvement;	X	X	X	X	X	X	X	X
(c) Have membership representation and participation that reflects the facility's trauma scope of service;	X	X	X	X	X	X	X	X
(d) Have an organizational structure that facilitates the process of quality improvement((-);) with a reporting relationship to the hospital's administrative team and medical executive committee <u>that ensures adequate evaluation of all aspects of trauma care;</u>	X	X	X	X	X	X	X	X
(e) Have authority to establish trauma care standards and implement patient care policies, procedures, guidelines, and protocols throughout the hospital <u>and the trauma service must use clinical practice guidelines, protocols, and algorithms derived from evidence-based validated resources;</u>	X	X	X	X	X	X	X	X
<u>(f) Have a current trauma quality improvement plan that outlines the trauma service's quality improvement process;</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
((g)) (g) Have a process to monitor and track compliance with the trauma care standards using audit filters and benchmarks;	X	X	X	X	X	X	X	X
((h)) (h) Have a process to evaluate the care provided to trauma patients and to resolve identified prehospital, physician, nursing, or system issues;	X	X	X	X	X	X	X	X
<u>(i) Have a process in which outcome measures are documented within the trauma quality improvement program's written plan which must be reviewed and updated at least annually. Outcome measures will include, at a minimum:</u>								
<u>(i) Mortality (with and without opportunities for improvement);</u>								
<u>(ii) Trauma surgeon response time (level I-III);</u>								
<u>(iii) Undertriage rate;</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>(iv) Emergency department length of stay greater than three hours for patients transferred out;</u>								

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(v) Missed injuries;</u>								
<u>(vi) Complications.</u>								
((h)) <u>(j) Have a process for correcting problems or deficiencies;</u>	X	X	X	X	X	X	X	X
((i)) <u>(k) Have a process ((to analyze, evaluate, and measure the effect of corrective actions to determine whether issue resolution was achieved)) for problem resolution, outcome improvements, and assurance of safety. This process must be readily identifiable through methods of monitoring, reevaluation, benchmarking, and documentation;</u>	X	X	X	X	X	X	X	X
((j)) <u>(l) Have a process to continuously evaluate compliance with full and modified (if used) trauma team activation criteria((s))as follows:</u>	X	X	X	X	X	X	X	X
<u>(i) The attending surgeon's arrival within fifteen minutes for level II and thirty minutes for level III services for patients with appropriate activation criteria must be monitored by the hospital's trauma quality improvement program;</u>	X	X	X			X	X	X
<u>(ii) All trauma team activations must be categorized by the level of response activation and quantified by number and percentage;</u>	X	X	X	X	X	X	X	X
<u>(iii) Trauma surgeon response time to full activations and for back-up call response must be determined and monitored. Variances should be documented and reviewed for reason for delay, opportunities for improvement, and corrective actions; and</u>	X	X	X			X	X	X
<u>(iv) Rates of undertriage must be monitored and reviewed quarterly.</u>	X	X	X	X	X	X	X	X
((k)) <u>(m) Have assurance from other hospital quality improvement committees, including peer review if conducted separately from the multidisciplinary trauma service committee, that resolution was achieved on trauma-related issues((s)). The following requirements must also be satisfied:</u>	X	X	X	X	X	X	X	X
<u>(i) Peer review must occur at regular intervals to ensure that the volume of cases is reviewed in a timely fashion;</u>	X	X	X	X	X	X	X	X
<u>(ii) A process must be in place to ensure that the trauma program manager receives feedback from peer review for trauma-related issues;</u>	X	X	X	X	X	X	X	X
<u>(iii) All trauma-related mortalities must be systematically reviewed and those mortalities with opportunities for improvement identified for peer review;</u>	X	X	X	X	X	X	X	X
<u>(iv) This effort must involve the participation and leadership of the trauma medical director and any departments, such as: General surgery, emergency medicine, orthopedics, neurosurgery, anesthesia, critical care, lab and radiology; and</u>	X	X	X	X	X	X	X	X
<u>(v) The multidisciplinary trauma peer review committee must systematically review significant complications and process variances associated with unanticipated outcomes and determine opportunities for improvement.</u>	X	X	X	X	X	X	X	X
((l)) <u>(n) Have a process to ensure the confidentiality of patient and provider information, in accordance with RCW 70.41.200 and 70.168.090;</u>	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
((m)) <u>(o) Have a process to communicate with((:)) and provide feedback to((:)) referring trauma services and trauma care providers;</u>	X	X	X	X	X	X	X	X
((n) Have a current trauma quality improvement plan that outlines the trauma service's quality improvement process, as defined in this subsection;	X	X	X	X	X	X	X	X
(e) For level III, IV, V trauma services or level III pediatric trauma services with a total annual trauma volume of less than one hundred patients, the trauma service may) <u>(p) Be able to integrate trauma quality improvement into the hospital's quality improvement program for level III, IV, V trauma services or level III pediatric trauma services with a total annual trauma volume of less than one hundred patients; however, trauma care must be formally addressed in accordance with the quality improvement requirements in this subsection. In that case, the trauma medical director is not required to serve as chair((:));</u>			X	X	X			X
<u>(q) Have a pediatric-specific trauma quality improvement program for a trauma service admitting at least one hundred pediatric trauma patients annually. For a trauma service admitting less than one hundred pediatric trauma patients annually, or that is transferring trauma patients, the trauma service must review each case for timeliness and appropriateness of care;</u>	X	X	X	X	X	X	X	X
<u>(r) Be a multidisciplinary trauma quality improvement program that transcends normal department hierarchies and includes:</u>	X	X	X	X	X	X	X	X
<u>Identified medical staff representatives or their designees from departments of general surgery, emergency medicine, orthopedics, neurosurgery, anesthesiology, critical care, and radiology who must participate actively in the multidisciplinary trauma quality improvement program with at least fifty percent attendance at peer review committee meetings.</u>	X	X	X			X	X	X
<u>(s) Use risk-adjusted data for benchmarking and performance improvement;</u>	X	X	X	X	X	X	X	X
<u>(i) The risk-adjusted benchmarking system to measure performance must be the American College of Surgeons Trauma Quality Improvement Program (TQIP);</u>	X	X				X	X	
<u>(ii) Data must be collected in compliance with the National Trauma Data Standard (NTDS) and submitted to the National Trauma Data Bank® (NTDB®) every year in a timely fashion so that data can be aggregated and analyzed at the national level;</u>	X	X				X	X	
<u>(iii) Use risk-adjusted data provided by the state for the purposes of benchmarking and performance improvement.</u>			X	X	X			X
(5) Written trauma service standards of care to ensure appropriate care throughout the facility for:	X	X	X	X	X	X	X	X
(a) Adult and pediatric trauma patients;	X	X	X	X	X			
(b) Pediatric trauma patients.						X	X	X
(6) Participation in the regional quality improvement program as defined in WAC 246-976-910.	X	X	X	X	X	X	X	X
(7) Participation in the Washington state trauma registry as defined in WAC 246-976-430.	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(8) Written transfer-in guidelines consistent with the facility's designation level and trauma scope of service. The guidelines must identify the type, severity and complexity of injuries the facility can safely accept, admit, and provide with definitive care.	X	X	X	X	X	X	X	X
(9) Written transfer-out guidelines consistent with the facility's designation level and trauma scope of service. The guidelines must identify the type, severity and complexity of injuries that exceed the resources and capabilities of the trauma service.	X	X	X	X	X	X	X	X
<u>(a) Collaborative treatment and transfer guidelines reflecting facilities' capabilities must be developed and regularly reviewed, with input from higher-level trauma services that receive these patients;</u>			X	X	X			
<u>(b) The decision to transfer an injured patient to a specialty care facility in an acute situation must be based solely on the needs of the patient and not on the requirements of the patient's specific provider network, health maintenance organization, a preferred provider organization, or the patient's ability to pay;</u>	X	X	X	X	X	X	X	X
<u>(c) Acute transfers out must be subjected to individual case review to determine the rationale for transfer, appropriateness of care, and opportunities for improvement. Follow-up from the center to which the patient was transferred should be obtained as part of the case review; and</u>	X	X	X	X	X	X	X	X
<u>(d) Trauma patients must not be admitted or transferred by a primary care physician without the knowledge and consent of the trauma service. The quality improvement program should monitor adherence to this guideline.</u>	X	X	X			X	X	X
(10) Written interfacility transfer agreements with all trauma services that receive the facility's trauma patients. Agreements must (have) include a process to identify medical control during the interfacility transfer, and address the responsibilities of the trauma service, the receiving hospital, and the verified prehospital transport agency. All trauma patients must be transported by a trauma verified prehospital transport agency.	X	X	X	X	X	X	X	X
(11) An air medical transport plan addressing the receipt or transfer of trauma patients with a heli-stop, landing zone, or airport located close enough to permit the facility to receive or transfer trauma patients by fixed-wing or rotary-wing aircraft.	X	X	X	X	X	X	X	X
(12) A written diversion protocol for the emergency department to divert trauma patients from the field to another trauma service when resources are temporarily unavailable. The process must include:	X	X	X	X	X	X	X	X
(a) Trauma service and patient criteria used to decide when diversion is necessary;	X	X	X	X	X	X	X	X
(b) How the divert status will be communicated to the nearby trauma services and prehospital agencies;	X	X	X	X	X	X	X	X
(c) How the diversion will be coordinated with the appropriate prehospital agency;	X	X	X	X	X	X	X	X
(d) A method of documenting/tracking when the trauma service is on trauma divert, including the date, time, duration, reason, and decision maker(=);	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(e) Assurance that the decision to divert patients from the emergency department is communicated to the trauma surgeon on-call;</u>	X	X	X			X	X	X
<u>(f) Involvement of the trauma surgeon in the decision regarding diversion each time the center goes on bypass;</u>	X	X				X	X	
<u>(g) Routine monitoring, documenting and reporting of trauma center diversion hours, including the reason for initiating the diversion policy. Trauma center diversion must not exceed five percent of the time.</u>	X	X	X			X	X	X
(13) A trauma team activation protocol consistent with the facility's trauma scope of service. The protocol must:	X	X	X	X	X	X	X	X
(a) Define the physiologic, anatomic, and mechanism of injury criteria used to activate the full and modified (if used) trauma teams;	X	X	X	X	X	X	X	X
(b) Identify members of the full and modified (if used) trauma teams consistent with the provider requirements of this chapter;	X	X	X	X	X	X	X	X
(c) Define the process to activate the trauma team. The process must:	X	X	X	X	X	X	X	X
(i) Consistently apply the trauma service's established criteria;	X	X	X	X	X	X	X	X
(ii) Use information obtained from prehospital providers or an emergency department assessment for patients not delivered by a prehospital agency;	X	X	X	X	X	X	X	X
(iii) Be applied regardless of time post injury or previous care, whether delivered by prehospital or other means and whether transported from the scene or transferred from another facility;	X	X	X	X	X	X	X	X
(iv) Include a method to upgrade a modified activation to a full activation when newly acquired information warrants additional capabilities and resources;	X	X	X	X	X	X	X	X
(v) ((For full trauma team activations;)) Include the mandatory presence of a general surgeon <u>for full trauma team activations</u> . The general surgeon assumes leadership and overall care ((-)) using professional judgment regarding the need for surgery ((and/or)) <u>or</u> transfer;	X	X	X			X	X	X
(vi) ((For full trauma team activations;)) Include the mandatory presence of a general surgeon if general surgery services are included in the facility's trauma scope of service. The general surgeon assumes leadership and overall care ((-)) using professional judgment regarding the need for surgery ((and/or)) <u>or</u> transfer;				X				
(vii) For trauma team activations in pediatric designated trauma services (within five minutes for level I, twenty minutes for level II or thirty minutes for level III), one of the following pediatric physician specialists must respond:						X	X	X
((*)) <u>(A)</u> A pediatric surgeon;								
((*)) <u>(B)</u> A pediatric emergency medicine physician;								
((*)) <u>(C)</u> A pediatric intensivist;								
((*)) <u>(D)</u> A pediatrician;								
((*)) <u>(E)</u> A postgraduate year two or higher pediatric resident.								
<u>(viii) Require multisystem injured patients to be admitted to or evaluated by an identifiable surgical service staffed by credentialed trauma providers.</u>	X	X	X					

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(14) Emergency care services available twenty-four hours every day((§)) with:	X	X	X	X	X	X	X	X
(a) An emergency department (except for level V clinics);	X	X	X	X	X	X	X	X
(b) The ability to resuscitate and stabilize adult and pediatric trauma patients in a designated resuscitation area;	X	X	X	X	X			
(c) The ability to resuscitate and stabilize pediatric trauma patients in a designated resuscitation area;						X	X	X
(d) A medical director, who:	X	X	X			X	X	X
(i) Is board-certified in emergency medicine ((☛)), board-certified in general surgery, or is board-certified in another relevant specialty practicing emergency medicine as their primary practice;	X	X	X					
(ii) Is board-certified in pediatric emergency medicine, ((☛)) board-certified in emergency medicine with special competence in the care of pediatric patients ((☛)), board-certified in general surgery with special competence in the care of pediatric patients, or board-certified in a relevant specialty practicing emergency medicine as their primary practice with special competence in the care of pediatric patients((§)).						X	X	X
(e) Emergency physicians who:	X	X	X	X	X	X	X	X
(i) Are board-certified in emergency medicine or board-certified in a relevant specialty practicing emergency medicine as their primary practice. This requirement can be met by a postgraduate year two or higher emergency medicine or general surgery resident working under the direct supervision of the attending emergency physician. The resident must be available within five minutes of notification of the patient's arrival to provide leadership and care until arrival of the general surgeon;	X	X						
(ii) Are board-certified in pediatric emergency medicine, ((☛)) <u>are</u> board-certified in emergency medicine with special competence in the care of pediatric patients, <u>or are</u> board-certified in a relevant specialty practicing emergency medicine as their primary practice with special competence in the care of pediatric patients. This requirement can be met by a postgraduate year two or higher emergency medicine or general surgery resident with special competence in the care of pediatric trauma patients and working under the direct supervision of the attending emergency physician. The resident must be available within five minutes of notification of the patient's arrival((§)) to provide leadership and care until arrival of the general surgeon;						X	X	
(iii) Are board-certified in emergency medicine or another relevant specialty practicing emergency medicine as their primary practice((§)) <u>or</u> physicians practicing emergency medicine as their primary practice with current certification in ACLS and ATLS;			X					

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(iv) Are board-certified <u>in</u> pediatric emergency medicine, ((or)) <u>are</u> board-certified in emergency medicine or surgery, with special competence in the care of pediatric patients, ((or)) <u>are</u> board-certified in a relevant specialty practicing emergency medicine as their primary practice, with special competence in the care of pediatric patients, <u>or</u> <u>are</u> physicians with current certification in ATLS (s)) <u>who are</u> practicing emergency medicine as their primary practice (s)) with special competence in the care of pediatric patients;								X
(v) Are board-certified in emergency medicine or another relevant specialty and practicing emergency medicine as their primary practice (s)) <u>or</u> physicians with current certification in ACLS and ATLS. A physician assistant (<u>PA</u>) or advanced registered nurse practitioner (<u>ARNP</u>) current in ACLS and ((who audits)) ATLS ((every four years)) may initiate evaluation and treatment upon the patient's arrival in the emergency department until the arrival of the physician;				X				
(vi) Are board-certified or qualified in emergency medicine, surgery, or other relevant specialty and practicing emergency medicine as their primary practice (s)) <u>or</u> <u>are</u> physicians with current certification in ACLS and ATLS, <u>or</u> ((physician assistants (PAs), or advanced registered nurse practitioners (ARNPs))) <u>are</u> <u>PAs</u> or <u>ARNPs</u> with current certification in ACLS and ((who audit)) ATLS ((every four years)) ;					X			
(vii) Are available within five minutes of notification of the patient's arrival in the emergency department;	X	X	X			X	X	X
(viii) Are on-call and available within twenty minutes of notification of the patient's arrival in the emergency department;				X	X			
(ix) Are currently certified in ACLS and ATLS. This requirement applies to all emergency physicians and residents who care for trauma patients in the emergency department except this requirement does not apply to physicians who are board-certified in emergency medicine <u>or</u> board-certified in another relevant specialty and practicing emergency medicine as their primary practice;	X	X	X	X	X			
(x) Are currently certified in ATLS. This requirement applies to all emergency physicians and residents who care for pediatric patients in the emergency department except this requirement does not apply to physicians who are board-certified in pediatric emergency medicine ((or)) , board-certified in emergency medicine, <u>or</u> board-certified in another relevant specialty and practicing emergency medicine as their primary practice;						X	X	X
(xi) Meet the PER as defined in subsection (27) of this section;	X	X	X	X	X	X	X	X
<u>(xii) If the liaison or designee from emergency medicine, must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(xiii) If they are emergency physicians who participate on the trauma team, they must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
<u>(xiv) Nonboard-certified emergency physicians and advanced practitioners who participate in the initial care or evaluation of trauma activated patients in the emergency department must have current ATLS certification;</u>	X	X	X	X	X	X	X	X
<u>(xv) Must be able to provide initial resuscitative care to known trauma activated patients;</u>	X	X	X			X	X	X
<u>(xvi) Have completed appropriate orientation, credentialing, initial ED management/evaluation processes, and skill maintenance for advanced practitioners who participate in the initial assessment of trauma patients.</u>	X	X	X	X	X	X	X	X
(f) Emergency care registered nurses (RNs)(;) who:	X	X	X	X	X	X	X	X
(i) Are in the emergency department and available within five minutes of notification of patient's arrival;	X	X	X			X	X	X
(ii) Are in-house(;) and available within five minutes of notification of the patient's arrival ((except for level V clinics)) ;				X	X			
(iii) Have current certification in ACLS;	X	X	X	X	X			
(iv) Have successfully completed ((a trauma nurse core course-)) TNCC(;) or a department approved equivalent course;	X	X	X	X	X	X	X	X
(v) Have completed twelve hours of trauma related education every designation period. The trauma education must include, but is not limited to, the following topics:								
((•)) (A) Mechanism of injury;	X	X	X	X		X	X	X
((•)) (B) Shock and fluid resuscitation;								
((•)) (C) Initial assessment;								
((•)) (D) Stabilization and transport(;);								
(vi) Meet the PER as defined in subsection (27) of this section.	X	X	X	X	X	X	X	X
(g) Standard emergency equipment for the resuscitation and life support of adult and pediatric trauma patients, including:	X	X	X	X	X	X	X	X
(i) Immobilization devices:	X	X	X	X	X	X	X	X
((■)) (A) Back board;	X	X	X	X	X	X	X	X
((■)) (B) Cervical injury;	X	X	X	X	X	X	X	X
((■)) (C) Long-bone(;);	X	X	X	X	X	X	X	X
(ii)(A) Infusion control device:	X	X	X	X	X	X	X	X
((■)) (B) Rapid infusion capability(;);	X	X	X			X	X	X
(iii) Intraosseous ((needles)) devices;	X	X	X	X	X	X	X	X
(iv) Sterile surgical sets:	X	X	X	X	X	X	X	X
((■-Chest tubes)) (A) Thoracostomy with closed drainage devices;	X	X	X	X	X	X	X	X
((■)) (B) Emergency transcutaneous airway;	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
((■) Peritoneal lavage)) (C) Bedside ultrasound;	X	X	X	X		X	X	X
((■) (D) Thoracotomy;	X	X	X			X	X	X
(v) Thermal control equipment:	X	X	X	X	X	X	X	X
((■) (A) Blood and fluid warming;	X	X	X	X	X	X	X	X
((■) Devices for assuring warmth during transport;	✗	✗	✗	✗	✗	✗	✗	✗
■ Expanded seal)) (B) Thermometer capable of detecting hypothermia;	X	X	X	X	X	X	X	X
((■) (C) Patient warming and cooling((:));	X	X	X	X	X	X	X	X
(vi) Other equipment:	X	X	X	X	X	X	X	X
((■) (A) Medication chart, tape, or other system to assure ready access to information on proper doses-per-kilogram for resuscitation drugs and equipment sizes for pediatric patients;	X	X	X	X	X	X	X	X
((■) (B) Pediatric emergency airway equipment readily available or transported in-house with the pediatric patient for evaluation, treatment or diagnostics, including((: <ul style="list-style-type: none"> • Bag-valve masks; • Face masks; • Oral/nasal airways)) bag-valve masks, face masks, and oral/nasal airways.	X	X	X	X	X	X	X	X
(15) Respiratory therapy services, with a respiratory care practitioner available within five minutes of notification of patient's arrival.	X	X	X			X	X	X
(16) Diagnostic imaging services (except for level V clinics)((:)) with:	X	X	X	X	X	X	X	X
(a) A radiologist in person or by teleradiology, who is:	X	X	X			X	X	X
(i) On-call and available within twenty minutes of the trauma team leader's request;	X	X				X	X	
(ii) On-call and available within thirty minutes of the trauma team leader's request;			X					X
<u>(iii) Board certified or eligible for certification by an appropriate radiology board according to current requirements for licensed radiologists who take trauma call.</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(b) Personnel able to perform routine radiological capabilities((:)) who are:	X	X	X	X	X	X	X	X
(i) Available within five minutes of notification of the patient's arrival;	X	X				X	X	
(ii) On-call and available within twenty minutes of notification of the patient's arrival((:));			X	X	X			X
(c) A technologist able to perform computerized tomography((:)) who is:	X	X	X			X	X	X
(i) Available within five minutes of the trauma team leader's request;	X					X		
(ii) On-call and available within twenty minutes of the trauma team leader's request((:));		X	X				X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(d) A radiologic peer review process that reviews routine interpretations of images for accuracy. Determinations related to trauma patients must be communicated to the trauma program quality committee;</u>	X	X	X			X	X	X
((d)) <u>(e) Angiography with a technologist on-call and available within thirty minutes of the trauma team leader's request;</u>	X	X				X	X	
((e)) <u>(f) Magnetic resonance imaging((:)) with a technologist on-call and available within sixty minutes of the trauma team leader's request;</u>	X	X				X	X	
((f)) <u>(g) Sonography with a technologist on-call and available within thirty minutes of the trauma team leader's request;</u>	X	X				X	X	
((g)) <u>(h) Interventional radiology services on-call and available within thirty minutes of the trauma team leader's request((:));</u>	X	X				X	X	
<u>(i) Radiologists who are involved, at a minimum, in protocol development and trend analysis that relate to diagnostic imaging;</u>	X	X	X			X	X	X
<u>(j) Facilities that have a mechanism in place to view radiographic imaging from referring hospitals that are within their catchment area.</u>	X	X				X	X	
(17) Clinical laboratory services (except for level V clinics), with:	X	X	X	X	X	X	X	X
(a) Lab services available within five minutes of notification of the patient's arrival;	X	X	X			X	X	X
(b) Lab services on-call and available within twenty minutes of notification of the patient's arrival;				X	X			
(c) Blood gases and pH determination;	X	X	X	X		X	X	X
(d) Coagulation studies;	X	X	X	X	X	X	X	X
(e) Drug or toxicology measurements;	X	X	X	X	X	X	X	X
(f) Microbiology;	X	X	X	X	X	X	X	X
(g) Serum alcohol determination;	X	X	X	X	X	X	X	X
(h) Serum and urine osmolality;	X	X				X	X	
(i) Standard analysis of blood, urine, and other body fluids.	X	X	X	X	X	X	X	X
(18) Blood and blood-component services (except for level V clinics)((:)) with:	X	X	X	X	X	X	X	X
(a) Ability to obtain blood typing and crossmatching;	X	X	X	X	X	X	X	X
(b) Autotransfusion;	X	X	X			X	X	X
(c) Blood and blood components available from in-house or through community services, to meet patient needs;	X	X	X	X	X	X	X	X
(d) Blood storage capability;	X	X	X	X		X	X	X
(e) Noncrossmatched blood available on patient arrival in the emergency department;	X	X	X	X	X	X	X	X
(f) Policies and procedures for massive transfusion.	X	X	X	X		X	X	X
(19) General surgery services((:)) with:	X	X	X			X	X	X
(a) Surgeons who <u>meet the following requirements:</u>	X	X	X			X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(i) Are board-certified in general surgery and available within ((five)) <u>fifteen</u> minutes of notification of the patient's arrival when the full trauma team is activated. This requirement can be met by a postgraduate year four or higher surgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the general surgeon. In this case the general surgeon must be available within ((twenty)) <u>fifteen</u> minutes of notification of patient's arrival;	X							
(ii) Are board-certified in pediatric surgery or board-certified in general surgery with special competence in the care of pediatric patients and are available within ((five)) <u>fifteen</u> minutes of notification of the patient's arrival when the full trauma team is activated. This requirement can be met by a post graduate year four or higher pediatric surgery resident or a general surgery resident with special competence in the care of pediatric patients. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the pediatric or general surgeon. In this case the pediatric or general surgeon must be available within ((twenty)) <u>fifteen</u> minutes of notification of patient's arrival;						X		
(iii) Are board-certified in general surgery. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is ((twenty)) <u>fifteen</u> minutes or more. Otherwise the surgeon must be in the emergency department within ((twenty)) <u>fifteen</u> minutes of notification of patient's arrival. This requirement can be met by a postgraduate year four or higher surgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the general surgeon;		X						
(iv) Are board-certified in pediatric surgery or board-certified in general surgery with special competence in the care of pediatric patients. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is ((twenty)) <u>fifteen</u> minutes or more. Otherwise the surgeon must be in the emergency department within ((twenty)) <u>fifteen</u> minutes of notification of patient's arrival. This requirement can be met by a postgraduate year four or higher pediatric surgery resident or a general surgical resident with special competence in the care of pediatric patients. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the pediatric or general surgeon;							X	
(v) Are board-certified or trained in ACLS and currently certified in ATLS. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is thirty minutes or more. Otherwise the surgeon must be in the emergency department within thirty minutes of notification of patient's arrival;			X					

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(vi) Are board-certified or board-qualified((;)) with special competence in the care of pediatric patients. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is thirty minutes or more. Otherwise the surgeon must be in the emergency department within thirty minutes of notification of patient's arrival;								X
(vii) Are trained in ACLS and currently certified in ATLS. This requirement applies to all surgeons and residents caring for trauma patients except this requirement does not apply to surgeons who are board certified in general surgery;	X	X	X					
(viii) Are currently certified in ATLS. This requirement applies to all surgeons and residents caring for pediatric trauma patients except this requirement does not apply to surgeons who are board certified in pediatric or general surgery;						X	X	X
(ix) Meet the PER as defined in subsection (27) of this section;	X	X	X			X	X	X
<u>(x) Have privileges in general surgery;</u>	<u>X</u>	<u>X</u>	<u>X</u>					
<u>(xi) Maintain at least eighty percent attendance at activations with a mechanism for documenting this attendance record, as required for full trauma activations. The expectation is for one hundred percent attendance at activations;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<u>(xii) The attending surgeon is expected to be present in the operating room for all operations. A mechanism for documenting this presence is required;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<u>(xiii) A surgeon from the trauma call panel must participate in the hospital's disaster planning process;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<u>(xiv) Each member of the group of general surgeons must attend at least fifty percent of the peer review committee meetings;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
<u>(xv) If at least fifty percent of the general surgeons did not attend the peer review committee meetings, then the trauma service must be able to demonstrate that there is a formal process for communicating information from the committee meetings to the group of general surgeons.</u>			<u>X</u>					<u>X</u>
(b) <u>A published schedule for first call with a written plan for ((general)) surgery coverage((;)) if the ((general)) surgeon on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma service's total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. <u>Diversion or transfer to definitive care should be the last option.</u> The plan must be monitored through the trauma service's trauma quality improvement program((;)). <u>In addition:</u></u>	X	X	X			X	X	X
<u>(i) Surgical commitment is required for a properly functioning trauma center;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
<u>(ii) The trauma surgeon on call must be dedicated to a single trauma center while on duty;</u>	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(iii) The liaison from general surgery must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
<u>(iv) Other general surgeons who participate on the trauma team must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal.</u>	X	X				X	X	
<u>(c) ((For level IV;)) General surgery services that meet all level III general surgery service standards if the facility's trauma scope of service includes general surgery services twenty-four hours every day(;) or transfer trauma patients who need general surgery services to a designated trauma service with general surgery services available.</u>				X				
<u>(20) Neurosurgery services with neurosurgeons(;) who ((are)) meet the following requirements:</u>	X	X				X	X	
<u>(a) Are board-certified, and(;) available within five minutes of the trauma team leader's request;</u>	X					X		
((i) Available within five minutes of the trauma team leader's request;								
<u>((ii)) This requirement can be met by a postgraduate year four or higher neurosurgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the neurosurgeon. In this case the neurosurgeon must be available within thirty minutes of the trauma team leader's request(;).</u>	X					X		
<u>(b) Are board-certified or board-qualified and on-call and available within thirty minutes of the trauma team leader's request;</u>		X					X	
<u>(c) ((For level III and IV;)) Are board-certified or board-qualified and on-call and available within thirty minutes of the trauma team leader's request if the facility's trauma scope of service includes neurosurgery services twenty-four hours every day or transfer trauma patients who need neurosurgery services to a designated trauma service with neurosurgery services available(;);</u>			X	X				X
<u>(d) The liaison from neurosurgery must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(e) Other neurosurgeons who participate on the trauma team must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
<u>(f) The facility must have a predefined and thoroughly developed neurotrauma diversion plan that is implemented when the neurosurgeon on call becomes encumbered. A neurotrauma diversion plan must include the following:</u>	X	X				X	X	
<u>(i) Emergency medical services notification of neurosurgery advisory status/divert;</u>	X	X				X	X	
<u>(ii) A thorough review of each instance by the quality improvement program; and</u>	X	X				X	X	
<u>(iii) Monitoring of the efficacy of the process by the quality improvement program.</u>	X	X				X	X	
<u>(g) A published schedule for first call with a written plan for neurosurgery coverage is required, for when the neurosurgeon on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma services total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. Diversion or transfer to definitive care should be the last option. The plan must be monitored through the trauma services trauma quality improvement program;</u>	X	X				X	X	
<u>(h) If one neurosurgeon covers two trauma services within the same limited geographic area, there must be a contingency plan.</u>	X	X				X	X	
(21) Surgical services on-call and available within thirty minutes of the trauma team leader's request for:	X	X	X			X	X	X
(a) Cardiac surgery;	X					X		
(b) Microsurgery;	X					X		
(c) Obstetric surgery or for level III trauma services, a plan to manage the pregnant trauma patient;	X	X	X			X	X	X
(d) Orthopedic surgery(;;) <u>including the following:</u>	X	X	X			X	X	X
<u>(i) Orthopedic team members must have dedicated call at their institution or have an effective backup call system;</u>	X	X				X	X	
<u>(ii) If the on-call orthopedic surgeon is unable to respond promptly, a backup consultant on-call surgeon must be available;</u>	X	X				X	X	
<u>(iii) If the orthopedic surgeon is not dedicated to a single facility while on call, then a published backup schedule is required;</u>			X					X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(iv) A published schedule for first call with a written plan for orthopedic surgery coverage is required for when the orthopedic surgeon on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma services total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. Diversion or transfer to definitive care should be the last option. The plan must be monitored through the trauma services trauma quality;</u>	X	X	X			X	X	X
<u>(v) The liaison from orthopedic surgery must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
<u>(vi) Other orthopedic surgeons who participate on the trauma team must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal.</u>	X	X				X	X	
<u>(e) ((For level IV,)) Orthopedic surgery services on-call and available within thirty minutes of the trauma team leader's request if the facility's trauma scope of service includes orthopedic surgery services twenty-four hours every day((;)) or transfer trauma patients who need orthopedic surgery services to a designated trauma service with orthopedic surgery services available;</u>				X				
(f) Thoracic surgery;	X	X				X	X	
(g) Urologic surgery;	X	X				X	X	
(h) Vascular surgery.	X	X				X	X	
(22) Surgical services on-call for patient consultation or management at the trauma team leader's request for:	X	X				X	X	
(a) Cranial facial surgery;	X	X				X	X	
(b) Gynecologic surgery;	X	X				X	X	
(c) Ophthalmic surgery;	X	X				X	X	
(d) Plastic surgery.	X	X				X	X	
(23) Anesthesiology services((;)) with board-certified anesthesiologists or certified registered nurse anesthetists (CRNAs)((;)) who meet the following requirements:	X	X	X			X	X	X
(a) Are available within five minutes of the trauma team leader's request;	X					X		
(b) Are on-call and available within twenty minutes of the trauma team leader's request;		X					X	
(c) Are on-call and available within thirty minutes of the trauma team leader's request;			X					X
(d) Are ACLS trained except this requirement does not apply to physicians board-certified in anesthesiology;	X	X	X			X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(e) Are highly experienced and committed to the care of injured patients; who organize and supervise the anesthetic care of injured patients; and who serve as the designated liaison to the trauma program;</u>	X	X				X	X	
<u>(f) When anesthesiology senior residents or CRNAs are used to fulfill availability requirements, the attending anesthesiologist on call must be advised, available within thirty minutes at all times, and present for all operations;</u>	X	X				X	X	
<u>(g) A published schedule for first call, with a written plan for anesthesia coverage is required for when the anesthesia provider on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma services total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. Diversion or transfer to definitive care should be the last option. The plan must be monitored through the trauma services trauma quality improvement program;</u>	X	X	X			X	X	X
((e)) <u>(h) Meet the PER as defined in subsection (27) of this section(-);</u>	X	X	X			X	X	X
((f) For level IV,) <u>(i) Meet all level III anesthesiology service standards(-) if the facility's trauma scope of service includes surgery services twenty-four hours every day or transfer trauma patients who need surgery services to a designated trauma service with surgery services available.</u>					X			
<u>(24) Operating room services(-) with:</u>	X	X	X			X	X	X
<u>(a) Hospital staff responsible for opening and preparing the operating room available within five minutes of notification;</u>	X	X	X			X	X	X
<u>(b) Operating room staff on-call and available within ((twenty)) fifteen minutes of notification;</u>	X	X				X	X	
<u>(c) Operating room staff on-call and available within thirty minutes of notification;</u>			X					X
<u>(d) A written plan to mobilize additional surgical team members for trauma patient surgery;</u>	X	X	X			X	X	X
<u>(e) Delays in operating room availability routinely monitored. Any case that is associated with a significant delay or adverse outcome must be reviewed for reasons for delay and opportunity for improvement;</u>	X	X	X			X	X	X
((e)) <u>(f) Standard surgery instruments and equipment needed to perform operations on adult and pediatric patients, including:</u>	X	X	X			X	X	X
<u>(i) ((Autologous)) Blood recovery and transfusion;</u>	X	X	X			X	X	X
<u>(ii) ((Bronchoscope capability)) Bronchoscopy equipment;</u>	X	X	X			X	X	X
<u>(iii) Cardiopulmonary bypass;</u>	X	X				X	X	
<u>(iv) Craniotomy set;</u>	X	X				X	X	
<u>(v) ((Endoscopes)) Endoscopy equipment;</u>	X	X	X			X	X	X
<u>(vi) Rapid infusion capability;</u>	X	X	X			X	X	X
<u>(vii) Thermal control equipment;</u>	X	X	X			X	X	X
((■)) <u>(A) Blood and fluid warming;</u>	X	X	X			X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
((B)) (B) Patient warming and cooling((:)).	X	X	X			X	X	X
((f)) For level IV,)) (g) Operating room services that meet all level III operating room service standards if the facility's trauma scope of care includes surgery services twenty-four hours every day or transfer trauma patients who need surgery services to a designated trauma service with surgery services available.				X				
(25) Post anesthesia care (PACU) services with:	X	X	X			X	X	X
(a) At least one registered nurse available twenty-four hours every day;	X					X		
(b) At least one registered nurse on-call and available twenty-four hours every day;		X	X				X	X
(c) Registered nurses who are ACLS trained;	X	X	X			X	X	X
<u>(d) PACU equipment to monitor and resuscitate patients, including:</u>								
<u>(i) Pulse oximetry;</u>								
<u>(ii) End-tidal carbon dioxide detection;</u>	X	X	X			X	X	X
<u>(iii) Arterial pressure monitoring;</u>								
<u>(iv) Patient rewarming.</u>								
((d)) For level IV,)) (e) Post anesthesia care services that meet all level III post anesthesia care service standards if the facility's trauma scope of care includes general surgery services twenty-four hours every day or transfer trauma patients who need surgery services to a designated trauma service with surgery services available.				X				
(26) Critical care services((:)) with:	X	X	X			X	X	
(a) A critical care medical director((:)) who is:	X	X	X			X	X	
(i) Board-certified in:	X							
(A) Surgery and critical care;	X							
(B) Pediatric critical care((:)).						X		
(ii) Board-certified in critical care or board-certified in surgery, internal medicine, or anesthesiology with special competence in critical care;		X	X					
(iii) Board-certified in critical care((:)) with special competence in pediatric critical care or is board-certified in surgery, internal medicine, or anesthesiology((:)) with special competence in pediatric critical care;							X	
(iv) Responsible for coordinating with the attending physician for trauma patient care((:)).	X	X	X			X	X	
<u>(b) Physician coverage of critically ill trauma patients in the intensive care unit (ICU) by appropriately trained physicians who meet the following requirements:</u>	X	X	X			X	X	X
<u>(i) Must be available in-house within fifteen minutes, twenty-four hours per day;</u>	X					X		
<u>(ii) Must be available within fifteen minutes, twenty-four hours per day;</u>		X					X	
<u>(iii) Must be available within thirty minutes with a formal plan in place for emergency coverage.</u>			X					X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(c) For all levels of trauma service, the quality improvement program must ensure timely and appropriate ICU coverage is provided;</u>	X	X	X			X	X	X
<u>(d) The timely response of credentialed providers to the ICU must be continuously monitored as part of the quality improvement program;</u>	X	X	X			X	X	X
<u>(e) A designated ICU physician liaison or designee to the trauma service. This liaison must attend at least fifty percent of the multi-disciplinary peer review meetings with documentation by the trauma quality improvement program;</u>	X	X	X			X	X	X
<u>(f) The physician liaison or designee from the ICU must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
<u>(g) Other ICU physicians who participate on the trauma team must be knowledgeable and current in the care of injured patients. This requirement may be met by completing thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>	X	X				X	X	
((b)) <u>(h) Critical care registered nurses((:)) who:</u>	X	X	X			X	X	
<u>(i) Are ACLS trained;</u>	X	X	X					
<u>(ii) Have special competence in pediatric critical care;</u>						X	X	
<u>(iii) Have completed a minimum of six contact hours of trauma specific education every three-year designation period;</u>	X	X				X	X	
<u>(iv) Have completed a minimum of three contact hours of trauma specific education every three-year designation period((:)).</u>			X					
((e)) <u>(i) A physician directed code team;</u>	X	X	X			X	X	
((d)) <u>(j) Pediatric patient isolation capacity;</u>						X	X	
((e)) <u>(k) General surgery consults for critical care trauma patients or if intensivists are the primary admitting nonsurgical physician caring for trauma patients, the intensivists must complete a minimum of twelve hours of external or internal trauma critical care specific ((continuing medical education-())CME((:)) every three-year designation period;</u>	X	X	X			X	X	X
((f)) <u>(l) Standard critical care equipment for adult and pediatric trauma patients, including:</u>	X	X	X			X	X	
<u>(i) Cardiac devices:</u>	X	X	X			X	X	
((a)) <u>(A) Cardiac pacing capabilities;</u>	X	X	X			X	X	
((a)) <u>(B) Cardiac monitor with at least two pressure monitoring modules (cardiac output and hard copy recording), with the capability to continuously monitor heart rate, respiratory rate, and temperature((:)).</u>	X	X	X			X	X	
<u>(ii) Intracranial pressure monitoring devices;</u>	X	X				X	X	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(iii) Intravenous supplies:	X	X	X			X	X	
((■)) <u>(A) Infusion control device;</u>	X	X	X			X	X	
((■)) <u>(B) Rapid infusion capability((:));</u>	X	X	X			X	X	
(iv) Sterile surgical sets:	X	X	X			X	X	
((■-Chest tubes)) <u>(A) Thoracostomy;</u>	X	X	X			X	X	
((■)) <u>(B) Emergency surgical airway;</u>	X	X	X			X	X	
((■-Peritoneal lavage)) <u>(C) Bedside ultrasound;</u>	X	X	X			X	X	
((■)) <u>(D) Thoracotomy((:));</u>	X	X	X			X	X	
(v) Thermal control equipment:	X	X	X			X	X	
((■)) <u>(A) Blood and fluid warming;</u>	X	X	X			X	X	
((■)) <u>(B) Devices for assuring warmth during transport;</u>	X	X	X			X	X	
((■)) <u>(C) Expanded scale thermometer capable of detecting hypothermia;</u>	X	X	X			X	X	
((■)) <u>(D) Patient warming and cooling((:));</u>	X	X	X			X	X	
((g)) <u>(m) A written policy to transfer all pediatric trauma patients who need critical care services to a pediatric designated trauma service with critical care services available;</u>	X	X	X					
<u>(n) Surgical collaboration to set and implement policies and administrative decisions impacting trauma patients admitted to the ICU;</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>
((h) For level IV,)) <u>(o) Critical care services that meet all level III critical care service standards, if the facility's trauma scope of service includes critical care services for trauma patients twenty-four hours every day or transfer trauma patients who need critical care services to a designated trauma service with critical care services available;</u>					X			
((i) For level III pediatric trauma services,)) <u>(p) Critical care services that meet all level II pediatric critical care service standards if the facility's trauma scope of care includes pediatric critical care services for trauma patients twenty-four hours every day or transfer pediatric trauma patients who need critical care services to a designated pediatric trauma service, with pediatric critical care services available.</u>								X
(27) Pediatric education requirement (PER):	X	X	X	X	X	X	X	X
<u>(a) The pediatric trauma medical director and the liaisons from neurosurgery, orthopedic surgery, emergency medicine, and critical care medicine must complete thirty-six hours of trauma-related CME every three years in either external CME or in an internal educational process conducted by the trauma program or meet the requirements for participation in maintenance of certification of a member board of the American Board of Medical Specialties at the time of renewal;</u>						<u>X</u>	<u>X</u>	
((a)) <u>(b) PER must be met by the following providers who are directly involved in the initial resuscitation and stabilization of pediatric trauma patients:</u>	X	X	X	X	X	X	X	X
(i) Emergency department physicians;	X	X	X	X	X	X	X	X
(ii) Emergency department registered nurses;	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(iii) Physician assistants or ARNPs who ((initiate evaluation and treatment prior to the arrival of the physician in the emergency department)) participate in the initial care or evaluation of trauma activated patients in the emergency department;	X	X	X	X	X	X	X	X
(iv) Emergency medicine or surgical residents who initiate care prior to the arrival of the emergency physician;	X	X				X	X	
(v) General surgeons;	X	X	X			X	X	X
(vi) Surgical residents who initiate care prior to the arrival of the general surgeon;	X	X				X	X	
(vii) Anesthesiologists and CRNAs;	X	X	X			X	X	X
(viii) General surgeons, anesthesiologists, and CRNAs if the facility's trauma scope of service includes general surgery services twenty-four hours every day;				X				
(ix) Intensivists involved in the resuscitation, stabilization and in-patient care of pediatric trauma patients ((;)) ;						X	X	X
((b)) (c) PER must be met by completing pediatric specific contact hours as defined below:	X	X	X	X	X	X	X	X
(i) Five contact hours per provider during each three-year designation period;	X	X	X	X	X			
(ii) Seven contact hours per provider during each three-year designation period;						X	X	X
(iii) Contact hours should include, but are not limited to, the following topics:	X	X	X	X	X	X	X	X
((a)) (A) Initial stabilization and transfer of pediatric trauma;	X	X	X	X	X	X	X	X
((a)) (B) Assessment and management of pediatric airway and breathing;	X	X	X	X	X	X	X	X
((a)) (C) Assessment and management of pediatric shock, including vascular access;	X	X	X	X	X	X	X	X
((a)) (D) Assessment and management of pediatric head injuries;	X	X	X	X	X	X	X	X
((a)) (E) Assessment and management of pediatric blunt abdominal trauma ((;)) ;	X	X	X	X	X	X	X	X
(iv) Contact hours may be accomplished through one or more, but not limited to, the following methods:	X	X	X	X	X	X	X	X
((a)) (A) Review and discussion of individual pediatric trauma cases within the trauma quality improvement program;	X	X	X	X	X	X	X	X
((a)) (B) Staff meetings;	X	X	X	X	X	X	X	X
((a)) (C) Classes, formal or informal;	X	X	X	X	X	X	X	X
((a)) (D) Web-based learning;	X	X	X	X	X	X	X	X
((a)) (E) Certification in ATLS, PALS, APLS, ENPC, or other department approved equivalents;	X	X	X	X	X	X	X	X
((a)) (F) Other methods of learning which appropriately communicates the required topics listed in this section.	X	X	X	X	X	X	X	X
(28) Acute dialysis services ((;)) or must transfer trauma patients needing dialysis.	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
(29) A burn center, in accordance with the American Burn Association, to care for burn patients((?)) or must transfer burn patients to a burn center, in accordance with the American Burn Association transfer guidelines.	X	X	X	X	X	X	X	X
(30) Services on-call for consultation or patient management:	X	X	X			X	X	X
(a) Cardiology;	X	X				X	X	
(b) Gastroenterology;	X	X				X	X	
(c) Hematology;	X	X				X	X	
(d) Infectious disease specialists;	X	X				X	X	
(e) Internal medicine;	X	X	X					
(f) Nephrology;	X	X				X	X	
(g) Neurology;	X	X				X	X	
(h) Pediatric neurology;						X	X	
(i) Pathology;	X	X	X			X	X	X
(j) Pediatrician;	X	X				X	X	X
(k) Pulmonology;	X	X				X	X	
(l) Psychiatry or a plan for management of the psychiatric trauma patient.	X	X				X	X	
(31) Ancillary services available for trauma patient care:	X	X	X	X	X	X	X	X
(a) Adult protective services;	X	X	X	X	X			
(b) Child protective services;	X	X	X	X	X	X	X	X
(c) Chemical dependency services;	X	X	X			X	X	X
(d) Nutritionist services;	X	X	X	X		X	X	X
(e) Occupational therapy services;	X	X	X			X	X	X
(f) Pastoral or spiritual care;	X	X	X	X	X	X	X	X
(g) Pediatric therapeutic recreation/child life specialist;						X	X	
(h) Pharmacy services, with an in-house pharmacist;	X					X		
(i) Pharmacy services;		X	X	X	X		X	X
(j) Physical therapy services;	X	X	X	X		X	X	X
(k) Psychological services;	X	X	X			X	X	X
(l) Social services;	X	X	X	X		X	X	X
(m) Speech therapy services.	X	X	X			X	X	X
(32) A trauma care outreach program, including:	X	X				X	X	
(a) Telephone consultations with physicians of the community and outlying areas;	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(b) On-site consultations with physicians of the community and outlying areas.	<u>X</u>	<u>X</u>				<u>X</u>	<u>X</u>	
(33) Injury prevention, including:	X	X	X	X	X	X	X	X
(a) A public injury prevention education program((?)) <u>to include:</u>	X	X	X			X	X	X
<u>(i) An employee in a leadership position that has injury prevention as part of their job description;</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>(ii) Registry data used to identify injury prevention priorities that are appropriate for local implementation;</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
<u>(iii) Trauma centers that have an organized and effective approach to injury prevention and prioritize those efforts based on local trauma registry and epidemiologic data.</u>	X	X	X	X	X	X	X	X
<u>(b) Participation in community or regional injury prevention activities that include partnerships with other community organizations;</u>	X	X	X	X	X	X	X	X
<u>(c) A written plan for drug and alcohol screening and brief intervention and referral((-)) for treatment;</u>	X	X	X	X	X	X	X	X
<u>(d) Screening and brief intervention for drug and alcohol use. All patients who have screened positive must receive an intervention by appropriately trained staff and this intervention must be documented.</u>	X	X	X	X	X	X	X	X
(34) A formal trauma education training program((-)) for:	X	X				X	X	
(a) Allied health care professional;	X	X				X	X	
(b) Community physicians;	X	X				X	X	
(c) Nurses;	X	X				X	X	
(d) Prehospital personnel;	X	X				X	X	
(e) Staff physicians.	X	X				X	X	
(35) Provisions to allow for initial and maintenance training of invasive manipulative skills for prehospital personnel.	X	X	X	X		X	X	X
(36) Residency programs <u>that must:</u>	X					X		
(a) <u>Be accredited by the Accreditation Council of Graduate Medical Education;</u>	X					X		
(b) ((With a commitment)) <u>Be committed to training physicians in trauma management.</u>	X					X		
(37) A trauma research program ((with)) <u>conducting research applicable to the adult and pediatric trauma patient population((-)) including:</u>	X					X		
<u>(a) At a minimum, a trauma research program that publishes twenty peer-reviewed articles in journals included in Index Medicus or PubMed within a three-year period;</u>	X					X		
<u>(b) These publications must result from work related to the trauma center or the trauma system in which the trauma center participates;</u>	X					X		
<u>(c) Of the twenty articles, at least one must be authored or co-authored by members of the general surgery trauma team;</u>	X					X		
<u>(d) At least one article each from three of the following disciplines is required: Basic sciences, neurosurgery, emergency medicine, orthopedics, radiology, anesthesia, vascular surgery, plastics/maxillofacial surgery, critical care, cardiothoracic surgery, rehabilitation, and nursing;</u>	X					X		
<u>(e) In combined level I adult and pediatric centers, half of the required research must be pediatric research;</u>	X					X		
<u>(f) The administration of a level I trauma center must demonstrate support for the research program by including the provision of basic laboratory space, sophisticated research equipment, advanced information systems, biostatistical support, salary support for basic and translational scientists, or seed grants for less experienced faculty.</u>	X					X		

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:	X	X	X			X	X	X
(38) For joint trauma service designation (when two or more hospitals apply to share a single trauma designation):								
(a) A single, joint multidisciplinary trauma quality improvement program in accordance with the trauma quality improvement standards defined in subsection (4) of this section;	X	X	X			X	X	X
(b) A set of common policies and procedures adhered to by all hospitals and providers in the joint trauma service;	X	X	X			X	X	X
(c) A predetermined, published hospital rotation schedule for trauma care.	X	X	X			X	X	X
<u>(39) Trauma centers must meet the disaster-related requirements of the facility's accrediting agency.</u>	X	X	X	X	X	X	X	X
<u>(40) Organ procurement activities, including:</u>	X	X	X			X	X	X
<u>(a) An established relationship with a recognized organ procurement organization (OPO):</u>	X	X	X			X	X	X
<u>(b) A written policy in place for notification of the regional OPO;</u>	X	X	X			X	X	X
<u>(c) The trauma center must review its organ donation rate annually;</u>	X	X	X			X	X	X
<u>(d) Written protocols defining the clinical criteria and confirmatory tests for the diagnosis of brain death.</u>	X	X	X			X	X	X

WSR 18-24-084
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[R 2018-11—Filed December 3, 2018, 1:36 p.m., effective January 3, 2019]

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

Purpose: Adopting rules for property insurers, except commercial, to provide goods and/or services to their insureds as part of a policy of insurance in order to mitigate or prevent losses and not be in violation of state's inducement laws.

Citation of Rules Affected by this Order: New WAC 284-33-005, 284-33-010, 284-33-015, 284-33-020, 284-33-030, 284-33-040, and 284-33-050.

Statutory Authority for Adoption: RCW 48.02.60 [48.02.060] and 48.18.559.

Adopted under notice filed as WSR 18-21-104 on October 16, 2018.

Changes Other than Editing from Proposed to Adopted Version: The final rule removed WAC 284-33-030 [(1)](m) *Educational material on home safety*, due to multiple comments at public hearing. There was concern that it would affect producers handing out informational brochures, which was not the intent of that language in the rule regarding risk reduction programs. To avoid confusion, it was removed.

The final rule added *pilot risk reduction program* in WAC 284-33-030(1) Goods and services, for risk reduction programs to provide clarity that the section applies to all risk reduction programs, whether it's a pilot program or the continuous program.

A final cost-benefit analysis is available by contacting David Forte, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7042, email davidf@oic.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 7, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 7, Amended 0, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 0, Repealed 0.

Date Adopted: December 3, 2018.

Mike Kreidler
 Insurance Commissioner

Chapter 284-33 WAC

RISK REDUCTION FOR PROPERTY INSURANCE

NEW SECTION

WAC 284-33-005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) A "risk reduction program" means a program by a property insurance company to reduce either the probability of loss or extent of loss, or both, from a covered event as described in RCW 48.18.558(1) by supplying its named insured with either goods or services, or both, as described in WAC 284-33-030(1).

(2) "Commercial property insurance" means insurance pertaining to a business, profession, occupation, nonprofit organization, or public entity for the line of property insurance as defined in RCW 48.11.040.

NEW SECTION

WAC 284-33-010 Purpose and scope. The purpose of this chapter is to implement RCW 48.18.558, 48.18.559, and 48.19.530 for property insurance by establishing rules:

(1) For property insurers' risk reduction programs for covered events, except commercial property insurance;

(2) For property insurers' pilot risk reduction programs for covered events, except commercial property insurance; and

(3) To identify which property insurers' disaster or emergency response activities for covered events are exempt from RCW 48.18.558, 48.19.530, 48.30.140, and 48.30.150.

NEW SECTION

WAC 284-33-015 Conditions of the risk reduction program, pilot risk reduction program, and disaster or emergency response activity. (1) Each insurer conducting any risk reduction program, pilot risk reduction program, or disaster or emergency response activity must maintain records regarding the insured's involvement with the risk reduction program, pilot risk reduction program, or disaster or emergency response activity for three years after its conclusion, and the record must be made available to the commissioner upon request.

(2) If the commissioner finds that a risk reduction program, pilot risk reduction program, or disaster or emergency response activity is in violation of any provision of either Title 48 RCW or 284 WAC, or both, the commissioner may order the insurer to end the risk reduction program, pilot risk reduction program, or disaster or emergency response activity.

NEW SECTION

WAC 284-33-020 Notice to insureds participating in risk reduction program. (1) The insurer must provide a clear and conspicuous notice to the named insured participating in either a risk reduction program, pilot risk reduction program, or both, that accurately describes the right to opt out. The notice must:

(a) Identify and describe all risk reduction programs being offered to the insured;

(b) State the goods provided in a program are owned by the named insured, even if the insurance is subsequently canceled or nonrenewed;

(c) Inform the named insured they may opt out of a program at any time;

(d) State that if an insured opts out of a program the premium cost of the policy may change; and

(e) Include a reply form that contains the opt out notice information.

(2) If an insurer communicates with the insured electronically, the insurer may deliver the reply form and opt out notice information electronically, as an electronic form, and the insured may reply to the opt out option via electronic signatures and electronic attestation, in accordance with 15 U.S.C. Sec. 7001 and chapter 48.185 RCW. Electronic communication shall have the same force and effect as paper communications.

(3) The notice to opt out must be included at policy inception or, if the policy is already in effect, at the beginning of a risk reduction program or pilot risk reduction program.

(4) If a named insured elects to opt out of a risk reduction program and later requests to rejoin, an insurer must allow the named insured to rejoin at the earliest reasonable time available in the program.

(5) If a named insured elects to opt out of a pilot risk reduction program, an insurer may allow the insured to rejoin if the opportunity is available.

NEW SECTION

WAC 284-33-030 Goods and services. (1) All goods or services, or both, that are approved by the commissioner to be included within a property insurer's risk reduction program, or pilot risk reduction program, or both, must be implemented by the insurer to reduce either the probability of damage or extent of damage, or both, by a peril covered under the property policy, and may include:

(a) Smoke alarms;

(b) Fire extinguishers;

(c) Natural gas detectors;

(d) Brush and other wildfire fuel source removal services;

(e) Water monitors;

(f) Water shut off systems;

(g) Earthquake strapping;

(h) Locking mechanisms to secure property;

(i) Lightning protection devices;

(j) Security lighting;

(k) Security camera systems;

(l) Home safety monitoring systems; and

(m) Other goods or services, or both, the commissioner may approve through a form filing.

(2) A voucher provided from the insurer to the insured for either goods or services, or both, is only permissible for those items as described in subsection (1) of this section and must fully redeem either the goods or services, or both, being used in the risk reduction program.

NEW SECTION

WAC 284-33-040 Pilot program filing. (1) To qualify as a pilot program as described in RCW 48.18.558(6), a form for the pilot risk reduction program must be filed with and approved by the commissioner prior to offer to insured.

(2) Within the submitted form of the pilot risk reduction program, the insurer must provide the same information it

offers its participants of the pilot risk reduction program, including:

- (a) The intent of the pilot risk reduction program;
- (b) A description of either the goods or services, or both, offered in the pilot risk reduction program; and
- (c) The intended start date of the pilot risk reduction program.

NEW SECTION

WAC 284-33-050 Identifying disaster or emergency response activity. To be exempt from RCW 48.18.558, 48.19.530, 48.30.140, and 48.30.150, all disaster or emergency response activity by property insurers must be as a result of imminent threat of damage to an insured's covered property and must be undertaken to either prevent or mitigate, or both, damage from a covered event to the insured's property and may include:

- (1) Wildfire suppression and defense measures; and
- (2) Floodwater diversion and sandbagging.

WSR 18-24-090

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed December 3, 2018, 4:09 p.m., effective January 3, 2019]

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

Purpose: This rule implements SHB 2824 relating to the exchange and alignment of specific powers, duties, and functions of the superintendent of public instruction and the state board of education.

Proposal for chapter 180-90 WAC, Private schools.

- To implement the transfer of private school approval from the office of superintendent of public instruction to the state board of education per SHB 2824 in chapter 180-90 WAC, the proposal changes the agency referenced from "superintendent of public instruction" to "state board of education" at various points and, as necessary, modifies language to implement this transfer.
- In WAC 180-90-145 Approval—Initial application—Exception, the proposal allows for schools that have filed for an exception for the initial application to be considered at the next regularly scheduled state board of education meeting.
- In WAC 180-90-160 Minimum standards and certificate form, the proposal corrects language by referring to RCW 28A.195.010 rather than RCW 28A.150.220. This change correctly references private school law rather than basic education law.
- In WAC 180-90-160 Minimum standards and certificate form, the proposal corrects a reference to graduation requirement rules so that the reference remains consistent even when graduation requirements are to be updated.
- Clarifies or corrects language as necessary.

Proposal for chapter 180-18 WAC, Waivers for restructuring purposes.

- To implement the transfer of administration of the approval process for waivers from basic education requirements from the state board of education to the superintendent of public instruction per SHB 2824, the proposal changes the agency referenced from "state board of education" to "superintendent of public instruction" at various points and, as necessary, modifies language to implement this transfer.
- In WAC 180-18-030 Waiver from total instructional hour requirements, clarifies that the superintendent of public instruction may grant waiver requests that demonstrate the waiver is necessary to support improving student achievement. This is a clarification rather than a substantive change because the waiver is pursuant to WAC 180-18-050 which already requires the waiver request to demonstrate that the waiver is necessary to support improving student achievement.
- The proposal changes timelines that are based on scheduled state board of education meetings to be "based on a schedule issued by the superintendent of public instruction" and clarifies timeline information as necessary.
- In WAC 180-18-065 Waiver from one hundred eighty-day school year requirement for purposes of economy and efficiency—Criteria for evaluation of waiver requests, the proposal clarifies the order of prioritization for waiver requests in the event that a greater number of requests for waivers are received than may be granted. The proposal clarifies that districts that are already operating on a flexible calendar under this waiver program are prioritized.
- Clarifies or corrects language as necessary.

Proposal for WAC 180-16-195 Annual reporting and review process.

- To implement the provision of SHB 2824 that allows the state board of education to recommend withholding of funds rather than require withholding of funds, the proposal removes language that is no longer necessary when recommending withholding of funds.
- Requires that the state board of education staff notify the superintendent of public instruction and the school district in the event of a certification of noncompliance.
- Clarifies and corrects language as necessary.

Proposal for WAC 180-16-225 Waiver—Substantial lack of classroom space—Grounds and procedure.

- The proposal changes timelines that are based on scheduled state board of education meetings to be "based on a schedule issued by the superintendent of public instruction" and clarifies timeline information as necessary.
- Clarifies and corrects language as necessary.

Citation of Rules Affected by this Order: Amending chapters 180-90 and 180-18 WAC, WAC 180-16-195, 180-16-225.

Statutory Authority for Adoption: For chapter 180-18 WAC is RCW 28A.300.750 and 28A.305.141. For chapter 180-90 WAC is RCW 28A.195.010, 28A.195.030, and 28A.195.040. For WAC 180-16-195 is RCW 28A.150.220

and 28A.150.250. For WAC 180-16-225 is RCW 28A.300.-750.

Adopted under notice filed as WSR 18-16-094 on July 31, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 3, 2018.

Dr. Randy Spaulding
Executive Director

AMENDATORY SECTION (Amending WSR 11-17-044, filed 8/11/11, effective 9/11/11)

WAC 180-16-195 Annual reporting and review process. (1) **Annual school district reports.** A review of each school district's kindergarten through twelfth grade program shall be conducted annually for the purpose of determining compliance or noncompliance with basic education program approval requirements. On or before September 15th of each school year, each school district superintendent shall complete and return the program assurance form (~~OSPI Form 1497~~) distributed by the state board of education (~~as a part of an electronic submission to OSPI~~). The form shall be designed to elicit data necessary to make a determination of a school district's compliance or noncompliance with basic education program approval requirements. The form shall be submitted electronically and signed by:

- (a) The school board president or chairperson, and
- (b) The superintendent of the school district.

(2) **State board staff review.**

(a) State board of education staff shall review each school district's program assurance form, may conduct on-site (~~monitoring~~) visits of (~~randomly~~) selected school districts, as needed and subject to funding support, and shall prepare recommendations and reports for presentation to the state board of education: Provided, that, if a school district's initial program assurance form does not establish compliance with the basic education program approval requirements, the district shall be provided the opportunity to explain the deficiency or deficiencies. (~~School districts which foresee that they will not be able to comply with the program approval requirements, or that are deemed by the state board to be in noncompliance, may petition for a waiver on the basis of substantial lack of classroom space as set forth in WAC 180-16-225 and instructional hours offering requirements under WAC 180-18-030.~~)

(b) School districts may use the personnel and services of the educational service district to assist the district and schools in the district that are out of compliance with basic education program approval requirements.

(3) **Annual certification of compliance or noncompliance—Withholding of funds for noncompliance.**

(a) At the November meeting of the state board of education, or at such other meeting as the board shall designate, the board shall certify by motion each school district as being in compliance or noncompliance with the basic education program approval requirements.

(b) A certification of compliance shall be effective for the then current school year subject to any subsequent ad hoc review and determination of noncompliance as may be deemed necessary by the state board of education or advisable by the superintendent of public instruction. In addition, a certification of compliance shall be effective tentatively for the succeeding school year until such time as the state board takes its annual action certifying compliance or noncompliance with the program approval requirements.

(c) A certification of noncompliance shall be effective until program compliance is assured by the school district to the satisfaction of state board of education staff, subject to review by the state board. (~~Basic education allocation funds shall be deducted from the basic education allocation of a school district that has been certified as being in noncompliance unless such district has received a waiver from the state board for such noncompliance, pursuant to WAC 180-16-225 or 180-18-030, or assurance of program compliance is subsequently provided for the school year previously certified as in noncompliance and is accepted by the state board.~~)

(d) (~~The~~) Upon the certification of noncompliance of a school district, state board of education staff shall notify the superintendent of public instruction and the school district of a certification of noncompliance immediately after the board meeting at which certification occurred.

(e) A withholding of basic education allocation funding from a school district shall not occur for ((a)) noncompliance if the school district has remediated the noncompliance situation within sixty school business days from the time the district receives notice of the noncompliance from the state board of education. The state board of education may extend the sixty days timeline only if the district demonstrates by clear and convincing evidence to the satisfaction of the state board of education that sixty days is not reasonable to make the necessary corrections. For the purposes of this section, a school business day shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(~~e~~) The superintendent of public instruction, or his/her designee, (f) At the discretion of the state board of education, after notification by the state board of education to a school district regarding an existing noncompliance, ((shall)) may recommend withholding of funds or may enter into a compliance agreement with the school district that shall include, but not be limited to, the following criteria:

(i) A deadline for school district remediation of the non-compliance(s) ~~((not to exceed sixty school business days per noncompliance as specified in (d) of this subsection))~~.

(ii) A listing of all the noncompliance areas and the necessary terms that must be satisfied in each area in order for the school district to gain compliance status. This listing also shall specify additional deadlines for the accomplishment of the stated terms if different from the final deadline as specified in subsection (1) of this section.

(iii) A closing statement specifying that a school district's failure to remediate a noncompliance by the determined deadline ~~((shall))~~ may result, at the state board of education's or its designee's discretion, in the ~~((immediate))~~ recommendation to the superintendent of public instruction of withholding of the district's basic education allocation funding by the superintendent of public instruction.

(iv) The date and the signatures of the superintendent of the school district, the chair of the district's board of directors, and the ~~((superintendent of public instruction))~~ chair of the state board of education, or his/her designee, to the agreement. A copy of the completed compliance agreement shall be sent to the chairperson of the school district's board of directors and the school district superintendent.

~~((f))~~ (g) In the event a school district fails to sign ~~((the))~~ a compliance agreement within five school business days from the date of issuance or does not satisfy all of the terms of the signed compliance agreement within the designated amount of time, the state board of education may recommend to the superintendent of public instruction ~~((shall withhold))~~ withholding state funds for the basic education allocation until program compliance is assured ~~((based on the following procedure:~~

(i) ~~For the first month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold twenty-five percent of the state funds for the basic education allocation to a school district.~~

(ii) ~~For the second month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold fifty percent of the state funds for the basic education allocation to a school district.~~

(iii) ~~For the third month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold seventy-five percent of the state funds for the basic education allocation to a school district.~~

(iv) ~~For the fourth month, and every month thereafter, that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold one hundred percent of the state funds for the basic education allocation to a school district until compliance is assured).~~

~~((g))~~ (h) Any school district may appeal to the state board of education the decision of noncompliance by the state board of education. Such appeal shall be limited to the interpretation and application of these rules by the state board of education. Such appeal shall not stay the withholding of any state funds pursuant to this section ~~((The state board of education may not waive any of the basic education entitle-~~

~~ment requirements as set forth in this chapter, except as provided in WAC 180-16-225 or 180-18-030))~~ or completion of the compliance agreement.

(4) The provisions of subsection (3) ~~((f))~~ (g) of this section shall not apply if the noncompliance is related to the district's fiscal condition and results in the implementation of a financial plan under RCW 28A.505.140(3).

AMENDATORY SECTION (Amending WSR 04-23-008, filed 11/4/04, effective 12/5/04)

WAC 180-16-225 Waiver—Substantial lack of classroom space—Grounds and procedure. (1) **Grounds.** ~~((state board of education))~~ superintendent of public instruction may waive one or more of the basic education allocation entitlement requirements set forth in WAC 180-16-200 through 180-16-220(1) only if a school district's failure to comply with such requirement(s) is found by the ~~((state board))~~ superintendent of public instruction to be caused by substantial lack of classroom space.

As a condition to a waiver based on substantial lack of classroom space the state board will consider and a school district must demonstrate, at least, that the facilities of the school district do not contain enough classroom space or other space that can reasonably be converted into classroom space, and that necessary classroom space may not reasonably be acquired by lease or rental to enable the district to comply with the referenced entitlement requirements.

(2) **Waiver procedure.** In order to secure a waiver pursuant to subsection (1) of this section a school district must submit a petition together with a detailed explanation and documentation in support of its request not later than ~~((thirty days prior to either:~~

(a) ~~The state board of education meeting immediately preceding commencement of the school year; or~~

(b) ~~The March (or such other meeting as the state board shall have established) meeting of the board at which the board will consider certifications of compliance and noncompliance with these entitlement requirements.~~

A school district that can reasonably foresee an inability to comply with entitlement requirements by reason of substantial lack of classroom space should petition for a waiver as early as the state board meeting immediately preceding commencement of the school year in order to allow for the possibility that the request may be denied) the deadline in a schedule issued by the superintendent of public instruction and the commencement of the school year.

AMENDATORY SECTION (Amending WSR 07-20-030, filed 9/24/07, effective 10/25/07)

WAC 180-18-030 Waiver from total instructional hour requirements. A district desiring to improve student achievement by enhancing the educational program for all students may apply to the ~~((state board of education))~~ superintendent of public instruction for a waiver from the total instructional hour requirements. The ~~((state board of education))~~ superintendent of public instruction may grant said waiver requests that demonstrate the waiver is necessary to support improving student achievement pursuant to RCW

28A.305.140 and WAC 180-18-050 for up to three school years.

AMENDATORY SECTION (Amending WSR 12-24-049, filed 11/30/12, effective 12/31/12)

WAC 180-18-040 Waivers from minimum one hundred eighty-day school year requirement. (1) A district desiring to improve student achievement by enhancing the educational program for all students in the district or for individual schools in the district may apply to the ~~((state board of education))~~ superintendent of public instruction for a waiver from the provisions of the minimum one hundred eighty-day school year requirement pursuant to RCW 28A.305.140 and WAC 180-16-215 while offering the equivalent in annual minimum instructional hours as prescribed in RCW 28A.150.220 in such grades as are conducted by such school district. The ~~((state board of education))~~ superintendent of public instruction may grant said waiver requests for up to three school years.

(2) The ~~((state board of education))~~ superintendent of public instruction, pursuant to RCW 28A.305.140(2), shall evaluate the need for a waiver based on whether:

(a) The resolution by the board of directors of the requesting district attests that if the waiver is approved, the district will meet the required annual instructional hour offerings under RCW 28A.150.220(2) in each of the school years for which the waiver is requested;

(b) The purpose and goals of the district's waiver plan are closely aligned with school improvement plans under WAC 180-16-220 and any district improvement plan;

(c) The plan explains goals of the waiver related to student achievement that are specific, measurable, and attainable;

(d) The plan states clear and specific activities to be undertaken that are based in evidence and likely to lead to attainment of the stated goals;

(e) The plan specifies at least one state or locally determined assessment or metric that will be used to collect evidence to show the degree to which the goals were attained;

(f) The plan describes in detail the participation of administrators, teachers, other district staff, parents, and the community in the development of the plan.

(3) In addition to the requirements of subsection (2) of this section, the ~~((state board of education))~~ superintendent of public instruction shall evaluate requests for a waiver that would represent the continuation of an existing waiver for additional years based on the following:

(a) The degree to which the prior waiver plan's goals were met, based on the assessments or metrics specified in the prior plan;

(b) The effectiveness of the implemented activities in achieving the goals of the plan for student achievement;

(c) Any proposed changes in the plan to achieve the stated goals;

(d) The likelihood that approval of the request would result in advancement of the goals;

(e) Support by administrators, teachers, other district staff, parents, and the community for continuation of the waiver.

AMENDATORY SECTION (Amending WSR 12-24-049, filed 11/30/12, effective 12/31/12)

WAC 180-18-050 Procedure to obtain waiver. (1) ~~((State board of education))~~ Superintendent of public instruction approval of district waiver requests pursuant to WAC 180-18-030 and 180-18-040 shall occur ~~((at a state board meeting))~~ prior to implementation. A district's waiver application shall include, at a minimum, a resolution adopted by the district board of directors, an application form, a proposed school calendar, and a summary of the collective bargaining agreement with the local education association stating the number of professional development days, full instruction days, late-start and early-release days, and the amount of other noninstruction time. The resolution shall identify the basic education requirement for which the waiver is requested and include information on how the waiver will support improving student achievement. The resolution must include a statement attesting that the district will meet the minimum instructional hours requirement of RCW 28A.150.220(2) under the waiver plan. The resolution shall be accompanied by information detailed in the guidelines and application form available on the ~~((state board of education's))~~ office of superintendent of public instruction's web site.

(2) The application for a waiver and all supporting documentation must be received by the ~~((state board of education at least forty days prior to the state board of education meeting where consideration of the waiver shall occur. The state board of education))~~ superintendent of public instruction based on a schedule issued by the superintendent of public instruction and prior to implementation of the waiver days. The superintendent of public instruction shall review all applications and supporting documentation to insure the accuracy of the information. In the event that deficiencies are noted in the application or documentation, districts will have the opportunity to make corrections and to seek ~~((state board approval at a subsequent meeting))~~ superintendent of public instruction approval upon resubmittal.

(3) Under this section, a district seeking to obtain a waiver of no more than five days from the provisions of the minimum one hundred eighty-day school year requirement pursuant to RCW 28A.305.140 solely for the purpose of conducting parent-teacher conferences shall provide notification of the district request to the ~~((state board of education))~~ superintendent of public instruction at least thirty days prior to implementation of the plan. A request for more than five days must be presented to the ~~((state board))~~ superintendent of public instruction under subsection (1) of this section for approval. The notice shall provide information and documentation as directed by the ~~((state board))~~ superintendent of public instruction. The information and documentation shall include, at a minimum:

(a) An adopted resolution by the school district board of directors which shall state, at a minimum, the number of school days and school years for which the waiver is requested, and attest that the district will meet the minimum instructional hours requirement of RCW 28A.150.220(2) under the waiver plan((-));

(b) A detailed explanation of how the parent-teacher conferences to be conducted under the waiver plan will be used to improve student achievement;

(c) The district's reasons for electing to conduct parent-teacher conferences through full days rather than partial days;

(d) The number of partial days that will be reduced as a result of implementing the waiver plan;

(e) A description of participation by administrators, teachers, other staff and parents in the development of the waiver request;

(f) An electronic link to the collective bargaining agreement with the local education association.

~~((Within thirty days of receipt of the notification, the state board))~~ Based on a schedule issued by the superintendent of public instruction, the superintendent of public instruction will, on a determination that the required information and documentation have been submitted, notify the requesting district that the requirements of this section have been met and a waiver has been granted.

AMENDATORY SECTION (Amending WSR 04-23-006, filed 11/4/04, effective 12/5/04)

WAC 180-18-055 Alternative high school graduation requirements. (1) The shift from a time and credit based system of education to a standards and performance based education system will be a multiyear transition. In order to facilitate the transition and encourage local innovation, the state board of education finds that current credit-based graduation requirements may be a limitation upon the ability of high schools and districts to make the transition with the least amount of difficulty. Therefore, the state board will provide districts and high schools the opportunity to create and implement alternative graduation requirements.

(2) A school district, or high school with permission of the district board of directors, or approved private high school, desiring to implement a local restructuring plan to provide an effective educational system to enhance the educational program for high school students, may apply to the state board of education for a waiver from one or more of the requirements of chapter 180-51 WAC.

(3) The state board of education may grant the waiver for a period up to four school years.

(4) The waiver application shall be in the form of a resolution adopted by the district or private school board of directors which includes a request for the waiver and a plan for restructuring the educational program of one or more high schools which consists of at least the following information:

(a) Identification of the requirements of chapter 180-51 WAC to be waived;

(b) Specific standards for increased student learning that the district or school expects to achieve;

(c) How the district or school plans to achieve the higher standards, including timelines for implementation;

(d) How the district or school plans to determine if the higher standards are met;

(e) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan;

(f) Evidence that students, families, parents, and citizens were involved in developing the plan; and

(g) Identification of the school years subject to the waiver.

(5) The plan for restructuring the educational program of one or more high schools may consist of the school improvement plans required under WAC 180-16-220, along with the requirements of subsection (4)(a) through (d) of this section.

(6) The application also shall include documentation that the school is successful as demonstrated by indicators such as, but not limited to, the following:

(a) The school has clear expectations for student learning;

(b) The graduation rate of the high school for the last three school years;

(c) Any follow-up employment data for the high school's graduate for the last three years;

(d) The college admission rate of the school's graduates the last three school years;

(e) Use of student portfolios to document student learning;

(f) Student scores on the high school Washington assessments of student learning;

(g) The level and types of family and parent involvement at the school;

(h) The school's annual performance report the last three school years; and

(i) The level of student, family, parent, and public satisfaction and confidence in the school as reflected in any survey done by the school the last three school years.

(7) A waiver of WAC 180-51-060 may be granted only if the district or school provides documentation and rationale that any noncredit based graduation requirements that will replace in whole or in part WAC 180-51-060, will support the state's performance-based education system being implemented pursuant to RCW 28A.630.885, and the noncredit based requirements meet the minimum college core admissions standards as accepted by the higher education coordinating board for students planning to attend a baccalaureate institution.

(8) A waiver granted under this section may be renewed upon the state board of education receiving a renewal request from the school district board of directors. Before filing the request, the school district shall conduct at least one public meeting to evaluate the educational requirements that were implemented as a result of the waiver. The request to the state board shall include information regarding the activities and programs implemented as a result of the waiver, whether higher standards for students are being achieved, assurances that students in advanced placement or other postsecondary options programs, such as but not limited to: College in the high school, running start, and tech-prep, shall not be disadvantaged, and a summary of the comments received at the public meeting or meetings.

(9) The state board of education shall notify the state board for community and technical colleges, the ~~((higher education coordinating board))~~ Washington student achievement council and the council of presidents of any waiver granted under this section.

(10) Any waiver requested under this section will be granted with the understanding that the state board of education will affirm that students who graduate under alternative graduation requirements have in fact completed state requirements for high school graduation in a nontraditional program.

(11) Any school or district granted a waiver under this chapter shall report annually to the state board of education, in a form and manner to be determined by the board, on the progress and effects of implementing the waiver.

AMENDATORY SECTION (Amending WSR 12-24-049, filed 11/30/12, effective 12/31/12)

WAC 180-18-065 Waiver from one hundred eighty-day school year requirement for purposes of economy and efficiency—Criteria for evaluation of waiver requests. (1) In order to be granted a waiver by the ~~((state board of education))~~ superintendent of public instruction under RCW 28A.305.141 to operate one or more schools on a flexible calendar for purposes of economy and efficiency, a school district eligible for such waiver must meet each of the requirements of RCW 28A.305.141(2).

(2) In the event that a greater number of requests for waivers are received that meet the requirement of subsection (1) of this section than may be granted by the ~~((state board of education))~~ superintendent of public instruction under RCW 28A.305.141(3), ~~((priority shall be given to))~~ if the superintendent of public instruction determines that the applying districts are otherwise eligible, their applications will be prioritized in the following order:

(a) Districts that are already operating on a flexible calendar under this waiver program; and

(b) Those plans that best redirect monetary savings from the proposed flexible calendar to support student learning.

AMENDATORY SECTION (Amending WSR 15-24-108, filed 12/1/15, effective 1/1/16)

WAC 180-90-112 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Approved private school" means a nonpublic school or nonpublic school district conducting a program consisting of kindergarten and at least grade one, or a program consisting of any or all of grades one through twelve which has been approved by the state board of education in accordance with the minimum standards for approval as prescribed in this chapter.

(2)(a) "Reasonable health requirements" means those standards contained in chapter 246-366 WAC as adopted by the state board of health.

(b) "Reasonable fire safety requirements" means those standards adopted by the state fire marshal pursuant to chapter 43.44 RCW.

(3)(a) "Minor deviation" means a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel, and which does not impact the ability of the school to provide an educational program which is in substantial compliance with the minimum standards set forth in WAC 180-

90-160, and which, therefore, does not preclude the granting of full approval.

(b) "Major deviation" means a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel but may impact the ability of the school to provide an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160, but is not so serious as to constitute an unacceptable deviation.

(c) "Unacceptable deviation" means a variance from the standards established by these regulations which either:

(i) Constitutes a threat to the health or safety of students or school personnel; or

(ii) Demonstrates that the school is not capable of providing an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160.

(4) "Total instructional hour offering" means those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school staff, as directed by the administration and board of directors, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the approved private school for the purpose of discussing students' educational needs for progress, and exclusive of time actually spent for meals.

(5)(a) "Non-Washington state certificated teacher" means a person who does not have a Washington state certification consistent with WAC 181-79A-030(2), but who has:

(i) A K-12 teaching certificate from a nationally accredited preparation program, other than Washington state, recognized by the U.S. Department of Education; or

(ii) A minimum of a baccalaureate degree in the subject matter to be taught or in a field closely related to the subject matter to be taught; or

(iii) A minimum of one calendar year of experience in a specialized field. For purposes of this subsection the term "specialized field" means a specialized area of the curriculum where skill or talent is applied and where entry into an occupation in such field generally does not require a baccalaureate degree including, but not limited to, the fields of art, drama, dance, music, physical education, and career and technical or occupational education.

(b) "Exceptional case" means that a circumstance exists within a private school in which:

(i) The educational program offered by the private school will be significantly improved with the employment of a non-Washington state certificated teacher. Each teacher not holding a valid Washington state certificate shall have experience or academic preparation appropriate to K-12 instruction and consistent with the school's mission. Such experience or academic preparation shall be consistent with the provisions of (c) of this subsection; and

(ii) The school employs at least one Washington state certified teacher, administrator, or superintendent who provides general supervision to any non-Washington state certificated teacher. The school will annually report to the ~~((office of the superintendent of public instruction))~~ state board of education the academic preparations and experience of each non-Washington state certificated teacher providing k-12

instruction in an addendum to the certificate of compliance as provided in WAC 180-90-160; and

(iii) The non-Washington state certificated teacher of the private school, employed pursuant to this section, has been verified by the private school, as meeting the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2), and has not had his or her teacher's certificate revoked by any state or foreign country consistent with WAC 181-79A-155 (5)(a).

(c) "Unusual competence": As applied to an exceptional case wherein the educational program as specified in RCW 28A.195.010 and WAC 180-90-160(7) will be significantly improved with the employment of a non-Washington state certificated teacher as defined in (a) of this subsection.

(d) "General supervision" means that a Washington state certificated teacher, administrator, or superintendent shall be generally available at the school site to observe and advise the teacher employed under provision of (c) of this subsection and shall evaluate pursuant to policies of the private school.

AMENDATORY SECTION (Amending WSR 15-24-108, filed 12/1/15, effective 1/1/16)

WAC 180-90-130 Approval—Annual certification—Adverse findings. (1) At least ninety days prior to the commencement of the annual school term or period, the chief administrator of each private school shall file with the ~~((superintendent of public instruction, in accordance with procedures established by the superintendent of public instruction,))~~ state board of education a certificate of compliance in the form and substance set forth in WAC 180-90-160.

(2) The ~~((superintendent of public instruction))~~ state board of education shall review each certificate. The review shall be completed within thirty days after receipt of a completed application.

(3) ~~((If the superintendent of public instruction finds no minor, major, or unacceptable deviations, the superintendent of public instruction shall recommend full approval of the private school to the state board of education.~~

(4)) If the ~~((superintendent of public instruction))~~ state board of education finds deviation, the private school shall be notified through written or electronic communication of any minor, major, or unacceptable deviations which must be corrected.

~~((5))~~ (4) If the ~~((superintendent of public instruction))~~ state board of education finds major or unacceptable deviations, ~~((the superintendent of public instruction shall not transmit the recommendation regarding approval status to the state board of education until))~~ the private school shall submit ~~((s))~~ a narrative report indicating agreement or not with the findings of the ~~((superintendent of public instruction))~~ state board of education and any proposed remedial action to address the reported deviations. ~~((Upon receipt of the narrative report, the superintendent of public instruction shall transmit the recommendation and the narrative report to the state board of education.))~~ Minor deviations will be resolved with the ~~((office of the superintendent of public instruction staff))~~ state board of education prior to ~~((submission for))~~ approval. In the case of major deviations, the private school

may request that the state board of education grant provisional status for up to one year so the private school may take action to meet the requirements.

AMENDATORY SECTION (Amending WSR 15-24-108, filed 12/1/15, effective 1/1/16)

WAC 180-90-141 Loss of private school approval. ~~((1) The superintendent of public instruction is authorized to))~~ The state board of education may rescind approval of a private school for one or more of the following reasons:

~~((a))~~ (1) Failure to have students enrolled for any six consecutive calendar months in the school's physical facilities or failure to provide evidence of student enrollment upon request of the ~~((superintendent of public instruction))~~ state board of education for the said period of time.

~~((b))~~ (2) Failure to provide verification that the approved private school teaching staff have a valid Washington state teaching certificate or meet the provisions of WAC 180-90-112(5).

~~((c))~~ (3) Failure to provide verification that the physical facilities of the school meet the health and fire safety standards.

~~((2) The superintendent of public instruction shall notify the state board of education of decisions to rescind approval.))~~

AMENDATORY SECTION (Amending WSR 15-24-108, filed 12/1/15, effective 1/1/16)

WAC 180-90-145 Approval—Initial application—Exception. Any potential private school which is unable to file its application for approval at least ninety days prior to the commencement of the annual school term or period may request the ~~((superintendent of public instruction))~~ state board of education review the application ~~((and the superintendent's findings and recommendations be submitted to the state board of education)).~~ This request shall be granted if the ~~((superintendent of public instruction))~~ state board of education finds the private school was not sufficiently developed prior to the ~~((90))~~ ninety-day time period to enable it to comply with that requirement. The ~~((superintendent of public instruction))~~ state board of education shall have the discretion to grant the request in other exceptional circumstances. If the ~~((superintendent of public instruction))~~ state board of education grants the request, the review shall be completed within thirty days and the findings and ~~((recommendations presented to the state board of education))~~ approval shall be considered at the next regularly scheduled state board of education meeting.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-90-150 Appeals. Pursuant to RCW 28A.195.030 any private school may appeal the actions of the ~~((superintendent of public instruction or))~~ state board of education as provided in chapter 34.05 RCW and chapter 180-08 WAC.

AMENDATORY SECTION (Amending WSR 15-24-108, filed 12/1/15, effective 1/1/16)

WAC 180-90-160 Minimum standards and certificate form. (1) The annual certificate required by WAC 180-90-130 shall be in substantial compliance with the form and substance of the following:

CERTIFICATE OF COMPLIANCE
WITH STATE STANDARDS

ESD/County/Public
School District
Private School/
District Address

I,, do hereby certify that I am the principal or chief administrator of the above named school; that said school is located at the address listed above, and conducts grades through with a projected enrollment of; and that said school is scheduled to meet throughout the school year, the following standards with the exception only of such deviations, if any, as are set forth in an attachment to this certificate of compliance

or

I,, do hereby certify that I am the superintendent of the above named private school district; and that the private schools under my jurisdiction are scheduled to meet throughout the school year, the following standards with the exception only of such deviations as are set forth in an attachment to this certificate of compliance; and that a list of such schools, including the grades conducted and the projected enrollment for each school, accompanies this certificate:

(a) The minimum school year for instructional purposes consists of no less than one hundred eighty school days or the equivalent in annual minimum instructional hour offerings as prescribed in RCW ((28A.150.220)) 28A.195.010.

(b) On each school day, pupils enrolled and in attendance at the school are engaged in educational activity planned by and under the direction of the school; and that pupils are provided ((~~an annual~~)) an annual total instructional hour offering, as prescribed in RCW ((28A.150.220 ~~except that the percentages for basic skills, work skills, and optional subjects and activities prescribed in RCW 28A.150.220 do not apply to private schools and that the total instructional hour offering, except as otherwise specifically provided in RCW 28A.150.220, made available is~~)) 28A.195.010, of at least:

- (i) 450 Hours for students in kindergarten.
- (ii) 1000 Hours for students in grades one through twelve.
- (c) All classroom teachers hold appropriate Washington State certification except for:

(i) Teachers for religious courses or courses for which no counterpart exists in the public schools: Provided, That a religious course is a course of study separate from the courses of study defined in RCW 28A.195.010 including occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of the appreciation of art and music all in sufficient

units for meeting state board of education graduation requirements; and/or

(ii) A person of unusual competence who is not certified but who will teach students in an exceptional case under the general supervision of a Washington state certificated teacher, administrator, or superintendent pursuant to WAC 180-90-112. The non-Washington state certificated teacher, the Washington state certificated person who will supervise, and the exceptional circumstances are listed on the addendum to this certificate.

(d) If the school operates an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody, the extension program meets the following requirements:

(i) The parent, guardian, or custodian is supervised by a person certified under chapter 28A.410 RCW and who is employed by the school;

(ii) The planning by the certified person and the parent, guardian, or person having legal custody includes objectives consistent with (a), (b), (e) through (g) of this subsection;

(iii) The certified person spends a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the extension program;

(iv) Each student's progress is evaluated by the certified person; and

(v) The certified person does not supervise more than thirty students enrolled in the approved private school's extension program.

(e) Measures have been taken to safeguard all permanent records against loss or damage through either the storage of such records in fire-resistant containers or facilities, or the retention of duplicates in a separate and distinct area;

(f) The physical facilities of the school are adequate to meet the program offered, and all school facilities and practices are in substantial compliance with reasonable health and fire safety standards, as substantiated by current inspection reports of appropriate health and fire safety officials which are on file in the chief administrator's office;

(g) The school's curriculum includes instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music in sufficient units for meeting state board of education graduation requirements, as set forth in chapter 180-51 WAC. A school may substitute courses specific to the mission or focus of the school to satisfy the career and technical education requirement of chapter 180-51 WAC ((180-51-068(7)));

(h) The school or its organized district maintains up-to-date policy statements related to the administration and operation of the school or district;

(i) The school does not engage in a policy of racial segregation or discrimination;

(j) The governing authority of this private school or private school district has been apprised of the requirements of chapter 180-90 WAC relating to the minimum requirements for approval of private schools and such governing authority has further been apprised of all deviations from the rules and regulations of the state board of education and the standards

contained in chapter 180-90 WAC. I have reported all such deviations herewith.

Dated this day of, 20 . . .

.....

(signed)

.....

(title)

.....

(phone number)

(2) Approval by the state board of education is contingent upon on-going compliance with the standards certified herein. The ~~((superintendent of public instruction shall be notified))~~ school shall notify the state board of education of any deviation from these standards which occurs after the action taken by the state board of education. Such notification shall be filed within thirty days of occurrence of the deviation.

(3) Failure to comply with the requirements of this chapter may result in the revocation of the approval of the private school and shall be considered in subsequent application for approval as a private school.

(4) Following initial approval as a private school by the state board of education, evidence of current accreditation by a state board of education approved accrediting body may be submitted annually in lieu of approval documents described in subsection (1)(a) through (j) of this section.

AMENDATORY SECTION (Amending WSR 15-24-108, filed 12/1/15, effective 1/1/16)

WAC 180-90-170 Complaints against private schools. (1) Complaints about an approved private school may be made in writing to ~~((the office of public instruction))~~ state board of education.

(2) If a complaint against a private school is received, the ~~((office of the superintendent of public instruction))~~ state board of education will:

(a) Notify the complainant that the communication was received;

(b) Notify the school of the complaint, provide a copy of the complaint if requested, and provide an opportunity for the school to respond. All correspondence will conform to state and federal student privacy laws; and

(c) Review the complaint and the school's response and may take appropriate action it deems necessary. Any action taken by the ~~((office of the superintendent of public instruction))~~ state board of education will be limited to authority pursuant to chapter 28A.195 RCW and the rules promulgated thereunder.

(3) The record of the complaint, the response and any action taken will be retained according to the record retention schedule established by the office of the secretary of state for the ~~((office of the superintendent of public instruction))~~ state board of education.

WSR 18-24-102
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 4, 2018, 1:22 p.m., effective January 4, 2019]

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

Purpose: The purpose of this rule making is to increase fees by 4.0 percent (rounded down to the nearest tenth of a dollar) for the contractor registration, elevator, and factory assembled structures (FAS) programs. This is the office of financial management's maximum allowable fiscal growth factor rate for fiscal year 2019. The department evaluated each program's budget and projected revenue, and determined these fee increases to be necessary in order to support increased operating expenses for required inspections and other public safety activities.

Citation of Rules Affected by this Order: Amending WAC 296-200A-900, 296-96-00922, 296-96-01005, 296-96-01010, 296-96-01025, 296-96-01027, 296-96-01030, 296-96-01035, 296-96-01040, 296-96-01045, 296-96-01055, 296-96-01057, 296-96-01060, 296-96-01065, 296-150C-3000, 296-150F-3000, 296-150I-3000, 296-150M-3000, 296-150P-3000, 296-150R-3000, 296-150T-3000, and 296-150V-3000.

Statutory Authority for Adoption: Chapters 18.27, 70.87, 43.22, and 43.22A RCW.

Adopted under notice filed as WSR 18-21-169 on October 23, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 22, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 22, Repealed 0.

Date Adopted: December 4, 2018.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 18-18-068, filed 8/31/18, effective 10/1/18)

WAC 296-96-00922 Licensing fees. The following are the department's elevator license fees:

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Elevator contractor/mechanic application fee (not required for renewal of valid license)	Per application	\$(64.30) <u>66.80</u>
Elevator contractor/mechanic examination fee	Per application	\$(193.60) <u>201.30***</u>
Reciprocity application fee	Per application*	\$(64.30) <u>66.80</u>
Elevator mechanic license	2 years	\$(129.00) <u>134.10</u>
Elevator contractor license	2 years	\$(129.00) <u>134.10</u>
Temporary elevator mechanic license	30 days	\$(32.00) <u>33.20</u>
Emergency elevator mechanic license	30 days	\$(32.00) <u>33.20</u>
Elevator mechanic/contractor timely renewal fee	2 years	\$(129.00) <u>134.10</u>
Elevator mechanic/contractor late renewal fee	2 years	\$(258.30) <u>268.60</u>
Training provider application/renewal fee	2 years	\$(129.00) <u>134.10</u>
Continuing education course fee by approved training provider	1 year**	Not applicable
Replacement of any licenses		\$(19.20) <u>19.90</u>
Refund processing fee		\$(38.50) <u>40.00</u>

* Reciprocity application is only allowed for applicants who are applying for licensing based upon possession of a valid license that was obtained in state(s) with which the department has a reciprocity.

** This fee is paid directly to the continuing education training course provider approved by the department.

***This fee may be collected by an outside vendor for some exams and may differ from the fee shown above.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01005 Obtaining permits. (1) See WAC 296-96-01000 for the permit process.

(2) Construction and alteration permits are valid for one year from the date of issue. However, permits may be renewed if:

(a) Application for a renewal permit is submitted before the current permit expires;

(b) The department approves the request for a renewal permit; and

(c) A renewal fee of ~~\$(58.30)~~ 60.60 is paid to the department for each permit renewed;

(3) If the permit has expired the applicant shall reapply for a new permit.

(4) See WAC 296-96-01006 for work requiring a permit.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01010 Installation and alteration permit fees. Permit fees are based on the total cost of the conveyance or alteration and the labor to install or alter the conveyance. The following permit fees apply to the construction, alteration, or relocation of all conveyances except personnel and material hoists (see WAC 296-96-01025):

TOTAL COST OF INSTALLATION OR ALTERATION	FEE
\$0 to and including \$1,000	\$(64.30) <u>66.80</u>
\$1,001 to and including \$5,000	\$(96.50) <u>100.30</u>
\$5,001 to and including \$7,000	\$(161.20) <u>167.60</u>
\$7,001 to and including \$10,000	\$(193.60) <u>201.30</u>
\$10,001 to and including \$15,000	\$(258.30) <u>268.60</u>
OVER \$15,000 for installation only*	\$(361.60) <u>376.00</u> plus
OVER \$15,000 for alteration only*	\$(258.30) <u>268.60</u>
*Each additional \$1,000 or fraction thereof	\$(8.90) <u>9.20</u>

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01025 Permit fees for personnel and material hoists. The fee for each personnel hoist or material hoist installation is ~~\$(258.30)~~ \$268.60.

See WAC 296-96-01035(2) for requirements for jumps.

Note: An operating certificate is also required for these types of conveyances.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01027 Permit fee refunds. The initial installation permit fees are refundable minus a processing fee if the installation work has not been performed. No refunds will be issued for expired permits. All requests for refunds shall be submitted in writing to the elevator section and shall

identify the specific permits and the reasons for which the refunds are requested.

The processing fee for each refund is ~~((... \$38.50))~~ \$40.00.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01030 Plan approval. Prior to the start of construction and the issuance of a permit, the applicant shall submit to the department for approval plans for new installations or major alterations. To be approved, the plan shall comply with the latest adopted applicable standard and applicable Washington Administrative Code (WAC). In addition, the plans shall include all information necessary to determine whether each installation/alteration complies with all applicable codes. The permit holder shall keep a copy of the approved plan on the job site until the department has witnessed all acceptance tests. Any alterations to the approved plan shall be submitted to the department for approval before a final inspection will be conducted. The nonrefundable fees for reviewing the plans are ~~\$(32.00)~~ 33.20 for each installation/major alteration.

Exception: Residential incline chair lifts will not require plan review. Equipment shall be listed and labeled by a product testing laboratory which is accredited by the department and plans supplied by the manufacturer shall be on-site. If the equipment is not listed and labeled as per RCW 19.28.010 it shall be field evaluated or replaced with equipment that is listed and labeled by a product testing laboratory which is accredited by the department.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01035 Inspection fees. The initial inspection of construction, alteration or relocation of a conveyance is included with the permit fee. Once the department has approved the initial installation of the conveyance a temporary 30-day operating certificate will be issued. Prior to the expiration of the 30-day temporary operating certificate the application for an annual operating certificate and the appropriate fees shall be paid to the department. Once the department has received the appropriate fees and application the owner will be issued the first annual operating certificate. The owner or owner's representative will receive an invoice from the department for renewal. The owner is required to renew the annual operating certificate yearly.

The following inspections require an additional inspection fee:

(1) **Reinspection.** If a conveyance does not pass an initial inspection and an additional inspection is required, the fee for each reinspection of a conveyance is ~~\$(129.00)~~ 134.10 per conveyance plus ~~\$(62.60)~~ 65.10 per hour for each hour in addition to the first hour.

The department may waive reinspection fees.

(2) **Inspecting increases in the height (jumping) of personnel and material hoists.**

The fee for inspecting an increase in the height (jumping) of each personnel hoist or material hoist is ~~\$(129.00)~~ 134.10 plus ~~\$(64.30)~~ 66.80 per hour for each hour in addition

to 2 hours. This fee is for inspections occurring during regular working hours.

The permit holder may be allowed to operate a hoist prior to the jump inspection if:

(a) The electrical limits will not allow the lift to operate above the previously inspected landing; and

(b) The state elevator inspector is contacted, agrees and can schedule an inspection within 3 days.

(3) **Variance inspections.**

(a) The fee for an on-site variance inspection is ~~\$(193.60)~~ 201.30 per conveyance plus ~~\$(64.30)~~ 66.80 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

(b) The fee for a variance that does not require an on-site inspection is ~~\$(64.30)~~ 66.80 per conveyance. The individual requesting the variance shall provide the department with pictures, documentation, or other information necessary for the department to review the variance. The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary. If an on-site variance inspection is performed, the fees in (a) of this subsection will apply.

(4) **"Red tag" status fee.** The annual fee for a conveyance in "Red tag" status is ~~\$(32.00)~~ 33.20.

Note: The department shall be provided with written approval from the building official, indicating that the conveyance is not required for building occupancy, when applying to have the conveyance placed in voluntary red tag status.

(5) **Decommission inspection.** The fee for performing a decommission inspection is ~~\$(64.30)~~ 66.80. Once the decommission inspection has been performed and approved, the conveyance will no longer require annual inspections until such time that the conveyance is brought back into service. Prior to operating the conveyance, a new inspection and annual operating permit shall be obtained.

(6) **Voluntary inspections by request.** The owner or potential purchaser of a building within the department's jurisdiction may request a voluntary inspection of a conveyance. The fee for this inspection will be ~~\$(129.00)~~ 134.10 per conveyance and ~~\$(64.30)~~ 66.80 per hour for each hour in addition to 2 hours plus the standard per diem and mileage allowance granted to department inspectors. The owner/potential purchaser requesting the voluntary inspection will not be subject to any penalties based on the inspector's findings.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01040 Construction-use inspection fee.

(1) The fee for the inspecting and testing of elevators used for construction is ~~\$(103.10)~~ 107.20, in addition to any other fees required in this chapter. This fee purchases a 30-day temporary use permit that may be renewed at the department's discretion.

(2) When this temporary use permit is purchased, a notice declaring that the equipment has not received final approval from the department shall be conspicuously posted in the elevator.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01045 Residential elevator inspection and fees. (1) Chapter 70.87 RCW requires the department to inspect all new, altered or relocated conveyances operated exclusively for single-family use in private residences. Prior to installation, a licensed elevator contractor shall complete a permit application as described in WAC 296-96-01005 and pay the appropriate fee listed in WAC 296-96-01010.

(2) Chapter 70.87 RCW allows the department to inspect conveyances operated exclusively for single-family use in private residences when the department is investigating an accident or an alleged or apparent violation of the statute or these rules.

(3) No annual inspection and operating certificate is required for a private residence conveyance operated exclusively for single-family use unless the owner requests it. When an owner requests an inspection and an annual operating certificate, the following fee shall be paid prior to an inspection:

TYPE OF CONVEYANCE	FEE
Each inclined stairway chair lift in private residence	\$((30.00)) <u>31.20</u>
Each inclined wheel chair lift in a private residence	\$((30.00)) <u>31.20</u>
Each vertical wheel chair lift in a private residence	\$((37.80)) <u>39.30</u>
Each dumbwaiter in a private residence	\$((30.00)) <u>31.20</u>
Each inclined elevator at a private residence	\$((107.30)) <u>111.50</u>
Each private residence elevator	\$((69.10)) <u>71.80</u>
Duplication of a lost, damaged or stolen operating permit	\$((12.60)) <u>13.10</u>

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01055 Technical services and consultations. A person, firm, corporation, or governmental agency may request elevator field technical services from the department by paying a fee of \$((~~77.30~~)) 80.30 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. These field technical services may include code evaluation, code consultation, plan examination, code interpretation and clarification of technical data relating to the application of the department's conveyance rules. Field technical services do not include inspections.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01057 Accident investigations. The department shall investigate an injury-related accident reported by the owner or owner's duly authorized agent. The

department may charge at a rate of \$((~~77.30~~)) 80.30 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01060 Inspections after normal business hours. An inspection outside of normal business hours and business days (i.e., Monday through Friday excluding holidays; 7:00 a.m. to 5:00 p.m.) may be requested under the following conditions:

- (1) An inspector is available; and
- (2) The inspection is authorized by the department.
- (3) The minimum fee for an after-hours inspection is \$((~~96.50~~)) 100.30 and \$((~~96.50~~)) 100.30 per hour for each hour in addition to the first hour plus the standard per diem and mileage allowance granted to department inspectors.
- (4) This fee is in addition to any other fees required for the project.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01065 Annual operating permit fees. An annual operating certificate will be issued to the building owner upon payment of the appropriate fee. The owner of record shall be invoiced by the department. If a change of ownership has occurred, it is the new owner's responsibility to ensure the department has the corrected information. Below is the fee structure table:

TYPE OF CONVEYANCE	FEE
Each hydraulic elevator	\$((129.00)) <u>134.10</u>
Each roped-hydraulic elevator	\$((161.20)) <u>167.60</u>
plus for each hoistway opening in excess of two	\$((12.60)) <u>13.10</u>
Each cable elevator	\$((161.20)) <u>167.60</u>
plus for each hoistway opening in excess of two	\$((12.60)) <u>13.10</u>
Each cable elevator traveling more than 25 feet without an opening—for each 25 foot traveled	\$((12.60)) <u>13.10</u>
Each limited-use/limited-application (—LULA) elevator	\$((129.00)) <u>134.10</u>
Each escalator	\$((107.20)) <u>111.40</u>
Each dumbwaiter in other than a private residence	\$((69.10)) <u>71.80</u>
Each material lift	\$((129.00)) <u>134.10</u>
Each incline elevator in other than a private residence	\$((138.70)) <u>144.20</u>

TYPE OF CONVEYANCE	FEE	TYPE OF CONVEYANCE	FEE
Each belt manlift	\$(129.00) <u>134.10</u>	Each casket lift	\$(107.20) <u>111.40</u>
Each stair lift in other than a private residence	\$(69.10) <u>71.80</u>	Each sidewalk freight elevator	\$(107.20) <u>111.40</u>
Each wheel chair lift in other than a private residence	\$(69.10) <u>71.80</u>	Each hand-powered manlift or freight elevator	\$(72.60) <u>75.50</u>
Each personnel hoist	\$(129.00) <u>134.10</u>	Each boat launching elevator	\$(107.20) <u>111.40</u>
Each grain elevator personnel lift	\$(107.20) <u>111.40</u>	Each auto parking elevator	\$(107.20) <u>111.40</u>
Each material hoist	\$(129.00) <u>134.10</u>	Each moving walk	\$(107.20) <u>111.40</u>
Each special purpose elevator	\$(129.00) <u>134.10</u>	Duplication of a damaged, lost or stolen operating permit	\$(12.60) <u>13.10</u>
Each private residence elevator installed in other than a private residence	\$(129.00) <u>134.10</u>		

AMENDATORY SECTION (Amending WSR 12-06-069, filed 3/6/12, effective 4/30/12)

WAC 296-150C-3000 Commercial coach fees.

GENERAL INFORMATION	
Manufacture:	Manufacturer #
1. Building use:	2. Building occupancy:
3. Type of construction: VB	4. Square footage of building:
5. Valuation of the building shall be based on the following:	
• Square footage of the building multiplied by the amount in the BVD valuation table	\$
6. Total valuation:	\$
PERMIT FEE	
7. Calculate from building permit fee table using the total valuation	\$
STRUCTURAL PLAN REVIEW FEE*	
8. One year design review: (Valid for one year) multiply the total on line 7 by ((0.35)) <u>0.364</u>	\$
9. Master plan review: (Valid for the code cycle) multiply the total on line 7 by ((0.50)) <u>0.52</u>	\$
* Minimum plan review fee is 2 1/2 hours x \$(76.00)) <u>79.00</u> per hour	
FIRE AND LIFE-SAFETY PLAN REVIEW FEE (if required)	
10. Fire and life-safety plan review:	
a. One year design—Multiply the total on line 7 by ((0.15)) <u>0.156</u>	\$
b. Master plan design—Multiply the total on line 7 by ((0.25)) <u>0.26</u>	\$
• Required for all structures that are more than 4,000 square feet and for all A and I occupancy	
PLUMBING PLAN-REVIEW FEE	
11. Plumbing (\$18.00 + \$6.00) <u>\$18.70 + \$6.20</u> per fixture	\$
12. Medical gas (\$18.00 + \$6.00) <u>\$18.70 + \$6.20</u> per gas outlet	\$
DESIGN RENEWAL OR ADDENDUM	
13. ((40)) <u>10.4%</u> of building permit + \$(76.00)) <u>79.00</u>	\$

RESUBMITTAL		
14.	((40)) 10.4% of building permit + \$ ((76.00)) <u>79.00</u>	\$
ELECTRICAL PLAN-REVIEW FEE		
15.	See WAC 296-46B-906(9) for electrical review fees	
INSIGNIA FEES		
16.	FIRST SECTION	\$ ((22.80)) <u>23.70</u>
17.	EACH ADDITIONAL SECTION	\$ ((14.10)) <u>14.60</u>
TOTAL FEES		
18.	Total plan review fees: Add lines 8 or 9 and 10 through 15	\$
19.	Total fees due: Includes plan fees and insignia fees	\$
20.	Total amount paid	\$

Square Foot Construction Costs (BVD Table)^{a, b, c, and d}

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	211.15	203.98	198.73	190.05	178.25	173.30	183.31	162.97	156.05
A-1 Assembly, theaters, without stage	193.16	185.99	180.74	172.06	160.31	155.36	165.32	145.04	138.12
A-2 Assembly, nightclubs	163.22	158.56	154.17	148.00	138.96	135.24	142.52	126.06	121.36
A-2 Assembly, restaurants, bars, banquet halls	162.22	157.56	152.17	147.00	136.96	134.24	141.52	124.06	120.36
A-3 Assembly, churches	195.10	187.93	182.68	174.00	162.21	157.26	167.26	146.94	140.02
A-3 Assembly, general, community halls, libraries, museums	163.81	156.64	150.39	142.71	129.91	125.96	135.97	114.63	108.71
A-4 Assembly, arenas	192.16	184.99	178.74	171.06	158.31	154.36	164.32	143.04	137.12
B Business	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
E Educational	176.97	170.85	165.64	158.05	146.37	138.98	152.61	127.91	123.09
F-1 Factory and industrial, moderate hazard	97.87	93.28	87.66	84.46	75.44	72.26	80.79	62.17	58.48
F-2 Factory and industrial, low hazard	96.87	92.28	87.66	83.46	75.44	71.26	79.79	62.17	57.48
H-1 High hazard, explosives	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	N.P.
H-2, 3, 4 High hazard	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	52.53
H-5 HPM	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
I-1 Institutional, supervised environment	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
I-2 Institutional, hospitals	277.07	271.09	265.80	258.28	243.90	N.P.	252.23	227.88	N.P.
I-2 Institutional, nursing homes	193.00	187.02	181.74	174.22	160.98	N.P.	168.16	144.96	N.P.
I-3 Institutional, restrained	187.72	181.73	176.45	168.93	156.64	150.82	162.87	140.63	133.13
I-4 Institutional, day care facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
M Mercantile	121.57	116.92	111.53	106.36	96.96	94.25	100.88	84.07	80.36
R-1 Residential, hotels	166.21	160.43	155.99	149.29	137.39	133.80	145.70	123.43	119.10

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
R-2 Residential, multiple family	139.39	133.61	129.17	122.47	111.23	107.64	119.54	97.27	92.94
R-3 Residential, one and two family	131.18	127.60	124.36	121.27	116.43	113.53	117.42	108.79	101.90
R-4 Residential, care/assisted living facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
S-1 Storage, moderate hazard	90.74	86.15	80.53	77.33	68.49	65.31	73.66	55.22	51.53
S-2 Storage, low hazard	89.74	85.15	80.53	76.33	68.49	64.31	72.66	55.22	50.53
U Utility, miscellaneous	71.03	67.02	62.71	59.30	52.86	49.43	56.33	41.00	39.06

- a Private garages use utility, miscellaneous
- b Unfinished basements (all use group) = \$15.00 per sq. ft.
- c For shell only buildings deduct 20 percent
- d N.P. = not permitted

Building Permit Fees

Total Valuation	Fee
\$1.00 to \$500.00	\$23.50
\$501.00 to \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.65 for each additional \$1,000.00, or fraction thereof

INITIAL FILING FEE (first time applicants)	\$((37.60)) 39.10
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (code cycle), 50% of permit fee \times 1.04*	
INITIAL FEE - ONE YEAR DESIGN, 35% of permit fee \times 1.04*	
RENEWAL FEE - 10% of permit fee \times 1.04 +	\$((76.00)) 79.00
RESUBMIT FEE - 10% of permit fee \times 1.04 +	\$((76.00)) 79.00
ADDENDUM (approval expires on same date as original plan) - 10% of permit fee \times 1.04 +	\$((76.00)) 79.00
ELECTRONIC PLAN SUBMITTAL FEE \$((5.40)) 5.60 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.	
PLUMBING PLAN FEE, \$((48.00)) 18.70 + PER FIXTURE FEE of	\$((6.00)) 6.20
MEDICAL GAS PLAN FEE, \$((48.00)) 18.70 + PER OUTLET FEE of	\$((6.00)) 6.20
Note: Mechanical systems are included in the primary plan fee	

FIRE SAFETY PLAN REVIEW AS REQUIRED (Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy)	
MASTER DESIGN - 25% of permit fee $\times 1.04$	
One year design 15% of the permit fee $\times 1.04$	
ELECTRICAL PLAN REVIEW - Find fee @ http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN (minimum 3 hours)	\$((76.00)) <u>79.00</u> per hour
INITIAL FEE - ONE YEAR DESIGN (minimum 2 hours)	\$((76.00)) <u>79.00</u> per hour
RENEWAL FEE (minimum 1 hour)	\$((76.00)) <u>79.00</u> per hour
ADDENDUM (minimum 1 hour)	\$((76.00)) <u>79.00</u> per hour
PLANS APPROVED BY PROFESSIONALS - 10% of permit fee $\times 1.04$ +	\$((76.00)) <u>79.00</u>
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS - 5% of permit fee $\times 1.04$ +	\$((76.00)) <u>79.00</u>
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour** plus travel time* and mileage***)	\$((76.00)) <u>79.00</u>
TRAVEL (Per hour)	\$((76.00)) <u>79.00</u>
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$((76.00)) <u>79.00</u>
TRAVEL (Per hour**)	\$((76.00)) <u>79.00</u>
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
ALTERATION INSPECTION (one hour minimum + alteration insignia fee)	\$((98.80)) <u>102.70</u>
INSIGNIA FEES:	
FIRST SECTION (NEW or ALTERATION)	\$((22.80)) <u>23.70</u>
EACH ADDITIONAL SECTION (NEW or ALTERATION)	\$((14.10)) <u>14.60</u>
REISSUED-LOST/DAMAGED	\$((14.10)) <u>14.60</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour** plus travel time** and mileage***)	\$((76.00)) <u>79.00</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$((14.10)) <u>14.60</u>
REFUND FEE	\$((25.00)) <u>26.00</u>

- *Minimum plan review fee is 2 1/2 hours at the field technical service rate
- **Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments
- ***Per state guidelines
- ****Actual charges incurred

AMENDATORY SECTION (Amending WSR 12-06-069, filed 3/6/12, effective 4/30/12)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

GENERAL INFORMATION	
Manufacture:	Manufacturer #
1. Building use:	2. Building occupancy:
3. Type of construction:	4. Square footage of building:
5. Valuation of the building shall be based on the following:	
• Square footage of the building multiplied by the amount in the BVD valuation table	\$
6. Total valuation:	\$
PERMIT FEE	
7. Calculate from building permit fee table using the total valuation	\$
STRUCTURAL PLAN REVIEW FEE*	
8. One year design review: (Valid for one year) multiply the total on line 7 by ((0.35)) <u>0.364</u>	\$
9. Master plan review: (Valid for the code cycle) multiply the total on line 7 by ((0.50)) <u>0.52</u>	\$
* Minimum plan review fee is 2 1/2 hours x \$(85.50)) <u>88.90</u> per hour	
FIRE AND LIFE-SAFETY PLAN REVIEW FEE (if required)	
10. Fire and life-safety plan review:	
a. One year design—Multiply the total on line 7 by ((0.15)) <u>0.156</u>	\$
b. Master plan design—Multiply the total on line 7 by ((0.25)) <u>0.26</u>	\$
• Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy	
PLUMBING PLAN-REVIEW FEE	
11. Plumbing (\$(18.00 + \$6.00)) <u>\$18.70 + \$6.20</u> per fixture	\$
12. Medical gas (\$(18.00 + \$6.00)) <u>\$18.70 + \$6.20</u> per gas outlet	\$
DESIGN RENEWAL OR ADDENDUM	
13. ((10)) <u>10.4%</u> of building permit + \$(85.50)) <u>88.90</u>	\$
RESUBMITTAL	
14. ((10)) <u>10.4%</u> of building permit + \$(85.50)) <u>88.90</u>	\$
ELECTRICAL PLAN-REVIEW FEE	
15. See WAC 296-46B-906(9) for electrical review fees	
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	
16. Notification to local enforcement agency fee:	\$ ((37.00)) <u>38.40</u>
INSIGNIA FEES	
17. FIRST SECTION	\$ ((273.40)) <u>284.30</u>
18. EACH ADDITIONAL SECTION	\$ ((24.60)) <u>25.50</u>
TOTAL FEES	
19. Total plan review fees: Add lines 8 or 9 and 10 through 15	\$

20. Total fees due:	Includes plan fees, insignia fees, and NLEA fees	\$
21. Total amount paid		\$

Square Foot Construction Costs (BVD Table)^{a, b, c, and d}

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	211.15	203.98	198.73	190.05	178.25	173.30	183.31	162.97	156.05
A-1 Assembly, theaters, without stage	193.16	185.99	180.74	172.06	160.31	155.36	165.32	145.04	138.12
A-2 Assembly, nightclubs	163.22	158.56	154.17	148.00	138.96	135.24	142.52	126.06	121.36
A-2 Assembly, restaurants, bars, banquet halls	162.22	157.56	152.17	147.00	136.96	134.24	141.52	124.06	120.36
A-3 Assembly, churches	195.10	187.93	182.68	174.00	162.21	157.26	167.26	146.94	140.02
A-3 Assembly, general, community halls, libraries, museums	163.81	156.64	150.39	142.71	129.91	125.96	135.97	114.63	108.71
A-4 Assembly, arenas	192.16	184.99	178.74	171.06	158.31	154.36	164.32	143.04	137.12
B Business	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
E Educational	176.97	170.85	165.64	158.05	146.37	138.98	152.61	127.91	123.09
F-1 Factory and industrial, moderate hazard	97.87	93.28	87.66	84.46	75.44	72.26	80.79	62.17	58.48
F-2 Factory and industrial, low hazard	96.87	92.28	87.66	83.46	75.44	71.26	79.79	62.17	57.48
H-1 High hazard, explosives	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	N.P.
H-2, 3, 4 High hazard	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	52.53
H-5 HPM	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
I-1 Institutional, supervised environment	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
I-2 Institutional, hospitals	277.07	271.09	265.80	258.28	243.90	N.P.	252.23	227.88	N.P.
I-2 Institutional, nursing homes	193.00	187.02	181.74	174.22	160.98	N.P.	168.16	144.96	N.P.
I-3 Institutional, restrained	187.72	181.73	176.45	168.93	156.64	150.82	162.87	140.63	133.13
I-4 Institutional, day care facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
M Mercantile	121.57	116.92	111.53	106.36	96.96	94.25	100.88	84.07	80.36
R-1 Residential, hotels	166.21	160.43	155.99	149.29	137.39	133.80	145.70	123.43	119.10
R-2 Residential, multiple family	139.39	133.61	129.17	122.47	111.23	107.64	119.54	97.27	92.94
R-3 Residential, one and two family	131.18	127.60	124.36	121.27	116.43	113.53	117.42	108.79	101.90
R-4 Residential, care/assisted living facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
S-1 Storage, moderate hazard	90.74	86.15	80.53	77.33	68.49	65.31	73.66	55.22	51.53
S-2 Storage, low hazard	89.74	85.15	80.53	76.33	68.49	64.31	72.66	55.22	50.53
U Utility, miscellaneous	71.03	67.02	62.71	59.30	52.86	49.43	56.33	41.00	39.06

- a Private garages use utility, miscellaneous
- b Unfinished basements (all use group) = \$15.00 per sq. ft.
- c For shell only buildings deduct 20 percent
- d N.P. = not permitted

Table 1-A - Building Permit Fees

Total Valuation	Fee
\$1.00 to \$500.00	\$23.50
\$501.00 to \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.65 for each additional \$1,000.00, or fraction thereof

INITIAL FILING FEE (first time applicants)	\$((66.80)) <u>69.40</u>
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (code cycle), 50% of permit fee \times 1.04*	
INITIAL FEE - ONE YEAR DESIGN, 35% of permit fee \times 1.04*	
RENEWAL FEE - 10% of permit fee \times 1.04 +	\$((85.50)) <u>88.90</u>
RESUBMIT FEE - 10% of permit fee \times 1.04 +	\$((85.50)) <u>88.90</u>
ADDENDUM (approval expires on same date as original plan) - 10% of permit fee \times 1.04 +	\$((85.50)) <u>88.90</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((5.40)) <u>5.60</u> 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.	
PLUMBING PLAN FEE, \$((18.00)) <u>18.70</u> + PER FIXTURE FEE of	\$((6.00)) <u>6.20</u>
MEDICAL GAS PLAN FEE, \$((18.00)) <u>18.70</u> + PER OUTLET FEE of	\$((6.00)) <u>6.20</u>
Note: Mechanical systems are included in the primary plan fee	
FIRE SAFETY PLAN REVIEW AS REQUIRED (Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy)	
MASTER DESIGN - 25% of permit fee \times 1.04	
One year design - 15% of the permit fee \times 1.04	
ELECTRICAL PLAN REVIEW - Find fees @ http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE-MASTER DESIGN (minimum 3 hours)	\$((85.50)) <u>88.90</u> per hour
INITIAL FEE-ONE YEAR DESIGN (minimum 2 hours)	\$((85.50)) <u>88.90</u> per hour
RENEWAL FEE (minimum 1 hour)	\$((85.50)) <u>88.90</u>
ADDENDUM (minimum 1 hour)	\$((85.50)) <u>88.90</u> per hour

PLANS APPROVED BY DESIGN PROFESSIONALS - 10% of permit fee $\times 1.04 +$	\$((85.50)) 88.90
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST THREE SETS - 5% of permit fee $\times 1.04 +$	\$((85.50)) 88.90
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour** plus travel time** and mileage***)	\$((85.50)) 88.90
TRAVEL (Per hour**)	\$((85.50)) 88.90
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour**)	\$((85.50)) 88.90
TRAVEL (Per hour**)	\$((85.50)) 88.90
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
INSIGNIA FEES:	
FIRST SECTION	\$((273.40)) 284.30
EACH ADDITIONAL SECTION	\$((24.60)) 25.50
REISSUED-LOST/DAMAGED	\$((66.80)) 69.40
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour** plus travel time** and mileage***)	\$((85.50)) 88.90
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$((37.00)) 38.40
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$((13.70)) 14.20
REFUND FEE	\$((25.00)) 26.00

*Minimum plan review fee is 2 1/2 hours at the field technical service rate.
 **Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
 ***Per state guidelines.
 ****Actual charges incurred.

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

WAC 296-150I-3000 Penalties, fees, and refunds. Penalties

(1) Monetary penalties for infractions listed in WAC 296-150I-0210 shall 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 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 and certification	\$(260.00) <u>270.40</u>
Training only 10 hours	\$(130.00) <u>135.20</u>
Manufactured/mobile home installation inspector training	\$(130.00) <u>135.20</u>
Refund	\$(26.00) <u>27.00</u>
Certification renewal	\$(130.00) <u>135.20</u>
Continuing education class	\$(52.00) <u>54.00</u>
Retake failed examination and training	\$(39.00) <u>40.50</u>

Manufactured home installer training manual	\$(13.00) <u>13.50</u>
Installer certification tag	\$(9.10) <u>9.40</u>

(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.

AMENDATORY SECTION (Amending WSR 12-06-069, filed 3/6/12, effective 4/30/12)**WAC 296-150M-3000 Manufactured/mobile home fees.**

DESIGN PLAN FEES:	
STRUCTURAL ALTERATION	\$((166.20)) <u>172.80</u>
RESUBMITTAL FEE	\$((73.50)) <u>76.40</u>
ADDENDUM (Approval expires on the same date as original plan.)	\$((73.50)) <u>76.40</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((5.20)) <u>5.40</u> 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	\$((181.60)) <u>188.80</u>
Heat pump	\$((181.60)) <u>188.80</u>
Air conditioning	\$((181.60)) <u>188.80</u>
Air conditioning with replacement furnace	\$((181.60)) <u>188.80</u>
Gas furnace installation includes gas piping	\$((181.60)) <u>188.80</u>
Fire safety inspection	\$((181.60)) <u>188.80</u>
MECHANICAL	\$((80.70)) <u>83.90</u>
Gas*** Piping	\$((80.70)) <u>83.90</u>
Wood Stove	\$((80.70)) <u>83.90</u>
Pellet Stove	\$((80.70)) <u>83.90</u>
Gas*** Room Heater	\$((80.70)) <u>83.90</u>
Gas*** Decorative Appliance	\$((80.70)) <u>83.90</u>
Range: Changing from electric to gas***	\$((80.70)) <u>83.90</u>
Gas*** Water Heater Replacement	\$((60.50)) <u>62.90</u>
ELECTRICAL	\$((101.00)) <u>105.00</u>
Electric Water Heater Replacement	\$((101.00)) <u>105.00</u>
Electric Water Heater replacing Gas*** Water Heater	\$((101.00)) <u>105.00</u>
Each added or modified 120 volt circuit (maximum charge is two circuits)	\$((101.00)) <u>105.00</u>
Each added 240 volt circuit (for other than Heat Pumps, Air Conditioners, Furnaces, Water Heaters, Ranges, Hot Tubs or Spas)	\$((101.00)) <u>105.00</u>
Hot Tub or Spa (power from home electrical panel)	\$((101.00)) <u>105.00</u>
Replace main electrical panel/permanently installed transfer equipment	\$((101.00)) <u>105.00</u>
Low voltage fire/intrusion alarm	\$((101.00)) <u>105.00</u>
Any combination of Furnace, Range and Water Heater changing from electric to gas***	\$((101.00)) <u>105.00</u>

PLUMBING		
Fire sprinkler system		\$(226.90) 235.90
Each added fixture		\$(60.50) 62.90
Replacement of water piping system (this includes two inspections)		\$(202.50) 210.60
STRUCTURAL		
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)		\$(90.60) 94.20
Reroofs (may require a plan review)		\$(161.90) 168.30
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)		\$(161.90) 168.30
Other structural changes (may require a plan review)		\$(161.90) 168.30
MISCELLANEOUS		
OTHER REQUIRED INSPECTIONS (Per hour*)		\$(66.30) 68.90
ALL REINSPECTIONS (Per hour*)		\$(66.30) 68.90
Refund		\$(20.10) 20.90
INSIGNIA FEES:		
REISSUED - LOST/DAMAGED		\$(20.10) 20.90
IPIA		
DEPARTMENT AUDIT FEES		
REGULARLY SCHEDULED IPIA AUDIT:		
First inspection on each section (one time only)		\$(33.30) 34.60
Second and succeeding inspections of unlabeled sections (Per hour*)		\$(73.50) 76.40
OTHER IPIA FEES:		
Red tag removal during a regularly scheduled IPIA audit (Per hour*separate from other fees)		\$(73.50) 76.40
Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)		\$(73.50) 76.40
Increased frequency surveillance (Per hour* plus travel time* and mileage**)		\$(73.50) 76.40
Attendance at manufacturers training classes (Per hour* only)		\$(73.50) 76.40
Subpart "I" investigations (Per hour* plus travel time* and mileage**)		\$(73.50) 76.40
Alterations to a labeled unit (Per hour* plus travel time* and mileage**)		\$(73.50) 76.40
IPIA Issues/Responses (Per hour* Plus travel time* and mileage**)		\$(73.50) 76.40
Monthly surveillance during a regularly scheduled IPIA audit (Per hour*plus travel time* and mileage**)		\$(73.50) 76.40
Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)		\$(73.50) 76.40
Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage** per each inspector)		\$(73.50) 76.40
Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*)		\$(73.50) 76.40
Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time*and mileage**)		\$(73.50) 76.40

Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time*and mileage**)	\$((73.50)) <u>76.40</u>
Replacement of HUD labels (Per hour* plus travel time* and mileage**)	\$((73.50)) <u>76.40</u>
State Administrative Agency (SAA) inspection fee (Per hour* plus travel time* and mileage**)	\$((73.50)) <u>76.40</u>
State Administrative Agency (SAA) dispute resolution filing fee	\$((73.50)) <u>76.40</u>
State Administrative Agency (SAA) dispute resolution (Per hour*)	\$((73.50)) <u>76.40</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour plus travel time* and mileage**)	\$((68.20)) <u>70.90</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$((13.40)) <u>13.90</u>
VARIANCE INSPECTION FEE	\$((161.80)) <u>168.20</u>
HOMEOWNER REQUESTED INSPECTION	\$((161.80)) <u>168.20</u>
DECERTIFICATION OF A MOBILE/MANUFACTURED HOME	\$((161.80)) <u>168.20</u>
DEMOLITION OF A MOBILE/MANUFACTURED HOME	\$((161.80)) <u>168.20</u>
ENERGY CONSERVATION PERMIT	\$((27.60)) <u>28.70</u>

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.

AMENDATORY SECTION (Amending WSR 12-06-069, filed 3/6/12, effective 4/30/12)

WAC 296-150P-3000 Recreational park trailer fees.

INITIAL FILING FEE	\$((34.70)) <u>36.00</u>
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	\$((98.20)) <u>102.10</u>
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	\$((129.90)) <u>135.00</u>
RESUBMITTAL FEE	\$((70.20)) <u>73.00</u>
ADDENDUM (Approval expires on same date as original plan.)	\$((70.20)) <u>73.00</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((5.20)) <u>5.40</u> 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 AUDIT FEES:	
AUDIT (per hour)*	\$((70.20)) <u>73.00</u>
TRAVEL (per hour)*	\$((70.20)) <u>73.00</u>
PER DIEM**	
HOTEL ***	
MILEAGE**	
RENTAL CAR***	
PARKING***	

AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$((70.20)) <u>73.00</u>
TRAVEL (per hour)*	\$((70.20)) <u>73.00</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((104.90)) <u>109.00</u>
INSIGNIA FEES:	
STATE CERTIFIED	\$((25.00)) <u>26.00</u>
ALTERATION	\$((34.70)) <u>36.00</u>
REISSUED-LOST/DAMAGED	\$((12.90)) <u>13.40</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((70.20)) <u>73.00</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$((13.10)) <u>13.60</u>
REFUND FEE	\$((25.00)) <u>26.00</u>

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

AMENDATORY SECTION (Amending WSR 12-06-069, filed 3/6/12, effective 4/30/12)

WAC 296-150R-3000 Recreational vehicle fees.

STATE PLAN	
INITIAL FILING FEE	\$((33.70)) <u>35.00</u>
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE	\$((93.90)) <u>97.60</u>
RESUBMITTAL FEE	\$((67.80)) <u>70.50</u>
ADDENDUM (Approval expires on same date as original plan.)	\$((67.80)) <u>70.50</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((5-10)) <u>5.30</u> 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 AUDIT FEES:	
AUDIT (per hour)*	\$((67.90)) <u>70.60</u>
TRAVEL (per hour)*	\$((67.90)) <u>70.60</u>
PER DIEM**	
HOTEL***	
MILEAGE**	

RENTAL CAR***	
PARKING	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$((67.90)) <u>70.60</u>
TRAVEL (per hour)*	\$((67.90)) <u>70.60</u>
PER DIEM**	
HOTEL ***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((101.60)) <u>105.60</u>
INSIGNIA FEES:	
STATE CERTIFIED	\$((25.00)) <u>26.00</u>
ALTERATION	\$((33.70)) <u>35.00</u>
REISSUED-LOST/DAMAGED	\$((12.10)) <u>12.50</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((67.90)) <u>70.60</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$((12.70)) <u>13.20</u>

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

SELF CERTIFICATION	
INITIAL FILING FEE	\$((33.70)) <u>35.00</u>
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE (one time fee)	\$((95.10)) <u>98.90</u>
RESUBMITTAL FEE	\$((67.90)) <u>70.60</u>
ADDENDUM (Approval expires on same date as original plan.)	\$((67.90)) <u>70.60</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((5.10)) <u>5.30</u> 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 AUDIT FEES:	
AUDIT (per hour)*	\$((67.90)) <u>70.60</u>
TRAVEL (per hour)*	\$((67.90)) <u>70.60</u>
PER DIEM**	
HOTEL ***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	

DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$((67.90)) <u>70.60</u>
TRAVEL (per hour)*	\$((67.90)) <u>70.60</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
SELF CERTIFIED	\$((25.00)) <u>26.00</u>
ALTERATION	\$((33.70)) <u>35.00</u>
REISSUED-LOST/DAMAGED	\$((12.10)) <u>12.50</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((67.90)) <u>70.60</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$((12.70)) <u>13.20</u>
REFUND FEE	\$((25.00)) <u>26.00</u>

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

AMENDATORY SECTION (Amending WSR 12-06-069, filed 3/6/12, effective 4/30/12)

WAC 296-150T-3000 Factory-built temporary worker housing fees.

INITIAL FILING FEE	\$((52.70)) <u>54.80</u>
DESIGN PLAN FEES:	
INITIAL ONE YEAR DESIGN	\$((152.70)) <u>158.80</u>
RENEWAL FEE	\$((52.70)) <u>54.80</u>
RESUBMIT FEE	\$((76.00)) <u>79.00</u>
ADDENDUM (Approval expires on same date as original plan)	\$((76.00)) <u>79.00</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((5.30)) <u>5.50</u> 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.	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$((90.10)) <u>93.70</u>
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$((14.10)) <u>14.60</u>
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((76.00)) <u>79.00</u>
TRAVEL (Per hour)*	\$((76.00)) <u>79.00</u>
PER DIEM**	
HOTEL***	

MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$((76.00)) 79.00
TRAVEL (Per hour*)	\$((76.00)) 79.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$((214.20)) 222.70
EACH ADDITIONAL SECTION	\$((20.70)) 21.50
REISSUED-LOST/DAMAGED	\$((52.70)) 54.80
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders 200 Amperage plus Service/feeder	\$((221.90)) 230.70
Additional Feeder	\$((42.04)) 43.70
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders 200 Amperage plus Service/feeder	\$((117.60)) 122.30
Additional Feeder	\$((29.90)) 31.00
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((76.00)) 79.00
PUBLICATION PRINTING AND DISTRIBUTION OF ((RCW'S AND WAC'S)) RCWs AND WACs (One free per year)	\$((14.10)) 14.60
REFUND FEE	\$((25.00)) 26.00

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments

**Per state guidelines

***Actual charges incurred

AMENDATORY SECTION (Amending WSR 12-06-069, filed 3/6/12, effective 4/30/12)

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

INITIAL FILING FEE	\$((37.60)) 39.10
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$((260.50)) 270.90
INITIAL FEE - ONE YEAR DESIGN	\$((106.50)) 110.70

RENEWAL FEE	\$((45.20)) 47.00
RESUBMIT FEE	\$((76.00)) 79.00
ADDENDUM (Approval expires on same date as original plan)	\$((76.00)) 79.00
ELECTRONIC PLAN SUBMITTAL FEE \$((5.30)) 5.50 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.	
ELECTRICAL PLAN REVIEW - For medical units, find fees at http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$((116.10)) 120.70
INITIAL FEE - ONE YEAR DESIGN	\$((70.10)) 72.90
RENEWAL FEE	\$((70.10)) 72.90
ADDENDUM	\$((70.10)) 72.90
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$((14.10)) 14.60
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((76.00)) 79.00
TRAVEL (Per hour)*	\$((76.00)) 79.00
PER DIEM**	
HOTEL ***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((113.80)) 118.30
INSIGNIA FEES:	
FIRST SECTION/ALTERATION	\$((21.90)) 22.70
REISSUED-LOST/DAMAGED	\$((14.10)) 14.60
EXEMPT	\$((37.60)) 39.10
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((76.00)) 79.00
PUBLICATION PRINTING AND DISTRIBUTION OF ((RCW'S AND WAC'S)) RCWs AND WACs (One free copy per year upon request)	\$((14.10)) 14.60
REFUND FEE	\$((25.00)) 26.00

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

AMENDATORY SECTION (Amending WSR 08-16-091, filed 8/4/08, effective 9/4/08)

WAC 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration? The department charges the following fees:

(1) \$~~((113.40))~~ 117.90 for each issuance, renewal or reregistration of a certificate of registration for contractors. This registration is valid for two years from date of issuance, renewal or reregistration or until it is suspended or revoked.

(2) \$~~((53.60))~~ 55.70 for the reinstatement of a certificate of registration.

(3) \$~~((42.60))~~ 13.10 for providing a duplicate certificate of registration.

(4) \$~~((25.60))~~ 26.60 for each requested certified letter prepared by the department.

(5) \$~~((462.00))~~ 168.40 for the construction and electrical contractor listing publication on CD ROM per year, prorated according to the number of issues left in the subscription year, which runs from November 1 through October 31. Each issue costs \$~~((13.50))~~ 14.00.

(6) \$2.00 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be \$~~((28.10))~~ 29.20.

(7) \$~~((50.00))~~ 52.00 is required to cover the costs for the service of process in an action against a contractor, the contractor's bond, or the deposit under RCW 18.27.040.

(8) \$~~((25.00))~~ 26.00 is required to cover the costs for the service of processing refunds.

WSR 18-24-103

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 4, 2018, 1:27 p.m., effective January 4, 2019]

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

Purpose: New WAC 458-61A-218 adds to the real estate excise tax (REET) rules a description of the new REET exemption for low-income housing contained in EHB 2444 in 2018, codified in RCW 82.45.010 [(3)](s).

Citation of Rules Affected by this Order: New WAC 458-61A-218.

Statutory Authority for Adoption: RCW 82.45.150, 82.32.300, and 82.01.060(2).

Adopted under notice filed as WSR 18-20-053 on September 26, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 4, 2018.

Erin T. Lopez
Rules Coordinator

NEW SECTION

WAC 458-61A-218 Low income housing. (1) **Introduction.** Transfers of qualified low-income housing developments are not subject to the real estate excise tax. Transfers of controlling interests in qualified low-income housing developments are also not subject to the real estate excise tax. The real estate excise tax does apply to such transfers if, due to noncompliance with federal statutory requirements, the seller is subject to recapture, in whole or in part, of its allocated federal low-income housing tax credits within the four years prior to the date of transfer. RCW 82.45.010(3).

(2) **Definition.** For purposes of this section, "qualified low-income housing development" means real property and improvements in respect to which the seller or, in the case of a transfer of a controlling interest, the owner or beneficial owner, was allocated federal low-income housing tax credits.

These are tax credits authorized under 26 U.S.C. Sec. 42, or a successor statute, and allocated by the Washington state housing finance commission.

(3) **Expiration.** This section does not apply to transfers of, or transfers of controlling interests in, qualified low-income housing developments occurring on or after July 1, 2035.

(4) **Refund limitation.** Refunds are not authorized for any tax liability imposed or authorized under chapter 82.45 or 82.46 RCW, and properly paid before July 1, 2018, with respect to a transfer of qualified low-income housing as defined in RCW 82.45.010 (3)(s).

WSR 18-24-104

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 4, 2018, 1:48 p.m., effective January 4, 2019]

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

Purpose: WAC 458-19-045 and 458-19-060 are being amended to incorporate:

- SHB 2597 that passed during the 2018 legislative session concerning extending the senior citizen, disabled person, and disabled veteran property tax exemption to certain increases in property taxes imposed by a county or city;
- SHB 2627 that passed during the 2018 legislative session concerning the approval of emergency medical service levies.

Incorporating the updated statutory requirements into these rules will assist county assessors, taxpayers, and taxing districts in understanding how these types of property tax increases and levies are administered.

Citation of Rules Affected by this Order: Amending WAC 458-19-045 Levy limit—Removal of limit (lid lift) and 458-19-060 Emergency medical service levy.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, and 84.55.060.

Adopted under notice filed as WSR 18-20-101 on October 2, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 4, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-05-013, filed 2/8/18, effective 3/11/18)

WAC 458-19-045 Levy limit—Removal of limit (lid lift). (1) **Introduction.** ~~((The))~~ This rule explains the procedures for implementing a lid lift ballot measure when a taxing district wants to ask its voters for the authority to exceed the levy limit.

(2) **Definitions.** The definitions in WAC 458-19-005 apply to this rule.

(3) **Lid lift - Purpose.** The purpose of a lid lift is to allow additional property taxes to be collected at a time when the levy limit in chapter 84.55 RCW is the effective legal constraint to increasing property taxes. A levy limit may be exceeded when authorized by a majority of the voters voting on a proposition to "lift the lid" of the levy limit as described in ~~((accordance with))~~ RCW 84.55.050. This "lid lift" is intended to allow the levy limit to be exceeded for the levy made immediately following the vote on the proposition. ~~((The purpose of the lid lift is to allow additional property taxes to be collected at a time when the levy limit in chapter 84.55 RCW is the effective legal constraint to the collection of additional property taxes.))~~ Lid lifts may result in increasing the limit factor, as defined in WAC 458-19-005, for one year or up to six consecutive years. The result of the limit factor increase can temporarily or permanently impact subsequent levy limit calculations. ~~((The requirements for the text of a ballot title and measure differ depending on whether the levy limit will be exceeded for a single year or multiple years, up to six consecutive years. This rule explains the procedures for implementing a lid lift ballot measure when a taxing district wants to ask its voters for the authority to exceed the levy limit.~~

~~((2)))~~

(4) Election for approval of lid lift proposition~~((—))~~—

When held. The election to approve a lid lift proposition must be held within the taxing district and may be held at the time of a general election, or at a special election called by the governing body of the taxing district for that purpose. The election must not be held ~~((not))~~ more than twelve months prior to the date the proposed levy is to be made. For purposes of this rule, a levy is "made" when the taxing district's budget is certified. The ballot title and measure proposing the lid lift are prepared by the county prosecutor or city attorney, as applicable, in accordance with RCW 29A.36.071. RCW 29A.36.071 requires a ballot title to include a concise description of the measure, not to exceed seventy-five words. The requirements for the text of a ballot title and measure differ depending on whether the levy limit will be exceeded for a single year or multiple years, up to six consecutive years. A simple majority vote is required for approval of a lid lift.

~~((3)))~~ **(5) Single year lid lift.** A ~~((single))~~ single year lid lift~~((s))~~ allows a taxing district to increase its levy by more than one percent over its highest lawful levy since 1985 for 1986 collection, for one year. ~~((The text of a ballot title and measure for a single year lid lift must contain the following:~~

~~((a)))~~

(6) Ballot title and measure - Single year lid lift. The text of a ballot title and measure for a single year lid lift must contain the following:

(a) The dollar rate of the proposed levy so that it reflects the total dollar rate for the taxing district, which may be less than the maximum statutory dollar rate allowed for the particular class of taxing district; and

(b) Any of the following ~~((limitations))~~ conditions that are applicable:

(i) The number of years the increased levy is to be made by the taxing district; however, if one of the purposes of the increased levy is to make redemption payments on bonds of the taxing district, the duration of the increased levy cannot exceed nine years, except for taxes levied for collection in 2018 and thereafter in Thurston County, the period for which the increased levies are made may not exceed twenty-five years; ~~((and/or))~~

(ii) The purpose or purposes of the increased levy; ~~((and))~~

(iii) Whether the dollar amount of the increased levy will be used for the purpose of computing the limitations for subsequent levies and thereby permanently increase the taxing district's levy base; and

(iv) Whether the increase in regular property taxes by a county or city resulting from the approval of the lid lift will not apply to property exempt under the senior citizens and disabled persons property tax exemption in RCW 84.36.381.

~~((4)))~~ **(7) Multiple year lid lift.** A ~~((multiple))~~ multiple year lid lift~~((s))~~ allows a taxing district to increase its levy by more than one percent over its highest lawful levy since 1985 for 1986 collection, for up to six consecutive years.

(a) Ballot title and measure. The text of a ballot title and measure for a multiple year lid lift must contain the following:

(i) The dollar rate of the first year's proposed levy so that it reflects the total dollar rate for the taxing district, which

may be less than the maximum statutory dollar rate allowed for the particular class of taxing district;

(ii) The limit factor, or specific index used to determine the limit factor (such as the consumer price index), which ~~((need not))~~ is not required to be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years;

(iii) The limited purposes for which the proposed annual increases will be used; and

(iv) Any of the following ~~((limitations))~~ conditions that are applicable:

(A) The number of years the increased levy is to be made by the taxing district; however, if one of the purposes of the increased levy is to make redemption payments on bonds of the taxing district, the duration of the increased levy cannot exceed nine years, except for taxes levied for collection in 2018 and thereafter in Thurston County, the period for which the increased levies are made may not exceed twenty-five years;

(B) The purpose or purposes of the increased levy; ~~((and))~~

(C) Whether the dollar amount of the increased levy will be used for the purpose of computing the limitations for subsequent levies and thereby permanently increase the taxing district's levy base; and

(D) Whether the increase in regular property taxes by a county or city resulting from the approval of the lid lift will not apply to property exempt under the senior citizens and disabled persons property tax exemption in RCW 84.36.381.

(b) Supplanting of existing funds.

(i) Except as otherwise provided in (b) of this subsection, funds raised by a levy under this ~~((section))~~ rule may not supplant existing funds used for the limited purpose specified in the ballot title. For purposes of (b) of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes:

(A) Lost federal funds((:));

(B) Lost or expired state grants or loans((:));

(C) Extraordinary events not likely to reoccur((:));

(D) Changes in contract provisions beyond the control of the taxing district receiving the services((:)); and

(E) Major nonrecurring capital expenditures.

(ii) In counties with a population of less than one million five hundred thousand, funds raised through a lid lift can be used to supplant existing funds beginning with levies submitted and approved by the voters after July 26, 2009.

(iii) In counties with a population of one million five hundred thousand or more, funds raised through a lid lift can be used to supplant existing funds for levies approved by the voters between July 26, 2009, and December 31, 2011.

~~((5))~~ (8) Permanent lid lift. A permanent lid lift occurs when the ballot title and ~~((ballot))~~ measure expressly state that the levy will be used for the purpose of computing the limitations for subsequent levies as provided in subsection ~~((3)(a)(iii) and (4)(a)(iii)(C)))~~ (6)(b)(iii) and (7)(a)(iv)(C)) of this ~~((section))~~ rule. Approval of a permanent lid lift permanently increases the base used to calculate the levy limit.

(a) First levy after voter approval. The first regular levy of a taxing district made after voter approval of a permanent

lid lift proposition is calculated on the basis of the dollar rate stated in the ballot title ~~((, but that))~~. The dollar rate is subject to the constitutional one percent limit ~~((and))~~, the statutory aggregate dollar rate limit, and any applicable prorationing.

(b) Subsequent levies. The levy limit on regular levies of a taxing district made subsequent to the first regular levy made after voter approval of a permanent lid lift proposition is calculated by multiplying the highest amount that could have been lawfully levied since 1985 for 1986 collection, including the dollar amount of the regular levy calculated in ~~((accordance with))~~ (a) of this subsection, by the limit factor.

~~((6))~~ (9) Temporary lid lift. If the ballot title and ~~((ballot))~~ measure do not expressly indicate that the final levy will be used for the purpose of computing subsequent levies, the levy increase is ~~((presumed))~~ temporary.

(a) First levy after voter approval. The first regular levy of a taxing district made after voter approval of a temporary lid lift proposition is calculated on the basis of the dollar rate stated in the ballot title ~~((, but that))~~. The dollar rate is subject to the constitutional one percent limit ~~((and))~~, the statutory aggregate dollar rate limit, and any applicable prorationing.

(b) Subsequent levies. The levy limit on regular levies of a taxing district made subsequent to the first regular levy made after voter approval of a temporary lid lift proposition is calculated by multiplying the highest amount that could have been lawfully levied since 1985 for 1986 collection, including the dollar amount of the regular levy calculated in ~~((accordance with))~~ (a) of this subsection, by the limit factor.

AMENDATORY SECTION (Amending WSR 15-03-087, filed 1/21/15, effective 2/21/15)

WAC 458-19-060 Emergency medical service levy.

(1) Introduction. This rule explains the criteria ~~((contained))~~ described in RCW 84.52.069 ~~((relative to))~~ regarding a taxing district imposing a limited or permanent regular levy for emergency medical care or emergency medical services. ~~((H))~~ This rule also describes the ~~((permitted))~~ duration of this levy, the ballot title and measure that must be presented to and approved by the voters, the maximum levy rate ~~((for this levy))~~, and the applicable levy limits.

Definitions. The definitions in WAC 458-19-005 apply to this rule.

(2) **Purpose - Voter approval required - Who may levy.** An emergency medical service (EMS) levy is a regular voter approved levy. Any taxes collected ~~((as a result of))~~ from this levy can only be used to provide emergency medical care or emergency medical services, including related personnel costs, training for such personnel and related equipment, supplies, vehicles, and structures needed to provide this care or service.

(a) Initial approval of EMS levy. A permanent EMS levy, or the initial imposition of a six-year or ten-year EMS levy must be approved by a super majority of registered voters at a general or special election. However, ~~((the uninterupted continuation))~~ if an area comprising a newly formed regional fire protection service authority was subject to an EMS levy immediately prior to the creation of the authority, the initial imposition of a six-year or ten-year EMS levy may be approved by a majority of the registered voters who

approved the creation of the authority and the related service plan.

(b) Subsequent approval of EMS levy. The subsequent approval of a six-year or ten-year EMS levy only requires the authorization of a majority of the registered voters at a general or special election. ~~((For purposes of this rule, an "uninterrupted continuation of a six-year or ten-year EMS levy" means the continuation of both the levy itself and its maximum levy rate.))~~ Only a county, emergency medical service district, city, town, public hospital district, urban emergency medical service district, regional fire protection service ~~((area))~~ authority, or fire protection district is authorized to impose an EMS levy.

(3) Duration - Maximum levy rate. An EMS levy is imposed each year for six consecutive years, each year for ten consecutive years, or permanently. Except as provided in subsection ~~((10))~~ (11) of this rule, a taxing district may impose ~~((a regular property tax))~~ an EMS levy in an amount that cannot exceed fifty cents per thousand dollars of assessed value of the property ~~((of))~~ in the taxing district.

(4) Contents of ballot title and measure. Any ballot title and measure seeking authorization of an EMS levy must conform to the requirements of RCW 29A.36.210. A taxing district cannot submit to the voters, at the same election, multiple propositions to impose ~~((a))~~ an EMS levy under RCW 84.52.069. If the approved ballot title and measure did not authorize the maximum allowable levy rate (fifty cents per thousand dollars of assessed value) for the EMS levy, any future proposition to increase the rate up to the maximum allowable levy rate must be specifically authorized by voters at a general or special election. ~~((That is))~~ Therefore, a taxing district may impose ~~((a))~~ an EMS levy rate up to, but no greater than, the rate ~~((contained))~~ in the approved ballot measure without obtaining additional voter approval. The ballot title and measure authorizing a taxing district to impose:

(a) An EMS levy for a limited duration must state the name of the taxing district, the maximum levy rate per thousand dollars of assessed value to be imposed, and the maximum number of years the levy is ~~((to be))~~ allowed; or

(b) A permanent EMS levy must state the name of the taxing district and the maximum levy rate per thousand dollars of assessed value to be permanently imposed. A ballot title for this type of levy must include wording to indicate that it is a permanent EMS levy. A taxing district that seeks to impose a permanent levy must also provide for a referendum procedure to apply to the ordinance or resolution imposing the tax. ~~((The detailed specifics of this procedure are set forth in))~~ For additional information regarding the referendum procedures, see RCW 84.52.069((4)).

(5) County-wide EMS levy. A county-wide EMS levy proposal cannot be placed on the ballot without first obtaining the approval ~~((of))~~ from the legislative authority of ~~((any city))~~ a majority of at least seventy-five percent of all cities within the county having a population exceeding fifty thousand. No other taxing district within the county may hold an election on a proposed EMS levy at the same time as the election on a proposed county-wide EMS levy. To the extent feasible, emergency medical care and services must be provided

throughout the county whenever the county levies an EMS levy.

~~((In addition, if))~~ (6) Additional requirements. When a county levies an EMS levy, the following conditions apply:

(a) ~~((Any))~~ Other taxing districts within the county ~~((s))~~ authorized to levy an EMS levy may do so, but only if the taxing district's EMS levy rate does not exceed the difference between the county's EMS levy rate and fifty cents per thousand dollars of assessed value of the property ~~((of))~~ in the taxing district; ~~((and))~~

(b) ~~((When))~~ If a taxing district within the county levies an EMS levy and the voters of the county subsequently approve a county-wide EMS levy, then the taxing district must ~~((then))~~ reduce its EMS levy rate so ~~((that))~~ the combined EMS levy rate of the county and the taxing district does not exceed fifty cents per thousand dollars of assessed value of the property in the taxing district; ~~((and~~

~~((e) An EMS levy of limited duration of))~~

(c) A taxing district within ~~((the))~~ a county ~~((s))~~ having an EMS levy of limited duration that was authorized by the voters subsequent to a county-wide EMS levy of limited duration, will expire ~~((concurrently with))~~ at the same time as the county EMS levy; and

(d) A fire protection district ~~((that has))~~ having annexed an area described in subsection ~~((10))~~ (11) of this rule may levy the maximum amount of tax ~~((that would otherwise be))~~ allowed, ~~((notwithstanding))~~ taking into consideration any limitations in this subsection.

~~((6))~~ (7) EMS levy of a taxing district other than a county. ~~((One))~~ When a taxing district ~~((that has the authority to levy))~~ levies an EMS levy ~~((has done so))~~ within the county, only the county may ~~((concurrently))~~ at the same time, levy an EMS levy within the boundaries of that taxing district; all other taxing districts are prohibited from levying an EMS levy within that taxing district's boundaries while it collects an EMS levy.

(a) If a regional fire protection service authority imposes ~~((a tax))~~ an EMS levy under this rule, no other taxing district that is a participating fire protection jurisdiction in the regional fire protection service authority may ~~((levy a tax))~~ impose an EMS levy under this rule.

(b) For purposes of this subsection, a "participating fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district that is represented on the governing board of a regional fire protection service authority.

~~((7))~~ (8) Constitutional one percent limit ((is applicable)). An EMS levy is subject to the constitutional one percent limit for regular property taxes. If a reduction of the rate of an EMS levy is required because this limit is exceeded, it is ~~((to be))~~ reduced ~~((in the manner set forth in))~~ according to RCW 84.52.010 and WAC 458-19-075.

~~((8))~~ (9) Statutory aggregate dollar rate limit ((is not applicable)). An EMS levy is not subject to the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value ~~((see))~~ as described in RCW 84.52.043((9)).

~~((9))~~ (10) Applicability of limit factor to EMS levy. The first year an EMS levy is made following voter approval, the levy limit ~~((set forth in RCW 84.55.010))~~ in chapter 84.55

RCW does not apply. However, after the first year (~~(any)~~) an EMS levy (~~(made)~~) is subject to this limit. (~~(In other words, beginning)~~) Therefore, in the second year (~~(this levy is made it)~~), the EMS levy cannot exceed the limit factor multiplied by the highest amount of regular property taxes that could have lawfully been levied since the voters last approved (~~(such a)~~) the levy, plus an additional (~~(dollar)~~) amount calculated by multiplying the regular property tax levy rate of the district (~~(for)~~) from the preceding year by the increase in assessed value in the taxing district resulting from:

- (a) New construction;
- (b) Improvements to property;
- (c) Increases in the assessed value of state assessed property; and
- (d) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

The EMS levy is calculated separately from any other levies made by the taxing district for purposes of calculating the levy limit.

~~((10))~~ **(11) County boundaries.** For purposes of imposing ~~(the tax authorized under this rule)~~ an EMS levy, the boundary of a county with a population greater than one million five hundred thousand does not include the area of the county that is located within a city that has a boundary in two counties(~~(s)~~). This only applies if the locally assessed value of all ~~(the)~~ property in the area of the city within the county having a population greater than one million five hundred thousand is less than two hundred fifty million dollars.

WSR 18-24-108

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 4, 2018, 2:22 p.m., effective January 4, 2019]

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

Purpose: WAC 458-16A-130 and 458-16A-140 are being amended to incorporate:

- SHB 2597 that passed during the 2018 legislative session concerning extending the senior citizen, disabled person, and disabled veteran property tax exemption to certain increases in property taxes imposed by a county or city;
- SSB 5167 that passed during the 2011 legislative session concerning the eligibility criteria of a disabled veteran for the senior citizen, disabled person, and disabled veteran property tax exemption.

Incorporating the updated statutory requirements into these rules will assist county assessors, taxpayers, and program participants to understand the requirements that need to be met to qualify for this property tax exemption.

Citation of Rules Affected by this Order: Amending WAC 458-16A-130 Senior citizen, disabled person, and ~~one hundred percent~~ disabled veteran exemption—Qualifications for exemption and 458-16A-140 Senior citizen, disabled per-

son, and ~~one hundred percent~~ disabled veteran exemption—Exemption described—Exemption granted—Exemption denied—Freezing property values.

Statutory Authority for Adoption: RCW 84.36.865.

Adopted under notice filed as WSR 18-20-054 on September 26, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 4, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-16-078, filed 7/31/08, effective 8/31/08)

WAC 458-16A-130 Senior citizen, disabled person, and ~~(one hundred percent)~~ disabled veteran exemption—Qualifications for exemption. (1) **Introduction.** This rule describes the qualifications a claimant must meet for the senior citizen, disabled person, and ~~(one hundred percent)~~ disabled veteran property tax exemption. The definitions in WAC 458-16A-100 apply to this rule. In order to qualify for the exemption, the claimant must:

- (a) ~~(Must)~~ Meet age or disability requirements;
- (b) ~~(Must)~~ Have a combined disposable income below the statutory limit amount provided in RCW 84.36.381; and
- (c) ~~(Must)~~ Own the property and occupy it as his or her principal residence.

(2) **Age, retirement, and disability requirements.** In order to qualify for the exemption:

(a) The senior citizen claiming the exemption must be age sixty-one or older on December 31st of the year in which the claim is filed. No proof is required concerning a senior citizen's employment status to claim the exemption.

(b) The disabled person claiming the exemption must be at the time of filing, retired from regular gainful employment and unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (42 U.S.C. Sec. 423 (d)(1) (A)).

(c) The veteran claiming the exemption must be at the time of filing ~~(be)~~, a veteran of the armed forces of the United States ~~(with one hundred percent)~~ entitled to and receiving compensation from the United States Department

of Veterans Affairs at a total disability rating for a service-connected disability.

(d) The surviving spouse or domestic partner of a claimant, who applies to continue their spouse's or domestic partner's exemption, must be age fifty-seven or older in the calendar year the claimant dies.

(3) **Income requirements.** In order to qualify for the exemption, the claimant's combined disposable income, as defined in RCW 84.36.383 and WAC 458-16A-120, must be below the statutory limit amount provided in RCW 84.36-381.

(4) **Principal residence requirements.** In order to qualify for the exemption, the claimant must own the property and occupy it as his or her principal residence. The claimant must occupy the principal residence at the time of filing for each year the exemption is claimed. ~~((See))~~ WAC 458-16A-100 ~~((definitions of principal residence and residence), and WAC))~~ and 458-16A-135 ~~((f))~~ provide additional information regarding the definitions of principal residence and residence, and the supporting documents required to demonstrate the property is owned and occupied as a claimant's principal residence((?)).

AMENDATORY SECTION (Amending WSR 18-04-007, filed 1/25/18, effective 2/25/18)

WAC 458-16A-140 Senior citizen, disabled person, and ~~((one hundred percent))~~ disabled veteran exemption—Exemption described—Exemption granted—Exemption denied—Freezing property values. (1)~~(a)~~ **Introduction.** This rule explains how county assessors process a claimant's application form for the senior citizen, disabled person, or ~~((one hundred percent))~~ disabled veteran property tax exemption. The rule describes the exemption and what happens when the exemption is granted or denied by the assessor.

(b) Definitions. The definitions in WAC 458-16A-100 apply to this rule.

(2) **The exemption described.** This property tax exemption reduces or eliminates property taxes on a senior citizen's, disabled person's, or ~~((one hundred percent))~~ disabled veteran's principal residence. Except for benefit charges made by a fire protection district, this exemption does not reduce or exempt an owner's payments for special assessments against the property. Local governments impose special assessments on real property because the real property is specially ~~((benefitted))~~ benefited by improvements made in that area (e.g., local improvement district assessments for roads or curbs, surface water management fees, diking/drainage fees, weed control fees, etc.). All ~~((the))~~ property owners in that area share in paying for these improvements. The only exceptions related to this program is for benefit charges made by a fire protection district, a regional fire protection service authority, or by a city or town for enhancement of fire protection services. Fire protection benefit charges are reduced twenty-five, fifty, or seventy-five percent depending upon the combined disposable income of the claimant. RCW 52.18.090, 52.26.270, and 35.13.256.

(a) **Excess levies.** A qualifying claimant receives an exemption from excess levies on his or her principal residence.

(b) **Regular levies.** A qualifying claimant receives an exemption from the state property tax levy imposed under RCW 84.52.065(2) on his or her principal residence, and the portion of the regular property taxes authorized pursuant to a lid lift under RCW 84.55.050 and approved by the voters, if the legislative authority of the county or city imposing the increase in regular property taxes identified the exemption under RCW 84.36.381 in the ordinance placing the lid lift measure on the ballot.

Depending ~~((upon))~~ on the claimant's combined disposable income, the exemption may also apply to all or a portion of the regular property tax levies, including all or a portion of the state property tax levy imposed under RCW 84.52.065(1), on the claimant's principal residence. Both the level of the claimant's combined disposable income and the assessed value of the home determine the amount of the regular levy exempted from property taxes. The exemption applies to all ~~((the))~~ regular and excess levies when the assessed value of the claimant's principal residence falls below the amount of exempt assessed value identified in RCW 84.36.381 (5)(b) and the claimant's combined disposable income is also below the levels set in that subsection.

(c) **Property taxes due.** Generally, the owner pays the property taxes on the principal residence and obtains ~~((directly))~~ the benefit of this exemption. If the claimant is not the property's owner, or is not otherwise obligated to pay the property taxes on the principal residence, but ~~((^))~~ owned ~~((^))~~ the principal residence for purposes of this exemption, the property owner that owes the tax must reduce any amounts owed to them by the claimant up to the amount of the tax exemption. If the amounts owed by the claimant to this property owner are less than the tax exemption, the owner must pay to the claimant in cash any amount of the tax exemption remaining after this offsetting reduction. RCW 84.36.387(6).

(3) **Processing exemption applications.** County assessors process applications for the senior citizen, disabled person, or ~~((one hundred percent))~~ disabled veteran exemption. The assessors grant or deny the exemption based upon these completed applications.

(a) **Application review.** The county assessor reviews a completed application and its supporting documents.

The assessor:

(i) Notes on a checklist for the claimant's file the supporting documents received;

(ii) Reviews the supporting documents;

(iii) Records relevant information from the supporting documents into the claimant's file. In particular, the assessor records into the file the claimant's age and a summary of the income information received; and

(iv) After reviewing the supporting documents, must either destroy or return the supporting documents used to verify the claimant's age and income.

(b) **Incomplete applications.** A county assessor may return an incomplete application or a duplicate application. An incomplete application may be missing:

(i) Signatures;

- (ii) Information upon the form; or
- (iii) Supporting documents.

Upon returning an incomplete application, the assessor should provide the claimant with a dated denial form listing the signatures, information, or documents needed to complete the application. The denial of an incomplete application may be appealed in the same manner as a denial of the exemption.

(c) **Retroactive applications.** The assessor may accept any late filings for the exemption even after the taxes have been levied, paid, or become delinquent. An application filed for the exemption in previous years constitutes a claim for a refund under WAC 458-18-210.

(4) **Exemption timing if approved.** Property taxes are reduced or eliminated on the claimant's principal residence for the year following the year the claimant became eligible for the program. When a late application is filed, the exemption may only result in:

(a) A refund for any paid property taxes that were due within the previous three years; and

(b) Relief from unpaid property taxes for any previous years.

(5) **Exemption procedure when claim granted.** When the exemption is granted, the county assessor:

(a) Freezes the assessed value of the principal residence upon the assessment roll;

(b) Determines the level of exemption the claimant qualifies for;

(c) Notifies the claimant that the exemption has been granted;

(d) Notifies the claimant of his or her duty to file timely renewal applications;

(e) Notifies the claimant of his or her duty to file change of status forms when necessary;

(f) Notifies the claimant of the need to reapply for the exemption if the claimant moves to a replacement residence;

(g) Notifies the claimant that has supplied estimated income information whether or not follow-up income information is needed;

(h) Places the claimant on a notification list for renewal of the exemption;

(i) Places the claimant on a notification list if supporting documents are needed to confirm estimated income information prior to May 31st of the following year;

(j) Exempts the residence from all or part of its property taxes; and

(k) Provides the department with a recomputation of the assessed values for the immediately preceding year as a part of the annual recomputation process.

(6) **Exemption procedure when claim denied.** The assessor denies the exemption when the claimant does not qualify. The assessor provides a dated denial form listing his or her reasons for this denial. A claimant may appeal the (~~exemption's~~) denial of the exemption to the county board of equalization as provided (~~for~~) in WAC 458-14-056.

(7) **Freezing the property value.** The assessor freezes the assessed value of the principal residence either on the latter of January 1, 1995, or January 1st of the year when a claimant first qualifies for the exemption. The assessor then tracks both the market value of the principal residence and its frozen value. The assessor provides both the principal resi-

dence's market value and its frozen value in the valuation notices sent to the owner.

(a) **Adding on improvement costs.** The assessor adds onto the frozen assessed value the cost of any improvements made to the principal residence.

(b) **One-year gaps in qualification.** If a claimant receiving the exemption fails to qualify for only one year because of high income, the previous frozen property value must be reinstated on January 1st of the following year when the claimant again qualifies for the program.

(c) **Moving to a new residence.** If an eligible claimant moves, the county assessor freezes the assessed value of the new principal residence on January 1st of the assessment year in which the claimant transfers the exemption to the replacement residence.

WSR 18-24-109

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 4, 2018, 2:27 p.m., effective January 4, 2019]

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

Purpose: WAC 458-14-056, 458-14-066 and 458-14-076, are being amended to incorporate HB 2479 passed during the 2018 legislative session concerning property assessment appeal procedures to the county boards of equalization. These rules are related to the appeal procedures, including the time requirements for parties to exchange information or evidence before a county board of equalization hearing. Updating these rules to incorporate the revised time requirements are necessary so county assessors and taxpayers submit their evidence timely.

Citation of Rules Affected by this Order: Amending WAC 458-14-056 Petitions—Time limits—Waiver of filing deadline for good cause, 458-14-066 Requests for valuation information—Duty to exchange documentary information—Time limits, and 458-14-076 Hearings on petitions—Withdrawal.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, and 84.48.200.

Adopted under notice filed as WSR 18-20-043 on September 26, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

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

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

Date Adopted: December 4, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-03-087, filed 1/21/15, effective 2/21/15)

WAC 458-14-056 Petitions—Time limits—Waiver of filing deadline for good cause. (1) ~~((The only method for appealing a county assessor's determination to the county board of equalization, as to valuation of property, or as to any other types of county assessor determinations is by a properly completed and timely filed taxpayer petition.~~

~~(2))~~ **Introduction.** This rule explains how the owner or person responsible for the payment of property taxes may petition the board of equalization for a change in the assessed valuation of their property as described in RCW 84.40.038.

(a) Definitions. The definitions in WAC 458-14-005 apply to this rule.

(b) Other rules to reference. Readers may want to refer to other rules for additional information, including:

(i) WAC 458-14-015 Jurisdiction of county boards of equalization.

(ii) WAC 458-14-066 Requests for valuation information—Duty to exchange documentary information—Time limits.

(iii) WAC 458-14-076 Hearings on petitions—Withdrawal.

(2) **Filing petition - Time limits.** The method for appealing a county assessor's determination as to the valuation of property or to any other types of county assessor determinations is by submitting a properly completed and timely filed taxpayer petition to the county board of equalization.

A taxpayer's petition for review of the assessed valuation of property by the assessor or for review of any of the types of appeals listed in WAC 458-14-015 must be filed in duplicate with the board. Petition forms are available from the clerk of the board and from the assessor's office.

The deadline for filing the petition with the board must be the later of:

(a) July 1st of the year of assessment or determination;

(b) Thirty days, or up to sixty days if a longer time period was established by the county legislative authority, from the date the assessment, ~~((value))~~ change of value notice, or other notice was mailed; or

(c) Thirty days, or up to sixty days if a longer time period was established by the county legislative authority, from the date the assessor electronically:

(i) Transmitted the assessment, ~~((value))~~ change of value notice, or other notice; or

(ii) Notified the owner or person responsible for payment of taxes that the assessment, ~~((value))~~ change of value notice, or other notice was available to be accessed by the owner or other person. ~~((RCW 84.40.038.))~~

(3) **Late filing of petition - Waiver of filing deadline.**

No late filing of a petition will be allowed except as ~~((specifically))~~ provided in this subsection. The board may waive the filing deadline if the petition is filed within a reasonable time after the filing deadline and the petitioner shows good cause,

as defined in this subsection, for the late filing. However, the board must waive the filing deadline for the circumstance described under (g) of this subsection if the petition is filed within a reasonable time after the deadline.

A petition that is filed after the deadline without a showing of good cause ~~((, as described in this subsection,))~~ must be dismissed unless, after the taxpayer is notified by the board that the petition will be dismissed because of the late filing, the taxpayer promptly shows good cause for the late filing. The board must decide a taxpayer's claim of good cause without holding a public hearing on the claim and must promptly notify the taxpayer of the decision, in writing. The board's decision regarding a waiver of the filing deadline is final and not appealable to the state board of tax appeals. Good cause may be shown by documentation of one or more of the following events or circumstances:

(a) The taxpayer was unable to file the petition by the filing deadline because of a death or serious illness of the taxpayer or of a member of the taxpayer's immediate family occurring at or shortly before the time for filing. For purposes of this subsection, the term "immediate family" includes, but is not limited to, a grandparent, parent, brother, sister, spouse, domestic partner, child, grandchild, or domestic partner's child or grandchild.

(b) The taxpayer was unable to file the petition by the filing deadline because of the occurrence of all of the following:

(i) The taxpayer was absent from his or her home or from the address where the assessment notice or ~~((value))~~ change of value notice is normally received by the taxpayer. If the notice is normally mailed by the assessor to a mortgagee or other agent of the taxpayer, the taxpayer must show that the mortgagee or other agent was required, pursuant to written instructions from the taxpayer, to promptly transmit the notice and failed to do so; ~~((and))~~

(ii) The taxpayer was absent (as described in (b)(i) of this subsection) for more than fifteen of the days allowed in subsection (2) of this ~~((section))~~ rule prior to the filing deadline; and

(iii) The filing deadline is after July 1st of the assessment year.

(c) The taxpayer was unable to file the petition by the filing deadline because the taxpayer reasonably relied upon incorrect, ambiguous, or misleading written advice as to the proper filing requirements by either a board member or board staff, the assessor or assessor's staff, or the property tax advisor designated under RCW 84.48.140, or his or her staff.

(d) The taxpayer was unable to file the petition by the filing deadline because of a natural disaster such as a flood or earthquake occurring at or shortly before the time for filing.

(e) The taxpayer was unable to file the petition by the filing deadline because of a delay or loss related to the delivery of the petition by the postal service. The taxpayer must be able to provide documentation from the postal service of ~~((such a))~~ the delay or loss.

(f) The taxpayer is a business and was unable to file the petition by the filing deadline because the person employed by the business, responsible for dealing with property taxes, was unavailable due to illness or unavoidable absence.

(g) The taxpayer was not sent a ~~((reevaluation))~~ change of value notice under RCW 84.40.045 for the current assess-

ment year and ~~((the taxpayer))~~ can demonstrate ~~((both of the following:~~

(i) ~~The taxpayer's~~ the property value did not change from the previous ~~((year; and~~

(ii) ~~The taxpayer's property is located in an area revalued by the assessor for the current~~) assessment year.

(4) **Mailing of petition.** If a petition is filed by mail it must be postmarked no later than the filing deadline. If the filing deadline falls ~~((upon))~~ on a Saturday, Sunday, or holiday, the petition must be filed on or postmarked no later than the next business day.

(5) **Completed petition.** A petition is properly completed when all relevant questions on the form provided or approved by the department have been answered and the answers contain sufficient information or statements to apprise the board and the assessor of the reasons for the appeal.

A petition ~~((which))~~ that merely states ~~((that))~~ the assessor's valuation is too high or ~~((that))~~ the property taxes are excessive, or similar types of statements, is not properly completed and ~~((must))~~ will not be considered by the board. If, at the time of filing the petition, the taxpayer does not have all the documentary evidence available which he or she intends to present at the hearing, the petition will be ~~((deemed to be))~~ considered properly completed for purposes of preserving the taxpayer's right of appeal, if it is otherwise fully and properly filled out. However, any comparable sales, valuation evidence, or other documentary evidence not submitted at the time the petition is filed must be provided by the taxpayer to the assessor and the board at least ~~((seven))~~ twenty-one business days, excluding legal holidays, prior to the board hearing.

A copy of the completed petition must be provided to the assessor by the clerk of the board. Any petition not fully and properly completed cannot be considered by the board ~~((RCW 84.40.038))~~ and a notice of the board's rejection of the petition must be promptly mailed to the taxpayer. ~~((See:))~~ WAC 458-14-066 ~~((Requests for valuation information—Duty to exchange documentary information—Time limits; for))~~ provides an explanation of the availability, use and exchange of valuation and other documentary information prior to the hearing before the board.

(6) ~~((Whenever))~~ **Pending appeal.** If the taxpayer has an appeal pending with the board, the state board of tax appeals, or with a court of law, and the assessor notifies the taxpayer of a change in property valuation, then the taxpayer is required to file a timely petition with the board in order to preserve the right to appeal the change in valuation.

~~((For example, if))~~ **Example.** A taxpayer ~~((has appealed))~~ appeals a decision of the board to the board of tax appeals regarding ~~((an assessed))~~ a value for the ~~((year 2013, and that))~~ 2013 assessment year. The appeal is pending when the assessor issues a ~~((value))~~ change in value notice for the 2014 assessment year, so the taxpayer must still file a timely petition appealing the valuation for the 2014 assessment year in order to preserve his or her right to appeal the 2014 assessed value.

~~((7))~~ Petition forms shall be available from the clerk of the board and from the assessor's office.

AMENDATORY SECTION (Amending WSR 06-13-034, filed 6/14/06, effective 7/15/06)

WAC 458-14-066 Requests for valuation information—Duty to exchange documentary information—Time limits. (1) **Introduction.** ~~((Timely))~~ This rule explains the access to valuation and other documentary information ~~((should be))~~ provided to both parties prior to the hearing on a petition so that time-consuming and costly discovery procedures are unnecessary. ~~((The postmark is used to determine whether the information is timely provided.))~~

(2) **Valuation information provided by assessor.** Requests by a taxpayer for valuation information from the assessor may be made on the petition form filed with the board, or may be made at any reasonable time prior to the hearing. Upon request by the taxpayer, the assessor must make available to the taxpayer the comparable sales used in establishing the taxpayer's property valuation. If valuation criteria other than comparable sales were used, the assessor must provide the taxpayer with the information.

All ~~((such))~~ valuation information, including comparable sales, must be provided to the taxpayer and the board within sixty calendar days of the request but at least ~~((fourteen))~~ twenty-one business days, excluding legal holidays, prior to the taxpayer's appearance before the board of equalization. ~~((3))~~ The valuation information provided by the assessor to the taxpayer must not be subsequently changed by the assessor unless the ~~((assessor has found))~~ new evidence ~~((supporting))~~ supports the assessor's valuation ~~((, in which situation the assessor))~~. If the assessor has found new evidence, he or she must provide the additional evidence to the taxpayer and the board at least ~~((fourteen))~~ twenty-one business days, excluding legal holidays, prior to the board hearing ~~((at the board.~~

~~((4))~~. The postmark date is used to determine whether the information is timely provided.

(3) **Valuation information provided by taxpayer.** A taxpayer who lists comparable sales on the petition, or who provides the board and the assessor with comparable sales or valuation evidence after filing the petition, must not ~~((there after change or add other comparable sales, valuation evidence, or other documentary evidence without))~~ subsequently change the evidence unless the new evidence supports the taxpayer's valuation. If the taxpayer has found new evidence, he or she must provide the additional evidence by mailing or submitting ~~((the evidence))~~ it to the assessor and the board at least ~~((seven))~~ twenty-one business days, excluding legal holidays, prior to the board hearing. The postmark date is used to determine whether the information is timely provided.

~~((5))~~ (4) **Failure to comply.** If either the assessor or taxpayer does not comply with the requirements of this ~~((section))~~ rule, the board ~~((in its discretion))~~ may take any of the following actions:

(a) If there is no objection by either party, consider the new evidence provided by either party and proceed with the hearing;

(b) If there is an objection by either party to the failure of the other party to comply with the requirements of this ~~((section))~~ rule, the board may:

(i) Refuse to consider evidence that was not timely submitted;

(ii) Postpone the hearing for a ~~((definite))~~ definitive time period designated by the board, to provide the parties an opportunity to review all evidence; or

(iii) Proceed with the hearing but allow the parties to submit new evidence to the board and to the other party ~~((;))~~ after the hearing is concluded ~~((, within definite))~~. The new evidence must be submitted within a definitive time period ~~((s))~~ designated by the board, and ~~((provide))~~ must be provided to each party with an adequate opportunity to rebut or comment on the new evidence prior to the board's decision.

AMENDATORY SECTION (Amending WSR 06-13-034, filed 6/14/06, effective 7/15/06)

WAC 458-14-076 Hearings on petitions—Withdrawal. (1) **Introduction.** This rule provides information about the board hearing and the withdrawal of a petition by the taxpayer. The board or one of its hearing examiners must hold individual hearings on each properly filed petition ~~((which))~~ that has not been withdrawn or otherwise disposed of. A taxpayer may withdraw a petition ~~((as a matter of right))~~ by written notice received by the board no later than two business days prior to the scheduled hearing. The board ~~((, in its discretion, may allow the))~~ may also allow a taxpayer to withdraw up to the time of the hearing. The board must promptly notify the assessor of the taxpayer's withdrawal.

(2) **Notice of hearing.** The assessor and taxpayer must be provided notice of the hearing date by the clerk of the board at least ~~((fifteen))~~ twenty-two business days before the hearing date, unless the clerk and the parties agree ~~((upon))~~ on a shorter time period.

(3) **Continuation of appeal.** If property is sold or transferred after a petition has been timely filed, either the seller/transferor or the buyer/transferee, or both, may continue to pursue the appeal if they can show the board that they have a personal stake in the outcome of the case.

(4) **Testifying before board.** All persons testifying before the board must swear or affirm on the record that they will testify truthfully under penalty of perjury.

WSR 18-24-110

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 4, 2018, 2:30 p.m., effective January 4, 2019]

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

Purpose: WAC 458-12-360 Notice of change in value of real property, is being amended to incorporate:

- SSB 5133 that passed during the 2017 legislative session concerning when county boards of equalization are required to meet;
- SSB 5444 that passed during the 2013 legislative session concerning publicly owned property; and

- SSB 5167 that passed during the 2011 legislative session concerning the senior citizen, disabled person, and disabled veteran property tax exemption.

Incorporating the updated statutory requirements into this rule will assist county assessors and taxpayers regarding the information that must be included in these notices.

Citation of Rules Affected by this Order: Amending WAC 458-12-360 Notice of change in value of real property.

Statutory Authority for Adoption: RCW 84.48.200, 84.08.010, 84.08.070, and 84.36.865.

Adopted under notice filed as WSR 18-20-049 on September 26, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 4, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-18-037, filed 8/26/03, effective 9/26/03)

WAC 458-12-360 Notice of change in value of real property. (1) **Introduction.** This rule explains the requirement of county assessors to notify taxpayers of any change in the true and fair value of real property as provided by RCW 84.40.045. The notice of a change in the true and fair value of real property is commonly referred to as a change of value notice or revaluation notice.

(2) **When must a revaluation notice be provided?** All revaluation notices must be mailed within thirty days of the completed appraisal, except that no revaluation notices can be mailed during the period from January 15th to February 15th of each year. If the true and fair value of the real property appraised has not changed, ~~((no))~~ a revaluation notice does not need to be sent to the taxpayer following the completed appraisal. Also, ~~((no))~~ a revaluation notice does not need to be sent ~~((with respect to))~~ regarding changes in valuation of publicly owned property exempt from taxation under RCW 84.36.010 or of forest land ~~((made))~~ under chapter 84.33 RCW.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Example 1. On January 5th the assessor completes an appraisal of a home and the land (~~(upon)~~ on which it sits. The total value of the land and home increased as a result of the appraisal. The assessor must mail a revaluation notice to the taxpayer by February 16th; however, the assessor is not allowed to mail the revaluation notice between January 15th and February 15th.

(b) Example 2. The assessor appraises a home and the land (~~(upon)~~ on which it sits. The value of the home decreases, and the value of the land increases; however, the total value of the home and land remain unchanged. The assessor is not required to mail a revaluation notice to the taxpayer. Under RCW 84.40.045, revaluation notices are only required when there is a change in the true and fair value of the real property that is the subject of the appraisal. In this example, although there is a change in the true and fair value of the home and land, there is no (~~(overall)~~) change in the overall true and fair value of the real property that was the subject of the appraisal.

(3) **What if an assessor fails to provide a timely revaluation notice?** The failure to provide a timely revaluation notice as required by RCW 84.40.045 does not invalidate the assessment. RCW 84.40.045 does not affect RCW 84.40.020 which provides, in relevant part, that all real property in this state subject to taxation must be listed and assessed every year, at its value on January 1st of the assessment year.

A taxpayer who fails to timely appeal an assessor's determination of value to the county board of equalization (board) because of the assessor's failure to timely provide a revaluation notice may still petition the board for a review of the assessor's determination of value. A board may reconvene on its own authority in certain circumstances as provided in WAC 458-14-127 Reconvened boards—Authority, including upon request of a taxpayer who has not received a timely revaluation notice. (~~(Under)~~ According to WAC 458-14-127, the taxpayer must submit to the board (~~(a sworn)~~ an affidavit stating that a revaluation notice for the current assessment year was not received by the taxpayer at least fifteen calendar days prior to the deadline for filing the petition for review of the assessor's determination of value, and the taxpayer can show proof that the value was actually changed. The request to reconvene and the (~~(sworn)~~) affidavit must be filed with the board by April 30th of the tax year immediately following the board's regularly convened session. (~~(f)~~) For additional information about appealing an assessor's determination of value to the (~~(county)~~) board, refer to chapter 458-14 WAC. (~~(g)~~)

(4) **Who is entitled to receive a revaluation notice?** RCW 84.40.045 requires the assessor (~~(is required by law)~~) to mail revaluation notices to the taxpayer. (~~(RCW 84.40-045-)~~) For purposes of this rule, "taxpayer" means the person charged, or whose property is charged, with property tax and whose name appears on the most recent tax roll or has been otherwise provided to the assessor.

If any taxpayer, as shown by the tax rolls, holds only a security interest under a mortgage, contract of sale, or deed of trust in the real property that is the subject of the revaluation notice, the taxpayer is required to supply, within thirty days of receiving a written request from the assessor, the name and address of the person making payments under the mortgage,

contract of sale, or deed of trust. The assessor must mail a copy of the revaluation notice to the person making payments under the mortgage, contract of sale, or deed of trust at the address provided by the taxpayer. A request from the assessor (~~(is required to make the request provided for in this subsection)~~) for this information must be made during the month of January. (~~(A)~~ If the taxpayer (~~(who)~~) willfully fails to comply with (~~(such a request from the assessor within the thirty-day time limitation)~~) the assessor's request within thirty days, the taxpayer is subject to a maximum civil penalty of five thousand dollars. The civil penalty is recoverable in an action by the county prosecutor and, when recovered, must be deposited in the county current expense fund.

(5) **What information must a revaluation notice contain?** A revaluation notice must contain (~~(the following information)~~):

- (a) The name and address of the taxpayer;
- (b) A description of the real property that is the subject of the revaluation notice;
- (c) The previous and new true and fair values, stating separately land and improvement values;
- (d) A statement that the assessed value is one hundred percent of the true and fair value;
- (e) If the property is classified under chapter 84.34 RCW on the basis of its current use, the previous and new current use value of the property, stating separately land and improvement values;
- (f) A statement informing taxpayers that if they would like to learn more about how their property was valued for tax purposes and how their property taxes will be determined, they may obtain an information pamphlet describing the property tax system from the assessor's office free of charge;
- (g) A statement that land used for farm and agricultural purposes, to preserve open space, or for the commercial growth and harvesting of forest crops may be eligible for assessment based on the land's current use rather than its highest and best use. This statement must also provide information on the method of making application and the availability of (~~(further)~~) additional information on the current use classifications;

(h) A statement informing taxpayers (~~(that)~~) they may be eligible to receive a property tax exemption if:

(i) They own and live in a residence in the county, including a mobile home(~~(s)~~);

(ii) Are now or will be sixty-one years of age by December 31st of the current year, (~~(or)~~) are retired because of a physical disability, or is a veteran of the armed forces of the United States entitled to and receiving compensation from the United States Department of Veterans Affairs at a total disability rating for a service-connected disability; and (~~(if)~~)

(iii) Their combined disposable income is under the limits provided in RCW 84.36.381(~~(, they may be eligible to receive a property tax exemption)~~).

Although not statutorily required, it is suggested that a revaluation notice contain a statement informing taxpayers that if they are a senior citizen or a disabled person, or if they meet certain income requirements, they may be able to defer payment of their property taxes. This statement should also include (~~(information about how further)~~) how additional information about property tax deferrals for senior citizens

~~((and))~~, disabled persons, or persons with limited incomes may be obtained; and

(i) A brief statement of the procedure for appeal to the county board of equalization and the time, date, and ~~((place of the meetings))~~ meeting place of the board. The following language is suggested: "You may appeal either the true and fair value and/or current use assessed value to the county board of equalization. An appeal petition may be obtained from the board of equalization. Petitions for a hearing must be filed with the board of equalization on or before July 1st of the assessment year, or within (number of days) of the date of the revaluation notice, whichever is later. Petitions received after those dates will be denied on the grounds of not having been timely filed, unless a waiver for good cause as described in WAC 458-14-056, is granted. The board of equalization will convene on July 15th, or within fourteen days of certification of the county assessment rolls, whichever is later, in the (name of office) at (name of city or town), Washington, and will continue in session for a period not to exceed four weeks. The board of equalization is to review and equalize the assessments of the current year for taxes payable the following year."

WSR 18-24-113

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed December 4, 2018, 3:54 p.m., effective January 4, 2019]

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

Purpose: Amending these rules is necessary to ensure the agency is in compliance with Title XI of the Financial Institutions, Reform, Recovery and Enforcement Act (FIRREA) as amended by the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act.

All rule changes are approved and recommended to the director by the real estate appraiser commission. These changes update education requirements for the certified residential appraiser and state licensed appraiser classification levels, and updates experience requirements for the state licensed classification to be compliant with the appraiser qualifications board criteria requirements.

Citation of Rules Affected by this Order: Amending WAC 308-125-040, 308-125-045, and 308-125-070.

Statutory Authority for Adoption: RCW 18.140.030(1).

Adopted under notice filed as WSR 18-19-003 on September 7, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 4, 2018.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-02-008, filed 12/28/15, effective 1/28/16)

WAC 308-125-040 Examination prerequisite state-certified residential classification. The state-certified residential real estate appraiser classification applies to appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value less than two hundred fifty thousand dollars.

(1) As a prerequisite to taking the examination for certification as a state-certified residential real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than two hundred hours in the following core modules:

- (a) Basic appraisal principles, thirty hours.
- (b) Basic appraisal procedures, thirty hours.
- (c) The National USPAP course or equivalent, fifteen hours.
- (d) Residential market analysis and highest and best use, fifteen hours.
- (e) Residential appraiser site valuation and cost approach, fifteen hours.
- (f) Residential sales comparison and income approaches, thirty hours.
- (g) Residential appraiser report writing and case studies, fifteen hours.
- (h) Statistics, modeling and finance, fifteen hours.
- (i) Advanced residential applications and case studies, fifteen hours.
- (j) Appraisal subject matter electives, twenty hours.

(2) Credit towards qualifying education requirements may be obtained via the completion of a degree program in real estate from an accredited degree-granting college or university provided the college or university has had its curriculum reviewed and approved by the appraiser qualifications board.

(3) An original certification as a state-certified residential real estate appraiser shall not be issued to any person who does not possess two thousand five hundred hours of appraisal experience obtained continuously over a period of not less than twenty-four months in Washington or in another state having comparable certification requirements.

(4) Applicants for the certified residential appraiser license must satisfy one of the following college education requirement options:

- (a) Possess a bachelor's degree or higher in any field of study; or
- (b) Possess an associate's degree in a field of study related to business administration, accounting, finance, economics, or real estate; or

(c) Successful completion of thirty semester hours of college level courses in all of the following subject matter areas:

- (i) English composition, three hours; and
- (ii) Microeconomics, three hours; and
- (iii) Macroeconomics, three hours; and
- (iv) Finance, three hours; and
- (v) Algebra, geometry, or higher mathematics, three hours; and
- (vi) Statistics, three hours; and
- (vii) Business or real estate law, three hours; and
- (viii) Computer science, three hours; and
- (ix) Two elective courses in: Accounting, geography, agricultural economics, business management, or real estate, three hours each.

(d) Successful completion of at least thirty semester hours of college level examination program (CLEP) examinations in all of the following subject matter areas:

- (i) College algebra, three hours; and
- (ii) College composition, six hours; and
- (iii) College composition modular, three hours; and
- (iv) College mathematics, six hours; and
- (v) Principles of macroeconomics, three hours; and
- (vi) Principles of microeconomics, three hours; and
- (vii) Introductory business law, three hours; and
- (viii) Information systems, three hours.

(e) Any thirty semester credit hour combination of (c) and (d) of this subsection that includes at least one course or CLEP exam in each of the following subject matter areas:

- (i) Composition; and
- (ii) Microeconomics; and
- (iii) Macroeconomics; and
- (iv) Business law; and
- (v) Algebra, geometry or higher mathematics.

(f) No college level education is required to apply for state-certified residential real estate appraiser license for an appraiser that has held a state-licensed real estate appraiser license for a minimum of five years, and satisfies all of the following requirements:

(i) No record of any adverse, final and nonappealable disciplinary action affecting the state-licensed real estate appraiser's legal eligibility to engage in appraisal practice within five years immediately preceding the date of application for a state-certified residential real estate appraiser license; and

(ii) Successful completion of the following core qualifying education modules:

- (A) Statistics, modeling, and finance, fifteen hours; and
- (B) Advanced residential applications and case studies, fifteen hours; and
- (C) Appraisal subject matter electives, twenty hours; and
- (iii) Successful completion of the required experience as specified in subsection (3) of this section; and

(iv) Successful completion of the certified residential real property appraiser examination as specified in these rules.

AMENDATORY SECTION (Amending WSR 16-02-008, filed 12/28/15, effective 1/28/16)

WAC 308-125-045 Examination prerequisite state-licensed classification. The state-licensed real estate appraiser classification applies to appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units having a transaction value less than two hundred fifty thousand dollars and nonresidential property having a transaction value less than two hundred fifty thousand dollars.

(1) As a prerequisite to taking the examination for certification as a state-licensed real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than one hundred fifty hours in the following core modules:

- (a) Basic appraisal principles, thirty hours.
- (b) Basic appraisal procedures, thirty hours.
- (c) The National USPAP course or equivalent, fifteen hours.
- (d) Residential market analysis and highest and best use, fifteen hours.
- (e) Residential appraiser site valuation and cost approach, fifteen hours.
- (f) Residential sales comparison and income approaches, thirty hours.
- (g) Residential appraiser report writing and case studies, fifteen hours.

(2) Credit toward qualifying education requirements may be obtained via the completion of a degree program in real estate from an accredited degree-granting college or university provided the college or university has had its curriculum reviewed and approved by the appraiser qualifications board.

(3) An original certification as a state-licensed real estate appraiser shall not be issued to any person who does not possess two thousand hours of appraisal experience obtained continuously over a period of not less than ~~((twenty-four))~~ twelve months in Washington or in another state having comparable certification requirements.

~~((4) Applicants for the state-licensed real estate appraiser license must possess an associate's degree or higher in any field of study, or in lieu of the required degree, thirty semester credit hours of college-level education from an accredited college, junior college, community college, or university.))~~

AMENDATORY SECTION (Amending WSR 16-02-008, filed 12/28/15, effective 1/28/16)

WAC 308-125-070 Experience requirements. (1) State licensed applicants must accumulate two thousand hours within a minimum of one year (twelve months) and a maximum of seven years. Certified residential applicants must accumulate two thousand five hundred hours within a minimum of two years (twenty-four months) ((full-time experience within five years of application is required for the state-licensed and certified residential appraiser)) and a maximum of seven years. Certified general applicants must accumulate three thousand hours within a minimum of thirty months and a maximum of seven years. ~~((However, no more~~

than one thousand five hundred hours may be credited in any consecutive twelve months for any of the licensing categories.)

(2) Any work product claimed for experience credit dated January 1, 1990, and later shall conform to the Uniform Standards of Professional Appraisal Practice in effect at the time the appraisal is completed.

(a) Reports shall be in writing.

(b) An appraisal work file must be available to the director to substantiate work performed.

(c) Appraisal experience must have been performed as a licensed or certified appraiser or a registered trainee to qualify.

(3) A registered trainee may gain experience under the supervision of no more than six supervisory appraisers during his/her trainee period.

(4) The department may request appraiser work files to verify, confirm, or compare entries made on the experience log. Failure to provide work files to the department upon its request may disqualify the reports as qualifying experience.

(5) An applicant for certification or license shall certify, under penalty of perjury, the completion of the required experience.

(6) Appraisal work qualifying for appraisal experience includes, but is not limited to, the following: Fee and staff appraisal, ad valorem tax appraisal, appraisal review, appraisal analysis, appraisal consulting, highest and best use analysis, feasibility analysis/study.

(7) The department may require a supervisory appraiser to certify, under penalty of perjury, the applicant's work experience.

(8) The department may request written reports or work files to verify an applicant's experience.

WSR 18-24-123
PERMANENT RULES
BOARD OF INDUSTRIAL
INSURANCE APPEALS

[Filed December 5, 2018, 10:08 a.m., effective January 5, 2019]

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

Purpose: To revise the board's rules of practice and procedure by amending WAC 263-12-016, 263-12-017, 263-12-01701, 263-12-018, 263-12-019, 263-12-093, 263-12-01501, 263-12-145, 263-12-165, and 263-12-195. Rules are being modified to meet current business needs including changes necessary for the board of industrial insurance appeals (BIIA) to include added provisions for making an appointment with the public records officer, ability to issue an order on agreement of parties without issuing a separate report of proceeding, amend rule on MEXMs to not allow the result of a proposed decision and order, amend language of the rule which requires litigants to serve parties copies of documents, amend time for filing a petition for review when a limited-English speaking party requests translation of a proposed decision and order, provide direction on how attorney fees will be determined under the cost sharing rule, and an update of applicable public records statute.

Citation of Rules Affected by this Order: Amending 10. Statutory Authority for Adoption: RCW 51.51.2020 [51.52.020].

Other Authority: RCW 51.52.020.

Adopted under notice filed as WSR 18-21-049 on December 5 [October 8], 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 10, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, Repealed 0.

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

Date Adopted: December 5, 2018.

David E. Threedy
[Executive Secretary]

AMENDATORY SECTION (Amending WSR 91-13-038, filed 6/14/91, effective 7/15/91)

WAC 263-12-005 Purpose. The purpose of this chapter is to promulgate rules concerning the board's practice and procedure pursuant to RCW 51.52.020 and to comply with RCW ((42.17.250 through 42.17.320)) 42.56.040 through 42.56.520 and chapter 40.14 RCW pertaining to public records.

AMENDATORY SECTION (Amending WSR 17-24-121, filed 12/6/17, effective 1/6/18)

WAC 263-12-01501 Communications and filing with the board. (1) **Where to file communications with the board.** Except as provided elsewhere in this section all written communications shall be filed with the board at its headquarters in Olympia, Washington. With written permission of the industrial appeals judge assigned to an appeal, depositions, witness confirmations, motions (other than motions for stay filed pursuant to RCW 51.52.050), briefs, stipulations, agreements, and general correspondence may be filed in the appropriate regional board facilities located in Tacoma, Spokane, or Seattle.

(2) **Methods of filing.** Unless otherwise provided by statute or these rules any written communication may be filed with the board by using one of four methods: Personally, by mail, by telephone facsimile, or by electronic filing. Failure of a party to comply with the filing methods selected by the party for use under this section, or as otherwise set forth in these rules or statute for filing written communications may prevent consideration of a document.

(a) **Filing personally.** The filing of a written communication with the board personally is accomplished by deliver-

ing the written communication to an employee of the board at the board's headquarters in Olympia during customary office hours.

(b) **Filing by mail.** The filing of a written communication with the board is accomplished by mail when the written communication is deposited in the United States mail, properly addressed to the board's headquarters in Olympia and with postage prepaid. Where a statute or rule imposes a time limitation for filing the written communication, the party filing the same should include a certification demonstrating the date filing was perfected as provided under this subsection. Unless evidence is presented to the contrary, the date of the United States postal service postmark shall be presumed to be the date the written communication was mailed to the board.

(c) **Filing by telephone facsimile.**

(i) The filing of a written communication with the board by telephone facsimile is accomplished when a legible copy of the written communication is reproduced on the board's telephone facsimile equipment during the board's customary office hours. All facsimile communications must be filed with the board via fax numbers listed on the board's web site.

(ii) The hours of staffing of the board's telephone facsimile equipment are the board's customary office hours. Documents sent by facsimile communication comments outside of the board's customary office hours will be deemed filed on the board's next business day.

(iii) Any written communication filed with the board by telephone facsimile should be preceded by a cover page identifying the party making the transmission, listing the address, telephone and telephone facsimile number of such party, referencing the appeal to which the written communication relates, and indicating the date of, and the total number of pages included in, such transmission. A separate transmission must be used for each appeal. Transmissions containing more than one docket number will be rejected and filing will not be accomplished, unless the multiple docket numbers have been previously consolidated by the board.

(iv) The party attempting to file a written communication by telephone facsimile bears the risk that the written communication will not be received or legibly printed on the board's telephone facsimile equipment due to error in the operation or failure of the equipment being utilized by either the party or the board.

(v) The board may require a party to file an original of any document previously filed by telephone facsimile.

(d) **Electronic filing.** Electronic filing is accomplished by using the electronic filing link on the board's web site. Communication sent by email will not constitute or accomplish filing. Communication filed using the board's web site outside of the board's customary office hours will be deemed filed on the board's next business day. A separate transmission must be used for each appeal. Transmissions containing more than one docket number will be rejected and filing will not be accomplished, unless the multiple docket numbers have been previously consolidated by the board.

(3) **Electronic filing of a notice of appeal.** A notice of appeal may be filed electronically when using the appropriate form for electronic filing of appeals as provided on the board's web site. An electronic notice of appeal is filed when it is received by the board's designated computer during the

board's customary office hours pursuant to WAC 263-12-015. Appeals received via the board's web site outside of the board's customary office hours will be deemed filed on the board's next business day. The board will issue confirmation to the filing party that an electronic notice of appeal has been received. The board may reject a notice of appeal that fails to comply with the board's filing requirements. The board will notify the filing party of the rejection.

(4) **Electronic filing of application for approval of claim resolution structured settlement agreement.** An application for approval of claim resolution structured settlement agreement must be filed electronically using the form for electronic filing of applications for approval of claim resolution structured settlement agreement as provided on the board's web site. An electronic application for approval of claim resolution structured settlement agreement is filed when received by the board's designated computer during the board's customary office hours pursuant to WAC 263-12-015. Applications received by the board via the board's web site outside of the board's customary office hours will be deemed filed on the board's next business day. The board will issue confirmation to the filing party that an electronic application for approval of claim resolution structured settlement agreement has been received. An electronic copy of the signed agreement for claim resolution structured settlement agreement must be submitted as an attachment to the application for approval. The board will reject an application for approval of claim resolution structured settlement agreement that fails to comply with the board's filing requirements. The board will notify the filing party of the rejection.

(5) **Sending written communication.** All correspondence or written communication filed with the board pertaining to a particular case, before the entry of a proposed decision and order, should be sent to the attention of the industrial appeals judge assigned to the case. Interlocutory appeals should be sent to the attention of the chief industrial appeals judge. In all other instances, written communications shall be directed to the executive secretary of the board.

(6) **Form requirements.** Any written communications with the board concerning an appeal should reference the docket number assigned by the board to the appeal, if known. Copies of any written communications filed with the board shall be ~~((furnished to))~~ served on all other parties or their representatives of record, and the original shall demonstrate compliance with ~~((this))~~ the requirement to serve all parties. All written communications with the board shall be on paper 8 1/2" x 11" in size.

AMENDATORY SECTION (Amending WSR 08-01-081, filed 12/17/07, effective 1/17/08)

WAC 263-12-016 Public records—Location. (1) Public records available. All public records of the board as defined in chapter 42.56 RCW are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW ~~((42.56.210 [42.56.]480))~~ 42.56.210 through 42.56.470.

(2) General information concerning the board may be obtained at its headquarters, 2430 Chandler Ct. S.W., P.O. Box 42401, Olympia, Washington 98504-2401.

(3) Public records officer. The public records officer shall be responsible for the following: The implementation of the board's rules and regulations regarding release of public records, coordinating the staff of the board in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.56 RCW.

(4) Indices are available providing identifying information as to the following: (a) Final decisions and orders of the board, including concurring and dissenting opinions; (b) proposed decisions and orders of the board's industrial appeals judges; (c) in addition, any indices maintained for intra-agency use are available for public inspection and copying.

(5) No fee will be charged for inspection of public records. Inspection will be during office hours, upon request and by appointment with the public records officer, in a space provided by the board and must be accomplished without excessive interference with the essential functions of the agency, and without causing damage or disorganization to public records.

(6) A fee shall be charged for copies of documents made with the board's equipment in an amount necessary to cover the cost to the agency of providing such service.

AMENDATORY SECTION (Amending WSR 14-24-105, filed 12/2/14, effective 1/2/15)

WAC 263-12-017 Request for public records. (1) In accordance with requirements of chapter 42.56 RCW, the board will make nonexempt "public records" available for inspection and copying.

(2) A request to inspect or copy public records should be made in writing through the records officer email address shown on the board web site upon the board's request form, which is available at its Olympia headquarters or its web site. The form may be presented to the public records officer, or to any member of the board's staff, if the public records officer is not available, at the headquarters of the board during customary office hours. The form may also be mailed, faxed, or emailed to the attention of the public records officer at the address or fax number provided on the board's web site.

The request should include the following information:

(a) The name and address of the person requesting the record and any other contact information, such as phone number or email address, that may aid in responding to the request;

(b) The date the request is made;

(c) The identity of the record(s) requested. If the record(s) requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index should be included whenever possible. If the requested record(s) is not identifiable by reference to the board's current index, as detailed a description as possible should be included to aid staff in identifying the records sought; and

(d) Whether the request is for copies or to inspect records.

(3) Requestors desiring copies of records shall make arrangements with the records officer to pay for the cost of providing the records. Costs shall include the cost of copies and the cost of mailing the records. The per page cost for

standard size (8 1/2" x 11") black and white or color photocopies will be as posted on the board's web site. Nonstandard-sized documents and documents produced on something other than paper will be provided at the actual cost to reproduce and may include the cost of the materials used. Mailing cost will include actual postage and the cost of the container.

(4) Requestors desiring to inspect records shall make arrangements with the records officer for inspection. There is no cost to inspect records. Records will be made available for inspection at the board's Olympia headquarters during the board's customary office hours.

(5) In all cases in which a member of the public is making a request, the public records officer or staff member to whom the request is made will assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending WSR 17-24-121, filed 12/6/17, effective 1/6/18)

WAC 263-12-01701 Copying fees—Payments. (1) The following copying fees and payment procedures apply to requests to the board under chapter 42.56 RCW and received on or after July 23, 2017.

(2) Pursuant to RCW 42.56.120 (2)(b), the board is not calculating all actual costs for copying records because it would be unduly burdensome for the following reasons:

(a) The board does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3), and (4).

(3) The board will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The board will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the board may charge other copying fees authorized by statutes outside of chapter 42.56 RCW. The board may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the board are summarized in the fee schedule available on the board's web site at www.biaa.wa.gov.

(4) Requestors are required to pay for copies in advance of receiving records. ~~((Fee waivers are an exception and are available for some small requests.))~~

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; ~~((or))~~

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule; or

(iii) The amount that could be charged is considered de minimis.

(b) Requested fee waivers are an exception and will be considered only upon receipt of a written request to the public records officer. Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees exceed twenty-five dollars for an installment, an entire request, or customized service charge.

(6) All required fees or deposits must be paid in advance of release of the copies or an installment of copies. The office will notify the requestor of when payment is due.

(7) Payment should be made by check or money order to the board of industrial insurance appeals. The board prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

AMENDATORY SECTION (Amending WSR 08-01-081, filed 12/17/07, effective 1/17/08)

WAC 263-12-018 Public records—Exemptions. (1) The board shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW ((42.56.210-[42.56.]480)) 42.56.210 through 42.56.470.

(2) Pursuant to RCW ((42.56.070)) 42.56.050, the board may delete identifying details when it makes available or publishes any public record in any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy.

(3) Denials of requests for public records will be accompanied by a written statement specifying the reason for the denial. A statement of the specific exemption in chapter 42.56 RCW or other statute authorizing withholding the record and a brief explanation of how the exemption applies to the record held will be included.

AMENDATORY SECTION (Amending WSR 86-03-021, filed 1/10/86)

WAC 263-12-019 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the board. The board shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the board as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision within two business days following the ((original denial)) receipt of the request for review.

(3) Administrative remedies shall not be considered exhausted until the board has returned the petition with a decision or until the close of the second business day following ((denial of inspection)) receipt of the request for review, whichever occurs first.

AMENDATORY SECTION (Amending WSR 06-12-003, filed 5/25/06, effective 6/25/06)

WAC 263-12-093 Conferences—Disposition of appeals by agreement. (1) If an agreement concerning final disposition of any appeal is reached by all the parties present or represented at a conference, an order shall be issued in conformity with their agreement, providing the board finds the agreement is in accordance with the law and the facts.

(a) In industrial insurance cases, if an agreement concerning final disposition of the appeal is reached by the employer and worker or beneficiary at a conference at which the department is represented, and no objection is interposed by the department, an order shall be issued in conformity with their agreement, providing the board finds that the agreement is in accordance with the law and the facts. If an objection is interposed by the department on the ground that the agreement is not in accordance with the law or the facts, a hearing shall be scheduled.

(b) In cases involving the Washington Industrial Safety and Health Act, an agreement concerning final disposition of the appeal among the parties must include regardless of other substantive provisions covered by the agreement: (i) A statement reciting the abatement date for the violations involved, and (ii) a statement confirming that the penalty assessment for contested and noncontested violations has or will be paid.

(c) Where all parties concur in the disposition of an appeal but the industrial appeals judge is not satisfied that the agreement is in conformity with the facts and the law or that the board has jurisdiction or authority to order the relief sought, the industrial appeals judge may require such evidence or documentation necessary to adequately support the agreement in fact and/or in law.

(2) All agreements reached at a conference concerning final disposition of the appeal shall be stated on the record by the industrial appeals judge and the parties shall indicate their concurrence on the record. The record may either be transcribed by a court reporter or recorded and certified by the industrial appeals judge conducting the conference.

The industrial appeals judge may, in his or her discretion accept an agreement for submission to the board in the absence of one or more of the parties from the conference, or without holding a conference.

(a) In such cases the agreement may be confirmed in writing by the parties to the agreement not in attendance at a conference, except that the written confirmation of a party to the agreement not in attendance at a conference will not be required where the industrial appeals judge is satisfied of the concurrence of the party or that the party received notice of the conference and did not appear.

(b) In cases where no conference has been held but the parties have informed the judge of their agreement, yet no written confirmation has been received, ((the judge may submit a judge's report of proceedings)) a final order may be issued which encompasses the agreement.

(3) In the event concurrence of all affected employees or employee groups cannot be obtained in cases involving agreements for final disposition of appeals under the Washington Industrial Safety and Health Act, a copy of the proposed agreement shall be posted by the employer at each establishment to which the agreement applies in a conspicu-

ous place or places where notices to employees are customarily posted. The agreement shall be posted for ten days before it is submitted to the board for entry of the final order. The manner of posting shall be in accordance with WAC 263-12-059. If an objection to the agreement is interposed by affected employees or employee groups prior to entry of the final order of the board, further proceedings shall be scheduled.

(4) The parties present at a conference may agree to a vocational evaluation or a further medical examination of a worker or crime victim, including further evaluative or diagnostic tests, except such as require hospitalization, by medical or vocational experts acceptable to them, or to be selected by the industrial appeals judge. In the event the parties agree that an order on agreement of parties (~~(or proposed decision and order)~~) may be issued based on the report of vocational evaluation or medical examination, the industrial appeals judge may arrange for evaluation or examination and the board will pay reasonable and necessary expenses involved. Upon receipt by the board, copies of the report of such examination or evaluation will be distributed to all parties represented at the conference and further appropriate proceedings will be scheduled or an order on agreement of parties (~~(or proposed decision and order)~~) issued. If the worker or crime victim fails to appear at the evaluation or examination, the party or their representative may be required to reimburse the board for any fee charged for their failure to attend.

AMENDATORY SECTION (Amending WSR 16-24-054, filed 12/2/16, effective 1/2/17)

WAC 263-12-145 Petition for review. (1) **Time for filing.** Within twenty days from the date of communication of the proposed decision and order to the parties or their representatives of record, any aggrieved party may file with the board a written petition for review. When a petition for review is filed, the failure of any party not aggrieved by the proposed decision and order to file a petition for review shall not be deemed a waiver by such party of any objections or irregularities disclosed by the record.

(2) **A petition for review must be filed separately.** A petition for review must be filed separately from any other pleading or communication with the board and must note "PETITION FOR REVIEW" prominently on the first page of the submission.

(3) **Extensions of time.**

(a) The board may extend the time for filing a petition for review upon written request of a party filed within twenty days from the date of communication of the proposed decision and order to the parties or their representatives of record. Such extension of time, if granted, will apply to all parties to the appeal. Further extensions of time beyond any initial extension may be allowed only if ~~((a))~~ an application for further extension is filed within twenty days from the date of communication of the proposed decision and order to the parties or their representatives of record or ~~((b))~~ the board, on its own motion or at the request of a party, acts to further extend the time for filing a petition for review before the prior extended time for filing a petition for review has expired.

(b) A request for translation of a proposed decision and order by an unrepresented limited-English proficient party

will be treated as a request for extension of time. When the board receives and mails the translated proposed decision and order, the board will also extend the time for filing a petition for review for all parties for an additional thirty days.

(4) **Contents.** A petition for review shall set forth in detail the grounds for review. A party filing a petition for review waives all objections or irregularities not specifically set forth therein. A general objection to findings of fact on the ground that the weight of evidence is to the contrary shall not be considered sufficient compliance, unless the objection shall refer to the evidence relied upon in support thereof. A general objection to all evidentiary rulings adverse to the party shall be considered adequate compliance with this rule. If legal issues are involved, the petition for review shall set forth the legal theory relied upon and citation of authority and/or argument in support thereof. The board shall, at the request of any party, provide a copy of the transcript of testimony and other proceedings at the hearing. The requesting party shall sign an acknowledgment that receipt of the transcript of proceedings shall constitute compliance by the board with any statute requiring service on the party of a certified copy of the testimony.

(5) **Action by board on petition for review.** (a) After receipt of a petition for review, the board shall enter an order within twenty days either: (i) Denying the petition for review, in which case the proposed decision and order shall become the final order of the board, or (ii) granting the petition for review, in which case the board shall within one hundred and eighty days from the date the petition for review was filed issue a final decision and order based upon its review of the record. (b) After twenty days of receipt. If a petition for review is not acted upon by the board it shall be deemed to have been granted. (c) Remands for further hearing.

After review of the record, the board may set aside the proposed decision and order and remand the appeal to the hearing process, with instructions to the industrial appeals judge to whom the appeal is assigned on remand, to dispose of the matter in any manner consistent with chapter 263-12 WAC.

(6) **Reply to petition for review.** Any party may, within ten days of receipt of the board's order granting review, submit a reply to the petition for review, a written brief, or a statement of position regarding the matters to which objections were made, or the board may, on its own motion, require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters to which objections were made, within such time and on such terms as may be prescribed.

AMENDATORY SECTION (Amending WSR 11-23-154, filed 11/22/11, effective 12/23/11)

WAC 263-12-165 Attorney's fees. (1) **Applications for attorney's fees.**

(a) For the fixing of attorney fees as provided by RCW 51.52.120, the board shall fix a reasonable attorney fee to be paid by the worker, crime victim or beneficiary for services rendered before the board, or before the department in a claim resolution structured settlement agreement, if written application therefor is made by the attorney, worker, crime

victim or beneficiary, within one year after the board's final decision and order, or approval of the claim resolution structured settlement agreement, is communicated to the party making the application. If such application for fixing of a fee is made by the attorney, it shall set forth therein the monetary amount which the attorney considers reasonable for all services rendered before the board in an appeal, or before the department in a claim resolution structured settlement agreement, and the justification supporting the requested fee. The board shall afford to all parties affected a minimum of ten days in which to submit comments and material information which may be helpful to the board in setting a fair and reasonable fee.

(b) For the ordered payment of attorney fees as provided by RCW 51.32.185 and 51.32.187, the board shall set the attorney fee in a manner consistent with applicable provisions of subsections (2) and (3) below.

(2) **Fee fixing criteria.** All attorney fees fixed by the board, where application therefor has been made, shall be established in accordance with Rule 1.5 of the Rules of Professional Conduct and the following general principles:

(a) Only one fee shall be fixed for legal services in any one appeal or claim resolution structured settlement agreement regardless of the number of attorneys representing the worker, crime victim or beneficiary, except that in cases of multiple beneficiaries represented by one or multiple attorneys the board has the discretion to set more than one attorney fee if so requested.

(b) The board shall defer fixing a fee until such time as information, which it deems sufficient upon which to base a fee, is available.

(c) A fee shall be fixed only in those cases where the attorney's services are instrumental in securing additional benefits to the worker, crime victim or beneficiary, sustaining the worker's or beneficiary's right to benefits upon an appeal by another party, or in securing a claim resolution structured settlement agreement.

(d) Where increased compensation is obtained, the fee may be fixed without regard to any medical benefits secured.

(e) In setting all fees, the following factors shall be carefully considered and weighed:

(i) Nature of the appeal or the claim resolution structured settlement agreement.

(ii) Novelty and complexity of the issues presented or other unusual circumstances.

(iii) Time and labor expended.

(iv) Skill and diligence in conducting the case or in securing the claim resolution structured settlement agreement.

(v) Extent and nature of the relief. In computing the extent of additional benefits, or the retention of benefits awarded by the department, the cost to the worker, crime victim or beneficiary of the litigation, i.e., medical examination and witness fees, shall be first deducted and the net benefits considered.

(vi) The amount of accrued time-loss payments as a result of proceedings before the board.

(vii) The prevalent practice of charging contingency fees in cases before the board.

(viii) The worker's or crime victim's circumstances and the remedial social purposes of the Industrial Insurance Act and of the Crime Victims Compensation Act, which are intended to provide sure and adequate relief to injured workers and crime victims and their families.

(f) In those cases where the payment of accumulated benefits is insufficient to allow payment of the fee set and allow the worker, crime victim or beneficiary to retain a reasonable monetary amount, the board may also set the schedule and manner in which such fee shall be payable.

(3) **Amount of fees.**

(a) Where additional compensation for permanent partial disability, loss of earning power, or total temporary disability is obtained as a result of settlement of the appeal on agreement of the parties prior to presentation of testimony, a fee of from 10 to 25 percent of the increased compensation due the worker, crime victim or beneficiary on the date of the board's order on agreement of the parties and by reason thereof shall be fixed after considering all factors.

(b) Where additional compensation for permanent partial disability, loss of earning power or total temporary disability is obtained after the presentation of testimony, a fee of from 10 to 30 percent of the increased compensation shall be fixed after considering all factors. This provision shall also apply to retroactive permanent total disability (pension) benefits.

(c) Where no additional compensation is obtained, but the worker or crime victim is relieved of the payment for medical benefits, a fee of from 10 to 25 percent of the amount the worker or crime victim is so relieved of paying shall be fixed after considering all factors.

(d) Where permanent total disability (pension) benefits are obtained for the worker or crime victim, or death benefits are obtained for survivors of a deceased worker or crime victim, 10 percent of the first \$40,000.00 of the pension reserve as calculated by the department of labor and industries, and 15 percent of the pension reserve in excess of \$40,000.00 shall constitute the usual fee, which may be decreased or increased after weighing all factors.

(e) Where indeterminate additional compensation is obtained because the claimant is successful in establishing a proper claim for benefits which was previously rejected or for which responsibility was denied, a fee in accordance with the preceding principles and factors shall be fixed.

(f) Where, upon an appeal by a party other than the worker or his or her beneficiary, the right to receive the benefits awarded by the department is affirmed, a fee in accordance with the preceding principles and factors shall be fixed.

(g) Where a claim resolution structured settlement agreement is approved by the board, fees for attorney's services are limited to fifteen percent of the total amount to be paid to the worker after the agreement becomes final.

(h) When a firefighter, law enforcement officer, or Hanford site worker has prevailed and the final decision is to allow the claim, making the opposing party responsible for the payment of reasonable costs, including attorney fees, the fees may be established based on an hourly rate.

(i) The number of hours expended must be supported by documentation. The board will disregard inflated hours or hours reflecting reimbursement for clerical functions.

(ii) All requests for costs must be accompanied by invoices and documentation including hourly breakdowns where applicable.

(4) **Excess fee unlawful.** Where the board, pursuant to written application by an attorney, worker, crime victim or beneficiary, fixes a reasonable fee for the services of the attorney in proceedings before this board, or before the department in securing a claim resolution structured settlement agreement, it is unlawful for the attorney to charge or receive any fee for such services in excess of that fee so fixed, per RCW 51.52.132.

AMENDATORY SECTION (Amending WSR 17-24-121, filed 12/6/17, effective 1/6/18)

WAC 263-12-195 Significant decisions. (1) The board's publication "*Significant Decisions*," prepared pursuant to RCW 51.52.160, contains the decisions or orders of the board which it considers to have an analysis or decision of substantial importance to the board in carrying out its duties. Together with the indices of decision maintained pursuant to WAC 263-12-016(4), "*Significant Decisions*" shall serve as the index required by RCW ((42.17.260 (4)(b) and (e)) 42.56.070 (5)(a) and (b).

(2) The board selects the decisions or orders to be included in "*Significant Decisions*" based on recommendations from staff and the public. Generally, a decision or order is considered "significant" only if it provides a legal analysis or interpretation not found in existing case law, or applies settled law to unusual facts. Decisions or orders may be included which demonstrate the application of a settled legal principle to varying fact situations or which reflect the further development of, or continued adherence to, a legal principle previously recognized by the board. Nominations of decisions or orders for inclusion in "*Significant Decisions*" should be submitted in writing to the executive secretary.

(3) "*Significant Decisions*" consists of decisions and orders identified as significant and headnotes summarizing the proposition or propositions for which the board considers the decisions or orders "significant." Indices are also provided to identify each decision or order by name and by subject.

(4) "*Significant Decisions*" and indices may be accessed at the board's web site, www.biia.wa.gov.