

WSR 24-03-022

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed January 5, 2024, 8:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-044.

Title of Rule and Other Identifying Information: WAC 182-508-0001 Washington apple health—Coverage options for adults not eligible under MAGI methodologies and 182-512-0920 SSI-related medical—Deeming/ allocation of income from nonapplying spouse.

Hearing Location(s): On February 27, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_oPnu_jscTpmcOi88CFPCRQ. If the link opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not earlier than February 28, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by February 27, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by February 16, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending WAC 182-508-0001 and 182-512-0920 to remove the maximum age restriction for apple health for workers with disabilities categorically needy coverage. This change is consistent with amendments made to RCW 74.09.540 and WAC 182-511-1050 effective January 1, 2020.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 74.09.540.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Paige Lewis, P.O. Box 42722, Olympia, WA 98504-2722, 360-725-0757.

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

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

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Changes to the proposed rule are dictated by RCW 74.09.540(2) "The authority may not establish eligibility restrictions for the buy-in program based upon a person's income or **maximum age.**" The proposed rule pertains to client program eligibility and does not impose any costs on businesses.

Scope of exemption for rule proposal:
Is fully exempt.

January 5, 2024
Wendy Barcus
Rules Coordinator

OTS-5083.1

AMENDATORY SECTION (Amending WSR 23-11-009, filed 5/4/23, effective 6/4/23)

WAC 182-508-0001 Washington apple health—Coverage options for adults not eligible under MAGI methodologies. (1) This chapter provides information on eligibility determinations for adults who:

- (a) Need a determination of eligibility on the basis of being aged, blind, or disabled;
- (b) Need a determination of eligibility based on the need for long-term institutional care or home and community-based services;
- (c) Are excluded from coverage under a modified adjusted gross income (MAGI)-based program as referenced in WAC 182-503-0510 on the basis of medicare entitlement;
- (d) Are not eligible for health care coverage under chapter 182-505 WAC due to citizenship or immigration requirements; or
- (e) Are not eligible for health care coverage under chapter 182-505 WAC due to income which exceeds the applicable standard for coverage.

(2) The agency determines eligibility for Washington apple health (WAH) noninstitutional categorically needy (CN) coverage under chapter 182-512 WAC for an adult who is age 65 or older, or who meets the federal blind or disabled criteria of the federal SSI program, and:

- (a) Meets citizenship/immigration, residency, and Social Security number requirements as described in chapter 182-503 WAC; and
- (b) Has CN countable income and resources that do not exceed the income and resource standards in WAC 182-512-0010.

(3) The agency determines eligibility for WAH health care for workers with disabilities (HWD) CN coverage for adults who meet the requirements described in WAC 182-511-1050, as follows:

- (a) Are age 16 (~~(through 64)~~) or older;
- (b) Meet citizenship/immigration, residency, and Social Security number requirements as described in chapter 182-503 WAC;
- (c) Meet the federal disability requirements described in WAC 182-511-1150; and
- (d) Are employed full- or part-time (including self-employment) as described in WAC 182-511-1200.

(4) The agency determines eligibility for WAH long-term care CN coverage for adults who meet the institutional status requirements defined in WAC 182-513-1320 under the following rules:

- (a) When the person receives coverage under a MAGI-based program and needs long-term care services in an institution, the agency follows rules described in chapter 182-514 WAC;

(b) When the person meets aged, blind, or disabled criteria as defined in WAC 182-512-0050 and needs long-term care services, the agency follows rules described in:

(i) Chapter 182-513 WAC, for an adult who resides in an institution; and

(ii) Chapter 182-515 WAC, for an adult who is determined eligible for WAH home and community-based waiver services.

(5) The agency determines eligibility for WAH noninstitutional CN or medically needy (MN) health care coverage for an adult who resides in an alternate living facility under rules described in WAC 182-513-1205.

(6) The agency determines eligibility for WAH-CN coverage under institutional rules described in chapters 182-513 and 182-515 WAC for an adult who:

(a) Has made a voluntary election of hospice services;

(b) Is not otherwise eligible for noninstitutional CN or MN health care coverage or for whom hospice is not included in the benefit service package available to the person; and

(c) Meets the aged, blind, or disabled criteria described in WAC 182-512-0050.

(7) The agency uses the following rules to determine eligibility for an adult under the WAH-MN program:

(a) Noninstitutional WAH-MN is determined under chapter 182-519 WAC for an adult with countable income that exceeds the applicable CN standard; and

(b) Non-SSI-related institutional WAH-MN long-term care coverage is determined under WAC 182-514-0263 for pregnant people and people age 20 and younger who:

(i) Meet institutional status requirements described in WAC 182-513-1320;

(ii) Do not meet blind or disabled criteria described in WAC 182-512-0050; and

(iii) Have countable income that exceeds the applicable CN standard.

(c) WAH-MN long-term care coverage is determined under WAC 182-513-1395 for an aged, blind, or disabled adult who resides in an institution and has countable income that exceeds the special income level (SIL).

(8) An adult is eligible for WAH-MN coverage when he or she:

(a) Meets citizenship/immigration, residency, and Social Security number requirements as described in WAC 182-503-0505;

(b) Has MN countable income that does not exceed the effective MN income standards in WAC 182-519-0050, or meets the excess income spenddown requirements in WAC 182-519-0110;

(c) Meets the countable resource standards in WAC 182-519-0050; and

(d) Is 65 years of age or older or meets the blind or disabled criteria of the federal SSI program.

(9) WAH-MN coverage is available for an aged, blind, or disabled ineligible spouse of an SSI recipient. See WAC 182-519-0100 for additional information.

(10) An adult who does not meet citizenship or alien status requirements described in WAC 182-503-0535 may be eligible for the WAH alien emergency medical program as described in WAC 182-507-0110.

(11) An adult is eligible for the state-funded medical care services (MCS) program when he or she meets the requirements under WAC 182-508-0005.

(12) A person who is entitled to medicare is eligible for coverage under a medicare savings program or the state-funded buy-in program when he or she meets the requirements described in chapter 182-517 WAC.

OTS-5084.2

AMENDATORY SECTION (Amending WSR 17-15-014, filed 7/6/17, effective 8/6/17)

WAC 182-512-0920 SSI-related medical—Deeming/allocation of income from nonapplying spouse. The agency considers the income of financially responsible persons to determine if a portion of that income is available to other household members.

(1) A portion of the income of a nonapplying spouse is considered available to meet the needs of a Washington apple health SSI-related applicant. A nonapplying spouse is defined as someone who is:

(a) Financially responsible for the SSI-related applicant as described in WAC 182-506-0015 and 182-512-0960. For apple health institutional and home and community based waiver programs, see WAC 182-513-1315;

(b) Living in the same household with the SSI-related applicant;

(c) Not receiving a needs based payment such as temporary assistance to needy families (TANF) or state-funded cash assistance (SFA); or

(d) Not related to SSI, or is not applying for apple health coverage including spouses receiving SSI.

(2) An ineligible spouse is the spouse of an SSI cash recipient and is either not eligible for SSI for themselves or who has elected to not receive SSI cash so that their spouse may be eligible. An SSI-related applicant who is the ineligible spouse of an SSI cash recipient is not eligible for apple health categorically needy (CN) health care coverage and must be considered for health care coverage under the apple health medically needy (MN) program or for a modified adjusted gross income-based program if the person does not receive medicare.

(3) When determining whether a nonapplying spouse's income is countable, the agency:

(a) Follows the income rules described in WAC 182-512-0600 through 182-512-0780;

(b) Excludes income described in WAC 182-512-0800 (2) through (10), and all income excluded under federal statute or state law as described in WAC 182-512-0860;

(c) Excludes work-related expenses described in WAC 182-512-0840, with the exception that the (~~sixty-five dollars~~) \$65 plus one half earned income deduction described in WAC 182-512-0840(2) does not apply;

(d) Deducts any court ordered child support which the nonapplying spouse pays for a child outside of the home (current support or arrears); and

(e) Deducts any applicable child-related income exclusions described in WAC 182-512-0820.

(4) The agency allocates income of the nonapplying spouse to nonapplying children who reside in the home as described in WAC 182-512-0820. Allocations to children are deducted first from the nonapplying spouse's unearned income, then from their earned income.

(a) For apple health CN medical determinations, allocations to children are not allowed out of the income of the SSI-related applicant, only from the income of the nonapplying spouse.

(b) For apple health MN medical determinations, allocations to children are allowed from the income of the SSI-related applicant if the applicant is unmarried.

(5) For apple health SSI-related CN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to one-half of the federal benefit rate (FBR), no income is deemed to the applicant. Compare the applicant's countable income to the one-person SSI categorically needy income level (CNIL) described in WAC 182-512-0010. For health care for workers with disabilities (HWD) applicants, compare to the one-person HWD standard described in WAC 182-505-0100 (1)(c).

(b) Greater than one-half of the FBR, then the entire nonapplying spouse's countable income is deemed to the applicant. Compare the applicant's income to the two-person SSI CNIL. For HWD applicants, compare to the two-person HWD standard described in WAC 182-505-0100 (1)(c).

(6) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(a) of this section:

(a) Allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's income; and

(b) Compare the net remaining income to the one-person SSI CNIL or the one-person HWD standard.

(7) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one (~~twenty dollar~~) \$20 general income exclusion to the combined amount. If there is less than (~~twenty dollars~~) \$20 of unearned income, the remainder of the (~~twenty dollar~~) \$20 general income exclusion is deducted from earned income.

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the (~~sixty-five dollar~~) \$65 plus one half of the remainder earned income deduction (described in WAC 182-512-0840(2)) to the combined amount.

(c) Add together the net unearned and net earned income amounts and compare the total to the two-person SSI CNIL described in WAC 182-512-0010 or the two-person HWD standard described in WAC 182-505-0100 (1)(c). If the income is equal to or below the applicable two-person standard, the applicant is eligible for apple health CN health care coverage.

(8) An SSI-related applicant (~~under the age of sixty-five~~) who is working, whose level of work activity and earnings is determined not to be "substantial gainful activity" in accordance with all applicable Social Security disability determination rules and standards, but who is not eligible for apple health CN coverage under the regular

apple health SSI-related program, may be considered for eligibility under the HWD program. For HWD program rules, see chapter 182-511 WAC.

(9) If the SSI-related applicant's countable income is above the applicable SSI CNIL standard, the agency or its authorized representative considers eligibility under the apple health MN program or under the HWD program if the person is (~~under the age of sixty-five and~~) working. An SSI-related applicant who meets the following criteria is not eligible for apple health MN coverage and eligibility must be determined under HWD or under a MAGI-based apple health program:

(a) The applicant is blind or disabled and, for a MAGI-based apple health program, under the age of (~~sixty-five~~) 65;

(b) The applicant's level of work activity and earnings is determined to be "substantial gainful activity" in accordance with all applicable Social Security disability determination rules and standards; and

(c) The applicant is not receiving a title II Social Security cash benefit based on blindness or disability.

(10) For SSI-related apple health MN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to the effective one-person MNIL described in WAC 182-519-0050, no income is deemed to the applicant and a portion of the applicant's countable income is allocated to the nonapplying spouse's income to raise it to the effective MNIL standard.

(b) Greater than the effective MNIL, then the amount in excess of the effective one-person MNIL is deemed to the applicant. Compare the applicant's income to the effective one-person MNIL.

(11) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (10) (a) of this section:

(a) Allocate income from the applicant to bring the income of the nonapplying spouse up to the effective one-person MNIL standard;

(b) Allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's remaining income;

(c) Allow a deduction for medical insurance premium expenses (if applicable); and

(d) Compare the net countable income to the effective one-person MNIL.

(12) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (10) (b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one (~~twenty-dollar~~) \$20 general income exclusion to the combined amount (if there is less than (~~twenty-dollars~~) \$20 of unearned income, the remainder of the (~~twenty-dollar~~) \$20 general income exclusion is deducted from earned income);

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the (~~sixty-five-dollar~~) \$65 plus one half of the remainder earned income deduction (described in WAC 182-512-0840(2)) to the combined amount;

(c) Add together the net unearned and net earned income amounts;

(d) Allow a deduction for medical insurance premium expenses (if applicable) per WAC 182-519-0100(5); and

(e) Compare the net countable income to the effective one-person MNIL described in WAC 182-519-0050. If the income is:

(i) Equal to or below the effective one-person MNIL, the applicant is eligible for apple health MN health care coverage with no spenddown.

(ii) Greater than the effective MNIL, the applicant is only eligible for apple health MN health care coverage after meeting a spenddown liability as described in WAC 182-519-0110.

(13) The ineligible spouse of an SSI-cash recipient applying for apple health MN coverage is eligible to receive the deductions and allocations described in subsection (10)(a) of this section.

WSR 24-03-034

PROPOSED RULES

DEPARTMENT OF COMMERCE

[Filed January 8, 2024, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-22-020.

Title of Rule and Other Identifying Information: Establishing rules for a new low-income home rehabilitation grant program enacted in SHB 1250, chapter 380, Laws of 2023.

Hearing Location(s): On February 29, 2024, at 10:00 a.m., virtually via https://wastatecommerce.zoom.us/webinar/register/WN_l87NCojctBe2lQhcXr00-g.

Date of Intended Adoption: March 10, 2024.

Submit Written Comments to: Nick Manning, P.O. Box 42525, Olympia, WA 98504, email nick.manning@commerce.wa.gov, by January 29, 2024.

Assistance for Persons with Disabilities: Contact Nick Manning, phone 564-200-4324, email nick.manning@commerce.wa.gov, by January 24, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The low-income home rehabilitation revolving loan program (loan program) was established in 2017 and served homeowners in rural areas with incomes at or below 200 percent of the federal poverty level. Upon the enactment of SHB 1250 (2023), the loan program terminated on July 1, 2023, and outstanding loans will be forgiven. Additionally, the law added a new section to chapter 43.330 RCW establishing a low-income home rehabilitation grant program and requires commerce to adopt rules for implementation of this new program. Chapter 365-175 WAC, which includes rules previously adopted for the implementation of the loan program, must be amended to include new rules for the newly established grant program and to reflect the termination of the loan program.

Reasons Supporting Proposal: The proposed amendments to chapter 365-175 WAC amend rules previously established for a loan program into a grant program, as required by SHB 1250. These program rules establish the guiding principles for the grant program.

Statutory Authority for Adoption: RCW 43.330.482, 43.330.483.

Statute Being Implemented: RCW 43.330.483.

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

Name of Proponent: Washington state department of commerce, governmental.

Name of Agency Personnel Responsible for Drafting: Liz Reichart, 1011 Plum Street S.E., P.O. Box 42525, Olympia, WA 98504-2525, 360-515-8194; Implementation and Enforcement: Gerardo Gomez-Gonzalez, 1011 Plum Street S.E., P.O. Box 42525, Olympia, WA 98504-2525, 360-764-0076.

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

A cost-benefit analysis is not required under RCW 34.05.328. Commerce is not a listed agency.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how

costs were calculated. The program for which these rules are being written provides grants to individual households. Some businesses may be implicated by the rule as "rehabilitation agencies" [and] can provide program grants if approved by commerce and when certain eligibility criteria are met. However, the proposed rule will not impose any costs on such businesses because the rule being amended already required such businesses to ensure eligibility criteria are met and the changes will not result in additional costs.

January 8, 2024
Amanda Hathaway
Rules Coordinator

OTS-5136.1

Chapter 365-175 WAC
RULES FOR LOW-INCOME HOME REHABILITATION ((~~REVOLVING LOAN~~)) GRANT PROGRAM

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-010 Authority. These rules implement RCW 43.330.480 through 43.330.488 and are adopted under the authority in RCW ((43.330.482)) 43.330.483.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-020 Purpose. To set forth the conditions and procedures for how funds for the low-income home rehabilitation ((~~revolving loan~~)) grant program will be administered and used to serve low-income clients living in rural areas.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-030 Definitions. "Commerce" means the Washington state department of commerce.

"Consumer price index" means the annual average consumer price index for all urban consumers (CPI-U) published by the Bureau of Labor Statistics of the United States Department of Labor.

"Home" means a single-family residential structure.

"Home rehabilitation" means residential repairs and improvements that address health, safety, and durability issues in existing housing in rural areas.

"Homeowner" means a person who owns and resides permanently in the home the person occupies.

"Low-income" means persons or households with income at or below ~~((two hundred))~~ 200 percent of the federal poverty level as ~~((adjusted for family size and))~~ determined annually by the federal Department of Health and Human Services, 80 percent of the area median income for the county in which the home receiving rehabilitation is located, or 60 percent of the state median income, whichever is greater, and as adjusted for family size.

"Rehabilitation agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for rehabilitating residences under this chapter and has been approved by the department.

"Rural areas" means areas of Washington state defined as nonentitlement areas by the United States Department of Housing and Urban Development.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-040 What agencies are eligible to use funds from the low-income home rehabilitation (~~(revolving loan)~~) grant program? A local agency must apply to and receive approval from commerce to become an authorized rehabilitation agency. The application must show that the agency is eligible to participate and must show that the agency has established procedures to administer the program in compliance with the statute and these rules. Commerce will give preference to local agencies that are grantees of the state low-income weatherization assistance program. Authorized rehabilitation agencies must comply with reporting requirements established in grant agreements and must adopt operating procedures that are subject to approval by commerce.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-050 How do authorized rehabilitation agencies receive funds from the low-income home rehabilitation (~~(revolving loan)~~) grant fund? (1) Commerce will initially allocate funds to authorized rehabilitation agencies using a formula developed for the low-income rural rehabilitation (~~(revolving loan)~~) grant fund. Initial funding levels may be adjusted based on the capacity and capability of each rehabilitation agency as determined through the application process.

(2) Commerce may reallocate funds to other authorized rehabilitation agencies if doing so will better achieve the objectives of the program.

(3) Authorized rehabilitation agencies will receive a grant for funds each biennium funding is available. Funding is subject to a grant agreement between commerce and the authorized rehabilitation agency.

(4) Authorized rehabilitation agencies must report to commerce quarterly or in line with reporting for federal weatherization grants.

Commerce will provide reporting instructions to authorized rehabilitation agencies. Timely reporting will be considered when determining future funding opportunities.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-060 What clients are eligible to receive program loans from the low-income home rehabilitation ((~~revolving loan~~)) grant program? (1) An authorized rehabilitation agency may provide a program ((~~loan~~)) grant to a person only if the agency determines that all of these eligibility criteria are met:

(a) The person owns and occupies the home that will receive the rehabilitation services.

(b) The income of the person is at or below ((~~two hundred~~)) 200 percent of the federal poverty level ((, as adjusted for family size and)) as determined annually by the federal Department of Health and Human Services, 80 percent of the area median income for the county in which the home receiving rehabilitation is located, or 60 percent of the state median income, whichever is greater, and as adjusted for family size.

(c) The property is located in a rural area.

(2) An authorized rehabilitation agency must give priority to rehabilitation applications from persons who are senior citizens, persons with disabilities, families with children five years old and younger, and veterans.

AMENDATORY SECTION (Amending WSR 18-17-140, filed 8/21/18, effective 9/21/18)

WAC 365-175-070 What criteria must a program ((~~loan~~)) grant meet? (1) ((~~The loan amount may not exceed any of the following limits:~~

~~(a) Forty thousand dollars.~~

~~(b) The direct costs paid to one or more rehabilitation agency for necessary improvements, plus seven percent for administrative costs to the authorized rehabilitation agency.~~

~~(c) An amount equal to eighty percent of the assessed value of the property.~~

~~(d) An amount equal to eighty percent of the assessed value of the property minus the sum of the unpaid principal amounts of all existing loans that are secured by the property. (For example, if the assessed value of the property is \$100,000 and an existing mortgage has an unpaid principal amount of \$50,000, the limitation under this is \$30,000, which is eighty percent of \$100,000 minus \$50,000.)~~

~~(2) The loan must be secured by a lien against the property that is in favor of the Washington department of commerce and subordinate to no lien other than a first mortgage or deed of trust or liens for general taxes, amounts deferred under chapter 84.37 or 84.38 RCW, or special assessments as defined in RCW 84.38.020.~~

~~(3) The loan must specify a rate of interest equal to the annual change in consumer price index for the prior calendar year. (For loans closed in calendar year 2018, the interest rate is 2.1 percent.)~~

~~(4) The loan must require repayment of principal, interest, and any administrative fee upon the sale or any other change in ownership of the property.~~

~~(5) The loan must provide the borrower with the option for early repayment without prepayment penalty.~~

~~(6) Authorized rehabilitation agencies must file lien paperwork in compliance with local recording office requirements and consistent with operating procedures approved by commerce.) The cost of the home rehabilitation must be the lesser of:~~

~~(a) Eighty percent of the assessed or appraised value of the property post rehabilitation, whichever is greater;~~

~~(b) Fifty thousand dollars.~~

~~(2) The maximum amount that may be granted under this program may not exceed the cost of the home rehabilitation as provided in subsection (1) of this section.~~

WSR 24-03-042

PROPOSED RULES

PENINSULA COLLEGE

[Filed January 9, 2024, 8:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-018.

Title of Rule and Other Identifying Information: Chapter 132A-104 WAC, Board of trustees.

Hearing Location(s): On March 11, 2024, at 10:30 a.m., at Peninsula College, Cornaby Center A-12, 1502 East Lauridsen Boulevard, Port Angeles, WA 98362.

Date of Intended Adoption: March 26, 2024.

Submit Written Comments to: Trisha Haggerty, 1502 East Lauridsen Boulevard, Port Angeles, WA 98362, email thaggerty@pencol.edu, by March 7, 2024.

Assistance for Persons with Disabilities: Contact Julie Huebner, phone 360-417-6373, email ssd@pencol.edu, by March 7, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This WAC needs to be updated to reflect the changes in board meeting dates and communication methods.

Reasons Supporting Proposal: Update the codification of rules regarding the board of trustees.

Statutory Authority for Adoption: RCW 28B.50.130, 28B.50.140, and 34.05.010.

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

Name of Agency Personnel Responsible for Drafting: Trisha Haggerty, 1502 East Lauridsen Boulevard, Port Angeles, WA 98362, 360-417-6201; Implementation and Enforcement: Suzy Ames, 1502 East Lauridsen Boulevard, Port Angeles, WA 98362, 360-417-6201.

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

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

January 9, 2024
Trisha Haggerty
Rules Coordinator

OTS-5142.2

AMENDATORY SECTION (Amending WSR 99-15-072, filed 7/20/99, effective 8/20/99)

WAC 132A-104-011 The board of trustees. The government of Community College District No. 1 (Peninsula College) is vested in a five-person board of trustees. The trustees are appointed by the governor and serve five-year terms and/or until their successors are appointed.

~~((At its annual October meeting, the board elects a chairperson and vice chairperson who serve for a term of one year and until their successors are elected from the membership of the board.))~~ The board annually elects from its membership a chair and vice chair to serve for the ensuing year.

AMENDATORY SECTION (Amending WSR 99-15-072, filed 7/20/99, effective 8/20/99)

WAC 132A-104-016 Meetings of the board of trustees. The board ~~((customarily holds meetings on the second Tuesday of each month at such place as it may designate))~~ of trustees customarily holds a regular meeting at such time and place as it may designate approximately every four weeks from February through June and from October through December. Notice of the time and place of all regular and special meetings shall be governed by the requirements of the Open Public Meetings Act, chapter 42.30 RCW.

(1) All regular and special meetings of the board of trustees shall be announced and held in accordance with chapter 42.30 RCW (the Open Public Meetings Act).

(2) No official business shall be conducted by the board of trustees except during a regular or special meeting.

(3) The board of trustees may convene in executive session whenever it is deemed necessary pursuant to RCW 42.30.110.

WSR 24-03-051
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed January 10, 2024, 11:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-20-065.

Title of Rule and Other Identifying Information: WAC 388-850-020 Plan development and submission, 388-850-025 Program operation—General provisions, 388-850-035 Services—Developmental disabilities, and 388-850-045 What is the formula for distribution of funding to the counties?

Hearing Location(s): On February 27, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. Please see the department of social and health services (DSHS) website for the most up-to-date information.

Date of Intended Adoption: Not earlier than February 28, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on February 27, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on February 13, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration amended these rules to increase the percentage of a county's allocated funds for county administrative expenses, to remove text that duplicates requirements dictated by statute, and to update the distribution formula and other outdated service names and processes.

Reasons Supporting Proposal: These amendments are intended to increase the percentage of allocated funds for county administrative expenses and to simplify the process for county plan development.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.120 and 71A.14.050.

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

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: Sherry Richards, P.O. Box 45310, Olympia, WA 98504-5310, 360-628-3044.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, fax 360-407-0955, TTY 1-800-833-6388, email chantelle.diaz@dshs.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

January 10, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5014.1

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

WAC 388-850-020 Plan development and submission. ~~((1) All dates in this section refer to the twenty-four month period prior to the start of the state fiscal biennium.~~

~~(2) Before July 1, in the odd year of each biennium, the department shall negotiate with and submit to counties the biennial plan guidelines.~~

~~(3) Before July 1, the department shall submit to counties needs assessment data, and before December 31, updated needs assessment data in the odd year of each biennium.~~

~~(4) Before April 1, of the even year of each biennium, each county shall submit to the department a written plan for developmental disabilities services for the subsequent state fiscal biennium. The county's written plan shall be in the form and manner prescribed by the department in the written guidelines.~~

~~(5) Within sixty days of receipt of the county's written plan, the department shall acknowledge receipt, review the plan, and notify the county of errors and omissions in meeting minimum plan requirements.~~

~~(6) Within thirty days after receipt, each county shall submit a response to the department's review when errors and omissions have been identified within the review.~~

~~(7) Before December 15 of the even year of each biennium, the department shall announce the amount of funds included in the department's biennial budget request to each county. The department shall announce the actual amount of funds appropriated and available to each county as soon as possible after final passage of the Biennial Appropriations Act.~~

~~(8)) (1) Each county ((shall)) must submit to the department a ((contract proposal within sixty)) written plan each biennium no more than 60 days ((of the announcement by the department of the actual amount of funds appropriated and available)) after the initial biennial contract.~~

~~((9)) (2) The department may modify deadlines for submission of county plans ((and responses to reviews or contract proposals)) when, in the department's judgment, the modification enables the county to improve the program ((or)) planning process.~~

~~((10)) (3) The department may authorize the county to continue providing services in accordance with the previous plan and contract((,)) and reimburse at the average level of the previous contract, in order to continue services until the new contract is executed.~~

AMENDATORY SECTION (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

WAC 388-850-025 Program operation—General provisions. (1) The provisions of this section shall apply to all programs operated under authority of the ((acts)) act.

(2) The county and all contractors and subcontractors must comply with all applicable law or rule governing the department's approval of payment of funds for the programs. Verification may be in the manner and to the extent requested by the assistant secretary.

(3) State funds (~~(shall)~~) must not be paid to a county for costs of services provided by the county or other person or organization who or which was not licensed, certified, (~~(and)~~) or approved as required by law or by rule whether or not the assistant secretary approved the plan(~~(was approved by the secretary)~~).

(4) The assistant secretary may impose such reasonable fiscal and program reporting requirements as the assistant secretary deems necessary for effective program management.

(5) **Funding.**

(a) The department and county (~~(shall)~~) must negotiate and execute a contract before the department provides reimbursement for services under contract, except as provided under WAC 388-850-020(~~(+10)~~) (3).

(b) Payments to counties (~~(shall)~~) must be made on the basis of (~~(vouchers)~~) information submitted to the department for costs incurred under the contract. The department (~~(shall)~~) must specify the form and content of the (~~(vouchers)~~) information.

(c) The assistant secretary may make advance payments to counties, where such payments would facilitate sound program management. (~~(The secretary shall withhold advance payments from counties failing to meet the requirements of WAC 388-850-020 until such requirements are met. Any county failing to meet the requirements of WAC 388-850-020 after advance payments have been made shall repay said advance payment within thirty days of notice by the department that the county is not in compliance.)~~)

(d) The assistant secretary may withhold all or part of a subsequent monthly disbursement to a county if (~~(if)~~) the department receives evidence a county or subcontractor performing under the contract is:

(i) Not in compliance with applicable state law or rule; (~~(or)~~)

(ii) Not in substantial compliance with the contract; or

(iii) Unable or unwilling to provide such records or data as the assistant secretary may require(~~(, then the secretary may withhold all or part of subsequent monthly disbursement to the county until such time as satisfactory evidence of corrective action is forthcoming)~~).

(e) The department may withhold funds until satisfactory evidence of corrective action is received. Such withholding (~~(or denial)~~) of funds (~~(shall be)~~) is subject to appeal under the Administrative Procedure Act (chapter 34.05 RCW).

(6) **Subcontracting.** A county may subcontract for the performance of any of the services specified in the contract. (~~(The)~~) A county's (~~(subcontracts shall)~~) subcontract must include:

(a) A precise and definitive work statement, including a description of the services provided;

(b) The subcontractor's specific agreement to abide by the (~~(acts)~~) act and the rules;

(c) Specific authority for the assistant secretary and the state auditor to inspect all records and other material the assistant secretary deems pertinent to the subcontract(~~(+)~~) and (~~(agreements)~~) agreement by the subcontractor that such records will be made available for inspection;

(d) Specific authority for the assistant secretary to make periodic inspection of (~~(the subcontractor's program or)~~) premises in the

community where services are provided in order to evaluate performance under the contract between the department and the county; and

(e) Specific agreement by the subcontractor to provide such program and fiscal data as the assistant secretary may require.

~~((7) **Records: Maintenance.** Client records shall be maintained for every client for whom services are provided and shall document:~~

~~(a) Client demographic data;~~

~~(b) Diagnosis or problem statement;~~

~~(c) Treatment or service plan; and~~

~~(d) Treatment or services provided including medications prescribed.~~

~~(8) **Liability.**~~

~~(a) The promulgation of these rules or anything contained in these rules shall not be construed as affecting the relative status or civil rights or liabilities between:~~

~~(i) The county and community agency; or~~

~~(ii) Any other person, partnership, corporation, association, or other organization performing services under a contract or required herein and their employees, persons receiving services, or the public.~~

~~(b) The use or implied use herein of the word "duty" or "responsibility" or both shall not import or imply liability other than provided for by the statutes or general laws of the state of Washington, to any person for injuries due to negligence predicated upon failure to perform on the part of an applicant, or a board established under the acts, or an agency, or said agency's employees, or persons performing services on said agency's behalf.~~

~~(c) Failure to comply with any compulsory rules shall be cause for the department to refuse to provide the county and community agency funds under the contract.)~~

AMENDATORY SECTION (Amending WSR 05-11-015, filed 5/9/05, effective 6/9/05)

WAC 388-850-035 Services—Developmental disabilities. (1) ~~((A county may purchase and provide services listed under chapter 71A.14 RCW.~~

~~(2))~~ The department ~~((shall pay))~~ pays a county for department_authorized services provided to ~~((an))~~ eligible ~~((developmentally disabled person))~~ people with developmental disabilities.

~~((3))~~ (2) A county may purchase or provide authorized services. Authorized services ~~((may))~~ include ~~((, but are not limited to))~~:

(a) ~~((Early childhood intervention))~~ Childhood development services;

(b) Supported employment services;

(c) Community ~~((access))~~ inclusion services;

~~((d) Residential services;))~~

~~((e))~~ (d) Individual ~~((evaluation))~~ technical assistance; and

~~((f) Program evaluation;)~~

~~(g) County planning and administration; and~~

~~(h) Consultation and staff development))~~

(e) Residential Services.

(3) The county must provide indirect services. Indirect services include:

(a) Community information and education;

- (b) Training and other activities;
- (c) County planning and administration; and
- (d) Program evaluation.

AMENDATORY SECTION (Amending WSR 10-13-164, filed 6/23/10, effective 7/24/10)

WAC 388-850-045 What is the formula for distribution of funding to the counties? (1) For the ~~((purposes))~~ purpose of this section, "county" ~~((shall mean))~~ means the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

(2) The allocation of funds to counties ~~((shall be))~~ is based on the following criteria:

(a) The distribution of funds provided by the legislature or other sources ~~((shall be))~~ is based on a distribution formula which best meets the needs of the population to be served.

(b) The distribution formula takes into consideration ~~((requirements of clients residing in an ICF/MR or clients on one of the division's Title XIX home and community-based waivers, the number of children eligible for birth to three services, special education enrollment,))~~ the number of ~~((individuals))~~ clients receiving county-funded services ~~((, the number of individuals enrolled with the division and the general population of the county))~~ or child development services funded through maintenance of effort, and the number of DDA-eligible clients entering long-term services.

~~((c) The ability of the community to provide funds for the developmental disability program provided in chapter 71A.14 RCW may be considered with any or all of the above.))~~

(3) A county may ~~((utilize seven))~~ use 10% or less ~~((percent))~~ of the county's allocated funds for county administrative expenses. A county may ~~((utilize))~~ use more than ~~((seven percent))~~ 10% for county administration with approval ~~((of the division director))~~ from the DDA assistant secretary.

WSR 24-03-061

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed January 12, 2024, 8:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-11-065.

Title of Rule and Other Identifying Information: Emergency medical services (EMS) and trauma care systems chapter updates. The department is proposing amendments to update and align requirements with national standards in WAC 246-976-010 through 246-976-182, 246-976-260 through 246-976-310, 246-976-330 through 246-976-395, 246-976-920, 246-976-960 and 246-976-970; and proposing new WAC 246-976-026, 246-976-139, and 246-976-261.

Hearing Location(s): On March 7, 2023, at 9:00 a.m., at the Washington State Department of Health, 111 Israel Road S.E., Town Center 2, Room 166, Tumwater, WA 98501; or via Zoom. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_Okt_TvufQka8j3B5LudthA. After registering, you will receive a confirmation email containing information about joining the webinar. The department of health (department) will be offering a hybrid hearing. You may attend the hybrid hearing virtually or in person. You may also submit comments in writing.

Date of Intended Adoption: March 14, 2024.

Submit Written Comments to: Catie Holstein, EMS Director, P.O. Box 47853, Olympia, WA 98504-7853, email <https://fortress.wa.gov/doh/policyreview/>, fax 360-236-2830, by March 7, 2024.

Assistance for Persons with Disabilities: Contact Jill Hayes, phone 360-236-2838, fax 360-236-2830, TTY 800-833-6388 or 711, email jill.hayes@doh.wa.gov, by February 22, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of health (department) identified updates, revisions, and housekeeping items needed for this chapter. By doing so, the department will satisfy the requirements of RCW 43.70.041, which directs the department to establish a formal review process of existing rules every five years to reduce the regulatory burden on businesses without compromising public health and safety. The department is proposing amendments to align with current national standards, make rules more clear, concise, and organized, propose changes to address barriers to initial and renewal application processes, and respond to new legislative requirements.

It is anticipated that the amendments to existing rules and new sections will ensure regulations and standards are clear, concise, and reflect current standards of care and best practice for the benefit and safety of the public.

Reasons Supporting Proposal: The current rules in WAC 246-976-010 through 246-976-182, 246-976-260 through 246-976-310, 246-976-330 through 246-976-395, 246-976-920, 246-976-960, and 246-976-970 have not been updated since 2011. Since then, substantial changes to EMS minimum standards promoted by nationally recognized EMS organizations have occurred. The EMS scope of practice has evolved significantly in the last five years as EMS has been used as a force multiplier to help address the gaps and needs of the evolving health care system. During the coronavirus disease 2019 (COVID-19) pandemic, EMS played an integral role in mitigation of the public health threat. In partnership with public health, the EMS scope of practice and environment of practice was expanded and the department is seeking to codify some of the

changes to allow EMS to continue to support public health with emerging and ongoing public health threats. The department is scrutinizing some rules to identify standards that can be reduced in response to concerns from interested parties regarding barriers and delays for obtaining an EMS certification and instructor recognition, which primarily impacts the ability for rural EMS services who are dependent on volunteers with recruitment and retention of certified EMS personnel. The loss of a volunteer EMS workforce is a significant concern, and the department is working to reduce the burden of some standards on rural EMS services.

The proposed rule reflects a number of statutory amendments that were made by the Washington state legislature from 2017 through 2022, including:

- ESSB 5751 (chapter 70, Laws of 2017)
- SHB 1258 (chapter 295, Laws of 2017)
- SSB 5380 (chapter 314, Laws of 2019)
- ESHB 1551 (chapter 76, Laws of 2020)
- ESSB 5229 (chapter 276, Laws of 2021)
- SHB 1276 (chapter 69, Laws of 2021)
- SHB 1893 (chapter 136, Laws of 2022)

In addition to proposed changes to existing rules, the department is proposing new WAC 246-976-026, 246-976-139, and 246-976-261.

Statutory Authority for Adoption: RCW 18.71.205, 18.73.081, 43.70.040, and 70.168.050; ESSB 5751 (chapter 70, Laws of 2017), SHB 1258 (chapter 295, Laws of 2017), ESHB 1551 (chapter 76, Laws of 2020), ESSB 5229 (chapter 276, Laws of 2021), SSB 5380 (chapter 314, Laws of 2019), SHB 1276 (chapter 69, Laws of 2021), and SHB 1893 (chapter 136, Laws of 2022).

Statute Being Implemented: RCW 18.71.205, 18.73.081, and 70.168.050.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Catie Holstein, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2841.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Catie Holstein, P.O. Box 47853, Olympia, WA 98504-7853, phone 360-236-2841, fax 360-236-2830, TTY 800-833-6388 or 711, email HSQA.EMS@doh.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors,

make address or name changes, or clarify language of a rule without changing its effect; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemption(s): Rule sections are exempt as follows:

- RCW 34.05.310 (4) (b) - WAC 246-976-340.
- RCW 34.05.310 (4) (c) - WAC 246-976-024, 246-976-290.
- RCW 34.05.310 (4) (d) - WAC 246-976-010, 246-976-024, 246-976-026, 246-976-144, 246-976-270, 246-976-290, 246-976-310, 246-976-340, 246-976-390, 246-976-920, 246-976-960.
- RCW 34.05.310 (4) (g) (ii) - WAC 246-976-139, 246-976-171, 246-976-395.
- RCW 19.85.024(4) - WAC 246-976-031, 246-976-032, 246-976-033, 246-976-041, 246-976-142, 246-976-143, 246-976-161, 246-976-162, 246-976-163, 246-976-182, 246-976-260, and 246-976-300.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: [See below.]

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

Small Business Economic Impact Statement

The department is proposing amendments to EMS rules in chapter 246-976 WAC. The proposed amendments:

1. Align with current national standards.
2. Clarify scope of practice for certified EMS providers and propose minimum standards for provisional certification of EMS providers (SHB 1893 EMTs and public health, 2021-22).
3. Update education requirements for certified EMS providers (SHB 1258 Concerning EMS and persons with disabilities, 2017-18 and ESHB 1551 Modernizing control of certain communicable diseases HIV/AIDS education repeal, 2019-20, and ESSB 5229 Health equity continuing education for healthcare professionals, 2021-22).
4. Address barriers to initial and renewal application processes for prehospital services licenses and EMS provider certification.
5. Reduce barriers to obtain recognition as a senior EMS instructor.
6. Clarify staffing standards for EMS services authorized to use nonmedically trained drivers (ESSB 5751 Concerning personnel requirements for municipal ambulance services, 2017-18).
7. Clarify roles and responsibilities for medical program directors, and local and regional EMS and trauma care councils.
8. Clarify licensing standards for EMS services for reporting to the statewide EMS data registry and roles and responsibilities for medical program directors, and regional councils (SSB 5380 Concerning opioid use disorder treatment, prevention, and related services, 2019-20).
9. Propose minimum standards for emergency services supervisory organizations to use certified EMS providers (SHB 1276 EMS in diversion centers, 2021-22).
10. Make rules more clear, concise, and organized.
11. Add new sections as required.

The current rules: Establish the standards and qualifications for the issuance, suspension, and revocation of an EMS service license and

trauma verification, EMS provider certification, EMS instructor recognition, EMS training program and training course approval, and minimum prerequisites required for a person to attend an initial EMS training course; establish the minimum requirements for continuing education and scope of practice and specify the provisions of specialized training for certified EMS providers; prescribe the roles and responsibilities of EMS physician medical program directors and establish qualifications for the issuance, suspension, and revocation of the medical program director certification; and prescribe the minimum roles and responsibilities for local and regional EMS and trauma care councils.

The department identified updates, revisions, and housekeeping items needed for this chapter. By doing so, the department will satisfy the requirements of RCW 43.70.041, enacted and codified in 2013, which directs the department and other state agencies to establish a formal review process of existing rules every five years to reduce the regulatory burden on businesses without compromising public health and safety.

It is anticipated that the proposed amendments to existing rules and establishing new sections will ensure regulations and standards that are clear, concise, and reflect current standards of care and best practice for the benefit and safety of the public.

The department reviewed the current rules in chapter 246-976 WAC, which have not been updated since 2011.

Since then, substantial changes to EMS minimum standards promoted by nationally recognized EMS organizations have occurred. The EMS scope of practice has evolved in the last five years, as EMS has been used as a force multiplier to help address the gaps and needs of the evolving health care system. During the 2019 COVID-19 pandemic, EMS played an integral role in mitigation of the public health threat. EMS worked in partnership with public health expanding their scope of practice and environment of practice under provisions of the declared emergency. The department is seeking to codify some of these changes to allow EMS to continue to support public health with emerging and ongoing public health threats.

The department is scrutinizing some rules to identify standards that can be reduced in response to concerns from partners and interested parties regarding barriers and delays for obtaining an EMS certification and instructor recognition which primarily impacts the ability for rural EMS services who are dependent on volunteers with recruitment and retention of certified EMS personnel. The loss of a volunteer EMS workforce is a significant concern, and the department is working to reduce the burden of some standards on rural EMS services.

The roles and responsibilities of EMS medical program directors (MPD) need to be consolidated into one area of rule, revised, and updated to be clearer about what the MPD's role is and what the MPD is authorized to do. Medical oversight of EMS has evolved with the implementation of EMS partnerships with other health care providers to respond to behavioral health, public health, and establishing community paramedic programs. The role of the MPD needs to be clarified in response to new legislation that establishes a new statewide EMS data system.

The roles and responsibilities of local and regional EMS and trauma care councils have evolved because of the rapid changes in our health care system and the COVID-19 pandemic. The department is seeking to update minimum standards and conduct general housekeeping in the rules for local and regional councils to reflect current needs and expectations for council activities.

The department has heard complaints from interested parties about the overall organization of the EMS rules, that the rules are confusing and unclear, sometimes conflict with each other, that multiple rules must be referenced to understand standards or processes for one thing, or that they cannot easily find a rule that applies to their situation. The department is seeking to address the concerns by up-staging, clarifying, and reorganizing rules to be more user friendly.

The department is responding to new legislation and proposes to make necessary updates, revisions, and additions to the EMS rules accordingly.

The probable compliance requirements that a business is likely to need include:

- Updates to licensing standards for ambulance, aid services, vehicles, and medical equipment to align with national standard updates.
- Updates to licensing standards for staffing and establishing minimum standards for reporting to the new statewide EMS data registry in response to new legislation (ESSB 5751 Concerning personnel requirements for municipal ambulance services, 2017-18, SSB 5380 Concerning opioid use disorder treatment, prevention, and related services, 2019-20).
- Minimum standards for emergency services supervisory organizations (ESSO), a type of aid service to use certified EMS providers in response to new legislation (SHB 1276 EMS in diversion centers, 2021-22).
- Updates to minimum standard for EMS training programs in response to national standards updates.
- Updates to verification standards for ambulance, aid services, vehicles, and medical equipment to align with national standard updates.
- Updates to clarify roles and responsibilities of the local and regional EMS and trauma care councils in response to changes in national standards, and the needs of the EMS and trauma care system post pandemic.

The proposed rules do not impose additional requirements for new kinds of professional services that a small business is likely to need to comply with the proposed rule that EMS organizations and training programs do not already have. EMS organizations have an EMS service supervisor and staff operating in an administrative capacity to manage the business aspects of their organizations. Training programs have a training program director responsible for providing oversight of the training program and managing the administrative aspects of the program.

Identification and summary of which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS).

SBEIS Table 1. Summary of businesses required to comply to the proposed rule:

NAICS Code (4, 5, or 6 digit)	NAICS Business Description	Number of Businesses in Washington State	Minor Cost Threshold
621910	Ambulance Services	99	\$17,473.00
611519	Other Technical and Trade Schools	216	\$2,131.46
611310	Colleges, Universities, and Professional Schools	32	\$17,202.82

Analysis of probable costs of businesses in the industry to comply to the proposed rule including the cost of equipment, supplies, labor, professional services, and administrative costs. The analysis considers if compliance with the proposed rule will cause businesses in the industry to lose sales or revenue.

Portions of the rule proposal are exempt from requirements of the Regulatory Fairness Act (chapter 19.85 RCW). Exemptions are identified above.

The following sections have been included in the analysis because they pertain to businesses in the industry.

The department does not anticipate that compliance with the proposed rules will cause ambulance services or approved EMS training programs to lose sales or revenue due to compliance with the proposed rules.

WAC 246-976-022 EMS training program requirements, approval, re-approval, discipline.

Description: WAC 246-976-022 establishes minimum standards for EMS training programs to be approved and reapproved and includes provisions for discipline.

Proposed changes exempt from analysis under RCW 34.05.328

(5) (b) (iii) "Rules adopting ... without material change ... national consensus codes" and RCW 34.05.328 (5) (b) (iv) "Rules that only ... clarify language of a rule without changing its effect.":

- Reorganizes content to be in a more logical order and removes tables which interested parties felt were difficult to navigate.
- Adds existing statutory requirement to the rule that training programs must contact the Washington workforce training and education coordinating board (WWTECB).
- Removes individual specific policies and procedures from the rule.
- Clarifies existing requirements for training programs to obtain a recommendation for approval from the MPD in the county(s) where the program will reside and the local or regional EMSTC council without changing the existing requirement's effect. Incorporates material from national consensus codes that establish industry standards and regulate the same subject matter.

Proposed changes analyzed:

1. Description: Adds the requirement that training programs must allow students who successfully pass their course an opportunity to take the certification examination and that for basic life support (BLS), intermediate life support (ILS), and advanced life support (ALS) level courses, the training program must conduct the psychomotor examinations and competence assessments as required by the department.

Cost: The department anticipates that requiring training programs for BLS, ILS, and ALS level courses to conduct the psychomotor examinations and competence assessments will not present an additional cost to BLS or ILS programs but will present an additional cost to ALS programs that are not currently offering these until the National Registry of Emergency Medical Technicians sunsets the psychomotor examination requirement in 2024. Once the psychomotor examination requirement is sunset, training programs will be expected to provide students opportunities to demonstrate proficiency in psychomotor skills throughout the duration of the course instead of taking a summative psychomotor examination to qualify for certification.

The cost for a training program to begin administering the psychomotor exam will vary. The cost will depend on the level of the ex-

amination (emergency medical responder, emergency medical technician (EMT), advanced emergency medical technician, or paramedic level), the availability of volunteers and EMS evaluators to staff the examination, and the degree of other community support, such as donations of facilities, supplies, etc. The department provides staff that operate as proctors for the examination at no cost to training programs.

The department used the following estimates in the cost calculation:

- In May 2022, the median pay for Washington state EMTs was \$36,680 per year (\$17.63 per hour) and for paramedics was \$49,090 per year (\$23.60 per hour).^{1[1], 2[2]}
- Conducting a psychomotor examination is estimated to require six to ten EMS evaluators depending on the level of the examination.
- The examination typically takes eight hours to complete depending on the number of students taking the examination.

The department estimates the cost of conducting one psychomotor examination:

- For EMT level, ranges between \$846 and \$1,410.
- For Paramedic level, ranges between \$1,133 and \$1,888.

The department has no way to estimate how many psychomotor examinations will take place in any given year.

2. Description: Amends the requirement for maintaining training records from four to seven years and allows for these records to be in electronic as well as paper format.

Cost: The department does not anticipate that the proposed amendment will place additional financial burden on training programs. The amendment would allow programs to use electronic instead of paper recordkeeping and would require records be kept for seven years (two recertification cycles for certified EMS providers) or for the duration of their organization's required record retention schedule, whichever is greater. The department anticipates that the proposed allowance for programs to retain records in either electronic format or paper could be a cost savings for some programs, as it could reduce filing space and staff time in managing paper documents.

3. Description: Adds the requirement that the training program provide students access to the Washington state EMS student survey and clarifies what information training programs must provide the department on their annual report.

Cost: There is no additional cost to providing students access to the Washington state EMS student survey and clarifying what must be on the annual report. The department provides a no cost option for training programs to use for the survey requirement. Annual reports submitted to the department already include the information that was clarified in the proposed rule and therefore the department does not anticipate that additional time will be needed from training programs to provide information.

4. Description: Clarifies what is required of the training program to become reapproved and amends renewal requirement for BLS and ILS training programs to every three years instead of every five years. The renewal requirement for ALS training programs remains every five years.

Cost: The department anticipates that shortening the renewal cycle interval for BLS and ILS training programs from every five years

to every three years will create a negligible increased cost in staff time to prepare application materials.

WAC 246-976-023 Initial EMS training course requirements and course approval.

Description: WAC 246-976-023 establishes minimum standards for initial EMS training course requirements and the approval process.

Proposed changes exempt from analysis under RCW 34.05.328

(5) (b) (iii) "Rules adopting ... without material change ... national consensus codes" and RCW 34.05.328 (5) (b) (iv) "Rules that only ... clarify language of a rule without changing its effect":

- Reorganizes content to be in more logical order and removes tables.
- Clarifies standards for training courses without changing its effect.
- Incorporates material from national consensus codes that establish industry standards and regulate the same subject matter.
- Removes requirements for HIV/AIDS training since RCW 70.24.260 has been repealed.
- Clarifies what course curriculum continues to be required for EMS in accordance with laws that have passed. EMS providers will continue to receive additional education in their initial coursework that improves their understanding of end of life, do not resuscitate concepts in accordance with RCW 43.70.480, multicultural awareness education as required in RCW 43.70.615, health equity education in accordance with RCW 43.70.613 and legal obligations, and reporting for vulnerable populations in accordance with RCW 74.34.035.

Proposed changes analyzed:

Remove a requirement for training program directors and instructors to receive a recommendation from the local EMS and trauma councils to hold an initial course.

Cost: The department does not anticipate additional fiscal impact on training programs or instructors because of the proposed amendments. The department has developed and offers a no cost curriculum for the required education from new legislation that has passed.

WAC 246-976-260 Licenses required.

Description: WAC 246-976-260 prescribes the requirements for ambulance and aid service licensing.

Proposed changes exempt from analysis under RCW 34.05.328

(5) (b) (iv) "Rules that only... clarify language of a rule without changing its effect." and RCW 34.05.328 (5) (c) (i) "rule that adopts, amends, or repeals ... process requirements for making application to an agency for a license ..." and RCW 34.05.328 (5) (b) (iii) rules adopting or incorporating by reference without material change ...":

- Reorganizes content across WAC 246-976-260, 246-976-290, 246-976-300, 246-976-390, and 246-976-395 into a more logical order.

The proposed changes analyzed:

1. Make consistent to the extent possible the application process and requirements for supplemental documentation between license and verification.

2. Make consistent to the extent possible staffing and equipment standards between licensure and verification.

3. Modernize, make consistent, and reduce non-value-added application process steps and requirements for supportive documentation.

4. Allow rural EMS services to request to be approved to use nonmedically trained drivers to meet staffing standards in response to ESSB 5751 Concerning personnel requirements for municipal ambulance services, 2017-18.

5. Add the requirement for EMS services to reporting to the statewide EMS data registry in response to SSB 5380 Concerning opioid use disorder treatment, prevention, and related services, 2019-20.

Cost: The department does not anticipate additional fiscal impact of the proposed amendments to application process requirements and steps, staff and equipment standards, and EMS service requests, because the proposed amendments do not impose requirements that incur additional cost.

EMS that are already submitting data to the department and are already set up to do so will not incur additional costs. The department acknowledges that there are 131 EMS services not currently reporting to Washington EMS information system (WEMISIS). Among those, 72 are either recording services on paper records (26 services) or have an unknown record tracking system (46 services). These services will need to create a pathway for data submission. The remaining 59 services currently contract with a compliant reporting system that can add WEMISIS reporting at no cost. The department offers a no cost solution for EMS services to report data to the state EMS data registry; however, the department acknowledges that this will take administrative time to set up, estimating a one-time range of 5 - 10 hours using the median hourly wage in Washington of a medical secretary or administrative assistant of \$23.07 per hour,^{3[3]} resulting in a total probable one-time cost of \$115.35 - \$230.70.

New WAC 246-976-261 Emergency services supervisory organizations.

Description: WAC 246-976-261 prescribes the requirements for emergency services supervisory organizations (ESSO) recognition. In 2021-2022, the department advanced legislation to codify a policy that allowed certain organizations to be recognized by the department to use certified EMS personnel.

The proposed rule establishes minimum standards for ESSOs to use certified EMS providers in response to SHB 1276 EMS in diversion centers, 2021-22.

The proposed changes analyzed:

- Require ESSOs to complete an application, provide an operational plan, provide a current list of certified EMS providers, and request comments and recommendations for recognition as an ESSO from the local EMS and trauma care council and the medical program director in all counties in which the organization will be conducting activities using verified EMS providers.
- Require ESSOs to ensure that certified emergency medical service providers can meet the training requirements to maintain their certification.
- Require ESSOs to provide medical equipment for the level of service the ESSO will provide.

Cost: The department does not anticipate any additional fiscal impact for currently recognized ESSOs because they already meet the minimum standards prescribed in the existing rule. Based on data from the department's licensing system, the number of certified EMS providers working with currently recognized ESSOs is 17.

However, for any new organizations who want to apply to become recognized as an ESSO, the department has provided cost estimates.

Cost of Administrative Requirements: New ESSOs are required to complete various administrative requirements (complete an application, provide an operational plan, provide a current list of certified EMS providers, and request comments and recommendations for recognition as an ESSO from the local EMS and trauma care council and the medical program director in all counties in which the organization will be conducting activities using verified EMS providers) to comply with the proposed rules. The department estimates the number of hours to complete the requirement at no more than 8 hours of an EMS chief's time, at an average salary in Washington state of \$42.34 hourly^{4[4]}, resulting in an estimated cost of \$338.72 annually.

Cost of Training: While the proposed rule requires ESSOs to ensure that certified emergency medical service providers can meet the training requirements to maintain their certification, the proposed rule does not require the ESSO to establish an ongoing training and education program to do so. It is important to note that most certified EMS providers who work for ESSOs are also affiliated with licensed EMS services who provide ongoing training and education programs to meet the recertification needs of certified EMS providers. ESSOs could choose to either:

1. Establish a policy that requires the certified EMS provider to maintain their own education through their affiliation with their primary licensed EMS service or obtain continuing education on their own.

Cost: This option is free to the organization as it is the EMS provider's responsibility to maintain their own EMS certification. This is the current standard amongst current recognized ESSOs.

2. Establish an ongoing education and training program (OTEP). If an ESSO chooses to do this, the most common scenario would be for the ESSO to subscribe to an existing online platform that provides continuing education.

Cost: Most online platforms that offer continuing education for certified EMS providers charge a monthly or yearly subscription fee (SBEIS Table 2). In Washington state, the most common learning management system for continuing education is Vector Solutions.

The department asked current providers to share cost estimates to understand potential one-time set-up costs and recurrent monthly or yearly costs for participants (SBEIS Table 2).

SBEIS Table 2. Costs for example training programs to comply with the proposed rule:

Training Programs	Setup Fee	Per Provider/ Per Month*	Per Provider/ Per Year*
Vector Solutions ^{5[5]}	\$395	\$5.00	\$58
EMS Connect ^{6[6]}	None	\$8.00	\$96
King County, EMS Online ^{7[7]}	None	None	None

*Participants are required to pay the setup fee plus either per month or per year, but not both.

Cost of Equipment: The proposed rule requires ESSOs to provide medical equipment for the level of service the ESSO will provide. The department anticipates that some new organizations who want to apply to become recognized as an ESSO will have costs.

The department estimates the cost of new equipment and supplies to comply with the proposed rule as indeterminate for the following reasons: The level of medical equipment and supplies needed to comply will vary due to the scope of the breadth and depth of specialty care

service an ESSO chooses to provide; start-up costs are variable because if they are an already existing service the department assumes that they will likely carry some of the required supplies and therefore will not need to purchase all of the supplies; and recurrent supply costs will be reimbursed by patient use via billing.

Methodologically, the department made a good faith effort to cost out the minimum start-up costs for equipment and supplies; however, it ran into challenges because licensed EMS services must carry medications consistent with department-approved medical program director (MPD) protocols. There are 39 counties in Washington state and 39 sets of approved MPD protocols, which include different medication lists. The department analyzed the types and numbers of medications in all the protocols statewide to help inform an estimated cost for medications that may need to be carried by licensed ESSO services.

Some equipment required for specialized patient care could be borrowed from medical facilities to be used for certain types of transports. For example, intra-aortic balloon pumps, external pacemakers, ventricular assist devices, etc.

It is of note that the department reached out to one currently licensed EMS service provider^{8[8]} who is currently providing ground specialty care transport and they estimated the start-up cost to equip an ambulance providing a similar scope of advanced specialty care to be \$120,000 for both equipment and supplies.

WAC 246-976-300 Ground ambulance and aid service equipment.

Description: WAC 246-976-300 prescribes the requirements for aid and ambulance service equipment. Current rules require equipment standards for licensed versus verified vehicles that are outdated and no longer relevant.

Substantial changes to EMS minimum standards promoted by nationally recognized EMS organizations have occurred. The EMS scope of practice has evolved in the last five years and EMS medical equipment and technology have evolved along with the profession.

Proposed changes exempt from analysis under RCW 34.05.328

(5) (b) (iv) "Rules that only ... clarify language of a rule without changing its effect":

- Reorganizes content to be in a more logical order and make some minor grammatical and formatting edits.

Under RCW 34.05.328 (5) (b) (iii) "Rules adopting or incorporating by reference without material change ... national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule":

- Modernizes and aligns ambulance vehicle and equipment standards to be consistent with national standards. Make equipment standards for licensed and verified services consistent.

Proposed changes analyzed:

- Codify equipment and staffing standards for specialty care transport ground ambulances to be consistent with staffing and equipment standards for air ambulances.

Cost: The department does not anticipate additional costs for services who already hold a license and provide specialty care services. For new services, the cost of equipment to provide specialty

care transport services is analyzed in WAC 246-976-261 Emergency services supervisory organizations.

WAC 246-976-330 Ambulance and aid services—Record requirements.

Description: WAC 246-976-330 prescribes the record requirements for EMS services regarding personnel, vehicles, and patient care reports.

Proposed changes exempt from analysis under RCW 34.05.328

(5)(b)(iv) "Rules that only ... clarify language of a rule without changing its effect":

- Repeals language regarding patient care data reporting. The requirement to report patient care data can be found in other sections of rule in this chapter. These changes are being proposed in response to SSB 5380 Concerning opioid use disorder treatment, prevention, and related services, 2019-20. Repealing these requirements from this section of rule is necessary so that they are not duplicative.

Proposed rules analyzed:

1. Update record requirements for licensed EMS services regarding personnel and vehicles.
2. Add the requirement for licensed EMS services to periodically audit EMS provider certifications to ensure they are current and active.
3. Add the requirement for licensed EMS services to maintain a record of nonmedically trained drivers that meet requirements in RCW 18.73.150.

Cost for Audit: All EMS services currently have access to the department licensing system to see providers affiliated with their service so EMS services may periodically audit certification records to ensure their staff are current and active. Most EMS services also already maintain their own databases and certification records for their employees. Staff time for conducting a review of EMS provider certifications will vary depending on the type of staff (administrator, training officer, EMT or paramedic supervisor, fire chief, etc.) conducting the review, the number of employees, the type of recordkeeping system the EMS system uses, the amount of follow-up required for any variances found, and updating records as necessary. According to the department's licensing system, the number of providers for EMS services is 37. The department estimates it would take eight hours or less to periodically conduct this review. The most likely staff to conduct the review would be an EMT or paramedic training officer or supervisor. For estimation purposes, the department used the salary of an EMS fire chief average hourly salary in Washington state (\$42.34)^{9[9]} and made the assumption that they would conduct this review quarterly, resulting in a total annual cost per EMS service of \$1,355.

Cost for Records Requirements: EMS services must comply with RCW 18.73.150 to use nonmedically trained drivers. Existing licensed EMS services have already established recordkeeping systems to meet the requirements in the statute. The estimated cost for new EMS services to meet the recordkeeping requirements in the proposed rule will vary based on the type of staff (administrator, training officer, EMT or paramedic supervisor, fire chief, etc.) collecting the information required, the number of employees, the type of recordkeeping system the EMS system uses, the amount of follow-up required for any variances found, and updating records as necessary.

According to the department's licensing system, the average number of providers for EMS services is 37. The department estimates it would take eight hours or less to periodically conduct this review. The most likely staff to conduct the review would be an EMT or paramedic training officer or supervisor.

In May 2022, the median pay for EMTs was \$36,680 per year (\$17.63 per hour) and for paramedics was \$49,090 per year (\$23.60 per hour).¹⁰[10], ¹¹[11] The department estimates the cost for a new service to meet the proposed requirements in the new rule could be between \$141 and \$188. The department has no way to estimate how often these periodic reviews take place.

WAC 246-976-970 Local emergency medical services and trauma care councils.

Description: WAC 246-976-970 establishes the responsibilities and requirements for local EMS and trauma care councils.

The roles and responsibilities of local and regional EMS and trauma care councils have evolved because of the rapid changes in our health care system and the COVID-19 pandemic. The department is seeking to update minimum standards and conduct general housekeeping in the rules for local and regional councils to reflect current needs and expectations for council activities.

Proposed rules exempt from analysis under RCW 34.05.328

(5) (b) (iv) "Rules that only ... clarify language of a rule without changing its effect":

- Reorganizes content to be in a more logical order and makes some minor grammatical and formatting edits without changing the effect of the rule. Partners and interested parties report that EMS rules were difficult to read and understand.
- Consolidates, to the extent possible, local council responsibilities that are currently dispersed throughout many sections of chapter 246-976 WAC.

Proposed rules analyzed:

Remove the requirement for EMS councils to sign training course applications.

Cost: The department does not anticipate additional fiscal impact because of the proposed rules because local EMS and trauma care councils are already conducting activities identified in the current rule and proposed amendments.

However, the department speculates that EMS councils may experience a reduction in the cost of doing business because they will no longer be required to spend time reviewing and signing training course applications and training program directors may experience a reduction because they will not be required to obtain the signature of the EMS and trauma care council for training course applications. The most likely staff to conduct the review would be an EMT or paramedic training officer or supervisor. The reduction in cost would be minimal because the act of reviewing and signing an application would take less than a few minutes.

Summary of All Cost(s):

SBEIS Table 3. Summary of Section 3 probable cost(s):

WAC Section and Title	Probable Cost(s)
WAC 246-976-022 EMS training program requirements, approval, reapproval, discipline	Conducting one psychomotor examination: EMT, ranges between \$846 and \$1,410 and for paramedic, ranges between \$1,335 and \$1,888. The department has no way to estimate how many psychomotor examinations will take place in any given year Maintaining training records: No anticipated cost Providing students access to the Washington state EMS student survey and clarifying what must be on the annual report: No anticipated cost Shortening the renewal cycle interval for training programs: Negligible
WAC 246-976-023 Initial EMS training course requirements and course approval	No anticipated cost
WAC 246-976-260 Licenses required	Data reporting: The department offers a no cost solution for EMS services to report data to the state EMS registry. To set up the no cost solution, 131 EMS services will experience potential one-time cost ranging between \$115 and \$231
New WAC 246-976-261 Emergency services supervisory organizations	Administrative requirements: \$338.72 annually Training: Variable depending on choice Equipment: Indeterminate
WAC 246-976-300 Ground ambulance and aid service—Equipment	No anticipated costs and equipment and supply costs are analyzed in WAC 246-976-261 Emergency services supervisory organizations
WAC 246-976-330 Ambulance and aid services—Record requirements	Audit: Total annual cost per EMS service of \$1,355 Records requirements: Between \$141 and \$188; the department has no way to estimate how often these periodic reviews take place
WAC 246-976-970 Local emergency medical services and trauma care councils	No anticipated cost, potential cost savings

Analysis on if the proposed rule may impose more-than-minor costs for businesses in the industry. Includes a summary of how the costs were calculated.

SBEIS Table 4. Summary of probable costs for businesses to comply with proposed rules:

NAICS Code & Business Description	Minor Cost Threshold	Probable cost per business to comply with proposed rule	Determination on if the proposed rule may impose more-than-minor costs for businesses in the industry.
621910 Ambulance Services	\$17,473.00	Data Reporting: To set up the no-cost solution, 131 EMS services will experience a potential one-time cost ranging between \$115 and \$231 Administrative Requirements: \$338.72 annually Training: Variable depending on choice Equipment: Indeterminate Audit: Total annual cost per EMS service of \$1,355 Records Requirements: Between \$141 and \$188; the department has no way to estimate how often these periodic reviews take place	Yes, because the department is unable to estimate some of the costs (training, equipment, and records requirements) to comply with the proposed rule.
611519 Other Technical and Trade Schools	\$2,131.46	Conducting one psychomotor examination: EMT, range \$846 to \$1,410, paramedic, range \$1,335 to \$1,888. The department has no way to estimate how many psychomotor examinations will take place in any given year	Yes, because the department has no way to estimate how many psychomotor examinations will take place in any given year.

NAICS Code & Business Description	Minor Cost Threshold	Probable cost per business to comply with proposed rule	Determination on if the proposed rule may impose more-than-minor costs for businesses in the industry.
611310 Colleges, Universities, and Professional Schools	\$17,202.82	Conducting one psychomotor examination: EMT, range \$846 to \$1,410, paramedic, range \$1,335 to \$1,888. The department has no way to estimate how many psychomotor examinations will take place in any given year	Yes, because the department has no way to estimate how many psychomotor examinations will take place in any given year.

Determination on if the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

For ambulance services, yes, the department believes the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule. The main cost driver driving disproportionate cost impact is the start-up cost for equipment based on the level of trauma care you choose to provide. Because these costs are indeterminate, the department chose to select yes, the proposed rule may have a disproportionate impact on small businesses.

For other technical and trade schools, no, the department does not believe the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule. The department estimates that the psychomotor exam takes the same staffing requirements regardless of if you are a small or large business and it is not believed that more/less psychomotor exams will be needed per year depending on if you are a small or large business.

For colleges, universities, and professional schools, no, the department does not believe the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule. The department estimates that the psychomotor exam takes the same staffing requirements regardless of if you are a small or large business and it is not believed that more/less psychomotor exams will be needed per year depending on if you are a small or large business.

If the proposed rule has a disproportionate impact on small businesses, the following steps have been identified and taken to reduce the costs of the rule on small businesses.

The department took the following steps to reduce the costs of the rule on small businesses:

- **Reduced, modified, or eliminated substantive regulatory requirements.**
 - Note that the proposed rule for WAC 246-976-300 states that "a licensed service that provides interfacility transport of patients needing specialty level care (SCT) *must make available* equipment and medications consistent with the scope of practice and care required for the transport type." The proposed rule then provides broad language to support the types of equipment that should be made available. Some equipment required for specialized patient care may be cost prohibitive and could be borrowed from medical facilities to be used for certain types of transport. For example, intra-aortic balloon pumps, external pacemakers, ventricular as-

sist devices, etc. It is for this reason the department proposed to use the above language.

- o The proposed rule allows rural EMS services to request to be approved to use nonmedically trained drivers to meet staffing standards.
- **Simplified, reduced, or eliminated recordkeeping and reporting requirements.**
 - o The proposed rule removes non-value-added application process steps and requirements for some supportive documentation for licensed ambulance services.
 - o The proposed rule removes the requirement for training programs to obtain a signature from EMS and trauma care councils on course applications.

The department worked with interested parties to propose minimum standards for equipment, medications, and specialized health care personnel, that an EMS service providing advanced life support or specialized medical care must provide.

The costs cannot be reduced because a minimum amount of medical equipment, medications, and specialized health care personnel are required to ensure safe and competent transport of patients requiring advanced life support and specialized medical care.

Description of how small businesses were involved in the development of the proposed rule.

The proposed rule language was developed in partnership with small business interested parties who provided input and support for drafting rule language. The department accepted and proposed language promoted to reduce standards and provide flexibility for small businesses to comply with requirements.

The estimated number of jobs that will be created or lost in result of the compliance with the proposed rule.

Currently licensed EMS services are (mostly, except for time to comply with data reporting) in compliance with the proposed rules. The department does not anticipate that any jobs will be lost because of compliance with the proposed rule.

EMS is considered an essential service provider. According to licensing data housed at the department, the number of EMS services and providers have not significantly increased or declined over the past 10 years. The incidence of new applicants providing ALS or SCT levels of service is predicated on need and determined through a regionalized EMS and trauma care model. Regional EMS and trauma care councils determine a minimum and maximum number of EMS services needed to meet the emergency response and transport needs of residents in Washington through the regional planning process in accordance with chapter 70.168 RCW.

Based on this model, it is difficult for the department to determine how many jobs could be created as a result of compliance with the proposed rule, but the regional planning process does continually assess need and make recommendations on the number and distribution of EMS services based on that need.

1[1] *EMTs and Paramedics: Occupational Outlook Handbook: U.S. Bureau of Labor Statistics* (accessed 2023, May 30). <https://www.bls.gov/ooh/healthcare/emts-and-paramedics.htm>

2[2] The department calculated the per hourly salary by dividing the annual salary by 52 weeks by 40 hours per week.

3[3] *Medical Secretaries and Administrative Assistants: Occupational Outlook Handbook: U.S. Bureau of Labor Statistics* (accessed 2023, December 14). Washington - May 2022 OEWS State Occupational Employment and Wage Estimates (bls.gov)

4[4] Emergency Management Program Specialist 3, Step M, Hourly wage \$42.34 (accessed December 15, 2023) State of Washington Class Salary Range | Office of Financial Management

5[5] Data provided by Vector Solutions (2023, November 3). <https://www.vectorsolutions.com/>

6[6] Data provided by EMS Connect (2023, November 3). <https://EMSCconnect.org>

- 7[7] King County EMS has deployed their own learning management system (EMS Online) for distributing continuing education which is paid for through public tax dedicated to supporting King County EMS and the education is offered free to any EMS service licensed in King County.
- 8[8] Advanced Life Systems (2023, October 30). www.advancedlifeyesystems.com
- 9[9] Emergency Management Program Specialist 3, Step M, Hourly wage \$42.34 (accessed December 15, 2023) State of Washington Class Salary Range | Office of Financial Management
- 10[10] *EMTs and Paramedics: Occupational Outlook Handbook: U.S. Bureau of Labor Statistics* (accessed 2023, May 30). <https://www.bls.gov/ooh/healthcare/emts-and-paramedics.htm>
- 11[11] The department calculated the per hourly salary by dividing the annual salary by 52 weeks by 40 hours per week.

January 12, 2024
 Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-4953.2

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-010 Definitions. Definitions in RCW 18.71.200, 18.71.205, 18.73.030, and 70.168.015 and the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Activation of the trauma system" means mobilizing resources to care for a trauma patient in accordance with regional patient care procedures.

(2) "Adolescence" means the period of physical and psychological development from the onset of puberty to maturity, approximately ~~((twelve to eighteen))~~ 12 to 18 years of age.

(3) "Advanced cardiac life support (ACLS)" means a training course established with national standards recognized by the department that includes the education and clinical interventions used to treat cardiac arrest and other acute cardiac related problems.

(4) "Advanced emergency medical technician (AEMT)" means a person who has been examined and certified by the secretary as an intermediate life support technician as defined in RCW 18.71.200 and 18.71.205.

(5) "Advanced first aid" means an advanced first-aid course prescribed by the American Red Cross or its equivalent.

(6) "Advanced life support (ALS)" means the level of care or service that involves invasive emergency medical ~~((services))~~ procedures requiring the advanced medical treatment skills of a paramedic.

(7) ~~((("Agency" means an aid or ambulance service licensed by the secretary to provide prehospital care or interfacility ambulance transport.~~

~~((8)))~~ "Agency response time" means the interval from dispatch to arrival on the scene.

~~((9)))~~ (8) "Aid service" means an EMS agency licensed by the secretary to operate one or more aid vehicles, consistent with regional and state plans, and the department-approved license application. Aid services respond with aid equipment and certified emergency medical services providers to the scene of an emergency to provide initial care and treatment to ill or injured people.

(9) "Ambulance" or "aid service activation" means the dispatch or other initiation of a response by an ambulance or aid service to provide prehospital care or interfacility ambulance transport.

(10) "Ambulance service" means an EMS agency licensed by the secretary to operate one or more ground or air ambulances, consistent with regional and state plans, and the department-approved license application.

(11) "Approved" means approved by the department of health.

(12) "ATLS" means advanced trauma life support, a course developed by the American College of Surgeons.

(13) "Attending surgeon" means a physician who is board-certified or board-qualified in general surgery, and who has surgical privileges delineated by the facility's medical staff. The attending surgeon is responsible for care of the trauma patient, participates in all major therapeutic decisions, and is present during operative procedures.

(14) "Available" for designated trauma services described in WAC 246-976-485 through 246-976-890 means physically present in the facility and able to deliver care to the patient within the time specified. If no time is specified, the equipment or personnel must be available as reasonable and appropriate for the needs of the patient.

(15) "Basic life support (BLS)" means the level of care or service that involves basic emergency medical ((services)) procedures requiring basic medical treatment skills as defined in chapter 18.73 RCW.

(16) "Board certified" or "board-certified" means that a physician has been certified by the appropriate specialty board recognized by the American Board of Medical Specialties. For the purposes of this chapter, references to "board certified" include physicians who are board-qualified.

(17) "Board-qualified" means physicians who have graduated less than five years previously from a residency program accredited for the appropriate specialty by the accreditation council for graduate medical education.

(18) "BP" means blood pressure.

(19) "Certification" means the secretary recognizes that an individual has proof of meeting predetermined qualifications, and authorizes the individual to perform certain procedures.

(20) "Consumer" means an individual who is not associated with the EMS/TC system, either for pay or as a volunteer, except for service on the steering committee, or regional or local EMS/TC councils.

(21) ~~"Continuing medical education method (CME method)" ((or (CME method) means prehospital EMS recertification education required after initial EMS certification to maintain and enhance skill and knowledge))~~ means a method of obtaining education required for the recertification of EMS providers. The CME method requires the successful completion of department-approved knowledge and practical skill certification examinations to recertify.

(22) "County operating procedures (COPs)" ((or "COPS" means the)) means department-approved written operational procedures adopted by the county MPD and the local EMS council ((specific to county needs)). COPs provide county level guidance and operational direction which supports the delivery of patient care and coordination of patient transport and movement within the local emergency care system. COPs must be compatible with and work in coordination with state triage and destination procedures, regional patient care procedures, and patient care protocols.

(23) "CPR" means cardiopulmonary resuscitation.

~~(24) ("Critical care transport" means the interfacility transport of a patient whose condition requires care by a physician, RN or a paramedic who has received special training and approval by the MPD-~~

~~(25))~~ "Data user" means any individual who may access or possess data for any use, including quality improvement, administrative record keeping, research, surveillance, or evaluation.

(25) "Data use agreement" means a signed agreement with the department for transmitting, receiving, and using records containing individually identifiable or potentially identifiable health information. The agreement specifies, at a minimum what information will be exchanged, the conditions or restrictions under which the information will be used and protected, restrictions on redisclosure of data and restrictions on attempt to locate information associated with a specific individual.

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

~~((26))~~ (27) "Dispatch" means to identify and direct an emergency response unit to an incident location.

~~((27))~~ (28) "Diversion" means the EMS transport of a patient past the usual receiving facility to another facility due to temporary unavailability of care resources at the usual receiving facility.

~~((28))~~ (29) "E-code" means external cause code, an etiology included in the International Classification of Diseases (ICD).

~~((29))~~ (30) "ED" means emergency department.

~~((30))~~ (31) "Electronic patient care report" means the record of patient care produced in an electronic data system.

(32) "EMS agency" means an EMS service such as an emergency services supervisory organization (ESSO), aid or ambulance service licensed or recognized by the secretary to provide prehospital care or interfacility transport.

(33) "Emergency medical procedures" means the skills that are performed within the scope of practice of EMS personnel certified by the secretary under chapters 18.71 and 18.73 RCW.

~~((31))~~ (34) "Emergency medical services and trauma care (EMS/TC) system" means an organized approach to providing personnel, facilities, and equipment for effective and coordinated medical treatment of patients with a medical emergency or injury requiring immediate medical or surgical intervention to prevent death or disability. The emergency medical services and trauma care system includes prevention activities, prehospital care, hospital care, and rehabilitation.

~~((32))~~ (35) "Emergency medical responder (EMR)" means a person who has been examined and certified by the secretary as a first responder to render prehospital EMS care as defined in RCW 18.73.081.

~~((33))~~ (36) "Emergency medical technician (EMT)" means a person who has been examined and certified by the secretary as an EMT to render prehospital EMS care as defined in RCW 18.73.081.

~~((34))~~ (37) "EMS" means emergency medical services.

~~((35))~~ (38) "EMS provider" means an individual certified by the secretary or the University of Washington School of Medicine under chapters 18.71 and 18.73 RCW to provide prehospital emergency response, patient care, and transport.

~~((36))~~ (39) "Emergency services supervisory organization (ESSO)" means an entity that is authorized by the secretary to use first responders to provide medical evaluation and initial treatment to sick or injured people, while in the course of duties with the organization for on-site medical care prior to any necessary activation of emergency medical services. ESSOs include law enforcement agencies,

disaster management organizations, search and rescue operations, and diversion centers.

(40) "EMS/TC" means emergency medical services and trauma care.

~~((37))~~ (41) "Endorsement" means a higher form of recognition that requires successful completion of a department-approved MPD specialized training course. Endorsements are added to an EMS providers primary EMS certification.

(42) "General surgeon" means a licensed physician who has completed a residency program in surgery and who has surgical privileges delineated by the facility.

~~((38))~~ (43) "ICD" means the international classification of diseases, a coding system developed by the World Health Organization.

~~((39))~~ (44) "Initial recognition application procedure (IRAP)" means the application and procedure that a senior EMS instructor (SEI) candidate must complete and submit to the department to apply for initial recognition as an SEI.

(45) "Injury and violence prevention" means any combination of educational, legislative, enforcement, engineering and emergency response initiatives used to reduce the number and severity of injuries.

~~((40))~~ (46) "Interfacility transport" means medical transport of a patient between recognized medical treatment facilities requested by a licensed health care provider.

~~((41))~~ (47) "Intermediate life support (ILS)" means the level of care or service that may involve invasive emergency medical ~~((services))~~ procedures requiring the ~~((advanced))~~ medical treatment skills of an advanced ~~((EMT))~~ emergency medical technician (AEMT).

~~((42) "IV"))~~ (48) "Venous access" means a fluid or medication administered directly into the venous system.

~~((43))~~ (49) "Local council" means a local EMS/TC council authorized by RCW 70.168.120(1).

~~((44))~~ (50) "Medical control" means oral or written direction ~~((of))~~ provided by the MPD or MPD physician delegate to EMS providers who provide medical care ~~((that certified prehospital EMS personnel provide))~~ to patients of all age groups. ~~((The oral or written direction is provided by the MPD or MPD delegate.~~

~~(45))~~ (51) "Medical control agreement" means a department-approved written agreement between two or more MPDs, ~~((using similar protocols that are consistent with regional plans, to assure))~~ that provides guidance regarding aspects of medical oversight to support continuity of patient care between counties ~~((, and to facilitate assistance))~~. MPD agreements must be compatible and work in coordination with state triage and destination procedures, county operating procedures, patient care procedures, and patient care protocols.

~~((46))~~ (52) "Medical program director (MPD)" means a person who meets the requirements of chapters 18.71 and 18.73 RCW and is certified by the secretary. The MPD is responsible for both the supervision of training and medical control of EMS providers.

~~((47) "MPD))~~ (53) "Medical program director delegate (MPD delegate)" means a physician appointed by the MPD and recognized and approved by the department. An MPD delegate may be:

(a) A prehospital training physician who supervises specified aspects of training EMS personnel; or

(b) A prehospital supervising physician who provides online medical control of EMS personnel.

~~((48))~~ (54) "Medical program director policy" means a department-approved written policy adopted by the MPD that establishes expectations, procedures, and guidance related to the administrative ac-

tivities of providing oversight to EMS providers and are within the roles and responsibilities of the MPD.

(55) "National Emergency Medical Services Information System (NEMSIS)" means the national database used to store EMS data from the U.S. States and Territories and is a national standard for how prehospital and interfacility transport information is collected.

(56) "Ongoing training and evaluation program (OTEP)" means a continuous program of ((prehospital-EMS)) education for the recertification of EMS ((personnel after completion of initial training)) providers. An OTEP ((is)) must be approved by the MPD and the department. ((An OTEP must meet the EMS education requirements and core topic content required for recertification. The OTEP method includes evaluations of the knowledge and skills covered in the topic content following each topic presentation.

~~(49) "PALS" means a pediatric advanced life support course.~~

(57) "Pediatric advanced life support (PALS)" means a training course established with department recognized national standards for clinical interventions used to treat pediatric cardiac arrest and other acute cardiac related problems.

(58) "Paramedic" or "physician's trained emergency medical service paramedic" means a person who has been trained in an approved program to perform all phases of prehospital emergency medical care, including advanced life support, under written or oral authorization of an MPD or approved physician delegate, examined and certified by the secretary under chapter 18.71 RCW.

~~((51))~~ (59) "Pediatric education requirement (PER)" means the pediatric education and training standards required for certain specialty physicians and nurses who care for pediatric patients in designated trauma services as identified in WAC 246-976-886 and 246-976-887.

~~((52) "PEPP" means pediatric education for prehospital professionals.~~

~~(53) "PHTLS" means a prehospital trauma life support course.~~

~~(54))~~ (60) "Pediatric education for prehospital providers (PEPP)" means a training course for EMS providers established with department recognized national standards for clinical interventions used to treat pediatric emergencies.

(61) "Physician" means an individual licensed under the provisions of chapters 18.71 or 18.57 RCW.

~~((55))~~ (62) "Physician with specific delineation of surgical privileges" means a physician with surgical privileges delineated for emergency/life-saving surgical intervention and stabilization of a trauma patient prior to transfer to a higher level of care. Surgery privileges are awarded by the facility's credentialing process.

~~((56))~~ (63) "Postgraduate year" means the classification system for residents who are undergoing postgraduate training. The number indicates the year the resident is in during ((his/her)) the resident's postmedical school residency program.

~~((57))~~ (64) "Practical skills examination" means a test conducted in an initial course, or a test conducted during a recertification period, to determine competence in each of the practical skills or group of skills specified by the department.

~~((58))~~ (65) "Prehospital index (PHI)" means a scoring system used to trigger activation of a hospital trauma resuscitation team.

~~((59))~~ (66) "Prehospital patient care protocols" means the department-approved, written orders adopted by the MPD under RCW 18.73.030 ~~((15))~~ (16) and 70.168.015(27) which direct the out-of-hos-

pital care of patients. These protocols are related only to delivery and documentation of direct patient treatment. The protocols meet or exceed statewide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW. Protocols must be compatible with and work in coordination with state triage and destination procedures, regional patient care procedures, and county operating procedures.

~~((+60))~~ (67) "Prehospital provider" means EMS provider.

~~((+61))~~ (68) "Prehospital trauma care service" means an EMS agency that is verified by the secretary to provide prehospital trauma care.

~~((+62))~~ (69) "Prehospital trauma life support (PHTLS)" means a training course for EMS providers established with department recognized national standards for clinical interventions used to treat trauma patients.

(70) "Prehospital (~~t~~rauma) triage and destination procedure" means the statewide minimum standard and method used by prehospital providers to evaluate (~~i~~njured patients and determine whether to activate the trauma system from the field. It is described in WAC 246-976-930(2).

~~(+63))~~ patients for time sensitive emergencies, identify the most appropriate destination, and alert the receiving facility of the patient's condition to help inform activation of the trauma, cardiac or stroke system of care from the field.

(71) "Public education" means education of the population at large, targeted groups, or individuals, in preventive measures and efforts to alter specific injury, trauma, and medical-related behaviors.

~~((+64))~~ (72) "Quality improvement (QI)" or "quality assurance (QA)" means a process/program to monitor and evaluate care provided in the EMS/TC system.

~~((+65))~~ (73) "Recertification" means the process of renewing a current EMS certification.

(74) "Recognition application procedure (RAP)" means the application and procedure that must be completed by a department recognized senior EMS instructor (SEI) to apply for renewal of an SEI recognition.

(75) "Regional council" means the regional EMS/TC council established by RCW 70.168.100.

~~((+66))~~ (76) "Regional patient care procedure(~~s~~) (PCP)" means department-approved written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director(~~(, in accordance with statewide minimum standards. The patient care procedures)~~). PCPs provide an operational framework and broad overarching guidance for the coordination of patient transport and movement within the regional emergency care system. PCPs identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility, mental health facility, or chemical dependency program to first receive the patient, and the name and location of other trauma care facilities, mental health facilities, or chemical dependency programs to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients are consistent with the transfer procedures in chapter 70.170 RCW. Patient care procedures do not relate to direct patient care and must be compatible with and work in coordination with state triage and destination procedures.

~~((+67+))~~ (77) "Regional plan" means the plan defined in WAC 246-976-960 (1)(b) that has been approved by the department.

~~((+68+))~~ (78) "Registered nurse" means an individual licensed under the provisions of chapter 18.79 RCW.

~~((+69+))~~ (79) "Reinstatement" means the process of reissuing an EMS certification that is revoked or suspended by the department.

(80) "Reissuance" means the process of reissuing a certification that is expired.

(81) "Reversion" means the process of reverting a current EMS certification to a lower level of EMS certification.

(82) "Rural" means an unincorporated or incorporated area with a total population of less than ~~((ten thousand))~~ 10,000 people, or with a population density of less than ~~((one thousand))~~ 1,000 people per square mile.

~~((+70+))~~ (83) "Secretary" means the secretary of the department of health.

~~((+71+))~~ (84) "Senior EMS instructor (SEI)" means an individual approved and recognized by the department to ~~((be responsible for the administration, quality of instruction and the))~~ conduct ~~((of))~~ initial emergency medical responder (EMR) ~~((and))~~ or emergency medical technician (EMT) training courses.

~~((+72+))~~ (85) "Special competence" means that an individual has been deemed competent and committed to a medical specialty area with documented training, board certification and ~~((+or+))~~ experience, which has been reviewed and accepted as evidence of a practitioner's expertise:

(a) For physicians, by the facility's medical staff;

(b) For registered nurses, by the facility's department of nursing;

(c) For physician assistants and advanced registered nurse practitioners, as defined in the facility's bylaws.

~~((+73+))~~ (86) "Specialty care transport (SCT)" means the level of care or service needed during an interfacility transport for a patient who is critically injured or ill and whose condition requires care by a physician, registered nurse, or a paramedic who has received special training and approval of the MPD.

(87) "State plan" means the emergency medical services and trauma care system plan described in RCW 70.168.015(7), adopted by the department under RCW 70.168.060(10).

~~((+74+))~~ (88) "Steering committee" means the EMS/TC steering committee created by RCW 70.168.020.

~~((+75+))~~ (89) "Substance use disorder professional (SUDP)" means an individual certified in substance use disorder counseling under chapters 18.205 RCW and 246-811 WAC.

(90) "Suburban" means an incorporated or unincorporated area with a population of ~~((ten thousand to twenty-nine thousand nine hundred ninety-nine))~~ 10,000 to 29,999 or any area with a population density of between ~~((one thousand and two thousand))~~ 1,000 and 2,000 people per square mile.

~~((+76+))~~ (91) "System response time" for trauma means the interval from discovery of an injury until the patient arrives at a designated trauma facility.

~~((+77+))~~ (92) "Training program" means an organization that is approved by the department to ~~((be responsible for specified aspects of training EMS personnel))~~ conduct initial and ongoing EMS training as identified in the approved training program application on file with the department.

~~((78))~~ (93) "Training program director" means the individual responsible for oversight of a department-approved EMS training program.

(94) "Trauma registry" means the statewide data registry to collect data on incidence, severity, and causes of trauma described in RCW 70.168.090(1).

(95) "Trauma rehabilitation coordinator" means a person designated to facilitate early rehabilitation interventions and the trauma patient's access to a designated rehabilitation center.

~~((79))~~ (96) "Trauma response area" means a service coverage zone identified in an approved regional plan.

~~((80))~~ (97) "Trauma service" means the clinical service within a hospital or clinic that is designated by the department to provide care to trauma patients.

~~((81))~~ (98) "Urban" means:

(a) An incorporated area over ~~((thirty thousand))~~ 30,000; or

(b) An incorporated or unincorporated area of at least ~~((ten thousand))~~ 10,000 people and a population density over ~~((two thousand))~~ 2,000 people per square mile.

~~((82))~~ (99) "Verification" means ~~((a prehospital))~~ an EMS agency is capable of providing verified trauma care services and is credentialed under chapters 18.73 and 70.168 RCW.

~~((83))~~ (100) "Washington EMS information system (WEMSIS)" means the statewide electronic EMS data system responsible for collecting EMS data described in RCW 70.168.090(2).

(101) "WEMSIS data administrator" means an EMS agency representative who is assigned by their agency as the primary contact for WEMSIS data submission management as indicated in the department-approved EMS agency licensing application.

(102) "Wilderness" means any rural area not readily accessible by public or private maintained road.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-022 EMS training program requirements, approval, re-approval, discipline. (1) To apply for initial department approval as an EMS training program, applicants ~~((shall meet the requirements in Table A of this section.~~

~~Table A~~
~~EMS Training Program Requirements For Approval~~

REQUIREMENTS	
Organization type	Must be one of the following: <ul style="list-style-type: none"> • A local EMS and trauma care council or a county office responsible for EMS training for the county. This includes county agencies established by ordinance and approved by the MPD to coordinate and conduct EMS programs; • A regional EMS and trauma care council providing EMS training throughout the region;

REQUIREMENTS	
	<ul style="list-style-type: none"> • An accredited institution of higher education; or • A private educational business, licensed as a private vocational school.
Optional organization	<ul style="list-style-type: none"> • If the organizations listed above do not exist or are unable to provide an EMS training program, the local EMS and trauma care council may recommend to the department another entity that is able to provide training. • In the absence of a local EMS council, the regional EMS and trauma care council may provide such recommendation. • Initial training courses conducted for licensed EMS agencies under the oversight of a department-approved EMS training program.
Need for new training program	Applicant must demonstrate need for new or additional EMS training programs.
Training program application	Complete a DOH EMS training program application on forms provided by the department indicating the levels of EMS training the program wants to conduct.
Class room and laboratory	Provide a description of classroom and laboratory facilities.
Training equipment and supplies	Provide a list of equipment and supplies on hand (or accessible) for use in the training program.
Course enrollment	For each level of EMS training applying for, provide a description of: <ul style="list-style-type: none"> • Course entry prerequisites; • Selection criteria; and • The process used to screen applicants.
Student handbook	Provide a student handbook for each level of EMS training applied for that provides: <ul style="list-style-type: none"> • Training program policies, including minimum standards to enter training consistent with this chapter; • Course requirements and minimum standards required for successful completion of examinations, clinical/field internship rotations, and the EMS course; • Initial certification requirements the student must meet to become certified as identified in WAC 246-976-141; and • A listing of clinical and field internship sites available.

~~(2) Approved training programs shall meet the requirements in Table B of this section.~~

Table B
EMS Training Program Requirements

REQUIREMENTS	
General	<p>An approved training program must:</p> <ul style="list-style-type: none"> • Conduct courses following department requirements; • If conducting paramedic training courses, be accredited by a national accrediting organization approved by the department; • In conjunction with the course instructor, ensure course applicants meet the course application requirements in WAC 246-976-041; • Maintain clinical and field internship sites to meet course requirements, including the requirement that internship rotations on EMS vehicles must be performed as a third person, not replacing required staff on the vehicle; • For the purposes of program and course evaluation, provide to the department, county MPD, or MPD delegate access to all course related materials; • Conduct examinations over course lessons and other Washington state required topics; and • Participate in EMS and trauma care council educational planning.
Certification examination	<p>Coordinate activities with the department-approved certification examination provider, including:</p> <ul style="list-style-type: none"> • Registering the training program; • Assisting students in registering with the examination provider; • Providing verification of cognitive knowledge and psychomotor skills for students successfully completing the EMS course; and • Assisting students in scheduling the examination.
Student records	<p>Maintain student records for a minimum of four years.</p>
Evaluation	<p>Monitor and evaluate the quality of instruction for the purposes of quality improvement, including course examination scores for each level taught.</p>
Reporting	<p>Submit an annual report to the department which includes:</p>

REQUIREMENTS	
	<ul style="list-style-type: none"> • Annual, overall certification examination results; • A summary of complaints against the training program and what was done to resolve the issues; • Quality improvement activities including a summary of issues and actions to improve training results.

~~(3) To apply for reapproval, an EMS training program must meet the requirements in Table C of this section.~~

**~~Table C
EMS Training Program Reapproval~~**

REAPPROVAL	
Requirements	<p>An EMS training program must be in good standing with the department and:</p> <ul style="list-style-type: none"> • Have no violations of the statute and rules; • Have no pending disciplinary actions; • Maintain an overall pass rate of seventy-five percent on department-approved state certification examinations; • If conducting paramedic training courses, be accredited by a national accrediting organization approved by the department.
Reapplication	<p>Complete:</p> <ul style="list-style-type: none"> • The requirements in Tables A and B of this section; and • Submit an updated EMS training program application to the department at least six months prior to the program expiration date.

~~(4) Training program approval is effective on the date the department issues the certificate. Approval must be renewed every five years. The expiration date is indicated on the approval letter.~~

~~(5)) must:~~

(a) Contact the Washington workforce training and education board to determine if the EMS training program is subject to private vocational school requirements;

(b) Submit a completed application on forms provided by the department and provide supplemental information that:

(i) Demonstrates the need for a new or additional training program; and

(ii) Demonstrates how the training program will maintain the resources needed to sustain a quality education program;

(c) Identify the training program organization type as one of the following:

(i) A local EMS and trauma care council or county office responsible for EMS training for the county. This includes organizations es-

established by local ordinance and approved by the medical program director to coordinate and conduct EMS training programs;

(ii) A regional EMS and trauma care council providing EMS training throughout the EMS and trauma care region that it serves;

(iii) An accredited institution of higher education or a private educational business licensed as a private vocational school; or

(iv) An optional organization. If the organizations listed above do not exist or are unable to provide an EMS training program, the local EMS and trauma care council may recommend to the department another entity that is able to provide training. In the absence of a local EMS council, the regional EMS and trauma care council may provide such recommendation;

(d) Identify the training program director for the training program. The training program director must meet the minimum requirements listed in the *EMS Training Program and Instructor Manual (DOH 530-126)*;

(e) Identify additional training program personnel who meet the minimum requirements and would perform roles listed in the *EMS Training Program Instructor Manual (DOH 530-126)*;

(f) Indicate what levels of initial EMS training courses (EMR, EMT, AEMT, paramedic), endorsements and other courses the training program is seeking approval to conduct;

(g) If the training program is conducting a paramedic program, provide proof of accreditation by a national accrediting organization approved by the department;

(h) Provide a list of clinical and field internship sites available to students. Include information that clearly depicts a formal relationship between the training organization and the clinical site;

(i) Provide an operations manual that includes:

(i) Training program policies and procedures that meet the requirements listed in the *EMS Training Program and Instructor Manual (DOH 530-126)*; and

(ii) The training program handbook that is provided to students. The handbook must meet the requirements listed in the *EMS Training Program and Instructor Manual (DOH 530-126)*;

(j) Provide a list of equipment and supplies on hand or accessible for use in the training program;

(k) Provide an example of a certificate or letter of completion meeting the department requirements listed in the *EMS Training Program and Instructor Manual (DOH 530-126)*;

(l) Obtain the recommendation from the medical program director in each county where the training program will reside; and

(m) Obtain the recommendation from each local EMS and trauma council in each county where the training program will reside. In the absence of a local EMS and trauma care council, the regional EMS and trauma care council may provide such a recommendation.

(2) Approved training programs shall:

(a) Conduct courses in accordance with department requirements;

(b) Collaborate with the course instructor to ensure course applicants meet the course application requirements in WAC 246-976-041;

(c) Maintain clinical and field internship sites to meet course requirements. Students conducting field internship rotations on EMS vehicles may not replace required staff on the vehicle;

(d) Provide the department, MPD, or MPD delegate access to all course related materials upon request;

(e) Conduct examinations over course lessons and other Washington state required topics;

(f) Participate in educational planning conducted by local and regional EMS and trauma care councils;

(g) Coordinate certification examination activities with the department-approved certification examination provider. This includes:

(i) Registering the training program with the examination provider;

(ii) Assisting students in registering with the examination provider and scheduling the cognitive examination. Students who successfully pass the course must be provided an opportunity to take the certification examination;

(iii) Provide verification to the examination provider of cognitive knowledge and psychomotor skills for students successfully completing the EMS course; and

(iv) For BLS, ILS, and ALS level courses, the training program must conduct psychomotor examinations and competence assessments as required by the department;

(h) Maintain student records for a minimum of seven years in a retrievable electronic or paper format;

(i) Monitor and evaluate the quality of instruction for the purposes of quality improvement, including course examination scores for each level taught;

(j) Provide students access to the Washington state EMS student survey;

(k) Maintain an overall pass rate of 75 percent on department-approved state certification examinations;

(l) Submit a report to the department annually that includes:

(i) Attrition rates;

(ii) Annual certification examination rates;

(iii) Postgraduation survey results; and

(m) Seek reapproval of the training program as follows:

(i) For BLS or ILS level courses training programs must be reapproved every three years.

(ii) For ALS level courses, training programs must be renewed every five years.

(iii) If the training program is approved to conduct multiple levels of training, the program is required to renew in accordance with the higher training level requirement.

(3) Training program approval is effective on the date the department issues the certificate. The expiration date is indicated on the approval letter. To apply for reapproval, an EMS training program must:

(a) Complete the requirements in subsection (1) of this section;

(b) Be in compliance with the requirements in subsection (2) of this section;

(c) Be in good standing with the department, have no violations of the statute and rules, and no pending disciplinary actions; and

(d) Have an overall pass rate of 75 percent on department-approved state certification examinations.

(4) Discipline of EMS training programs.

(a) The secretary may deny, suspend, modify, or revoke the approval of a training program when it finds any of the following:

(i) Violations of chapter 246-976 WAC((~~7~~)).

(ii) Pending disciplinary actions((~~7~~)).

(iii) Falsification of EMS course documents.

(iv) Failure to maintain EMS course documents((~~7-07~~)) as required.

(iv) Failure to update training program information with the department as changes occur.

(b) The training program may request a hearing to contest the secretary's decisions ~~((in regard to))~~ regarding denial, suspension, modification, or revocation of training program approval in accordance with the Administrative Procedure Act (APA) (chapter 34.05 RCW) and chapter 246-10 WAC.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-023 Initial EMS training course requirements and course approval. ~~((To be approved to conduct each initial EMS training course, an EMS training program must:~~

- ~~(1) Meet the requirements identified in Table A of this section;~~
- ~~(2) Submit a completed EMS course training application on forms provided by the department, postmarked or received by the department at least three weeks prior to the course start date identified on the application;~~
- ~~(3) Have the approval of the training program's medical director and the recommendation for approval from the county medical program director; and~~
- ~~(4) Have written course approval from the department.~~

**Table A
Initial EMS Training Course Requirements**

REQUIREMENTS
<p>The EMS training program must:</p> <ul style="list-style-type: none"> • If conducting paramedic training courses, be accredited by a national accrediting organization approved by the department; • With the course SEI or lead instructor, ensure course applicants meet the course application requirements in WAC 246-976-041; • Supply each student with a student handbook as specified in WAC 246-976-022; • Provide each student, prior to beginning their field internship rotations, current, county specific, county medical program director field protocols and any specific information they will need while completing the internship; and • Use field internship preceptors who monitor and evaluate students in a standard and consistent manner.
<p>EMS course SEI or lead instructor:</p> <p>The EMS course instructors identified in this section, under the general supervision of the county medical program director (MPD) are responsible:</p> <ul style="list-style-type: none"> • For the overall conduct of the course, quality of instruction, and administrative paperwork; • For following the course curricula or instructional guidelines for the level of training conducted; • For evaluating the students' knowledge and practical skills throughout the course; • For providing on-site instruction during each class and to supervise any other course instruction, unless arrangements have been made for another SEI or lead instructor to supervise. When using other instructors, the SEI or lead need not be physically present but must be immediately available for consultation.
<p>Emergency medical responder (EMR) and EMT courses:</p> <p>The course instructor must be a department-approved SEI. An SEI candidate may instruct under the supervision of the SEI for the purpose of demonstrating instructional proficiency to the SEI.</p>
<p>AEMT courses:</p> <p>The course instructor for advanced EMT courses must be:</p> <ul style="list-style-type: none"> • An AEMT that is recognized by the department as an SEI; or • A paramedic; or

REQUIREMENTS
<ul style="list-style-type: none"> • Program instructional staff when training is provided by an accredited paramedic training program; and • Approved by the county medical program director.
<p>Paramedic/EMT-paramedic courses:</p> <ul style="list-style-type: none"> • The lead instructor for paramedic courses must have proof of clinical experience at the paramedic level or above; and • Must have the approval of the training program's medical director and the county medical program director.
<p>EMS Evaluators:</p> <ul style="list-style-type: none"> • Evaluators must be MPD and department approved EMS evaluators; • EMS evaluators for EMR and EMT courses must be certified at the EMT level or higher; • EMS evaluators for advanced EMT courses must be certified at the AEMT or paramedic level.
<p>Other instructors that may instruct individual course lessons when knowledgeable and skilled in the topic, approved by the MPD and under supervision of the SEI or lead instructor:</p> <ul style="list-style-type: none"> • Guest instructors; • Department approved EMS evaluators, to assist the SEI or lead instructor in the instruction of the course, who must be certified at or above the level of education provided; and • The MPD, MPD delegate or other physicians approved by the MPD.
<p>Course curriculum or instructor guidelines:</p> <p><i>The National Emergency Medical Services Training Standards – Instructor Guidelines</i> published January 2009 for the level of instruction; and</p> <ul style="list-style-type: none"> • Instruction in multicultural health appropriate to the level of training; and • A department approved, four-hour infectious disease training program that meets the requirements of chapter 70.24 RCW; and • Other training consistent with MPD protocols.
<p>EMS course practical skill evaluations:</p> <p>SEIs or department approved EMS evaluators conduct psychomotor evaluations during the course and provide corrective instruction for students. For EMR and EMT courses, evaluators must be certified as an EMT or higher level.</p>
<p>End of course practical skill examinations:</p> <p>Department approved SEIs or department approved EMS evaluators must conduct practical skill examinations. For EMR and EMT courses, evaluators must be certified at the EMT level or higher.)</p>

(1) EMS training course applications are required for the following initial and refresher courses:

- (a) EMR, EMT, AEMT, and paramedic training;
- (b) EMS endorsements; and
- (c) EMS instructor training.

(2) To conduct an EMS training course an applicant must:

(a) Submit a completed application on forms provided by the department, postmarked or received by the department at least 30 days prior to the course start date identified on the application.

(b) Provide the following supplemental information:

- (i) Type of course being taught;
- (ii) Training program the course will be affiliated with;
- (iii) The course delivery method;
- (iv) The location where the course will be held;
- (v) The location where clinical and field training will be conducted and how it will be conducted;
- (vi) The location where the psychomotor practical skills examination and minimum student competency verifications will be conducted and how these assessments will be conducted;
- (vii) A list of instructional personnel participating in course delivery;

(viii) An example of a certificate of completion that meets the criteria in *EMS Training Program and Instructor Manual (DOH 530-126)*;

(ix) A course schedule or agenda that meets the criteria in *EMS Training Program and Instructor Manual (DOH 530-126)*; and

(c) A recommendation from the county medical program director(s) in the county(s) where the course will be held. The medical program director must sign the course application.

(d) Be approved by the department.

(3) To conduct an EMS training course, training program directors and instructors must:

(a) Have written approval from the department to conduct the course prior to the start of the course. The department will send written approval to the training program director;

(b) Meet requirements for training programs identified in WAC 246-976-022;

(c) Provide adequate personnel that meet requirements identified in WAC 246-976-031;

(d) Verify students meet the requirements identified in WAC 246-976-041;

(e) Conduct or facilitate EMS course practical skill evaluations and psychomotor examinations and reexaminations. Use department-approved EMS evaluators that meet requirements in WAC 246-976-031. Evaluators must be certified to perform the skill being evaluated; and

(f) Submit the Course Completion Record (DOH-530-008) within 30 days of the course completion date included on the course approval notification from the department.

(4) Course curriculum must meet all of the following standards:

(a) Current national EMS education standards for the level of training conducted including skills identified in the Washington state approved skills and procedures list (DOH 530-173) required for all Washington state certified EMS providers.

(b) Include education on multicultural health awareness as required in RCW 43.70.615, portable orders for life sustaining treatment (POLST) as provided in RCW 43.70.480, and legal obligations and reporting for vulnerable populations as provided in RCW 74.34.035.

(5) Instructional personnel required for courses is as follows:

(a) If the course being taught is provided by a training program that is recognized by an accreditation organization recognized by the department, then instructional personnel must meet standards of the accrediting organization.

(b) For an emergency medical responder (EMR) course, the course instructor must be a department-approved senior EMS instructor (SEI). An SEI candidate (SEI-C) may instruct under the supervision of a current department-approved SEI for the purposes of demonstrating instructional proficiency to SEI.

(c) For an emergency medical technician (EMT) course, the course instructor must be a department-approved SEI. An SEI candidate (SEI-C) may instruct under the supervision of the SEI for the purposes of demonstrating instructional proficiency to the SEI.

(d) For an advanced emergency medical technician (AEMT) course, the course instructor must be certified at the AEMT or paramedic level and be a department-approved SEI. An SEI candidate (SEI-C) may instruct under the supervision of the SEI for the purposes of demonstrating instructional proficiency to the SEI.

(e) For a paramedic course, the lead instructor must have proof of clinical experience at the paramedic level or above.

(f) For a supraglottic airway (SGA) endorsement course for EMT, the course instructor must have proof of clinical experience and the

depth and breadth of knowledge of the subject matter and be approved by the MPD.

(g) For an intravenous (IV) therapy endorsement course for EMT, the course instructor must have proof of clinical experience and the depth and breadth of knowledge of the subject matter and be approved by the MPD.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-024 ((EMS)) MPD specialized training and pilot projects. (1) MPDs may submit a proposal to conduct a pilot ((training programs)) project to determine the need for training, skills, techniques, ((or)) equipment, or medications that ((is)) are not included in standard course curricula ((/)) and instructional guidelines. A pilot ((program)) project allows the MPD to conduct field research to determine:

- (a) The effectiveness of the training;
- (b) EMS provider knowledge and skills competency; and
- (c) EMS provider ability to provide proper patient care after the training.

(2) To request approval of a pilot ((training program)) project, the MPD must submit a proposal ((which includes the following information to the department for review:

- ((a) A needs statement describing what the)) on forms provided by the department at least 90 days prior to the start of the pilot project. Proposals must include all the following:
 - (a) Describe the pilot project and the need that the proposed pilot will address;
 - ((The level of certified EMS provider who will be participating in the pilot training;
 - (c) The length of the pilot project;
 - (d) The method by which the pilot project will be evaluated;
 - (e) Course curriculum/lesson plans;
 - (f) Type of instructional personnel required to conduct the pilot training;
 - (g) Course prerequisites;
 - (h) Criteria for successful course completion, including student evaluations and/or examinations; and
 - ((i) Prehospital patient care protocols for use in the pilot program.)) Identify the proposed length of the pilot project. Projects may be approved for up to two years;
 - (c) Identify what training, skills, techniques, equipment, and medications will be included;
 - (d) Provide research to support that the proposal is an evidence-based practice relevant and appropriate to EMS activities;
 - (e) Identify the outcome the project is aiming to achieve, level of risk to patients, and the expected clinical outcomes;
 - (f) Provide information regarding the economic burden of additional hours of training, equipment, and other applicable costs;
 - (g) Identify the level of certified EMS providers who will be participating in the project and explain how it was determined that the provider level has the breadth and depth of knowledge needed to participate in the project;

(h) Describe how certified EMS providers will be trained and provide the course prerequisites, curriculum/lesson plans, including any student evaluations and examinations;

(i) Identify the instructional personnel required to conduct the pilot training. Instructional personnel must meet the requirements in WAC 246-976-031;

(j) Describe the medical oversight for the project and provide the proposed patient care protocols relevant to the activities being conducted;

(k) Describe the provisions for protecting patient safety;

(l) Describe quality assurance activities to include what data will be collected, the method of data collection, and evaluation; and

(m) Evaluate and determine if a review from an IRB is necessary and supply documentation to support the decision.

(3) The department will:

(a) Review the ~~((request and training plan))~~ proposal;

(b) Determine what additional consultation with advisory groups is needed;

(c) Consult with the ~~((prehospital technical advisory committee))~~ EMS and trauma care steering committee and any other applicable advisory groups as determined by the department, to determine the need for, and the expected benefits of the ~~((requested training throughout the state.~~

~~(e) Based on recommendation of the prehospital TAC, approve or deny the request for the pilot program.)~~ proposed activities if implemented statewide; and

(d) Make the final determination to approve or deny the request to conduct the proposed pilot project.

(4) The MPD must report the results of the pilot ~~((training))~~ project to the department, applicable advisory groups, and the ~~((pre-hospital TAC.~~

~~(5) The department and the prehospital TAC will review the results of the pilot training project to determine whether or not the new training will be implemented statewide.~~

~~(6) If the pilot training is approved for statewide use, the department will adopt it as specialized training and notify all county MPDs to advise if the skill is required or not.)~~ EMS and trauma care steering committee.

(5) Upon favorable results of the pilot project and with the recommendation of the EMS and trauma care steering committee, the department will make the final determination to approve or deny the proposed activities to continue in whole or in part and determine if the project will be implemented statewide on a mandatory or optional basis.

NEW SECTION

WAC 246-976-026 Ongoing training and education programs (OTEP).

(1) The purpose of this section is to identify requirements to apply for, conduct, and renew an OTEP program. OTEP is a method of recertification defined in WAC 246-976-010.

(2) To apply for approval of an OTEP, an applicant must:

(a) Be a licensed EMS service, ESSO, a local county or regional EMS office, or an EMS medical program director (MPD);

- (b) Submit a completed application on forms provided by the department, postmarked or received by the department at least 90 days prior to the OTEP start date identified on the application;
- (c) Obtain the recommendation for approval from the MPD in each county where the OTEP will be conducted. The MPD(s) must sign the application; and
- (d) Provide the following supplemental information:
- (i) The levels of training included in the OTEP;
 - (ii) What skills, endorsements, or specialized training are to be included in the OTEP;
 - (iii) The name of the EMS services that will be participating in the OTEP;
 - (iv) A description of how the OTEP program meets the education requirements described in WAC 246-976-161 and how the topics will be covered over a three-year period;
 - (v) Identify the sources of the instructional material that will be used. All training and education content must meet the requirements in WAC 246-976-163;
 - (vi) Describe how specialized training or other components required by the MPD will be incorporated into the OTEP;
 - (vii) Describe how and when the OTEP will be reviewed and updated to remain current with state and national standards;
 - (viii) Identify the course delivery method for didactic components;
 - (ix) Describe how the effectiveness of the OTEP is evaluated including what testing mechanisms are in place to evaluate participant competency;
 - (x) Describe how quality improvement activities are incorporated into the OTEP;
 - (xi) Describe how OTEP records will be managed and tracked, if the record is electronic or paper, the position within the organization responsible for tracking how participants are notified of their progress, completion, and compliance with OTEP, how participants can request and receive copies of their training records during and after affiliation with the EMS service, and how records will be maintained;
 - (xii) Describe how the EMS service supervisor verifies attendance and completion of OTEP modules and that a participant has met the minimum requirements of the OTEP for recertification; and
 - (xiii) Provide a description of the remediation plan to include how failed or missed courses can be made up and when a certified EMS provider must recertify using the CME method because they did not meet the minimum standards of the OTEP.
- (3) To conduct an OTEP program, the applicant must:
- (a) Have approval from the MPD and the department prior to the start of the OTEP. The department will send written approval to the applicant and the MPD;
 - (b) Develop, implement, and keep updated an OTEP that meets education requirements in WAC 246-976-161;
 - (c) Provide personnel that meet requirements in WAC 246-976-031;
 - (d) Provide knowledge and skill evaluations following completion of training to assess the competency of the participant. Practical skill evaluations must be recorded on department-approved practical skill evaluation forms or nationally recognized skill evaluation forms. An MPD may approve an alternative method and documentation standard for skill evaluations;
 - (e) Provide education at least on a quarterly basis. An EMS service in a rural area who uses volunteers may submit an alternative

schedule and request an exception to this requirement from the department;

(f) Maintain training records for a minimum of seven years or in accordance with the records retention requirements of the organization, whichever is greater; and

(g) Provide training records to participants, the department and MPD upon request. This includes skill sheets, rosters, evaluations, quizzes, and training content.

(4) OTEP programs may use a distributed learning model to provide OTEP when the training and content meets requirements in WAC 246-976-161 and each topic includes a cognitive evaluation after the training.

(a) Instruction and demonstration of practical skills may be provided using a distributed learning model.

(b) Evaluation of all practical skills must be provided in person.

(c) To receive credit for the topic, the participant must successfully complete both the didactic and any required skill evaluation for that topic.

(5) OTEP programs must be renewed every five years. To renew an OTEP program:

(a) Submit a completed application on forms provided by the department, postmarked or received by the department at least 90 days prior to the OTEP start date identified on the application; and

(b) Meet all the requirements in this section.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-031 ((Senior EMS instructor (SEI)) EMS instructors, initial approval, and recognition. ((1) Responsibilities and requirements.

~~(a) The SEI is responsible for the overall instructional quality and the administrative paperwork associated with initial EMR or EMT courses, under the general supervision of the MPD.~~

~~(b) The SEI must:~~

~~(i) Follow department approved curricula/instructional guidelines identified in WAC 246-976-023;~~

~~(ii) Ensure course applicants meet the course application requirements in WAC 246-976-041; and~~

~~(2) To become an approved SEI, an EMS provider must meet the requirements identified in Table A of this section.~~

**Table A
Requirements For Initial Senior EMS Instructor Approval**

REQUIREMENTS
<p>Prerequisites:</p> <p>Candidates for initial recognition must submit proof of successful completion of the following prerequisites to the department. Candidates meeting the prerequisites will be issued the <i>Initial Recognition Application Procedures (IRAP) for Senior EMS Instructors</i>, which include the <i>Initial Senior EMS Instructor Application and Agreement</i>, instructor objectives, instructions and forms necessary for initial recognition:</p> <ul style="list-style-type: none"> • Current Washington state certification at the EMT or higher EMS certification level; • At least three years prehospital EMS experience at the EMT or higher EMS certification level, with at least one recertification;

REQUIREMENTS
<ul style="list-style-type: none"> • Approval as an EMS evaluator as identified in WAC 246-976-161; • Current recognition as a health care provider level CPR instructor from a nationally recognized training program for CPR, foreign body airway obstruction (FBAO), and defibrillation; • Successful completion of an instructor training course by the U.S. Department of Transportation, National Highway Traffic Safety Administration, an instructor training course from an accredited institution of higher education, or equivalent instructor course approved by the department; • Pass an examination developed and administered by the department on current EMS training and certification statutes, Washington Administrative Code (WAC), the Uniform Disciplinary Act (UDA) and course administration.
<p>Candidate objectives:</p> <p>Candidates must successfully complete the IRAP under the supervision of a currently recognized SEI.</p> <p>As part of an initial EMT course, the candidate must demonstrate to the course lead SEI the knowledge and skills necessary to complete the following instructor objectives:</p> <ul style="list-style-type: none"> • Accurately complete the course application process and meet application timelines; • Notify potential EMT course applicants of course entry prerequisites; • Assure that applicants selected for admittance to the course meet department training and certification prerequisites; • Maintain course records; • Track student attendance, scores, quizzes, and performance, and counsel/remediate students as necessary; • Assist in the coordination and instruction of one entire EMT course, including practical skills, under the supervision of the course lead SEI using the EMT training course instructor guidelines identified in WAC 246-976-023, and be evaluated on the instruction of each of the following sections/lessons: <ul style="list-style-type: none"> – Preparatory section, including <i>Infectious Disease Prevention for EMS Providers</i>, Revised 01/2009; – Airway section; – Assessment section; – Pharmacology section; – Medical section, Cardiovascular and Respiratory lessons; – Special Patient Populations section, Obstetrics, Neonatal Care, and Pediatrics lessons; – Trauma section, Head, Facial, Neck and Spine Trauma and Chest Trauma lessons; – EMS Operations section, Vehicle Extrication, Incident Management, and Multiple Casualty Incidents lessons; and – Multicultural Awareness component. • Coordinate and conduct an EMT final end of course comprehensive practical skills evaluation.
<p>Candidate evaluation:</p> <p>Performance evaluations must be conducted by an SEI for each instructor objective performed by the candidate on documents identified in the IRAP. These documents consist of:</p>
<ul style="list-style-type: none"> • An evaluation form, to evaluate lesson instruction objectives performed by the candidate; • A quality improvement record, to document improvement necessary to successfully complete an instructor objective performed by the candidate; and • An objective completion record, to document successful completion of each instructor objective performed by the candidate.
<p>Application:</p> <p>Submit the following documents to the county MPD to obtain a recommendation:</p> <ul style="list-style-type: none"> • The original initial SEI application/agreement, signed by the candidate; and • The original completed IRAP, all objective completion records, and evaluation documents. <p>The completed application must be submitted to the department including:</p> <ul style="list-style-type: none"> • The original application signed by both the candidate and the MPD; • The original completed IRAP, all objective completion records, and evaluation documents.

~~(3) SEI approval is effective on the date the department issues the certification card. Certifications must be renewed every three~~

years. The expiration date is indicated on the certification card.)

(1) EMS instructor types include:

(a) "EMS evaluator (ESE)" means a person approved and recognized by the department that is authorized to conduct continuing education and evaluate psychomotor skills during initial, refresher, and continuing education training. The ESE may provide field training and evaluate newly hired providers who are pending certification and are participating in an EMS service field training program. The ESE may function as a student preceptor to mentor and evaluate the clinical performance of students enrolled in initial EMS courses.

(b) "Senior EMS instructor candidate (SEIC)" means an applicant that has met requirements to start the initial recognition process to become a senior EMS instructor (SEI). The applicant is approved and recognized by the department as an SEIC and may conduct EMS training courses under the supervision of a currently approved and recognized SEI and medical program director. An SEIC may only conduct courses at or below the level for which they hold a current and valid Washington state EMS certification.

(c) "Senior EMS instructor (SEI)" means an applicant that has met the requirements to become approved and recognized by the department as an SEI and may conduct initial EMS training courses and continuing education. An SEI may only conduct courses at or below the level for which they hold a current and valid Washington state EMS certification. An SEI is responsible for the overall administration and quality of instruction. The SEI must meet the requirements in this chapter and the department *EMS Training Program and Instructor Manual (DOH 530-126)* to maintain recognition as an SEI.

(d) "Lead instructor" means a person that has specific knowledge, experience, and skills in the field of prehospital emergency care and is approved by the county medical program director to instruct EMS training courses that do not require an SEI.

(e) "Guest instructor" means a person that has specific knowledge, experience, and skills in the field of prehospital emergency care and is approved by the county medical program director to instruct course lessons for initial and refresher EMS courses and continuing education under the supervision of an SEI or lead instructor.

(2) To apply for recognition as an EMS evaluator (ESE), an applicant must:

(a) Hold a current and valid Washington state EMS certification;

(b) Have a minimum of three years' experience at or above the level of certification being evaluated;

(c) Be current in continuing education requirements for their primary EMS certification;

(d) Submit an application on forms provided by the department;

(e) Provide proof of successful completion of a department-approved initial EMS evaluator course within the past three years; and

(f) Be recommended by the medical program director. The medical program director must sign the application.

(3) To apply for recognition as a senior EMS instructor candidate (SEIC), an applicant must:

(a) Be a current Washington state certified EMS provider at or above the level of certification being instructed;

(b) Have a minimum of three years' experience in direct patient care at or above the level of certification being instructed;

(c) Be currently recognized as an EMS evaluator;

(d) Hold current recognition as a health care provider level CPR instructor from a nationally recognized training program recognized by

the department for CPR, foreign body airway obstruction (FBAO), and defibrillation;

(e) Provide proof of successful completion of an instructor training course by the U.S. Department of Transportation, National Highway Traffic Safety Administration, an instructor training course from an accredited institution of higher education, or equivalent instructor course approved by the department;

(f) Provide proof of successful completion of a one-hour Washington state EMS instructor orientation provided by the department;

(g) Pass a written evaluation developed and administered by the department on current EMS training and certification regulations including the Washington Administrative Code (WAC), the Uniform Disciplinary Act (UDA), and EMS course administration;

(h) Be affiliated with a department-approved EMS training program that meets the standards in WAC 246-976-022;

(i) Submit an application on forms provided by the department;
and

(j) Be recommended by the medical program director. The medical program director must sign the application.

(4) If approved for recognition as a senior EMS instructor candidate (SEIC), the department will issue the applicant an initial recognition application procedure packet (IRAP). The IRAP must be successfully completed in accordance with department standards and policies, under the oversight of a currently recognized SEI. The SEIC must demonstrate the knowledge and skills necessary to administer, coordinate, and conduct initial EMS courses to apply for and be considered for approval and recognition as an SEI.

(5) A SEIC recognition will be issued for three years.

(6) An applicant who is an EMS instructor in another state, country, or U.S. military branch may apply to obtain reciprocal recognition as an SEI candidate (SEIC). To become an SEI candidate (SEIC), the applicant must meet the criteria in this section and provide proof of at least three years of instructional experience as an EMS instructor. If approved for recognition as an SEIC, the department will issue the applicant an abridged initial recognition application procedure packet (IRAP) which must be successfully completed in accordance with department standards and policies, under the oversight of a currently recognized SEI to apply for full SEI recognition.

(7) To apply for recognition as a senior EMS instructor (SEI), an applicant must:

(a) Meet all the criteria in subsection (3) of this section and be currently approved and recognized as a senior EMS instructor candidate (SEIC);

(b) Submit the completed initial recognition application procedure packet (IRAP) that was issued by the department; and

(c) Be recommended by the medical program director. The medical program director must sign the application.

(8) If approved, SEI recognition is effective on the date the department issues the recognition card. SEI recognition must be renewed every three years. The expiration date is indicated on the certification card.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

~~WAC 246-976-032 ((Senior)) EMS instructor ((SEI)) reapproval ((of)) and recognition. ((1)) To become reapproved, an SEI must meet the requirements identified in Table A of this section.~~

~~(2) The renewal application procedures (RAP) will be provided by the department to individuals upon recognition as an SEI. The RAP must be completed by the SEI during the recognition period.~~

**Table A
Requirements For Senior EMS Instructor Reapproval**

REQUIREMENTS
<p>Prerequisites: Document proof of completion of the following prerequisites:</p> <ul style="list-style-type: none"> • Current or previous recognition as a Washington state SEI; • Current Washington state certification at the EMT or higher EMS certification level; • Current recognition as a health care provider level CPR instructor from a nationally recognized training program for CPR, foreign body airway obstruction (FBAO), and defibrillation; • Pass an examination developed and administered by the department on current EMS training and certification statutes, Washington Administrative Code (WAC), the Uniform Disciplinary Act (UDA) and course administration.
<p>Candidate objectives: Successfully complete the following objectives for each recognition period:</p> <ul style="list-style-type: none"> • Coordinate and perform as the lead SEI for one initial EMR or EMT course including the supervision of all practical skills evaluations; • Receive performance evaluations from a currently recognized SEI, on two candidate instructed EMR or EMT course lessons; • Perform two performance evaluations on the instruction of EMR or EMT course lessons for SEI initial or renewal recognition candidates; and • Attend one department approved SEI or instructor improvement workshop.
<p>Candidate evaluation: Evaluations of the performance of instructor objectives will be conducted by an SEI and completed on documents identified in the RAP. These documents consist of:</p> <ul style="list-style-type: none"> • An evaluation form, to evaluate lesson instruction objectives performed by the candidate; • A quality improvement record, to document improvement necessary to successfully complete an instructor objective performed by the candidate; and • An objective completion record, to document successful completion of each instructor objective performed by the candidate.
<p>Application: Submit the documented prerequisites and the completed RAP, including the application/agreement and all documents completed during the renewal of recognition process, to the county MPD to obtain a recommendation. The completed application must be submitted to the department including:</p> <ul style="list-style-type: none"> • Current proof of successful completion of the prerequisites listed in this section; • The original SEI renewal application/agreement that has been signed by the candidate and the county MPD; and • The original completed RAP document and all forms used for evaluation, quality improvement purposes and verification of successful completion as identified in the RAP.

~~(3) An EMS instructor approved in another state, country, or U.S. military branch may obtain reciprocal recognition. To become an SEI, the applicant must:~~

~~(a) Meet the initial recognition prerequisites as defined in this section;~~

~~(b) Provide proof of at least three years of instructional experience as a state approved EMS instructor. If the applicant cannot provide proof of instructional experience, the initial recognition application process must be completed;~~

~~(c) Instruct two initial EMT course topics, be evaluated on the instruction by a current Washington SEI, and receive a positive recommendation for approval by the SEI; and~~

~~(d) Complete the renewal application and submit it to the department.~~

~~(4) An SEI whose recognition has expired for more than twelve months must complete the initial recognition process.~~

~~(5) Approval is effective on the date the department issues the certificate. Certifications must be renewed every three years. The expiration date is indicated on the certification card.)~~ (1) To apply for rerecognition as an EMS evaluator (ESE), an applicant must:

(a) Hold a current and valid Washington state EMS certification at or above the level of certification being evaluated;

(b) Submit an application on forms provided by the department;

(c) Be current in continuing education requirements for their primary EMS certification;

(d) Provide proof of successful completion of a department-approved EMS evaluator refresher course; and

(e) Be recommended by the medical program director. The medical program director must sign the application.

(2) An ESE whose recognition has expired for more than three years must complete the initial recognition process.

(3) To apply for rerecognition as a senior EMS instructor candidate (SEIC), an applicant must:

(a) Meet the requirements in WAC 246-976-031;

(b) Be currently approved and recognized as an SEIC;

(c) Submit an application on forms provided by the department;

and

(d) Be recommended by the medical program director. The medical program director must sign the application.

(4) To apply for rerecognition as a senior EMS instructor (SEI), an applicant must:

(a) Hold a current Washington state certification as an EMS provider at or above the level of certification being instructed;

(b) Be currently approved and recognized as an SEI or have an SEI recognition that is expired less than three years;

(c) Complete the recognition application procedure packet (RAP) on forms issued by the department;

(d) Pass a written evaluation developed and administered by the department on current EMS training and certification regulations including Washington Administrative Code (WAC), the Uniform Disciplinary Act (UDA), and EMS course administration;

(e) Successfully complete a one-hour Washington state EMS instructor orientation;

(f) Attend one department-approved SEI or instructor improvement workshop;

(g) Submit an application on forms provided by the department;

and

(h) Be recommended by the medical program director. The medical program director must sign the application.

(5) An SEI whose recognition has expired for more than three years must complete the recognition process described in WAC 246-976-031 (3) (m).

(6) SEI recognition is effective on the date the department issues the recognition. SEI recognition must be renewed every three years. The expiration is indicated on the certification card.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-033 Denial, suspension, modification or revocation of an ESE, SEIC, or SEI recognition. (1) The secretary may deny, suspend, modify or revoke an ESE, SEIC, or SEI's recognition when it finds the ESE, SEIC, or SEI has:

- (a) Violated chapter 18.130 RCW, the Uniform Disciplinary Act;
- (b) Failed to:
 - (i) Maintain EMS certification;
 - (ii) Update the following personal information with the department as changes occur:
 - (A) Name;
 - (B) Address;
 - (C) Home and work phone numbers;
 - (iii) Maintain knowledge of current EMS training and certification statutes, WAC, the UDA, and course administration;
 - (iv) Comply with requirements in WAC 246-976-031(1);
 - (v) Participate in the instructor candidate evaluation process in an objective and professional manner without cost to the individual being reviewed or evaluated;
 - (vi) Complete all forms and maintain records in accordance with this chapter;
 - (vii) Demonstrate all skills and procedures based on current standards;
 - (viii) Follow the requirements of the Americans with Disabilities Act; or
 - (ix) Maintain security on all department-approved examination materials.

(2) The ~~((candidate))~~ ESE, SEIC, or SEI may request a hearing to contest the secretary's decisions in regard to denial, suspension, modification or revocation of an ESE, SEIC, or SEI recognition in accordance with the Administrative Procedure Act (APA) (chapter 34.05 RCW), the Uniform Disciplinary Act (chapter 18.130 RCW), and chapter 246-10 WAC.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-041 To apply for training. (1) An applicant for EMS training must be at least ~~((seventeen))~~ 17 years old at the beginning of the course. Variances will not be allowed for the age requirement.

(2) An applicant for training at the intermediate (AEMT) level ~~((must be currently certified as an EMT with at least one year of experience))~~ must meet all entry requirements of the state approved AEMT program.

(3) An applicant for training at the advanced life support (paramedic) level ~~((must have at least one year of experience as a certified EMT, or equivalent prehospital experience and))~~ must meet

all entry requirements of the state approved paramedic training program.

NEW SECTION

WAC 246-976-139 Provisional certification. (1) An individual may apply for a provisional certification to engage in supervised practice as a certified EMS provider for the level they have applied for. Upon completion of any EMS service field training and MPD integration criteria, an applicant may apply for full certification. A provisional certification is valid for up to six months. There is no renewal option for a provisional certification.

(2) To apply for a provisional certification, an applicant must:

(a) Submit a completed application on forms provided by the department;

(b) Be at least 18 years of age and provide their date of birth on the initial certification application. Variances to this age requirement will not be granted;

(c) Successfully complete a background check provided by the department. The background check may include the requirement for fingerprint card and FBI background check. If an applicant has submitted fingerprints and has been informed by the department that their fingerprints were rejected and must be redone, the applicant may request a temporary practice permit in accordance with WAC 246-12-050;

(d) Provide proof of a high school diploma or GED for EMT, AEMT, and paramedic level certifications;

(e) Provide proof of competency and a current and valid certification from another state or national organization recognized by the department;

(f) Provide proof of active membership paid or volunteer with a licensed aid or ambulance service, or an EMS service supervisory organization (ESSO) recognized by the department; and

(g) Be recommended by the medical program director. The medical program director must sign the application.

(3) A person holding a provisional certification may apply for full certification upon successful completion of any EMS service filed training and MPD integration criteria. To apply for certification, an applicant must:

(a) Submit a completed application on forms provided by the department;

(b) Provide proof of active membership paid or volunteer with a licensed aid or ambulance service, or an EMS service supervisory organization (ESSO) recognized by the department; and

(c) Be recommended by the medical program director. The medical program director must sign the application.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-141 To obtain initial EMS provider certification following the successful completion of Washington state approved EMS course. To apply for initial EMS provider certification following the

successful completion of a Washington state approved EMS course, an applicant must ~~((submit to the department:~~

~~(1) A completed initial certification application on forms provided by the department.~~

~~(2) Proof of meeting the requirements identified in Table A of this section.~~

Table A

Applicants Who Have Completed a Washington State Approved EMS Course

REQUIREMENTS
<p>EMS education: Candidate must provide proof of successful EMS course completion from a department-approved EMS training program. For paramedic applicants, this proof must be from a training program accredited by a department-approved national accrediting organization.</p> <p>Certification examination: Provide proof of a passing score on the department-approved certification examination for the level of certification. Applicants will have three attempts within twelve months of course completion to pass the examination. After three unsuccessful attempts, the applicant may retake the initial EMS training course, or within twelve months of the third unsuccessful attempt, complete department-approved refresher training covering airway, medical, pediatric, and trauma topics identified below, and pass the department-approved certification examination:</p> <ul style="list-style-type: none"> • EMR Not applicable. Must repeat EMR course. • EMT twenty-four hours. • AEMT thirty-six hours – Pharmacology review must be included in the refresher training. • Paramedic forty-eight hours – Pharmacology review must be included in the refresher training.
<p>Certification application: High school diploma or GED: Required for EMT, AEMT and paramedic only. Provide proof of identity – State or federal photo I.D. (military ID, driver's license, passport). Provide proof of age – At least eighteen years of age. Variances to this age requirement will not be granted. Provide proof of EMS agency association – Active membership, paid or volunteer with:</p> <ul style="list-style-type: none"> • Licensed aid or ambulance service; • Law enforcement agency; • Business with organized industrial safety team; • Senior EMS instructors or training coordinators, teaching at department-approved EMS training programs, who are unable to be associated with approved agencies above. <p>Recommendation of county medical program director – Required. MPD must sign application. Background check – required. May include requirement for fingerprint card and FBI background check.))</p>

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(1) Submit a completed application on forms provided by the department;

(2) Be at least 18 years of age and provide their date of birth on the initial certification application. Variances to this age requirement will not be granted;

(3) Successfully complete a background check provided by the department. The background check may include the requirement for fingerprint card and FBI background check. If an applicant has submitted fingerprints and has been informed by the department that their fingerprints were rejected and must be redone, the applicant may request a temporary practice permit in accordance with WAC 246-12-050;

(4) Provide proof of high school diploma or GED for EMT, AEMT, and paramedic level certifications;

(5) Provide proof of competency and a current and valid certification from another state or national organization recognized by the department;

(6) Provide proof of active membership paid or volunteer with a licensed aid or ambulance service, or an EMS service supervisory organization (ESSO) recognized by the department; and

(7) Be recommended by the medical program director. The medical program director must sign the application.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-142 To obtain reciprocal (out-of-state) EMS certification, based on a current out-of-state or national EMS certification approved by the department. To apply for certification, an applicant must ~~((submit to the department:~~

~~(1) A completed certification application on forms provided by the department; and~~

~~(2) Proof of meeting the requirements identified in Table A of this section.~~

~~**Table A
Reciprocity—Out-of-State Applicants Seeking EMS Certification**~~

REQUIREMENTS
<p>EMS educational program: EMS courses conducted according to the U.S. Department of Transportation, national EMS training course standards. After June 30, 1996, paramedic training program must be accredited by a national accrediting organization approved by the department.</p>
<p>Additional education: Provide proof of a department-approved four-hour infectious disease course or a seven-hour HIV/AIDS course as required by chapter 70.24 RCW.</p>
<p>Current credential: Provide proof of valid EMS certification from another state or national certifying agency approved by the department.</p>
<p>Certification examination: Provide proof of a passing score on a department-approved certification examination for the level of certification. The score is valid for twelve months from the date of the examination. After twelve months, a passing score on a department-approved certification examination is required. Applicants will have three attempts within twelve months from the first examination date to pass the examination.</p>
<p>Certification application: High school diploma or GED: Required for EMT, AEMT and paramedic only. Provide proof of identity - State or federal photo I.D. (military ID, driver's license, passport). Provide proof of age - At least eighteen years of age. Variances to this age requirement will not be granted. Provide proof of EMS agency association - Active membership, paid or volunteer with:</p> <ul style="list-style-type: none"> • Licensed aid or ambulance service; • Law enforcement agency; • Business with organized industrial safety team; • Senior EMS instructors or training coordinators, teaching at department-approved EMS training programs, who are unable to be associated with approved agencies above. <p>Recommendation of county medical program director - required. MPD must sign application. Background check - required. May include requirement for fingerprint card and FBI background check.))</p>

(1) Submit a completed application on forms provided by the department;

(2) Be at least 18 years of age and provide their date of birth on the initial certification application. Variances to this age requirement will not be granted;

(3) Successfully complete a background check provided by the department. The background check may include the requirement for fingerprint card and FBI background check. If an applicant has submitted fingerprints and has been informed by the department that their fingerprints were rejected and must be redone, the applicant may request a temporary practice permit in accordance with WAC 246-12-050;

(4) Provide proof of a high school diploma or GED for EMT, AEMT, and paramedic level certifications;

(5) Provide proof of competency and a current and valid certification from another state or national organization recognized by the department;

(6) Provide proof of active membership paid or volunteer with a licensed aid or ambulance service, or an EMS service supervisory organization (ESSO) recognized by the department; and

(7) Be recommended by the medical program director. The medical program director must sign the application.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-143 To obtain EMS certification (~~(by challenging the educational requirements,~~) based on possession of a current health care providers credential. To apply for certification, an applicant (~~(must submit to the department)~~) shall:

~~((1) A completed certification application on forms provided by the department; and~~

~~(2) Proof of meeting the requirements identified in Table A of this section.~~

Table A

Health Care Providers Seeking to Challenge the Educational Requirements for EMS Certification

REQUIREMENTS
<p>Education: Course completion documents showing education equivalent to the knowledge and skills at the EMR, EMT or AEMT training level. Applicants seeking paramedic certification – Successful completion of a paramedic course through a training program accredited by a department approved national accrediting organization.</p>
<p>Additional education: Provide proof of a department approved four-hour infectious disease course or a seven-hour HIV/AIDS course as required by chapter 70.24 RCW.</p>
<p>Current credential: Provide proof of a valid health care provider credential.</p>
<p>Certification examination: A passing score on a department approved certification examination. Applicants will have three attempts within twelve months from the first examination date to pass the examination. After twelve months, the applicant must complete an approved initial EMS course to reapply for certification.</p>
<p>Certification application: High school diploma or GED: Required for EMT, AEMT and paramedic only. Provide proof of identity – State or federal photo I.D. (military ID, driver's license, passport).</p>

REQUIREMENTS
<p>Provide proof of age – At least eighteen years of age. Variances to this age requirement will not be granted.</p> <p>Provide proof of EMS agency association – Active membership, paid or volunteer with:</p> <ul style="list-style-type: none"> • Licensed aid or ambulance service; • Law enforcement agency; • Business with organized industrial safety team. <p>Recommendation of county medical program director – Required. MPD must sign application.</p> <p>Background check – required. May include requirement for fingerprint card and FBI background check.))</p>

(1) Hold a Washington state license or certification in another health profession;

(2) Provide proof of an education that is substantially equivalent to EMS education requirements for the level of certification being applied for; and

(3) Meet the requirements and follow the procedures outlined in WAC 246-976-142.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-144 EMS certification. (1) Certification is effective on the date the department issues the certificate. Certifications must be renewed every three years. The expiration date is indicated on the certification card.

(2) The secretary may extend the certification period to accommodate the efficient processing of recertification applications. Requests to extend the certification period must be coordinated through the county medical program director. The expiration date will be indicated on the certification card issued by the department.

(3) An EMS certification ((of AEMTs and paramedics)) is valid only:

(a) In the county or counties where recommended by the MPD and approved by the secretary;

(b) In other counties where ((formal EMS)) department-approved medical ((control)) program director agreements are in place; ((or))

(c) In other counties when accompanying a patient in transit((or)) or when encountering an incident and stopping to render aid when returning to a home county. In these cases, 911 should be contacted to engage the local EMS system; or

(d) (i) While responding to other counties for mutual aid purposes, mass care, or other incidents in an episodic manner. In these situations((or)):

(ii) The EMS provider will provide patient care following the prehospital patient care protocols of their supervising MPD.

(4) A certified AEMT or paramedic may function at a lower certification level in counties other than those described in subsection (3)(a) through ((e)) (d) of this section, with approval of that county's MPD and the department.

(5) EMTs who ((have successfully completed)) hold an IV therapy or supraglottic airway training endorsement may use those skills only when following approved county MPD protocols that permit EMTs with such training to perform those skills.

(6) When certified EMS personnel change or add membership with an EMS agency, EMS service supervisory organization (ESSO), or depart-

ment-approved training program, or their contact information changes, they must notify the department within ~~((thirty))~~ 30 days of the change. Changes submitted must be made on forms provided by the department.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-161 General education and skill maintenance requirements for EMS provider recertification. (1) Education and skill maintenance is required to recertify as an EMS provider. There are two methods by which the EMS provider may meet continuing education and skill requirements for recertification at the end of each certification period. The continuing medical education and examination (CME) method described in WAC 246-976-162 or the ongoing training and evaluation program (OTEP) method described in WAC 246-976-163.

~~((a))~~ The EMS provider must complete the continuing medical education and examination (CME) method, identified in WAC 246-976-162 or the ongoing training and evaluation program (OTEP) method, identified in WAC 246-976-163 for each certification period.

~~(b))~~ (2) The EMS provider shall maintain records of successfully completed educational, practical skill evaluation and skill maintenance requirements ~~((-~~

~~(2) Education for recertification must be approved by the MPD. Educational and topic content requirements must include:~~

~~(a) Knowledge and skills found in instructor guidelines identified in WAC 246-976-023, appropriate to the level of certification being taught;~~

~~(b) Nationally recognized training programs for CPR, foreign body airway obstruction (FBAO), and defibrillation and patient care appropriate to the level of certification. Training must be at the health care provider level and meet Journal of American Medical Association (JAMA) standards; and~~

~~(c) Current county medical program director (MPD) protocols, regional patient care procedures, county operating procedures and state triage destination procedures.~~

~~(3) Nationally recognized training programs may be incorporated as part of content identified in subsection (2) of this subsection.~~

~~(4) Skill maintenance is a required educational component for recertification:~~

~~(a) For EMS providers completing the CME method the required skills are defined in WAC 246-976-162.~~

~~(b) For EMS providers completing the OTEP method the required skills are defined in WAC 246-976-163. These requirements may be obtained as part of an OTEP.~~

~~(5) Upon approval of the MPD, if an EMS provider is unable to complete the required endotracheal intubations as defined in WAC 246-976-162 or 246-976-163 the EMS provider may meet the endotracheal intubation requirements by completing an MPD and department-approved intensive airway management training program, covering all knowledge and skill aspects of emergency airway management.)~~ for a minimum of seven years. The EMS provider shall provide records to their EMS agency, their county medical program director, and the department upon request.

(3) All training and education content must meet current national EMS education standards to include skill evaluations. Department recognized national EMS training courses for topics such as basic and advanced cardiac life support, pediatric advanced life support, advanced medical life support, and prehospital trauma life support may be used. EMS continuing education programs approved by national accreditation organizations recognized by the department may also be used. All training and education content must be approved by the MPD.

(4) Education must include information and psychomotor skill maintenance opportunities relevant to all age groups and be appropriate to the level of certification. Topics required for both methods of recertification must include all the following:

(a) Age appropriate patient assessment;

(b) Airway management including the use of airway adjuncts appropriate to the level of certification;

(c) Cardiovascular education that includes recognition, assessment of severity, and care of cardiac and stroke patients, CPR for the health care provider, foreign body airway obstruction, and electrical therapy for the level of certification;

(d) Trauma including spinal motion restriction;

(e) Pharmacology including epinephrine, naloxone, and medications approved by the MPD;

(f) Obstetrics, pediatric, geriatric, bariatric, behavioral, mental health, and chemical dependency;

(g) Patient advocacy concepts including multicultural awareness education as required in RCW 43.70.615, health equity education trainings for health care professionals as required in RCW 43.70.613, portable orders for life sustaining treatment (POLST) as provided in RCW 43.70.480, legal obligations and reporting for vulnerable populations as provided in RCW 70.34.035, and training as required in RCW 43.70.490 for people with disabilities or functional needs;

(h) EMS provider advocacy and wellness concepts including suicide awareness, mental health and physical wellbeing, infectious disease training, and workplace safety;

(i) Law and regulations related to the scope of practice of providers in Washington state and regulatory requirements for an EMS provider to maintain certification;

(j) State, regional, and local policies including state triage tools, regional patient care procedures, county operating procedures, and county MPD patient care protocols and policies;

(k) Disaster preparedness concepts such as the use of incident command system (ICS), multiple patient incidents, mass casualty incidents, disaster triage, all hazard incidents, public health emergencies, and active shooter events;

(l) Documentation standards for patient care including reporting to the Washington state EMS electronic data system as provided in RCW 70.168.090, data quality, evidence-based practice and research; and

(m) Ambulance operations including concepts such as driving an emergency vehicle, stretcher handling, crime scene awareness, safety around air ambulances and landing zones.

(5) If a competency-based education delivery method is not used, the required number of hours for education in each certification period for each level of care is as follows:

(a) EMR - 15 hours;

(b) EMT - 30 hours;

(c) AEMT - 60 hours;

(d) Paramedic - 150 hours.

(6) Skill maintenance is a required component for both OTEP and CME methods of recertification under WAC 246-976-162 and 246-976-163. Skill maintenance activities should include skills identified in the department-approved EMS skills and procedures list (DOH 530-173) appropriate to the level of certification. Skill maintenance should include an educational component. The provider must demonstrate the ability to perform a skill properly to the satisfaction of the MPD or approved MPD delegate. Skill proficiency must include opportunities for EMS providers to annually practice and demonstrate proficiency in high risk, low frequency skills, and must include:

(a) Airway, respiration, and ventilation:

(i) For EMR include airway management, airway adjuncts, bag valve mask, and oral suctioning for all age groups.

(ii) For EMT and AEMT include content prescribed for EMR and if supraglottic airway is included in the scope of practice for the level of certification or if the EMS provider holds an endorsement for supraglottic airway. "Supraglottic airway" means airway adjuncts not intended for insertion into the trachea. This includes verification of initial placement and continued placement, in a skill lab setting, through procedures identified in county MPD protocols.

(iii) For paramedic include content prescribed for EMR, EMT, AEMT, and paramedics. Paramedics must successfully complete a department-approved MPD airway management education program throughout each three-year certification period.

(iv) Distributive learning may be used to provide the didactic portion of the airway management education and must include a cognitive assessment for each module.

(v) The airway management program must include a minimum of all the following:

(A) Respiratory system anatomy and physiology;

(B) Basic airway management and airway adjuncts;

(C) Recognizing the need for and preparatory steps for advanced airway management including difficult airways; and

(D) Post intubation management including monitoring airway, patient movement considerations, and documentation.

(vi) Paramedics must annually demonstrate psychomotor skills to the satisfaction of the MPD or approved MPD delegate. Psychomotor skills must include:

(A) Appropriate use and placement of oral and nasal airway adjuncts for pediatric and adult patients;

(B) Appropriate use and placement of supraglottic airways for pediatric and adult patients;

(C) Appropriate use and placement of endotracheal tube for pediatric and adult patients. Successful human intubation or successful placement on MPD approved high-fidelity mannequins satisfy the psychomotor requirements with approval from the MPD; and

(D) Appropriate use and placement of surgical airway management techniques for pediatric and adult patients.

(vii) If a paramedic is unable to obtain human intubations or successfully demonstrate competency for advanced airway management and intubation the MPD may conduct a quality improvement review of patient care provided in accordance with department-approved MPD quality improvement plan. The MPD may also require additional education and psychomotor opportunities to demonstrate competency.

(b) Vascular access:

(i) AEMT and EMTs that hold an IV therapy endorsement must:

(A) Demonstrate proficiency of intravenous insertion and infusion on patients to the satisfaction of the MPD or an approved MPD delegate. Skills can be performed while in the course of duty as an EMS provider on sick, injured, or preoperative adult and pediatric patients; and

(B) Demonstrate proficiency of intraosseous insertion and infusion to the satisfaction of the MPD or an approved MPD delegate. Skills can be performed while in the course of duty as an EMS provider on sick, injured, or preoperative adult and pediatric patients.

(ii) Paramedics must:

(A) Complete requirements for AEMT; and

(B) Demonstrate proficiency to the satisfaction of the MPD or approved MPD delegate for advanced level vascular access, infusion, and monitoring of lines such as central venous and external jugular lines and other relevant skills identified in the Washington state approved EMS skills and procedures list (DOH 530-173).

(iii) If an EMS provider is unable to complete any of the skill requirements identified above, upon approval from the MPD, the EMS provider may meet the requirements by performing the skill on artificial training aids.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-162 The CME method of recertification. (1) To complete the CME method of recertification, an EMS provider must (1) complete and document the requirements indicated in Table A of WAC 246-976-161 and this section, appropriate to the level of certification for each certification period.

**Table A
Education Requirements for Recertification**

	EMR	EMT	AEMT	Paramedic
Annual Requirements				
Cardiovascular education and training	X	X	X	X
Spinal immobilization	X	X	X	X
Patient assessment	X	X	X	X
Certification Period Requirements				
Infectious disease	X	X	X	X
Trauma	X	X	X	X
Pharmacology		X	X	X
Other pediatric topics	X	X	X	X
Total minimum education hours per certification period:	15 hrs	30 hrs	60 hrs	150 hrs

"X" Indicates an individual must demonstrate knowledge and competency in the topic or skill.

(2) Complete and document the skills maintenance requirements, indicated in Table B of this section, appropriate to the level of certification.

**Table B
Skills Maintenance Requirements for the CME Method**

	EMR	EMT	AEMT	Paramedic
First Certification Period or Three Years				

	EMR	EMT	AEMT	Paramedic
<input type="checkbox"/> First Year				
IV starts		EMT w/IV therapy skill 36	36	36
Endotracheal intubations (4 must be performed on humans)				12
Intraosseous infusion placement		EMT w/IV therapy skill X	X	X
<input type="checkbox"/> Second and Third Years				
IV starts over the two-year period		EMT w/IV therapy skill 72	72	72
Endotracheal intubations over the two-year period (4 per year must be performed on humans)				24
Intraosseous infusion placement		EMT w/IV therapy skill X		
During the Certification Period				
Pediatric airway management				X
Supraglottic airway placement		EMT w/supraglottic airway skill X	X	X
Defibrillation	X	X	X	X
Later Certification Periods				
<input type="checkbox"/> Annual Requirements				
IV starts		EMT w/IV therapy skill X	X	X
Endotracheal intubations (2 per year must be performed on humans)				4
Intraosseous infusion placement		EMT w/IV therapy skill X	X	X
<input type="checkbox"/> During the Certification Period				
Pediatric airway management				X
Supraglottic airway placement		EMT w/supraglottic airway skill X	X	X
Defibrillation	X	X	X	X

"X" Indicates an individual must demonstrate proficiency of the skill to the satisfaction of the MPD.))

(2) The EMS provider must complete requirements appropriate to the level of certification for each certification period and maintain competency in knowledge and skills. The EMS provider must demonstrate competency in knowledge and the ability to perform a skill properly to the satisfaction of the MPD or approved MPD delegate.

(3) An EMS provider who applies for recertification using the CME method must successfully complete department-approved knowledge and any practical skill examinations as identified in WAC 246-976-171.

(4) An EMS provider ((changing from the CME method to the OTEP method must meet all requirements of the OTEP method.

(5) Definitions of selected terms used in Tables A and B of this section:

(a) Cardiovascular education and training for adults, children, and infants includes:

~~(i) Nationally recognized training programs for CPR, foreign body airway obstruction (FBAO), and defibrillation and patient care appropriate to the level of certification;~~

~~(ii) The use of airway adjuncts appropriate to the level of certification;~~

~~(iii) The care of cardiac and stroke patients.~~

~~(b) Endotracheal intubation: Proficiency includes the verification of proper tube placement and continued placement of the endotracheal tube in the trachea through procedures identified in county MPD protocols.~~

~~(c) Infectious disease: Infectious disease training must meet the requirements of chapter 70.24 RCW.~~

~~(d) Intraosseous infusion: Proficiency in intraosseous line placement.~~

~~(e) IV starts: Proficiency in intravenous catheterization performed on sick, injured, or preoperative adult and pediatric patients. With written authorization of the MPD, IV starts may be performed on artificial training aids.~~

~~(f) Supraglottic airway placement: Proficiency includes the verification of tube placement and continued placement of the supraglottic airway, in a skill lab setting, through procedures identified in county MPD protocols.~~

~~(g) Other pediatric topics: This includes anatomy and physiology and medical problems including special needs patients appropriate to the level of certification.~~

~~(h) Patient assessment: This includes adult, pediatric and geriatric patients appropriate to the level of certification.~~

~~(i) Pharmacology: Pharmacology specific to the medications approved by the MPD (not required for EMRs).~~

~~(j) Proficiency: Ability to demonstrate and perform all aspects of a skill properly to the satisfaction of the MPD or delegate.~~

~~(k) Spinal immobilization and packaging: This includes adult, pediatric, and geriatric patients appropriate to the level of certification~~

~~(l) Trauma: For adult, pediatric, and geriatric patients appropriate to the level of certification.) may transition from the OTEP to the CME method of recertification within their certification period if the provider meets all the following:~~

~~(a) Meets all requirements in WAC 246-976-161 by the end of their certification cycle;~~

~~(b) Meets all of the requirements in this section by the end of their certification cycle;~~

~~(c) Has completed and submitted the department continuing education gap tool to the MPD;~~

~~(d) Has received an MPD approved education plan to meet any deficiencies; and~~

~~(e) Has been approved by the MPD to transition recertification methods.~~

~~(5) An EMS provider must transition from OTEP to CME if they are unable to meet the requirements of the OTEP method of recertification.~~

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-163 The OTEP method of recertification. (~~((1) Ongoing training and evaluation programs (OTEP):~~

~~(a) Must provide knowledge and skill evaluations following completion of each topic presentation to determine student competence of topic content.~~

~~(i) Must record practical skill evaluations on skill evaluation forms from nationally recognized training programs, or on department-approved practical skill evaluation forms, for the level of certification being taught.~~

~~(ii) If an evaluation form is not provided, a skill evaluation form must be developed and approved by the MPD and the department to evaluate the skill;~~

~~(b) Must be conducted at least on a quarterly basis;~~

~~(c) Must be approved by the MPD and the department. Any additions or major changes to an approved OTEP requires documented approval from the county MPD and the department;~~

~~(d) Must be presented and evaluated by course personnel meeting the following qualifications:~~

~~(i) Evaluators must:~~

~~(A) Be a currently certified Washington EMS provider who has completed at least one certification cycle. Certification must be at or above the level of certification being evaluated;~~

~~(B) Complete an MPD approved evaluator's workshop, specific to the level of certification being evaluated, which teaches participants to properly evaluate practical skills using the skill evaluation forms identified in (a) of this subsection. Participants must demonstrate proficiency to successfully complete the workshop;~~

~~(C) Complete the evaluator application, DOH Form 530-012;~~

~~(I) Be approved by the county MPD and the department; and~~

~~(II) Submit the MPD approved EMS evaluator application to the department.~~

~~(D) Meet education and participation requirements as identified by the county medical program director;~~

~~(E) Be recommended for reapproval by the county medical program director upon EMS credential recertification.~~

~~(ii) Instructors must:~~

~~(A) Be a currently approved EMS evaluator at or above the level of certification being taught;~~

~~(B) Be approved by the county MPD to instruct and evaluate EMS topics;~~

~~(iii) Guest lecturers, when used, must have specific knowledge and experience in the skills of the prehospital emergency care field for the topic being presented and be approved by the county MPD to instruct EMS topics;~~

~~(e) May use online training to provide all or a portion of an OTEP when:~~

~~(i) Online training provides sufficient topic content to meet all annual and certification period requirements;~~

~~(ii) Each didactic training topic requires an online cognitive evaluation after the training. Successful completion of the topic evaluation is required to receive credit for the topic;~~

~~(iii) Instruction and demonstration of all practical skills are provided in person by an SEI or qualified EMS evaluator approved by the MPD to instruct the practical skills;~~

~~(iv) Each practical evaluation is completed and scored in the presence of a state approved EMS evaluator or SEI. Each evaluation must be successfully completed to receive credit for the practical skill.~~

~~(2) To complete the OTEP method of recertification, the EMS provider:~~

~~(a) Must complete a county MPD and department approved OTEP that includes requirements indicated in Table A of this section, for the certification period, appropriate to the level of certification;~~

**Table A
Education Requirements for Recertification**

	EMR	EMT	AEMT	Paramedic
Annual Requirements				
Cardiovascular education and training	X	X	X	X
Spinal immobilization	X	X	X	X
Patient assessment	X	X	X	X
Certification Period Requirements				
Infectious disease	X	X	X	X
Trauma	X	X	X	X
Pharmacology		X	X	X
Other pediatric topics	X	X	X	X
* Total minimum education hours per certification period:	15 hrs	30 hrs	60 hrs	150 hrs

"X" Indicates an individual must demonstrate knowledge and competency in the topic or skill.

* Individuals obtaining education through the CME method must complete the total number of educational course hours indicated above. However, due to the competency-based nature of OTEP, fewer class hours may be needed to complete these requirements than the total course hours indicated above.

~~(b) Complete and document the skills maintenance requirements, indicated in Table B of this section, appropriate to the level of certification. Skill maintenance requirements may be obtained as part of the OTEP.~~

**Table B
Skills Maintenance Requirements for the OTEP Method**

	EMR	EMT	AEMT	Paramedic
First Certification Period or Three Years				
<input type="checkbox"/> First Year				
IV starts		EMT w/IV therapy skill 12	12	12
Human endotracheal intubations				4
Intraosseous infusion placement		EMT w/IV therapy skill X	X	X
<input type="checkbox"/> Second and Third Years				
IV starts over the two-year period		EMT w/IV therapy skill 12	24	24
Human endotracheal intubations over the two-year period				8
Intraosseous infusion placement		EMT w/IV therapy skill X	X	X
During the Certification Period				

	EMR	EMT	AEMT	Paramedic
Pediatric airway management		EMR & EMT X	X	X
Supraglottic airway placement		EMT w/supraglottic airway skill X	X	X
Defibrillation	X	X	X	X
Later Certification Periods				
<input type="checkbox"/> Annual Requirements				
IV starts		EMT w/IV therapy skill X	X	X
Human endotracheal intubation				2
Intraosseous infusion placement		EMT w/IV therapy skill X	X	X
<input type="checkbox"/> During the Certification Period				
Pediatric airway management		EMR & EMT X	X	X
Supraglottic airway placement		EMT w/supraglottic airway skill X	X	X
Defibrillation	X	X	X	X

"X" Indicates an individual must demonstrate proficiency of the skill to the satisfaction of the MPD.

~~(c) EMS providers using the OTEP method meet skill maintenance requirements by demonstrating proficiency in the application of those skills to the county MPD during the OTEP.~~

~~(d) Any EMS provider changing from the OTEP method to the CME method must meet all requirements of the CME method.~~

~~(3) Skill maintenance requirements for applicants requesting reciprocal certification:~~

~~(a) Reciprocity applicants credentialed less than three years must meet Washington state's skill maintenance requirements for the initial certification period identified above.~~

~~(b) Reciprocity applicants credentialed three years or more must meet Washington state's skill maintenance requirements for second and subsequent certification periods.~~

~~(c) The county MPD may evaluate an EMS provider's skills to determine proficiency in the application of those skills prior to recommending certification. The MPD may recommend that an EMS provider obtain specific training to become proficient in any skills deemed insufficient by the MPD or delegate.~~

~~(4) Definitions of selected terms used in Tables A and B of this section:~~

~~(a) Cardiovascular education and training for adults, children, and infants includes:~~

~~(i) Nationally recognized training programs for CPR, foreign body airway obstruction (FBAO), and defibrillation and patient care appropriate to the level of certification;~~

~~(ii) The use of airway adjuncts appropriate to the level of certification; and~~

~~(iii) The care of cardiac and stroke patients.~~

~~(b) Endotracheal intubation: Proficiency includes the verification of proper tube placement and continued placement of the endotra-~~

~~cheal tube in the trachea through procedures identified in county MPD protocols.~~

~~(c) Infectious disease: Infectious disease training must meet the requirements of chapter 70.24 RCW.~~

~~(d) Intraosseous infusion: Proficiency in intraosseous line placement.~~

~~(e) IV starts: Proficiency in intravenous catheterization performed on sick, injured, or preoperative adult and pediatric patients. With written authorization of the MPD, IV starts may be performed on artificial training aids.~~

~~(f) Supraglottic airway placement: Proficiency includes the verification of tube placement and continued placement of the supraglottic airway, in a skill lab setting, through procedures identified in county MPD protocols.~~

~~(g) Other pediatric topics: This includes anatomy and physiology and medical problems including special needs patients appropriate to the level of certification.~~

~~(h) Patient assessment: This includes adult, pediatric, and geriatric patients appropriate to the level of certification.~~

~~(i) Pharmacology: Pharmacology specific to the medications approved by the MPD (not required for EMRs).~~

~~(j) Proficiency: Ability to demonstrate and perform all aspects of a skill properly to the satisfaction of the MPD or delegate.~~

~~(k) Spinal immobilization and packaging: This includes adult, pediatric, and geriatric patients appropriate to the level of certification.~~

~~(l) Trauma: For adult, pediatric, and geriatric patients appropriate to the level of certification.))~~ (1) To recertify using the OTEP method, an EMS provider must complete a county MPD and department-approved OTEP that meets requirements in WAC 246-976-026, 246-976-161, and this section. Due to the competency-based nature of OTEP, fewer class hours may be required to complete the requirements than the recommended hours identified in WAC 246-976-161.

(2) The EMS provider must complete requirements appropriate to the level of certification for each certification period and maintain competency in knowledge and skills. The EMS provider must demonstrate competency in knowledge and the ability to perform a skill properly to the satisfaction of the MPD or approved MPD delegate.

(3) An EMS provider may transition from the CME to the OTEP method of recertification within their certification period if the provider meets all the following:

(a) Has at least one year remaining in their certification cycle;

(b) Meets all requirements in WAC 246-976-161 by the end of their certification cycle;

(c) Meets all of the requirements in this section by the end of their certification cycle;

(d) Has completed and submitted the department continuing education gap tool to the MPD;

(e) Has received an MPD approved education plan to meet any deficiencies; and

(f) Has been approved by the MPD to transition recertification methods.

(4) An EMS provider must transition from OTEP to CME if they are unable to meet the requirements of the OTEP method of recertification.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-171 Recertification, reversion, reissuance, and reinstatement of certification. (~~(1) To apply for recertification, an EMS provider must:~~

- ~~(a) Meet the requirements identified in Table A of this section for EMS providers completing the CME method; or~~
- ~~(b) Meet the requirements identified in Table B of this section for EMS providers completing the OTEP method; and~~
- ~~(c) Submit to the department a completed certification application on forms provided by the department.~~

**Table A
EMS Providers Participating in the CME Method of Recertification**

REQUIREMENTS
<p>EMS Education Requirements: EMS providers participating in the CME method must provide proof of the following to the MPD or MPD delegate:</p> <ul style="list-style-type: none"> • Successful completion of the educational requirements at the level of certification being sought, as specified in this chapter and identified in WAC 246-976-162, Table A; • Successful completion of skills maintenance required for the level of recertification being sought, as specified in this chapter and identified in WAC 246-976-162, Table B; • Passing department-approved practical skill certification examination for the level of certification being sought, within twelve months before submitting the application.
<p>Recertification Examination: Provide proof of a passing score on the department-approved recertification examination for the level of recertification being sought. The EMS provider will have three attempts within twelve months of course completion to pass the examination. If the EMS provider is unsuccessful after three attempts, prior to subsequent attempts, refresher training must be completed as follows:</p> <ul style="list-style-type: none"> • EMR twelve hours. • EMT twenty-four hours. • AEMT thirty hours – Pharmacology review must be included in the refresher training. • Paramedic forty-eight hours – Pharmacology review must be included in the refresher training.
<p>Certification application: Provide proof of identity – State or federal photo I.D. (military ID, driver's license, passport). Provide proof of EMS agency association – Active membership, paid or volunteer with:</p> <ul style="list-style-type: none"> • Licensed aid or ambulance service; • Law enforcement agency; • Business with organized industrial safety team; • Senior EMS instructors or training coordinators, teaching at department-approved EMS training programs, who are unable to be associated with approved agencies above. <p>Recommendation of county medical program director.</p> <ul style="list-style-type: none"> • The county MPD may require additional examinations to determine competency on department-approved MPD protocols prior to recommendation of recertification. • Required – MPD must sign application. <p>Background check – may be required.</p>

**Table B
EMS Providers Participating in the OTEP Method of Recertification**

REQUIREMENTS
<p>EMS Education Requirements: EMS providers participating in the CME method must provide proof of the following to the MPD or MPD delegate:</p>

REQUIREMENTS
<ul style="list-style-type: none"> • Successful completion of the educational requirements at the level of certification being sought, as specified in this chapter and identified in WAC 246-976-163, Table A; • Successful completion of skills maintenance required for the level of certification being sought, as specified in this chapter and identified in WAC 246-976-163, Table B; • Successful completion of the OTEP knowledge and skill evaluations at the level of recertification being sought.
<p>Recertification Examination:</p> <p>The evaluations required under this section fulfill the requirement of department-approved knowledge and practical skill recertification examinations.</p>
<p>Certification Application:</p> <p>Provide proof of identity – State or federal photo I.D. (military ID, driver's license, passport).</p> <p>Provide proof of EMS agency association – Active membership, paid or volunteer with:</p> <ul style="list-style-type: none"> • Licensed aid or ambulance service; • Law enforcement agency; • Business with organized industrial safety team; • Senior EMS instructors or training coordinators, teaching at department-approved EMS training programs, who are unable to be associated with approved agencies above. <p>Recommendation of county medical program director:</p> <ul style="list-style-type: none"> • Obtain the county MPD recommendation for recertification and endorsement of EMT specialized training. • The county MPD may require additional examinations to determine competency on department-approved MPD protocols prior to recommendation of recertification. • Required – MPD must sign application. <p>Background check – May be required.</p>

~~(2) To voluntarily revert to a lower level of certification, an EMS provider must:~~

~~(a) For the CME method, complete the recertification education requirements identified in WAC 246-976-161 and 246-976-162, Tables A and B for the lower level of certification; or~~

~~(b) For the OTEP method, complete the recertification education requirements identified in WAC 246-976-161 and 246-976-163, Tables A and B at the lower level of certification; and~~

~~(c) Submit a completed certification application on forms provided by the department.~~

~~(3) An EMS provider may not provide EMS care with an expired certification.~~

~~(4) To apply for reissuance of an expired Washington state EMS certification:~~

~~(a) If a certification is expired for one year or less, the EMS provider must provide proof of the following to the county MPD or MPD delegate:~~

~~(i) Complete one additional year of annual recertification education requirements; and~~

~~(ii) For EMS providers completing the CME method, complete the requirements identified in Table A of this section; or~~

~~(iii) For EMS providers completing the OTEP method, complete the requirements identified in Table B of this section.~~

~~(b) If a certification is expired more than one year and less than two years, the EMS provider must provide proof of the following to the county MPD or MPD delegate:~~

~~(i) One additional year of annual recertification education requirements; and~~

~~(ii) Twenty-four hours of educational topics and hours specified by the department and the MPD; and~~

- ~~(iii) For EMS providers completing the CME method, complete the requirements identified in Table A of this section; or~~
- ~~(iv) For EMS providers completing OTEP, complete the requirements identified in Table B of this section.~~
- ~~(c) If a certification is expired for two years or longer, the EMS provider must provide proof of the following to the MPD or delegate:~~
- ~~(i) For nonparamedic EMS personnel:~~
- ~~(A) Complete a department-approved initial training program, and successfully complete department-approved knowledge and practical skill certification examinations;~~
- ~~(B) Complete the initial certification application requirements identified in WAC 246-976-141.~~
- ~~(ii) For paramedics whose certification has been expired between two and six years:~~
- ~~(A) Current status as a provider or instructor in the following: ACLS, PHTLS or BTLS, PALS or PEPPS, or state approved equivalent;~~
- ~~(B) Current status in health care provider level CPR;~~
- ~~(C) Completing a state approved forty-eight hour EMT-paramedic refresher training program or complete forty-eight hours of ALS training that consists of the following core content:~~
- ~~(I) Airway, breathing and cardiology — sixteen hours.~~
- ~~(II) Medical emergencies — eight hours.~~
- ~~(III) Trauma — six hours.~~
- ~~(IV) Obstetrics and pediatrics — sixteen hours.~~
- ~~(V) EMS operations — two hours.~~
- ~~(D) Successful completion of any additional required MPD and department-approved refresher training;~~
- ~~(E) Successful completion of MPD required clinical and field evaluations;~~
- ~~(F) Successful completion of department-approved knowledge and practical skill certification examinations;~~
- ~~(G) Complete the initial certification application requirements identified in WAC 246-976-141.~~
- ~~(d) A request for reissuance of a paramedic certification that has been expired greater than six years will be reviewed by the department to determine the disposition.~~
- ~~(5) Reinstatement of a suspended or revoked Washington state EMS certification.~~
- ~~(a) A person whose EMS certification is suspended or revoked may petition for reinstatement as provided in RCW 18.130.150;~~
- ~~(b) The petitioner must:~~
- ~~(i) Provide proof of completion of all requirements identified by the departmental disciplinary authority; and~~
- ~~(ii) Meet the reissuance requirements in this section.~~
- ~~(6) When EMS personnel change or add membership with an EMS agency, or their contact information changes, they must notify the department within thirty days of the change. Changes will be made on forms provided by the department.))~~
- (1) An EMS provider may not provide care with an expired certification.
- (2) To apply for recertification, reversion, reissuance, or reinstatement, an applicant must meet the requirements for the appropriate process described in this section. Applicants must:
- (a) Submit a completed application on forms provided by the department;

(b) Successfully complete a background check provided by the department. The background check may include the requirement for fingerprint card and FBI background check. If an applicant has submitted fingerprints and has been informed by the department that their fingerprints were rejected and must be redone, the applicant may request a temporary practice permit in accordance with WAC 246-12-050;

(c) Provide proof of active membership paid or volunteer with a licensed aid or ambulance service, or an EMS service supervisory organization (ESSO) recognized by the department; and

(d) Be recommended by the medical program director. The medical program director must sign the application.

(3) (a) To recertify, applicants must:

(i) Have a current Washington state EMS certification; and

(ii) Successfully complete continuing education requirements prescribed in WAC 246-976-161.

(b) For applicants recertifying by the CME method prescribed in WAC 246-976-162:

(i) Provide the county MPD proof of successful completion of education and skill requirements; and

(ii) Provide proof of successful completion of department-approved knowledge examination within the current certification period.

(c) For applicants recertifying by the OTEP method prescribed in WAC 246-976-163:

(i) Successfully complete a department and MPD approved OTEP program; and

(ii) Provide the county MPD proof of successful completion of education and skill requirements.

(4) To revert to a lower level of certification, applicants must:

(a) Have a current Washington state EMS certification at a higher level;

(b) Be current in EMS education and skills for the level they are reverting to; and

(c) Provide the county MPD proof of successful completion of education and skill requirements.

(5) For the department to reissue an expired certification an applicant, if expired less than two years, must:

(a) Provide the county MPD proof of successful completion of education and skill requirements prescribed in WAC 246-976-161;

(b) Complete any additional MPD required education and skills competency checks;

(c) For applicants seeking reissuance by meeting the CME recertification requirements prescribed in WAC 246-976-162:

(i) Provide the county MPD proof of successful completion of education and skill requirements; and

(ii) Provide proof of successful completion of the department-approved knowledge examination within the current certification period;

(d) For applicants seeking reissuance by meeting the OTEP recertification requirements prescribed in WAC 246-976-163:

(i) Successfully complete a department-approved OTEP program; and

(ii) Provide the county MPD proof of successful completion of education and skill requirements.

(6) Regarding a suspended or revoked certification:

(a) A person whose EMS certification is suspended or revoked may petition for reinstatement as provided in RCW 18.130.150.

(b) The petitioner must:

(i) Provide proof of completion of all requirements identified by the departmental disciplinary authority; and

(ii) Meet the appropriate reissuance requirements in this section.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-182 Authorized care—Scope of practice. (1) Certified EMS personnel are only authorized to provide patient care:

(a) When performing:

(i) In a prehospital emergency setting; or
(ii) During interfacility ambulance transport; or
(iii) When participating in a community assistance education and referral (CARES) program authorized under RCW 35.21.930; or
(iv) When providing collaborative medical care in agreement with local, regional, or state public health agencies to control and prevent the spread of communicable diseases; and

(b) When performing for a licensed EMS ((agency)) service or an emergency services supervisory organization (ESSO) recognized by the secretary; and

(c) Within the scope of care that is ((÷
~~(i)~~) included in the approved instructional guidelines/curriculum or approved specialized training and is included on the department-approved EMS skills and procedures list (DOH 530-173) for the individual's level of certification ((; or
~~(ii) Included in approved specialized training))~~; and
~~((iii) Included in state))~~ (d) When following department-approved county MPD protocols.

(2) If protocols ((and)), MPD policies, county operating procedures, or regional patient care procedures do not provide off-line direction for the situation, the certified person in charge of the patient must consult with their online medical control as soon as possible. Medical control can only authorize a certified person to perform within their scope of practice.

(3) All prehospital providers must follow state approved triage procedures, county operating procedures, regional patient care procedures ((and)), county MPD policies, and patient care protocols.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-260 Licenses required. (1) The secretary licenses ambulance and aid services and vehicles to provide service that is consistent with the state plan and approved regional plans.

(2) ~~((To become licensed as an ambulance or aid service, an applicant must submit:~~

~~(a) A completed application for licensure on forms provided by the department;~~
~~(b) Proof of the following insurance coverage:~~
~~(i) Motor vehicle liability coverage required in RCW 46.30.020 (ambulance and aid services only);~~
~~(ii) Professional and general liability coverage;~~
~~(c) A map of the proposed response area;~~

~~(d) The level of service to be provided: Basic life support (BLS), intermediate life support (ILS), or advanced life support (ALS) (paramedic); and the scheduled hours of operation. Minimum staffing required for each level is as follows:~~

~~(i) For aid service response:~~

~~(A) A BLS level service will provide care with at least one person qualified in advanced first aid;~~

~~(B) An ILS level service will provide care with at least one ILS technician (AEMT);~~

~~(C) An ALS level service will provide care with at least one paramedic.~~

~~(ii) For ambulance services:~~

~~(A) A BLS level service will provide care and transport with at least one emergency medical technician (EMT) and one person trained in advanced first aid;~~

~~(B) An ILS service will provide care and transport with at least one ILS technician and one EMT;~~

~~(C) An ALS service will provide care and transport with at least one paramedic and one EMT or higher level of EMS certification;~~

~~(D) Licensed services that provide critical care interfacility ambulance transports, must have sufficient medical personnel on each response to provide patient care specific to the transport;~~

~~(e) For licensed ambulance services, a written plan to continue patient transport if a vehicle becomes disabled, consistent with regional patient care procedures.~~

~~(3) To renew a license, submit application forms to the department at least thirty days before the expiration of the current license.~~

~~(4) Licensed ambulance and aid services must comply with department-approved prehospital triage procedures.) The secretary may extend the licensing period to accommodate efficient processing of renewal applications. The expiration date will be indicated on the EMS service license issued by the department.~~

(3) An aid or ambulance service operating in the state of Washington must:

(a) Be licensed by the department to operate, unless an exception in RCW 18.73.130 applies; and

(b) Comply with all applicable regulations and standards in this chapter.

(4) To apply for an initial aid or ambulance service license, an applicant must:

(a) Submit a completed application on forms provided by the department;

(b) Provide proof of the motor vehicle liability coverage required in RCW 46.30.020 (ambulance and aid services only) and professional and general liability coverage;

(c) Provide a map of the proposed response area;

(d) Identify the level(s) of service to be provided to include:

(i) Basic life support (BLS);

(ii) Intermediate life support (ILS);

(iii) Advanced life support (ALS) (paramedic); and

(iv) Specialty care transport (SCT). Identify the scope of care and any specialty services (such as neonatal transport) provided;

(e) Identify the scheduled hours of operation for all levels of service provided; and

(f) Meet the minimum staffing requirements for each level of service provided. Staffing requirements are as follows:

(i) For aid services:

(A) An aid service providing BLS level of care must staff an aid vehicle with at least one emergency medical responder (EMR).

(B) An aid service providing ILS level of care must staff an aid vehicle with at least one advanced emergency medical technician (AEMT).

(C) An aid service providing ALS level of care must staff an aid vehicle with at least one paramedic.

(ii) For ambulance services:

(A) An ambulance service providing BLS level of care must staff an ambulance with a minimum of at least one emergency medical technician (EMT) and one person certified as an emergency medical responder (EMR) or a driver with a certificate of advanced first aid qualification or department-approved equivalent.

(B) An ambulance service providing ILS level of care must staff an ambulance with a minimum of at least one advanced emergency medical technician (AEMT) and one EMT.

(C) An ambulance service providing ALS level of care must staff an ambulance with a minimum of at least one paramedic and one EMT.

(D) A licensed service that provides inter-facility specialty care transport (SCT) must provide a minimum of two certified or licensed health care providers on each transport that have the education, experience, qualifications, and credentials consistent with the patient's needs and scope of care required for the transport and includes:

(I) One paramedic or registered nurse cross trained in prehospital emergency care and certified as an EMT; and

(II) One other person who may be the driver, must be a registered nurse, respiratory therapist, paramedic, advanced EMT, EMT, or other appropriate specialist as appointed by the physician director.

(E) With approval from the department, an ambulance service established by a volunteer or municipal corporation, or association made up of two or more municipalities in a rural area with insufficient personnel may use a driver without any medical or first-aid training as provided in RCW 18.73.150(2).

(g) Provide a current list of certified EMS personnel affiliated with the EMS service;

(h) Provide the number of advanced first-aid trained personnel used in the staffing model by the EMS service;

(i) Provide the number of nonmedically trained drivers used in the staffing model by the EMS service;

(j) Meet the equipment requirements for the level(s) of service provided in WAC 246-976-300;

(k) Provide information about the type of aid or ambulance vehicles that will be used by the service;

(l) Provide supplemental documentation that describes all the following:

(i) The dispatch plan;

(ii) The deployment plan;

(iii) The response plan to include how patient transport will be continued if a vehicle becomes disabled or personnel become unavailable to respond or continue to a call and how patient care will be provided if medical equipment failure occurs; and

(iv) The tiered response and rendezvous plan; and

(m) Be approved by the department.

(5) To renew an aid or ambulance license, applicants must provide a completed application on forms provided by the department at least

30 days before the expiration of the current license and be approved by the department.

(6) Licensed aid and ambulance services must:

(a) Provide initial training and updates to certified EMS personnel on department-approved prehospital triage procedures, regional patient care procedures, county operating procedures, medical program director policies, and patient care protocols;

(b) In accordance with RCW 43.70.490 provide training to familiarize EMS personnel with techniques, procedures, and protocols for best handling situations in which persons with disabilities are present at the scene of an emergency;

(c) Identify how certified EMS personnel will receive continuing education;

(d) Comply with department-approved prehospital triage procedures, regional patient care procedures, county operating procedures, medical program director policies, and patient care protocols;

(e) Provide service consistent with the state plan, approved regional plans, and the approved application on file with the department; and

(f) Participate in the Washington state EMS electronic data system in accordance with RCW 70.168.090(2).

(7) The department will:

(a) Develop and administer the application and evaluation process;

(b) Notify the regional EMS and trauma care council and medical program director when the department receives an application for an aid or ambulance service within their area;

(c) Approve applications based on evaluations;

(d) Approve renewal of an aid or ambulance license if the service continues to meet standards; and

(e) Provide written notification to the regional EMS a trauma care council and medical program director when the license is first issued, when amendments to existing licenses impacting the service provided in the region occur, and when a license has expired.

(8) The department may:

(a) Conduct a site review; and

(b) Grant a provisional license not to exceed 120 days. The secretary may withdraw the provisional license if the service is unable to meet the requirements for licensure within the 120-day period.

NEW SECTION

WAC 246-976-261 Emergency services supervisory organizations

(ESSO). (1) An emergency services supervisory organization (ESSO) is defined in RCW 18.73.030 and is an organization recognized by the secretary to use certified EMS providers.

(2) An ESSO must be one of the following organization types:

(a) Federal, state, county, or municipal law enforcement agency;

(b) Disaster management organizations within Washington state that deploy county emergency management teams during disasters. A letter of endorsement from the appropriate department of emergency management having jurisdiction must be provided with the application for recognition as an ESSO;

(c) Organizations conducting search and rescue (SAR) operations. This includes:

(i) Ski patrol organizations that provide medical, rescue, and hazard prevention services and medical care to sick and injured people in ski area boundaries or sometimes into backcountry settings and remote environments; or

(ii) SAR organizations functioning under chapter 38.52 RCW. A letter of endorsement from the local chief law enforcement officer (usually the county sheriff) must be provided with the application for recognition as an ESSO for search and rescue operations;

(d) Diversion centers. These are organizations that provide short-term placement and shelter to homeless adults with substance use disorders or behavioral health issues. Diversion centers offer services to divert people away from incarceration and toward treatment; or

(e) Businesses with organized industrial safety teams such as refineries, large manufacturing plants, mining operations, or aerospace manufacturing plants.

(3) To become recognized as an ESSO an applicant must:

(a) Be an organization type identified in subsection (2) of this section;

(b) Provide a completed application on forms provided by the department;

(c) Provide an operational plan that meets the requirements identified on the application;

(d) Provide a current list of certified EMS providers;

(e) Request comments and recommendation for recognition as an ESSO from the local EMS and trauma care council and the medical program director in all counties in which the organization will be conducting activities using certified EMS providers; and

(f) Be approved for recognition by the department.

(4) Recognized ESSOs must:

(a) Ensure that certified emergency medical services providers work under the medical oversight and protocols of a department-approved medical program director;

(b) Ensure that certified emergency medical services providers work within the scope of practice for their level of certification;

(c) Ensure that certified emergency medical services providers can meet the training requirements to maintain their certification;

(d) Comply with department-approved prehospital triage procedures, regional EMS and trauma care plans, patient care procedures, county operating procedures, MPD policies and patient care protocols; and

(e) Provide the medical equipment listed in WAC 246-976-300 for the level of service the ESSO will provide.

(5) To renew an ESSO recognition, an applicant must:

(a) Be an organization type identified in subsection (2) of this section;

(b) Provide a completed application on forms provided by the department;

(c) Provide an operational plan that meets the requirements identified on the application;

(d) Provide a current list of certified EMS personnel; and

(e) Be approved by the department for renewal.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-270 Denial, suspension, revocation. (1) The secretary may suspend, modify, or revoke an agency's license or verification issued under this chapter. The secretary may deny licensure or verification to an applicant when it finds:

(a) Failure to comply with the requirements of chapters 18.71, 18.73, or 70.168 RCW, or other applicable laws or rules, or with this chapter;

(b) Failure to comply or ensure compliance with prehospital patient care protocols or regional patient care procedures;

(c) Failure to cooperate with the department in inspections or investigations; or

~~(d) ((Failure to supply data as required in chapter 70.168 RCW and this chapter; or~~

~~(e-))~~ Failure to consistently meet trauma response times identified by the regional plan and approved by the department for trauma verified services.

(2) Modification, suspension, revocation, or denial of licensure or verification will be consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, and chapter 246-10 WAC. The secretary will not take action against a licensed, nonverified service under this section for providing emergency trauma care consistent with regional patient care procedures when the wait for the arrival of a verified service would place the life of the patient in jeopardy or seriously compromise patient outcome.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-290 Ground ambulance vehicle standards. ~~((1) Essential equipment for patient and provider safety and comfort must be in good working order.~~

~~(2) All ambulance vehicles must be clearly identified as an EMS vehicle and display the agency identification by emblems and markings on the front, side, and rear of the vehicle. A current state ambulance credential must be prominently displayed in a clear plastic cover positioned high on the partition behind the driver's seat.~~

~~(3) Tires must be in good condition.~~

~~(4) The electrical system must meet the following requirements:~~

~~(a) Interior lighting in the driver compartment must be designed and located so that no glare is reflected from surrounding areas to the driver's eyes or line of vision from the instrument panel, switch panel, or other areas which may require illumination while the vehicle is in motion; and~~

~~(b) Interior lighting in the patient compartment must be provided throughout the compartment, and provide an intensity of twenty foot-candles at the level of the patient; and~~

~~(c) Exterior lights must be fully operational, and include body-mounted flood lights over the patient loading doors to provide loading visibility; and~~

~~(d) Emergency warning lights must be provided in accordance with RCW 46.37.380, as administered by the state commission on equipment.~~

~~(5) Windshield wipers and washers must be dual, electric, multi-speed, and functional at all times.~~

~~(6) Battery and generator system:~~

~~(a) The battery must be capable of sustaining all systems. It must be located in a ventilated area sealed off from the vehicle interior, and completely accessible for checking and removal;~~

~~(b) The generating system must be capable of supplying the maximum built-in DC electrical current requirements of the ambulance. If the electrical system uses fuses instead of circuit breakers, extra fuses must be provided.~~

~~(7) The ambulance must be equipped with:~~

~~(a) Seat belts that comply with Federal Motor Vehicle Safety Standards 207, 208, 209, and 210. Restraints must be provided in all seat positions in the vehicle, including the attendant station; and~~

~~(b) Mirrors on the left side and right side of the vehicle. The location of mounting must provide maximum rear vision from the driver's seated position; and~~

~~(c) One ABC two and one-half pound fire extinguisher.~~

~~(8) Ambulance body requirements:~~

~~(a) The length of the patient compartment must be at least one hundred twelve inches in length, measured from the partition to the inside edge of the rear loading doors; and~~

~~(b) The width of the patient compartment, after cabinet and cot installation, must provide at least nine inches of clear walkway between cots or the squad bench; and~~

~~(c) The height of the patient compartment must be at least fifty-three inches at the center of the patient area, measured from floor to ceiling, exclusive of cabinets or equipment; and~~

~~(d) There must be secondary egress from the vehicle; and~~

~~(e) Back doors must open in a manner to increase the width for loading patients without blocking existing working lights of the vehicle; and~~

~~(f) The floor at the lowest level permitted by clearances. It must be flat and unencumbered in the access and work area, with no voids or pockets in the floor to side wall areas where water or moisture can become trapped to cause rusting or unsanitary conditions; and~~

~~(g) Floor covering applied to the top side of the floor surface. It must withstand washing with soap and water or disinfectant without damage to the surface. All joints in the floor covering must have minimal void between matching edges, cemented with a suitable water-proof and chemical-proof cement to eliminate the possibility of joints loosening or lifting; and~~

~~(h) The finish of the entire patient compartment must be impervious to soap and water and disinfectants to permit washing and sanitizing; and~~

~~(i) Exterior surfaces must be smooth, with appurtenances kept to a minimum; and~~

~~(j) Restraints must be provided for all litters. If the litter is floor supported on its own support wheels, a means must be provided to secure it in position. These restraints must permit quick attachment and detachment for quick transfer of patient.~~

~~(9) Vehicle brakes, regular and special electrical equipment, heating and cooling units, safety belts, and window glass, must be functional at all times.)~~

(1) All ground ambulance vehicles that are used to transport patients must meet the minimum standards in this chapter. Ambulance vehicles that meet a national ground ambulance standard recognized by

the department are deemed to have met the minimum standards in this section.

(2) Equipment required for the safety and comfort of all occupants must be in good working order.

(3) The body of ambulance vehicles must meet the following standards:

(a) The length of the patient compartment must be at least 112 inches in length, measured from the partition to the inside edge of the rear loading doors;

(b) The width of the patient compartment after cabinet and gurney installation must provide at least nine inches of clear walkway;

(c) The height of the patient compartment must be at least 53 inches at the center of the patient area, measured from floor to ceiling, exclusive of cabinets or equipment;

(d) There must be secondary egress from the vehicle; and

(e) Back doors must open in a manner to increase the width for loading and unloading patients without blocking existing working lights of the vehicle.

(4) The interior of ambulance vehicles must meet the following standards:

(a) A current state ambulance vehicle credential must be prominently displayed in a clear plastic cover positioned high on the partition behind the driver's seat;

(b) The floor at the lowest level permitted by clearances must provide flat and unencumbered access to the work area, with no voids or pockets in the floor to side wall areas where water or moisture can become trapped to cause rusting or unsanitary conditions;

(c) Floor covering applied to the top side of the floor surface must withstand washing with soap and water or disinfectant without damage to the surface. All joints in the floor covering must have minimal void between matching edges, cemented with a suitable waterproof cement to eliminate the possibility of joints loosening or lifting;

(d) The finish of the entire patient compartment must be impervious to soap and water and disinfectants to permit washing and sanitizing;

(e) Interior lighting in the driver compartment must be designed and located so that no glare is reflected from surrounding areas to the driver's eyes or line of vision from the instrument panel, switch panel, or other areas which may require illumination while the vehicle is in motion;

(f) Interior lighting in the patient compartment must be provided adequately throughout the compartment, and provide an intensity of 215 lumen at the level of the patient;

(g) Ambulance vehicles must have one ABC two and one-half pound fire extinguisher. The extinguisher must be accessible, be in good physical condition, and in compliance with servicing requirements; and

(h) Interior equipment must be kept in a secure manner to provide for the safety of all occupants in the vehicle.

(5) Ambulance vehicles must be equipped with manufacturer recommended restraint systems which include:

(a) Seat belts must comply with Federal Motor Vehicle Safety Standards 207, 208, 209, and 210;

(b) Gurney restraints that comply with manufacturer recommendations must be used on patients during transport;

(c) Ambulance vehicles must have manufacturer recommended hardware installed that is in good working order to secure a gurney in the vehicle for transport;

(d) Restraints must be provided in all seat positions in the vehicle, including attendant stations;

(e) Restraints must be provided for patients when equipment such as a backboard or scoop stretcher is used to move a patient from surface to surface. A means to secure this equipment to the gurney or a bench seat must be provided for transport;

(f) Seat belts and related restraints must permit quick attachment and detachment for quick transfer of a patient; and

(g) Appropriate restraints for pediatric patients must be provided and used in a manner and location consistent with all applicable manufacturer recommendations.

(6) The exterior of ambulance vehicles must meet the following standards:

(a) The ambulance vehicle must be clearly identified as an emergency medical services vehicle;

(b) The ambulance vehicle must display the agency or service identification by reflective emblems and markings on the front, sides, and rear of the vehicle;

(c) The ambulance vehicle must have retro-reflective paint or tape, stripes or markings, or a combination of stripes and markings that are a minimum of six inches in width affixed to the full length of both sides and the rear of the vehicle;

(d) A minimum of 50 percent of the rear of the vehicle surface must be equipped with a retro-reflective pattern on ambulance vehicles built in the year 2020 and thereafter;

(e) Emergency warning lights and audible warning signals must be provided in accordance with national ambulance standards recognized by the department;

(f) Windshield wipers and washers must be dual, multispeed, and functional at all times;

(g) Ambulance vehicles must have exterior mirrors on the left and right side of the vehicle and mounted to provide maximum rear vision from the driver's seated position;

(h) Exterior lights must be fully operational, and include body-mounted floodlights over the patient loading doors to provide loading visibility;

(i) Exterior surfaces must be smooth, with projections kept to a minimum; and

(j) Equipment stored in exterior compartments must be secured in a manner to provide for the safety of all occupants in the vehicle.

(7) Mechanical and electrical components of ambulance vehicles must meet the following standards:

(a) The electrical power generating system must be capable of sustaining all systems and must be appropriately ventilated and sealed according to manufacturer recommendations;

(b) If the electrical system uses fuses instead of circuit breakers, extra fuses must be readily available;

(c) Within the engine compartment of the ambulance vehicle, hoses, belts, and wiring must not have any obvious defects; and

(d) Vehicle brakes, regular and special electrical equipment, heating and cooling units, safety belts, and window glass must be always functional.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-300 Ground ambulance and aid service—Equipment.

~~((Ground ambulance and aid services must provide equipment listed in Table A of this section on each licensed vehicle, when available for service.~~

	AMBULANCE	AID VEHICLE
Note: "asst" means assortment		
TABLE A: EQUIPMENT		
AIRWAY MANAGEMENT		
Airway Adjuncts		
Oral airway adult and pediatric	asst	asst
Suction		
Portable	†	†
Vehicle mounted and powered, providing: Minimum of 30 L/min. & vacuum > 300 mm Hg	†	0
Tubing, suction	†	†
Bulb syringe, pediatric	†	†
Rigid suction tips	2	†
Catheters as required by local protocol		
Water-soluble lubricant	†	†
Oxygen delivery system built in	†	0
3000 L Oxygen supply, with regulator, 500 PSI minimum, or equivalent liquid oxygen system	†	0
300 L Oxygen supply, with regulator, 500 PSI minimum, or equivalent liquid oxygen system	2	†
Cannula, nasal, adult	4	2
O ₂ mask, nonrebreather, adult	4	2
O ₂ mask, nonrebreather, pediatric	2	†
BVM, with O ₂ reservoir		
Adult, pediatric, infant	† ea	† ea
PATIENT ASSESSMENT AND CARE		
Assessment		
Sphygmomanometer		
Adult, large	†	†
Adult, regular	†	†
Pediatric	†	†
Stethoscope, adult	†	†
Thermometer, per county protocol	†	0
Flashlight, w/spare or rechargeable batteries & bulb	†	†
Defibrillation capability appropriate to the level of personnel	†	†
Personal infection control and protective equipment as required by the department of labor and industries		
Length based tool for estimating pediatric medication and equipment sizes	†	†
TRAUMA EMERGENCIES		
Triage identification for 12 patients per county protocol	Yes	Yes
Wound care		
Dressing, sterile	asst	asst

	AMBULANCE	AID VEHICLE
Note: "asst" means assortment		
Dressing, sterile, trauma	2	2
Roller gauze bandage	asst	asst
Medical tape	asst	asst
Self adhesive bandage strips	asst	asst
Cold packs	4	2
Occlusive dressings	2	2
Scissors, bandage	1	1
Irrigation solution	2	1
-Splinting		
Backboard with straps	2	1
Head immobilization equipment	1	1
Pediatric immobilization device	1	1
Extrication collars, rigid		
Adult (small, medium, large)	-asst	asst
Pediatric or functionally equivalent sizes	asst	asst
Immobilizer, cervical/thoracic, adult	1	0
Splint, traction, adult w/straps	1	0
Splint, traction, pediatric, w/straps	1	0
Splint, adult (arm and leg)	2 ea	1 ea
Splint, pediatric (arm and leg)	1 ea	1 ea
-General		
Litter, wheeled, collapsible, with a functional restraint system per the manufacturer	1	0
Pillows, plastic covered or disposable	2	0
Pillow case, cloth or disposable	4	0
Sheets, cloth or disposable	4	2
Blankets	2	2
Towels, cloth or disposable 12" x 23" minimum	4	2
Emesis collection device	1	1
Urinal	1	0
Bed pan	1	0
OB kit	1	1
-Epinephrine and supplies appropriate for level of certification per MPD protocols		
Adult	1	1
Pediatric	1	1
-Storage and handling of pharmaceuticals in ambulances and aid vehicles must be in compliance with the manufacturers' recommendations		
-Extrication plan: Agency must document how extrication will be provided when needed.))		

(1) Licensed and verified ground ambulance, aid services, and emergency services supervisory organizations (ESSO) must provide equipment listed in Table A of this section on each licensed vehicle or to their on-site EMS providers for the service levels they are approved by the department to provide when they are available for service.

Table A: Equipment

*Means the use of this equipment at this level of service is determined by the MPD. Department-approved and MPD specialized training protocols must be in place.

	BLS		ILS		ALS	
	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>
Airway Adjuncts						
<u>Adjunctive airways, (OPA/NPA) adult and pediatric assorted</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Water-soluble lubricant</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>2</u>
<u>Intubation insertion equipment. Enough for all patient sizes with back up equipment including power sources.</u>	<u>N/A</u>	<u>N/A</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>N/A</u>
<u>Stylet for endotracheal tubes (adult and pediatric)</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>2 each</u>	<u>2 each</u>
<u>Bougie (gum-elastic) for all patient sizes</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>1 each</u>	<u>1 each</u>
<u>ET tube holder (adult and pediatric)</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>2 each</u>	<u>2 each</u>
<u>End-tidal CO₂ detector</u>	<u>*1</u>	<u>*1</u>	<u>*1</u>	<u>*1</u>	<u>1</u>	<u>1</u>
<u>Supraglottic airways</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>
<u>Cricothyrotomy equipment</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>1</u>	<u>1</u>
<u>Chest decompression equipment (to include a nonsafety large bore needle, minimum length of 3.25")</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>1</u>	<u>1</u>
<u>McGill forceps (adult and pediatric)</u>	<u>N/A</u>	<u>N/A</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>N/A</u>
<u>Oxygen saturation monitor</u>	<u>*1</u>	<u>*1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
Suction						
<u>Portable</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Vehicle mounted and powered, providing: Minimum of 30 L/min. & vacuum ≥ 300 mm Hg</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Spare canister</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Tubing, suction</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Bulb syringe, pediatric</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Rigid suction tips</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>
<u>Catheters</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>
<u>Meconium aspirator</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>1</u>	<u>1</u>
Oxygen/Delivery Devices						
<u>Oxygen delivery system built in or an alternative system approved by the department</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>3000 L Oxygen supply, with regulator, 500 PSI minimum, or equivalent liquid oxygen system</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>

Table A: Equipment

*Means the use of this equipment at this level of service is determined by the MPD. Department-approved and MPD specialized training protocols must be in place.

	BLS		ILS		ALS	
	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>
<u>300 L Oxygen supply, with regulator, 500 PSI minimum, or equivalent liquid oxygen system</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>
<u>Cannula, nasal, adult</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>
<u>O₂ mask, nonrebreather, adult</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>
<u>O₂ mask, nonrebreather, pediatric</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>
<u>BVM, with O₂ reservoir to provide tidal volume appropriate for each (adult, pediatric, infant)</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>
<u>Nebulizer</u>	<u>*2</u>	<u>*2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>Continuous Positive Airway Pressure (CPAP)</u>	<u>*2</u>	<u>*2</u>	<u>*2</u>	<u>*2</u>	<u>2</u>	<u>2</u>
Patient Assessment and Care						
<u>Sphygmomanometer (adult large, regular, and pediatric)</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>
<u>Stethoscope, adult</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Thermometer</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Flashlight, w/spare or rechargeable batteries & bulb</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Automated External Defibrillator (AED)</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>
<u>12 lead ECG monitor with defibrillator</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>1</u>
<u>Defibrillator pads - multifunction</u>	<u>2 each</u>	<u>2 each</u>	<u>2 each</u>	<u>2 each</u>	<u>2 each</u>	<u>2 each</u>
<u>Tool for estimating pediatric medication and equipment sizes</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Glucometer</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Glucose measuring supplies</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
Wound Care						
<u>Dressing, sterile</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Dressing, sterile, trauma</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>Roller gauze bandage</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Medical tape</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Self-adhesive bandage strips</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Cold packs</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>
<u>Hot packs</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>Occlusive dressings</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>

Table A: Equipment

*Means the use of this equipment at this level of service is determined by the MPD. Department-approved and MPD specialized training protocols must be in place.

	BLS		ILS		ALS	
	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>
<u>Trauma shears</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Irrigation solution</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>
<u>Commercial tourniquet</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
Extrication and Splinting						
<u>Collars, rigid. Adult (small, medium, large) or adjustable</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Collars, rigid. Pediatric or functionally equivalent sizes</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Immobilization device, cervical/thoracic, adult</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Immobilization device, cervical/thoracic, pediatric</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Backboard with straps</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Head immobilization equipment</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Splint, traction, adult w/ straps</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Splint, traction, pediatric, w/straps</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Splint, adult (arm and leg)</u>	<u>2 each</u>	<u>1 each</u>	<u>2 each</u>	<u>1 each</u>	<u>2 each</u>	<u>1 each</u>
<u>Splint, pediatric (arm and leg)</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>
IV Access						
<u>Intravenous fluid type per protocols</u>	<u>*4</u>	<u>*2</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>
<u>Intravenous drip sets per protocols</u>	<u>*4</u>	<u>*2</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>
<u>Intravenous start supplies (venous tourniquet, transparent film dressing, antiseptic swab)</u>	<u>*4</u>	<u>*2</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>
<u>Catheters, intravenous (14-24 gauge)</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>
<u>Intraosseous (Equipment sufficient to perform IO insertion and infusion adult and pediatric)</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>
<u>Pediatric volume control device</u>	<u>*2</u>	<u>*1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>
<u>Pressure infusion device</u>	<u>*1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Syringes</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>
Needles						
<u>Hypodermic</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>	<u>*Assortment</u>
Medications						

Table A: Equipment

*Means the use of this equipment at this level of service is determined by the MPD. Department-approved and MPD specialized training protocols must be in place.

	BLS		ILS		ALS	
	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>	<u>Ambulance Vehicle</u>	<u>Aid/ESSO</u>
<u>Epinephrine for anaphylaxis adult and pediatric dose</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>
<u>Medications consistent with department-approved MPD protocols</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Storage and handling of pharmaceuticals in ambulances and aid vehicles must be in compliance with the manufacturers' recommendations</u>						
Personal Protection Equipment						
<u>Eye protection</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>Mask</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>
<u>Exam gloves (assortment of sizes)</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>	<u>Assortment</u>
<u>Gowns (isolation)</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>
Trauma Emergencies						
<u>Triage identification tags</u>	<u>12</u>	<u>12</u>	<u>12</u>	<u>12</u>	<u>12</u>	<u>12</u>
General						
<u>Gurney, wheeled, collapsible, with a functional restraint system per the manufacturer</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Pillows, plastic covered or disposable</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Pillowcase, cloth or disposable</u>	<u>2</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>2</u>	<u>0</u>
<u>Sheets, cloth or disposable</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>
<u>Blankets</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>Towels, cloth or disposable 12" x 23" minimum</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>	<u>4</u>	<u>2</u>
<u>Emesis collection device</u>	<u>5</u>	<u>1</u>	<u>5</u>	<u>1</u>	<u>5</u>	<u>1</u>
<u>Urinal</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Bed pan</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>OB kit</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Patient care restraints (commercial)</u>	<u>2 pair</u>	<u>0</u>	<u>2 pair</u>	<u>0</u>	<u>2 pair</u>	<u>0</u>
<u>Garbage bags</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>Safety vest or equivalent gear</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>
<u>Sharps container mounted</u>	<u>1 each</u>	<u>0</u>	<u>1 each</u>	<u>0</u>	<u>1 each</u>	<u>0</u>
<u>Sharps container portable</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>	<u>1 each</u>

(2) A licensed service that provides interfacility transport of patients needing specialty level care (SCT) must make available equipment and medications consistent with the scope of practice and care required for the transport type. Equipment must include all the following:

- (a) ALS equipment required in Table A of this section;

- (b) Multimodality ventilators capable of invasive ventilation appropriate to all age groups transported;
- (c) Invasive hemodynamic monitoring, transvenous pacemakers, central venous pressure, and arterial pressure;
- (d) Controlled delivery devices for IV infusions;
- (e) Medications consistent with scope of practice and care required for the transport type; and
- (f) Neonatal and pediatric equipment sufficient for all aspects of prehospital interfacility specialized care if the ambulance service provides transport to this population.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-310 Ground ambulance and aid service—Communications equipment. (1) Licensed ground ambulance and aid services must provide each licensed ambulance and aid vehicle with communication equipment which:

- (a) Is consistent with state and regional plans;
- (b) Is in good working order;
- (c) Allows direct two-way communication ~~((between the vehicle and its dispatch control point; and~~
- (d) Allows communication with medical control)) with dispatch control point, medical control, and all hospitals in the service area of the vehicle; and
- (d) Licensed ground ambulance and aid vehicles capable of transporting patients must also have direct two-way communication from both the driver's and patient's compartment.

(2) If cellular telephones are used, there must also be another method of radio contact with dispatch ~~((and))~~ control point, medical control, and all hospitals in the service area for use when cellular service is unavailable.

~~((3) Licensed ambulance services must provide each licensed ambulance with communication equipment which:~~

- ~~(a) Allows direct two-way communication with medical control and all hospitals in the service area of the vehicle, from both the driver's and patient's compartment; and~~
- ~~(b) Incorporates appropriate encoding and selective signaling devices.)~~

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-330 Ambulance and aid services—Record requirements.

- (1) Each ambulance and aid service must ~~((maintain a record of, and submit to the department, the following information on request:~~
- ~~(a) Current certification levels of all personnel;~~
 - ~~(b) Any changes in staff affiliation with the ambulance and aid service to include new employees or employee severance; and~~
 - ~~(c) Make, model, and license number of all EMS response vehicles.~~
- ~~(2) The certified EMS provider in charge of patient care must provide the following information to the receiving facility staff:~~

~~(a) At the time of arrival at the receiving facility, a minimum of a brief written or electronic patient report including agency name, EMS personnel, and:~~

- ~~(i) Date and time of the medical emergency;~~
- ~~(ii) Time of onset of symptoms;~~
- ~~(iii) Patient vital signs including serial vital signs where applicable;~~
- ~~(iv) Patient assessment findings;~~
- ~~(v) Procedures and therapies provided by EMS personnel;~~
- ~~(vi) Any changes in patient condition while in the care of the EMS personnel;~~
- ~~(vii) Mechanism of injury or type of illness.~~

~~(b) Within twenty-four hours of arrival, a complete written or electronic patient care report that includes at a minimum:~~

- ~~(i) Names and certification levels of all personnel providing patient care;~~
- ~~(ii) Date and time of medical emergency;~~
- ~~(iii) Age of patient;~~
- ~~(iv) Applicable components of system response time;~~
- ~~(v) Patient vital signs, including serial vital signs if applicable;~~
- ~~(vi) Patient assessment findings;~~
- ~~(vii) Procedures performed and therapies provided to the patient; this includes the times each procedure or therapy was provided;~~
- ~~(viii) Patient response to procedures and therapies while in the care of the EMS provider;~~
- ~~(ix) Mechanism of injury or type of illness;~~
- ~~(x) Patient destination.~~

~~(c) For trauma patients, all other data points identified in WAC 246-976-430 for inclusion in the trauma registry must be submitted within ten days of transporting the patient to the trauma center.~~

~~(3) Licensed services must make all patient care records available for inspection and duplication upon request of the county MPD or the department.):~~

(a) Maintain a record of certifications and endorsements of all personnel;

(b) Periodically audit certifications to assure they are current and active;

(c) Maintain a record of nonmedically trained drivers used by the service and relevant records that nonmedically trained drivers meet requirements in RCW 18.73.150;

(d) Report any additions and changes in a certified EMS providers affiliation with the service to include new employees or employee severance within 30 days;

(e) Maintain a record of make, model, and license number of all ambulance and aid vehicles;

(f) Report any additions and changes in ambulance and aid vehicles; and

(g) Maintain and provide a count of ambulance and aid service activations including: Advanced life support service activations, intermediate life support service activations, basic life support service activations, prehospital care, patient transports, interfacility transfers, and canceled activations between January 1st and December 31st of the previous calendar year.

(2) Licensed services must make all patient care records available for inspection and duplication upon request of the county MPD or the department.

AMENDATORY SECTION (Amending WSR 00-08-102, filed 4/5/00, effective 5/6/00)

WAC 246-976-340 Ambulance and aid services—Inspections and investigations. (1) The department may conduct periodic, unannounced inspections of licensed ambulances and aid vehicles and services.

(2) If the service is also verified in accordance with WAC 246-976-390, the department will include a review for compliance with verification standards as part of the inspections described in this section.

(3) At the end of an inspection for the purposes of initial, renewal, or amendment of licensure or verification, the department will:

(a) Present the preliminary findings to the EMS service; and

(b) Send a written report to the EMS service summarizing the department's findings and recommendations. The report shall identify any deficiencies found and the steps to take to address the deficiencies.

(4) Licensed services must provide the department full access to the facility, vehicles, and all records and documents relevant to the inspection or investigation which may include patient care reports, training and certification documentation, policies, procedures, protocols, crew schedules, mutual aid agreements, quality improvement materials or other relevant documents.

(5) Licensed services shall make available to the department and provide copies of any printed or written materials relevant to the inspection, verification review, or investigative process in a timely manner.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-390 Standards for trauma ((verification of)) verified prehospital EMS services. ~~((1) The secretary verifies prehospital EMS services. Verification is a higher form of licensure that requires twenty-four-hour, seven day a week compliance with the standards outlined in chapter 70.168 RCW and this chapter. Verification will expire with the prehospital EMS service's period of licensure.~~

~~(2) To qualify for trauma verification, an agency must be a licensed ambulance or aid service as specified in WAC 246-976-260.~~

~~(3) The following EMS services may be verified:~~

~~(a) Aid service: Basic, intermediate (AEMT), and advanced (paramedic) life support;~~

~~(b) Ground ambulance service: Basic, intermediate (AEMT), and advanced (paramedic) life support;~~

~~(c) Air ambulance service.~~

~~(4) Personnel requirements:~~

~~(a) Verified aid services must provide personnel on each trauma response including:~~

~~(i) Basic life support: At least one individual who is an EMR or above;~~

~~(ii) Intermediate life support: At least one AEMT;~~

~~(iii) Advanced life support - Paramedic: At least one paramedic;~~

~~(b) Verified ambulance services must provide personnel on each trauma response including:~~

- ~~(i) Basic life support: At least two certified individuals — one EMT plus one EMR;~~
- ~~(ii) Intermediate life support: One AEMT, plus one EMT;~~
- ~~(iii) Advanced life support — Paramedic: At least two certified individuals — One paramedic and one EMT;~~
- ~~(c) Verified air ambulance services must provide personnel as identified in WAC 246-976-320.~~
- ~~(5) Equipment requirements:~~
 - ~~(a) Verified BLS vehicles must carry equipment identified in WAC 246-976-300, Table A;~~
 - ~~(b) Verified ILS and paramedic vehicles must provide equipment identified in Table A of this section, in addition to meeting the requirements of WAC 246-976-300;~~
 - ~~(c) Verified air ambulance services must meet patient care equipment requirements described in WAC 246-976-320.~~

TABLE A: EQUIPMENT FOR VERIFIED TRAUMA SERVICES
(NOTE: "ASST" MEANS ASSORTMENTS. "X" INDICATES REQUIRED.)

	AMBULANCE		AID VEHICLE	
	PAR	ILS	PAR	ILS
AIRWAY MANAGEMENT				
Airway adjuncts				
Adjunctive airways, assorted per protocol	X	X	X	X
Laryngoscope handle, spare batteries	†	†	†	†
Adult blades, set	†	†	†	†
Pediatric blades, straight (0, 1, 2)	†ea	†ea	†ea	†ea
Pediatric blades, curved (2)	†ea	†ea	†ea	†ea
McGill forceps, adult & pediatric	†	†	†	†
ET tubes, adult and pediatric	asst	0	asst	0
Supraglottic airways per MPD protocol	X	X	X	X
End-tidal CO ₂ detector	†ea	†ea	†ea	†ea
Oxygen saturation monitor	†ea	†ea	†ea	†ea
TRAUMA EMERGENCIES				
IV access				
Administration sets and intravenous fluids per protocol:				
Adult	4	4	2	2
Pediatric volume control device	2	2	†	†
Catheters, intravenous (14-24 ga)	asst	asst	asst	asst
Needles				
Hypodermic	asst	asst	asst	asst
Intraosseous, per protocol	2	2	†	†
Sharps container	†	†	†	†
Syringes	asst	asst	asst	asst
Glucose measuring supplies	Yes	Yes	Yes	Yes
Pressure infusion device	†	†		
Length based tool for estimating pediatric medication and equipment sizes	†	†	†	†
Medications according to local patient care protocols				

- ~~(6) Aid service response time requirements: Verified aid services must meet the following minimum agency response times as defined by the department and identified in the regional plan:~~
 - ~~(a) To urban response areas: Eight minutes or less, eighty per cent of the time;~~

- ~~(b) To suburban response areas: Fifteen minutes or less, eighty percent of the time;~~
- ~~(c) To rural response areas: Forty-five minutes or less, eighty percent of the time;~~
- ~~(d) To wilderness response areas: As soon as possible.~~
- ~~(7) Ground ambulance service response time requirements: Verified ground ambulance services must meet the following minimum agency response times for all EMS and trauma responses to response areas as defined by the department and identified in the regional plan:~~
- ~~(a) To urban response areas: Ten minutes or less, eighty percent of the time;~~
- ~~(b) To suburban response areas: Twenty minutes or less, eighty percent of the time;~~
- ~~(c) To rural response areas: Forty-five minutes or less, eighty percent of the time;~~
- ~~(d) To wilderness response areas: As soon as possible.~~
- ~~(8) Verified air ambulance services must meet minimum agency response times as identified in the state plan.~~
- ~~(9) Verified ambulance and aid services must comply with the approved prehospital trauma triage procedures defined in WAC 246-976-010.~~
- ~~(10) The department will:~~
- ~~(a) Identify minimum and maximum numbers of prehospital services, based on:~~
- ~~(i) The approved regional EMS and trauma plans, including: Distribution and level of service identified for each response area; and~~
- ~~(ii) The Washington state EMS and trauma plan;~~
- ~~(b) With the advice of the steering committee, consider all available data in reviewing response time standards for verified prehospital trauma services at least biennially;~~
- ~~(c) Administer the BLS/ILS/ALS verification application and evaluation process;~~
- ~~(d) Approve an applicant to provide verified prehospital trauma care, based on satisfactory evaluations as described in this section;~~
- ~~(e) Obtain comments from the regional council as to whether the application(s) appears to be consistent with the approved regional plan;~~
- ~~(f) Provide written notification to the applicant(s) of the final decision in the verification award;~~
- ~~(g) Notify the regional council and the MPD in writing of the name, location, and level of verified services;~~
- ~~(h) Approve renewal of a verified service upon reapplication, if the service continues to meet standards established in this chapter and verification remains consistent with the regional plan.~~
- ~~(11) The department may:~~
- ~~(a) Conduct a preverification site visit; and~~
- ~~(b) Grant a provisional verification not to exceed one hundred twenty days. The secretary may withdraw the provisional verification status if provisions of the service's proposal are not implemented within the one hundred twenty-day period, or as otherwise provided in chapter 70.168 RCW and this chapter.)~~
- Verified EMS services must:
- (1) Provide initial training and updates to certified EMS personnel on department-approved prehospital triage procedures, regional patient care procedures, county operating procedures, medical program director policies and patient care protocols;

(2) Identify how certified EMS providers will receive continuing education;

(3) Comply with department-approved prehospital triage procedures, regional patient care procedures, county operating procedures, medical program director policies and patient care protocols;

(4) Participate in the department-approved regional quality improvement program;

(5) Provide service that is consistent with the department-approved application on file for the EMS service, the state plan and approved regional plan; and

(6) Meet the following minimum agency response times as defined by the department and identified in the regional plan. With the advice of the steering committee, the department will consider all available data in reviewing response time standards for verified prehospital trauma services at least biennially.

(a) Aid service response time requirements: Verified aid services must meet the following minimum agency response times as defined by the department and identified in the regional plan:

(i) To urban response areas: Eight minutes or less, 80 percent of the time.

(ii) To suburban response areas: Fifteen minutes or less, 80 percent of the time.

(iii) To rural response areas: Forty-five minutes or less, 80 percent of the time.

(iv) To wilderness response areas: As soon as possible.

(b) Ground ambulance service response time requirements: Verified ground ambulance services must meet the following minimum agency response times for all EMS and trauma responses to response areas identified in their department-approved application on file, as defined by the department and identified in the regional plan:

(i) To urban response areas: Ten minutes or less, 80 percent of the time.

(ii) To suburban response areas: Twenty minutes or less, 80 percent of the time.

(iii) To rural response areas: Forty-five minutes or less, 80 percent of the time.

(iv) To wilderness response areas: As soon as possible.

(c) Verified air ambulance services must meet minimum agency response times as identified in the state plan.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-395 To apply for initial or renewal of verification or to change verification status as a prehospital EMS service. (1)

~~((To select verified prehospital EMS services, the department will:~~

~~(a) Provide a description of the documents an applicant must submit to demonstrate that it meets the standards as identified in chapter 70.168 RCW and WAC 246-976-390;~~

~~(b) Conduct a preverification on-site review for:~~

~~(i) All ALS ambulance service applications;~~

~~(ii) All ILS ambulance service applications; and~~

~~(iii) All BLS ambulance applications if and when there is any question of duplication of services or lack of coordination of prehospital services within the region;~~

- ~~(c) Request comments from the region in which a verification application is received, to be used in the department's review;~~
- ~~(d) Apply the department's evaluation criteria; and~~
- ~~(e) Apply the department's decision criteria.~~
- ~~(2) To apply for verification you must:~~
- ~~(a) Be a licensed prehospital EMS ambulance or aid service as specified in WAC 246-976-260;~~
- ~~(b) Submit a completed application:~~
- ~~(i) If you are applying for verification in more than one region, you must submit a separate application for each region;~~
- ~~(ii) You must apply for verification when you are:~~
- ~~(A)) The secretary verifies prehospital EMS services to provide service that is consistent with the state plan and approved regional plans. Verification is a higher form of licensure that requires 24-hour, seven day a week compliance with the standards outlined in chapter 70.168 RCW and this chapter. Verification will expire with the prehospital EMS services' periods of licensure.~~
- ~~(2) An aid or ambulance service operating in the state of Washington must apply for verification when you are:~~
- ~~(a) An agency that responds to ((9-1-1)) 911 emergencies as part of its role in the EMS system;~~
- ~~((B)) (b) A new business or legal entity that is formed through consolidation of existing services or a newly formed EMS agency;~~
- ~~((C)) (c) An EMS agency that seeks to provide prehospital emergency response in a ((region in)) trauma response area which it previously has not been operating; or~~
- ~~((D)) (d) A service that is changing((7)) or has changed its type of verification or its verification status.~~
- ~~(3) To apply for initial verification or to change verification status of a verified aid or ambulance service, the applicant must:~~
- ~~(a) Be a licensed aid or ambulance service as specified in WAC 246-976-260 or a licensed air ambulance service as specified in WAC 246-976-320;~~
- ~~(b) Provide a completed application for verification on forms provided by the department;~~
- ~~(c) Identify the level(s) of service to be provided 24/7 to include:~~
- ~~(i) Basic life support (BLS);~~
- ~~(ii) Intermediate life support (ILS);~~
- ~~(iii) Advanced life support (ALS);~~
- ~~(d) Meet the staffing requirements identified in WAC 246-976-260;~~
- ~~(e) Meet the equipment requirements for the level(s) of service provided in WAC 246-976-300;~~
- ~~(f) Provide information about the type of aid or ambulance vehicles that will be used by the service;~~
- ~~(g) Provide documentation that describes:~~
- ~~(i) The dispatch plan;~~
- ~~(ii) The deployment plan;~~
- ~~(iii) The response plan to include how patient transport will be continued if a vehicle or EMS providers become disabled;~~
- ~~(iv) The tiered response and rendezvous plan;~~
- ~~(v) Interagency relations. Mutual aid agreements, memoranda of understanding, or other official documents describing interagency relations and the presence of collaboration and cooperation for coordinated services shall be made available to the department upon request; and~~

(h) Provide service that is consistent with the department-approved application on file for the EMS service, the state plan, and approved regional plan.

(4) To renew verification, you must provide a completed application and documentation for renewal on forms provided by the department at least 30 days before the expiration of the current license.

(5) The department will:

(a) Develop and administer the application and evaluation process for all levels of service;

(b) Provide a description of the documents an applicant must submit to demonstrate that the service meets the standards identified in chapter 70.168 RCW;

(c) Identify minimum and maximum numbers of verified prehospital services, including level of service for each trauma response area based on:

(i) The approved regional EMS and trauma plans; and

(ii) The Washington state EMS and trauma plan;

(d) Develop guidance for local and regional EMS councils regarding trauma response areas and conducting needs assessments to support identification of minimum and maximum numbers of prehospital services;

(e) Request comments to be considered in the department's review from:

(i) The regional council in which a verification application is received;

(ii) The medical program director in the area which a verification application is applying to provide service; and

(iii) Other stakeholders or interested parties;

(f) Apply the department's evaluation and decision criteria;

(g) Select verified prehospital services;

(h) Approve an applicant to provide verified prehospital trauma care, based on satisfactory evaluations as described in this section;

(i) Approve renewal of a verified service upon reapplication, if the service continues to meet standards established in this chapter and provides service consistent with the department-approved application on file for the EMS service, the state plan and approved regional plan;

(j) Provide written notification to the applicants on the final decision regarding the license and verification; and

(k) Provide written notification to the regional council and medical program director when the license and verification is first issued, when amendments to existing licenses and verification impacting service provided in the region occur, and when a license with verification has expired.

(6) The department may:

(a) Conduct a preverification site visit; and

(b) Grant a provisional verification not to exceed 120 days. The secretary may withdraw the provisional verification status if provisions of the service's proposal are not implemented within the 120-day period, or as otherwise provided in chapter 70.168 RCW and this chapter.

(7) The department will evaluate ((each)) prehospital EMS service applicants for verification on a point system. In the event there are two or more applicants, the secretary will verify the most qualified applicant. The decision to verify will be based on at least the following:

(a) Total evaluation points received on ((all)) completed applications:

- (i) Applicants must receive a minimum of ~~((one hundred fifty))~~ 150 points of the total ~~((two hundred))~~ 200 points possible from the overall evaluation scoring tool to qualify for verification~~((-))~~;
- (ii) Applicants must receive a minimum of ~~((thirty))~~ 30 points in the evaluation of its clinical and equipment capabilities section of the evaluation scoring tool to qualify for verification;
- (b) Recommendations from the on-site review team, if applicable;
and
- (c) Comments from the regional council(s) ~~((-))~~;
- ~~((d))~~ Dispatch plan;
- ~~((e))~~ Response plan;
- ~~((f))~~ Level of service;
- ~~((g))~~ Type of transport, if applicable;
- ~~((h))~~ Tiered response and rendezvous plan;
- ~~((i))~~ Back-up plan to respond;
- ~~((j))~~ Interagency relations;
- ~~((k))~~ How the applicant's proposal avoids unnecessary duplication of resources or services;
- ~~((l))~~ How the applicant's service is consistent with and will meet the specific needs as outlined in their approved regional EMS and trauma plan including the patient care procedures;
- ~~((m))~~ Ability to meet vehicle requirements;
- ~~((n))~~ Ability to meet staffing requirements;
- ~~((o))~~ How certified EMS personnel have been, or will be, trained so they have the necessary understanding of department-approved MPD protocols, and their obligation to comply with the MPD protocols;
- ~~((p))~~ Agreement to participate in the department-approved regional quality improvement program.
- ~~((4))~~ (8) Regional EMS and trauma care councils may provide comments to the department regarding the verification application, including written statements on the following if applicable:
- (a) Compliance with the department-approved minimum and maximum number of verified trauma services for the level of verification being sought by the applicant;
- (b) How the proposed service will impact care in the region to include discussion on:
- (i) Clinical care;
- (ii) Response time to prehospital incidents;
- (iii) Resource availability; ~~((and))~~
- (iv) Unserved or ((under-served)) underserved trauma response areas; and
- ~~((e))~~ (v) How the applicant's proposed service will impact existing verified services in the region~~((-))~~;
- ~~((5))~~ (c) Regional EMS/TC councils will solicit and consider input from local EMS/TC councils where local councils exist.

AMENDATORY SECTION (Amending WSR 11-07-078, filed 3/22/11, effective 5/15/11)

WAC 246-976-920 Medical program director. (1) Qualifications - Applicants for certification as a medical program director (MPD) must:

(a) Hold and maintain a current and valid license to practice medicine and surgery under chapter 18.71 RCW or osteopathic medicine and surgery under chapter 18.57 RCW; and

(b) Be qualified and knowledgeable in the administration and management of emergency medical care and services; and

(c) Complete a medical director training course approved by the department within the first two years of initial certification as an MPD unless an EMS fellowship has already been completed or a board certification in EMS is held; and

(d) Be recommended for certification by the local medical community and local emergency medical services and trauma care council (EMS/TC).

(2) MPD certification process. In certifying the MPD, the department will:

(a) Notify the local EMS/TC of a vacancy for an MPD and work with the local EMS/TC council and medical community to identify physicians interested in serving as the MPD;

(b) Receive a letter of interest and curriculum vitae from ~~((the))~~ MPD candidates;

(c) Perform required background checks identified in RCW 18.130.064;

(d) Work with and provide technical assistance to local EMS/TC councils on evaluating MPD candidates;

(e) Obtain letters of recommendation from the local EMS/TC council and local medical community; and

(f) Make final ~~((appointment of))~~ determination to certify the MPD.

(3) Medical control and direction. The certified MPD must:

(a) Provide medical control and direction of EMS certified personnel in their medical duties. This is done by oral or written communication; and

(b) Develop and adopt written prehospital patient care protocols for specialized training and to direct EMS certified personnel in patient care. ~~((These))~~ Protocols ~~((may))~~ must:

(i) Meet the minimum standards of the department;

(ii) Not conflict with county operating procedures or regional patient care procedures~~((-))~~;

~~((Protocols may))~~ (iii) Not exceed the authorized care of the certified prehospital personnel as described in WAC 246-976-182;

~~((e))~~ (iv) Be relevant and meet current nationally recognized and state approved EMS practices;

(v) Be approved by the department. The department may consult with MPDs and other technical advisory groups for input prior to approval of protocols;

(vi) Develop and keep updated a mechanism to familiarize and assess competency of EMS providers with the protocols, county operating procedures, and MPD policies; and

(vii) With approval from the department, may enter into medical control agreements with other MPDs to clarify medical oversight for EMS providers to support the continuity of patient care.

(4) MPD policies. The MPD must:

(a) Establish policies as directed by the department to include a policy for storing, dispensing, and administering controlled substances. Policies must be in accordance with state and federal regulations and guidelines;

~~((d))~~ (b) Work within the parameters of department policies, regional EMS and trauma care plans, and patient care procedures;

(c) Participate with local and regional EMS/TC councils to develop and revise:

(i) Regional EMS and trauma care plans;

- (ii) Regional patient care procedures;
- (~~(ii)~~) (iii) County operating procedures when applicable. COPS (~~(d)~~) must not conflict with regional patient care procedures or other state standards; and
- (~~(iii)~~) Participate with the local and regional EMS/TC councils to develop and revise regional plans;
- (~~(e)~~) (iv) Recommendations for improvements in medical control communications and EMS system coordination; and
- (d) MPDs must work within the parameters of the approved regional patient care procedures and the regional plan(~~(f)~~
- (~~(f)~~) Supervise training of all EMS certified personnel;
- (~~(g)~~) Develop protocols for special training described in WAC 246-976-023(4);
- (~~(h)~~) Periodically audit the medical care performance of EMS certified personnel;
- (~~(i)~~).
- (5) MPD oversight of training and education. The MPD:
- (a) Must provide oversight of instructors and supervise training of all EMS providers. MPDs may conduct these activities remotely;
- (b) Must recommend to the department approval of individuals applying for recognition as senior EMS instructors candidates, senior EMS instructors, EMS evaluators, and locally approve all guest instructors for any EMS education and training;
- (c) Must recommend to the department approval of training programs, courses, ongoing education and training plans (OTEP), and content for continuing medical education (CME);
- (d) May develop or approve an intensive airway management program and approve providers to take the program if live intubations cannot be obtained;
- (e) May approve providers to perform IV and IO starts on artificial training aids; and
- (f) May develop an evaluation form for a procedure or skill if one is not provided by the department.
- (6) Certification of EMS providers. The MPD:
- (a) Must recommend to the secretary certification, recertification, reciprocity, challenge, reinstatement, reissuance of expired certification or denial of certification of EMS personnel and sign applications; and
- (~~(j)~~) (b) May develop an integration process to evaluate and determine competency of an applicant's knowledge and skills in accordance with department policies. The MPD may:
- (i) Use examinations to determine competency on department-approved MPD protocols prior to making a recommendation;
- (ii) Use examinations to determine knowledge and abilities for personnel prior to recommending applicants for certification or recertification;
- (iii) Prescribe additional required refresher training for expired providers;
- (iv) Request, review and evaluate an EMS providers training records, skills, and documentation of prehospital medical care provided by the person, to determine proficiency and competency in the application of prehospital care prior to making a recommendation;
- (v) Prescribe and review clinical and field evaluations; and
- (vi) An MPD integration process must be approved by the department and may not take more than 90 days to complete unless unusual or extenuating circumstances exist;

(c) An MPD may recommend denial of certification to the secretary for any applicant the MPD can document is unable to function as an EMS provider, regardless of successful completion of training, evaluation, or examinations;

(d) An MPD must recommend certified providers to be approved or denied endorsements for specialized skills; and

(e) An MPD may approve a certified advanced emergency medical technician or a paramedic to function at a lower level of certification.

(7) Quality improvement and assurance activities. The MPD:

(a) Must adopt an MPD quality improvement plan that describes how quality improvement activities are conducted by the MPD. The plan must meet the minimum standards of the department;

(b) May access patient care records and reports in the statewide electronic EMS data system for EMS services under their oversight;

(c) May audit the medical care performance of EMS providers in accordance with the MPD quality improvement plan. The audit may include a review of documentation of patient care, training, and skills maintenance of EMS personnel;

(d) May perform counseling and assign remediation regarding the clinical practice of EMS providers;

(e) May recommend to the secretary disciplinary action to be taken against EMS personnel, which may include modification, suspension, or revocation of certification; and

~~((k) Recommend to the department individuals applying for recognition as senior EMS instructors.~~

~~(4-))~~ (f) Must participate in regional quality improvement activities.

(8) Oversight of licensed, verified, or recognized EMS services. The MPD:

(a) Must review and make a recommendation to the department for applications for services applying for recognition as an emergency services supervisory organization (ESSO);

(b) Must approve equipment and medications used to provide medical care by EMS personnel; and

(c) May make recommendations for corrections for EMS services that are out of compliance with the regional plan to the department in accordance with WAC 246-976-400.

(9) Delegation of duties. In accordance with department policies and procedures, the MPD may appoint a qualified physician to be an MPD delegate as defined in WAC 246-976-010. The MPD:

(a) May delegate duties to other physicians, except for duties described in subsections (3) (b), ~~((i), (j), and (k))~~ (4) (c) (i), (5) (b) and (c), (6) (a), (d), and (e), (7) (e), and (8) (a) of this section. ~~((The delegation must be in writing;))~~

(i) The MPD must notify the department in writing of the names and duties of individuals so delegated, within ~~((fourteen))~~ 14 days of appointment; and

(ii) The MPD may ~~((remove delegated authority at any time, which shall be effective upon written notice to the delegate and the department))~~ recommend to the secretary removal of a delegate's authority.

(b) The MPD may delegate duties relating to training, evaluation, or examination of certified or recognized EMS personnel, to qualified nonphysicians. ~~((The delegation must be in writing;))~~

~~(c) Enter into EMS medical control agreements with other MPDs;~~

~~(d) Recommend denial of certification to the secretary for any applicant the MPD can document is unable to function as an EMS provid-~~

er, regardless of successful completion of training, evaluation, or examinations; and

~~(e) Utilize examinations to determine the knowledge and abilities of certified EMS personnel prior to recommending applicants for certification or recertification.~~

~~(5-))~~ (10) The secretary may withdraw the certification of an MPD ~~((for failure))~~ when it finds that the MPD:

(a) Failed to comply with the Uniform Disciplinary Act (chapter 18.130 RCW) and other applicable statutes and regulations;

(b) Is not performing the duties required in applicable statutes and regulations;

(c) Has been recommended for termination by the local EMST council; or

(d) Is no longer authorized to practice within the local medical community.

(11) Modification, suspension, revocation, or denial of certification will be consistent with the requirements of the Administrative Procedure Act (chapter 34.05 RCW), the Uniform Disciplinary Act (chapter 18.130 RCW), and chapter 246-10 WAC.

(12) The department will make the final determination on termination of the MPD.

AMENDATORY SECTION (Amending WSR 02-14-053, filed 6/27/02, effective 7/28/02)

WAC 246-976-960 Regional emergency medical services and trauma care councils. ~~((1) In addition to meeting the requirements of chapter 70.168 RCW and elsewhere in this chapter, regional EMS/TC councils must:~~

~~(a) Identify and analyze system trends to evaluate the EMS/TC system and its component subsystems, using trauma registry data provided by the department;~~

~~(b) Develop and submit to the department regional EMS/TC plans to:~~

~~(i) Identify the need for and recommend distribution and level of care (basic, intermediate or advanced life support) for verified aid and ambulance services for each response area. The recommendations will be based on criteria established by the department relating to agency response times, geography, topography, and population density;~~

~~(ii) Identify EMS/TC services and resources currently available within the region;~~

~~(iii) Describe how the roles and responsibilities of the MPD are coordinated with those of the regional EMS/TC council and the regional plan;~~

~~(iv) Describe and recommend improvements in medical control communications and EMS/TC dispatch, with at least the elements of the state communication plan described in RCW 70.168.060 (1) (h);~~

~~(v) Include a schedule for implementation.~~

~~(2) In developing or modifying its plan, the regional council must seek and consider the recommendations of:~~

~~(a) Local EMS/TC councils;~~

~~(b) EMS/TC systems established by ordinance, resolution, inter-local agreement or contract by counties, cities, or other governmental bodies.~~

~~(3) In developing or modifying its plan, the regional council must use regional and state analyses provided by the department based on trauma registry data and other appropriate sources;~~

~~(4) Approved regional plans may include standards, including response times for verified services, which exceed the requirements of this chapter.~~

~~(5) An EMS/TC provider who disagrees with the regional plan may bring its concerns to the steering committee before the department approves the plan.~~

~~(6) The regional council must adopt regional patient care procedures as part of the regional plans. In addition to meeting the requirements of RCW 18.73.030(14) and 70.168.015(23):~~

~~(a) For all emergency patients, regional patient care procedures must identify:~~

~~(i) Guidelines for rendezvous with agencies offering higher levels of service if appropriate and available, in accordance with the regional plan.~~

~~(ii) The type of facility to receive the patient, as described in regional patient destination and disposition guidelines.~~

~~(iii) Procedures to handle types and volumes of trauma that may exceed regional capabilities, taking into consideration resources available in other regions and adjacent states.~~

~~(b) For major trauma patients, regional patient care procedures must identify procedures to activate the trauma system.~~

~~(7) In areas where no local EMS/TC council exists, the regional EMS/TC council shall:~~

~~(a) Make recommendations to the department regarding appointing members to the regional EMS/TC council;~~

~~(b) Review applications for initial training classes and OTEP programs, and make recommendations to the department.~~

~~(8) Matching grants made under the provisions of chapter 70.168 RCW may include funding to:~~

~~(a) Develop, implement, and evaluate prevention programs; or~~

~~(b) Accomplish other purposes as approved by the department.)~~

(1) Regional council composition and appointments. The department shall establish regional emergency medical services and trauma care councils (EMS/TC) and shall appoint members to be comprised of a balance of hospital and prehospital trauma care and emergency medical service providers, local elected officials, consumers, local law enforcement representatives, and local government agencies involved in the delivery of trauma care and emergency medical services recommended by the local emergency medical services and trauma care councils within the region.

(a) The department will design and manage the appointment process.

(b) In areas where no local EMS/TC council exists, the regional EMS/TC council shall make recommendations to the department regarding appointing members to the regional EMS/TC council.

(2) Funding and grants. The department, with the assistance of the emergency medical services and trauma care steering committee, shall adopt a program for the disbursement of funds for the development, implementation, and enhancement of the emergency medical services and trauma care system. Under the program, the department shall disburse funds to each emergency medical services and trauma care regional council, or their chosen fiscal agent or agents, which shall be city or county governments, stipulating the purpose for which the funds shall be expended.

(a) The councils shall report in the regional budget the individual source, amount, and purpose of all gifts and payments.

(b) Matching grants may be made under the provisions of chapter 70.168 RCW and awarded for the purposes identified in RCW 70.168.130 and to accomplish other purposes as approved by the department.

(3) Regional council responsibilities. In addition to meeting the requirements of chapter 70.168 RCW and elsewhere in this chapter, regional EMS/TC councils must:

(a) Develop and submit to the department regional EMS/TC plans that meet the minimum standards of the department. In developing and modifying the plans EMS/TC regions must:

(i) Use regional and state analyses provided by the department based on the statewide electronic emergency medical services data system, trauma registry data and other appropriate sources provided by the department;

(ii) Identify and analyze system trends to evaluate the EMS/TC system and its component subsystems, using statewide electronic emergency medical services data system, trauma registry data and other appropriate sources provided by the department;

(iii) Identify the need for and recommend distribution and level of care (basic, intermediate, or advanced life support) for verified aid and ambulance services to assure adequate availability and avoid inefficient duplication and lack of coordination of prehospital care services for each response area. The recommendations will be based on criteria established by the department and will include information related to agency response times, geography, topography, and population density;

(iv) Identify the need for and recommend distribution and level of facilities to be designated which are consistent with state standards and based upon availability of resources and distribution of trauma within the region;

(v) Identify prehospital training and education to meet regional and local needs;

(vi) Identify EMS/TC services and resources currently available within the region;

(vii) Summarize improvements and outcomes from the last approved plan;

(viii) See and consider the recommendations of local EMS/TC councils and systems established by ordinance, resolution, interlocal agreement or contract by counties, cities, and other governmental bodies;

(ix) Include in the plan, patient care procedures adopted by the region that meet the requirements of RCW 18.73.030 and 70.168.015 and the minimum standards of the department and must include:

(A) The level of medical care personnel to be dispatched to an emergency scene;

(B) Guidelines for rendezvous with agencies offering higher levels of service;

(C) Air medical activation and utilization;

(D) On scene command;

(E) Procedures for EMS to identify and triage patients experiencing trauma, cardiac, or stroke emergencies. Procedures must include destination determination including the type and level of facility to first receive the patient, and the process EMS must use to alert the receiving facility;

(F) For major trauma patients, regional patient care procedures must identify procedures to alert and activate the trauma system;

(G) Patient care procedures must include interfacility transport procedures including the name and location of other trauma, cardiac, or stroke care facilities to receive the patient should an interfacility transfer be necessary;

(H) Procedures to allow for the appropriate transport of patients to mental health facilities or chemical dependency programs, as informed by the alternative facility guidelines adopted under RCW 71.168.170;

(I) Procedures to handle types and volumes of medical and trauma patients that may exceed regional capabilities, taking into consideration resources available in other regions and adjacent states;

(J) Procedures for how hospital diversion is managed in the region; and

(K) EMS and medical control communications;

(x) Include a schedule for implementation and identify goals, objectives, and strategies;

(xi) Include strategies that may promote improvements in the regional EMS/TC system;

(xii) Describe how the roles and responsibilities of the MPD are coordinated with those of the regional EMS/TC council and regional plan; and

(xiii) Describe and recommend improvements in medical control communications and EMS/TC dispatch, with at least the elements of the state communication plan described in RCW 70.168.060 (1)(h).

(b) Review applications for verification of ambulance and aid services and make recommendations to the department regarding:

(i) Compliance with the department-approved minimum and maximum number of verified trauma services for the level of verification being sought by the applicant;

(ii) How proposed service will impact care in the region in relations to clinical care, response time to prehospital incidents, and resource availability;

(iii) How the proposed service impacts unserved and underserved trauma response areas;

(iv) How the proposed service will impact existing verified services in the region; and

(v) Include any comments from local EMS/TC councils and systems established by ordinance, resolution, interlocal agreement or contract by counties, cities, or other governmental bodies.

(c) Review applicants for designation of hospital trauma services and make recommendations to the department.

AMENDATORY SECTION (Amending WSR 02-14-053, filed 6/27/02, effective 7/28/02)

WAC 246-976-970 Local emergency medical services and trauma care councils. (1) Local council composition. If a county or group of counties creates a local EMS/TC council, it must be composed of a balance of representatives of hospital and (~~prehospital trauma care and~~) EMS providers, local elected officials, consumers, local law enforcement officials, local government agencies, physicians, and prevention specialists involved in the delivery of EMS/TC.

(2) Local council responsibilities. In addition to meeting the requirements of chapter 70.168 RCW and this chapter, local EMS/TC councils (~~must~~):

- (a) ~~((Participate with the MPD and emergency communication centers in making recommendations to the regional council about the development of regional patient care procedures; and~~
- ~~(b) Review applications for initial training classes and OTEP programs, and make recommendations to the department.))~~ Must make recommendations to the regional council regarding appointing members representing the local council to the regional EMS/TC council;
- (b) Must develop county operating procedures as defined in WAC 246-976-010 in collaboration with the medical program director;
- (c) Must participate in regional council meeting and activities;
- (d) Must make recommendations to the regional council about the development of regional patient care procedures;
- (e) Review applications for EMS training programs and make recommendations to the department;
- (f) Conduct activities to assess, support, and improve EMS training programs within the county;
- (g) Identify prehospital training and education to meet local needs and make recommendations to the regional council for regional planning;
- (h) Review applications for EMS service verification at the request of regional EMS councils. The review must include:
- (i) Compliance with the department-approved minimum and maximum number of trauma verified services for the level of verification being sought by the applicant;
- (ii) How the proposed service will impact care in the region in relation to clinical care, response time to prehospital incidents, and resource availability;
- (iii) How the proposed service impacts unserved or underserved trauma response areas;
- (iv) How the proposed service will impact existing verified services in the region; and
- (v) Seek and include any comments from local systems established by ordinance, resolution, interlocal agreement or contract by counties, cities, or other governmental bodies;
- (i) Provide recommendation to the regional EMS/TC council in accordance with RCW 70.168.080, for remediation activities to support a prehospital provider that is out of compliance with regional plan;
- (j) Identify how the roles and responsibilities of the MPD are coordinated with those of the local council.
- (3) Local EMS/TC councils may make recommendations to the department regarding certification and termination of MPDs, as provided in RCW 18.71.205(4).

WSR 24-03-065

PROPOSED RULES

GAMBLING COMMISSION

[Filed January 12, 2024, 12:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-22-081.

Title of Rule and Other Identifying Information: WAC 230-03-182
Additional requirements for nonhouse-banked, Class F, and house-banked card rooms.

Hearing Location(s): On March 14, 2024, at 9:30 a.m., at the Washington State Gambling Commission, 4565 7th Avenue S.E., Lacey, WA 98503. The meeting time and location are tentative. Visit our website at www.wsgc.wa.gov approximately seven days prior to the meeting and select "About Us" and then "Upcoming commission meetings" to confirm the hearing date, location, start time, and agenda items.

Date of Intended Adoption: March 14, 2024.

Submit Written Comments to: Damon Mentzer, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, www.wsgc.wa.gov, by March 13, 2024.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, www.wsgc.wa.gov, by March 13, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The new proposed rule is an amended version of an old rule that created conditions for the situation of card rooms adjacent to one another. The rule further clarifies under which limited conditions nonhouse-banked, Class F, and house-banked card rooms can be adjacent to one another.

Reasons Supporting Proposal: Licensees need additional clarity on the conditions that must exist for two card rooms to be adjacent to one another.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Damon Mentzer, Rules Coordinator, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3455; Implementation: Tina Griffin, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546; and Enforcement: Gary Drumheller, Deputy Director, 4565 7th Avenue S.E., Lacey, WA 98503, 509-325-7904.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5) (b) (v).

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

January 12, 2024

Lisa C. McLean

OTS-5132.2

NEW SECTION

WAC 230-03-182 Additional requirements for nonhouse-banked, Class F, and house-banked card rooms. (1) The licensed business premises of nonhouse-banked, Class F, and house-banked card rooms may not be adjacent to each other unless:

(a) Each is a fully separate and distinct licensed business premises; and

(b) There is a solid wall, with no internal access, between the two premises; and

(c) Each licensed business premises must operate as an independent commercial stimulant as defined in RCW 9.46.0217.

(2) Subsection (1) of this section does not apply to nonhouse-banked, Class F, and house-banked card room physical locations that have any of the features listed in subsection (1) of this section and were licensed as of July 1, 2018. The provisions of subsection (1) of this section will take effect upon the issuance of a new license.

(3) Adjacent card rooms must post signs at each entrance that is accessible by the public to clearly notify customers of the licensed business premises' identity.

WSR 24-03-066

PROPOSED RULES

GAMBLING COMMISSION

[Filed January 12, 2024, 12:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-19-093.

Title of Rule and Other Identifying Information: Chapter 230-11 WAC, Related to raffles, specifically raffle prizes, members-only raffles, and recordkeeping.

Hearing Location(s): On March 14, 2024, at 9:30 a.m., at the Washington State Gambling Commission, 4565 7th Avenue S.E., Lacey, WA 98503. The meeting time and location are tentative. Visit our website at www.wsgc.wa.gov approximately seven days prior to the meeting and select "About Us" and then "Upcoming commission meetings" to confirm the hearing date, location, start time, and agenda items.

Date of Intended Adoption: March 14, 2024.

Submit Written Comments to: Damon Mentzer, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, www.wsgc.wa.gov, by March 13, 2024.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, www.wsgc.wa.gov, by March 13, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Petitioners have requested a number of changes: (1) To keep up with inflation in terms of maximum prize value and maximum ticket price; (2) to alter some of the limitations on members-only raffles; and (3) to ease the burden of recordkeeping.

Reasons Supporting Proposal: Petitioners requested these changes to improve their ability to fundraise effectively and efficiently with raffles as an operation.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Ducks Unlimited, Rocky Mountain Elk Foundation, Nonprofit Association of Washington, Congressional Sportsmen's Foundation, and Coastal Conservation Association, private and governmental.

Name of Agency Personnel Responsible for Drafting: Damon Mentzer, Rules Coordinator, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3455; Implementation: Tina Griffin, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546; and Enforcement: Gary Drumheller, Deputy Director, 4565 7th Avenue S.E., Lacey, WA 98503, 509-325-7904.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5) (b) (v).

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

January 12, 2024

Lisa C. McLean
Legislative and Policy Manager

OTS-5064.2

AMENDATORY SECTION (Amending WSR 13-19-056, filed 9/16/13, effective 10/17/13)

WAC 230-11-065 Raffle prizes. (1) Organizations must own the prizes offered to winners before the date of the drawing. However, if the winner has an option to receive a cash prize instead of the merchandise, the organization may enter into a contract to purchase the merchandise prize after the winner chooses his or her option. The organization must have the funds to make the purchase on account before the date of the drawing.

(2) At the time and date of any raffle drawing, the organization must have on deposit an unencumbered amount of money that is equal to or greater than all cash prizes being offered in the raffle. The organization must have these funds deposited in the gambling receipts account, if required, or in a recognized Washington state depository authorized to receive funds. The organization must not reduce the balance of funds available from this account below the required amount before awarding the prize(s).

(3) Raffle prizes must:

(a) Be available at the time and place of the drawing; and

(b) If cash, be United States currency or an equivalent amount of negotiable instruments; and

(c) For licensees, not exceed (~~forty thousand dollars~~) \$60,000 per prize or (~~three hundred thousand dollars~~) \$300,000 in total raffle prizes in a license year, except as authorized in WAC 230-11-067.

(4) For enhanced raffles, a purchase contract is not necessary for smaller noncash prizes, but the bona fide charitable or nonprofit organization must be able to demonstrate that such a prize is available and sufficient funds are held in reserve in the event that the winner chooses a noncash prize.

AMENDATORY SECTION (Amending WSR 12-05-067, filed 2/15/12, effective 3/17/12)

WAC 230-11-067 Requesting commission approval prior to offering raffle prizes exceeding (~~forty thousand dollars~~) \$60,000 per prize or (~~three hundred thousand dollars~~) \$400,000 in a license year. (1) The commissioners may vote to approve a licensee to exceed raffle prize limits if a licensee shows good cause in writing.

(2) Prior to offering raffle prizes that exceed (~~forty thousand dollars~~) \$60,000 per prize, the licensee must submit a raffle plan to us that includes at least the following information:

(a) The organization's goals for conducting the raffle; and

(b) A brief overview of the licensee's mission and vision including the type of programs supported by the licensee and clients served; and

- (c) Specific details of the raffle rules including:
 - (i) Date of the drawing; and
 - (ii) Cost of raffle tickets; and
 - (iii) Prizes available; and
 - (iv) Security of prizes; and
 - (v) Plans for selling raffle tickets; and
 - (vi) Description of how the licensee protects the integrity of the raffle; and
 - (d) An explanation of how the proceeds from the raffle will be used; and
 - (e) A plan to protect the licensee in the event of low ticket sales and other risks. Provided, that if the organization determines that ticket sales are below the number of tickets disclosed in the raffle plan required to award the grand prize, the winner must receive at least 50 percent of the net proceeds in excess of expenses; and
 - (f) An explanation of how the licensee will purchase the prize(s) for the raffle; and
 - (g) A projected budget including:
 - (i) Estimated gross gambling receipts, expenses, and net income for the raffle; and
 - (ii) Minimum number of projected ticket sales to break even; and
 - (iii) Corresponding sales and prize levels with projected revenues and expenses for each level; and
 - (iv) Minimum and maximum prizes available; and
 - (h) Any other information that we request or any information the licensee wishes to submit.
- (3) Prior to offering raffle prizes that exceed (~~three hundred thousand dollars~~) \$400,000 in a license year, the licensee must submit a raffle plan that includes:
- (a) The organization's goals for conducting raffles; and
 - (b) A brief overview of the licensee's mission and vision including the type of programs supported by the licensee and clients served; and
 - (c) Plans for selling raffle tickets; and
 - (d) Brief overview of prizes awarded; and
 - (e) Estimated gross gambling receipts, expenses, and net income for the raffles; and
 - (f) Any other information that we request or any information the licensee wishes to submit.

AMENDATORY SECTION (Amending WSR 06-20-040, filed 9/26/06, effective 1/1/08)

WAC 230-11-075 Limit number of guests for members-only raffles.
If guests are allowed to participate in the raffle, the total number of guests (~~participating in a raffle~~) at the event must not exceed (~~twenty-five~~) 50 percent of the total attendance (~~of the meeting~~).
 The organization must maintain records to show compliance with this requirement.

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-11-085 Modified (~~and discounted~~) pricing plans for tickets for members-only raffles. (1) Licensees may use modified ticket pricing plans at members-only raffles when gross revenues do not exceed (~~five thousand five dollars~~) \$5,005. One type of modified pricing plan is a penny raffle. A penny raffle is a raffle where licensees sell (~~five hundred~~) 500 consecutively numbered tickets. Participants randomly choose tickets and pay the consecutive number of the ticket multiplied by a predetermined cost, for instance, one penny.

(2) In modified pricing plans, licensees may sell tickets to enter a raffle for different values, not to exceed (~~ten dollars~~) \$10 for a single ticket, if the licensee:

(a) Discloses to the participants the pricing plan before selling them a ticket to participate. The licensee must disclose to the participant the total number of tickets in the population available and the number of tickets at each price level; and

(b) Allows participants to randomly select their ticket from the population of remaining tickets and pay the amount printed on the ticket they select; and

(c) Establishes records for an adequate audit trail to determine gross gambling receipts; and

(d) Holds no more than two such drawings during a meeting or event (~~; and~~

~~(e) Sells multiple tickets to enter one or more drawings as a package and the total price of the package must not exceed twenty-five dollars).~~

AMENDATORY SECTION (Amending WSR 06-20-040, filed 9/26/06, effective 1/1/08)

WAC 230-11-086 Discounted pricing plans for tickets to members-only raffles. In discounted pricing plans, licensees may sell tickets for a discounted price based on the number of tickets a player purchases if:

(1) The amount of the discount is set before any raffle tickets are sold; and

(2) Participants are allowed to purchase a single ticket; and

(3) There is only one discount plan for each raffle; and

(4) The cost of a single ticket, without a discount, does not exceed (~~ten dollars; and~~

~~(5) The total cost of a discount package does not exceed twenty-five dollars)~~ \$100; and

(~~(+6)~~) (5) The cost of a single ticket is printed on each ticket (for example, one dollar each); and

(~~(+7)~~) (6) The discounted tickets are identified by a unique ticket audit numbering system; and

(~~(+8)~~) (7) The licensee establishes an audit system that includes internal controls and procedures to determine gross gambling receipts from the sale of tickets using a discounted pricing plan.

AMENDATORY SECTION (Amending WSR 17-23-170, filed 11/21/17, effective 12/22/17)

WAC 230-11-087 Other pricing plans for members-only raffles.

(1) Licensees may sell multiple tickets to enter one or more drawings as a package (~~(if the total price of the package does not exceed twenty-five dollars)~~).

(2) Licensees may include tickets to enter a raffle as a part of a package that includes dues, entertainment, or other fund-raising activities if:

(a) The package discloses the value of each component of the package to the purchaser; and

(b) The value of each individual raffle ticket does not exceed (~~one hundred dollars~~) \$100.

(3) Individual tickets must be available for purchase for all raffles.

AMENDATORY SECTION (Amending WSR 14-21-079, filed 10/13/14, effective 1/1/15)

WAC 230-11-105 Retain and store raffle records. (1) Records for unlicensed raffles must be kept for one year following the date of the raffle drawing.

(2) Records for licensed raffles must be kept for three years from the end of the licensees' fiscal year in which the raffle was completed, with the exception of the following records, which must be retained for one year from the end of the licensee's fiscal year in which the raffle was completed:

(a) All ticket stubs for raffles that participants are not required to be present at the drawing; and

(b) All unsold tickets for individual raffles for which gross gambling receipts exceed \$5,000.

(3) Organizations must keep all records at the main administrative or business office of all organizations that are located in Washington and have the records available for our review or audit.

(4) Organizations that do not have an administrative or business office must have and designate a records custodian that resides in Washington. The records custodian is responsible for retaining all raffle records in Washington state after the raffle has been completed. The organization will provide us with the following information:

(a) The name, address, and telephone number of the records custodian; and

(b) The address of the location where records will be maintained.

(5) We may allow an organization to maintain records outside the state of Washington if the organization submits a written request. We may withdraw this permission at any time. The request must include the following information:

(a) The reason records need to be maintained outside of the state of Washington;

(b) The name, address, and telephone number of the records custodian; and

(c) The address of the location where records will be maintained.

(6) Records approved to be maintained outside the state of Washington must be delivered to us within seven days of our request.

WSR 24-03-086

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed January 17, 2024, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-05-081.

Title of Rule and Other Identifying Information: Amending WAC 388-106-0336 What services may I receive under the residential support waiver?

Hearing Location(s): On February 27, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. Please see the department of social and health services (DSHS) website for the most up-to-date information.

Date of Intended Adoption: Not earlier than February 28, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5600, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by February 27, 2024, by 5:00 p.m.

Assistance for Persons with Disabilities: Contact DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by February 13, 2024, by 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DSHS added a new service, community stability supports, under the residential support waiver amendment WA.1086.R01.10. Minor language changes are made to this WAC for consistency in service language.

Reasons Supporting Proposal: 42 C.F.R. § 441.300-310.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.39A.400, 74.39A.030; 42 C.F.R. § 441.500-590, 42 C.F.R. § 441.300-310.

Statute Being Implemented: RCW 74.08.090, 74.09.520, 74.39A.400; 42 C.F.R. § 441.300-310.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Allison KF Garza, DSHS Home and Community Services (HCS), 1200 Alder Street, Union Gap, WA 98902, 360-239-6906; Implementation: James Selby, Aging and Long-Term Support Administration (AL TSA), Headquarters 4450 10th Avenue S.E., Lacey, WA 98504-5600, 360-890-2640; and Enforcement: Residential Care Services, AL TSA, Headquarters 4450 10th Avenue S.E., Lacey, WA 98504-5600, 360-724-2400.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Allison KF Garza, DSHS, HCS, 1200 Alder Street, Union Gap, WA 98902, phone 360-239-6906, email allison.garza@dshs.wa.gov.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how

costs were calculated. This rule doesn't impose any cost and is just a description of the program requirements.

January 16, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5006.1

AMENDATORY SECTION (Amending WSR 16-19-055, filed 9/16/16, effective 10/17/16)

WAC 388-106-0336 What services may I receive under the residential support waiver? You may receive the following services under the residential support waiver:

(1) Adult family homes and assisted living facilities with an expanded community services contract that will provide:

- (a) Personal care;
- (b) ~~((Supportive services;~~
- ~~(c) Supervision in the home and community;~~
- ~~(d) Twenty-four)) 24-hour on-site support and response staff;~~
- ~~((e)) (c) The development and implementation of an individualized behavior support plan to prevent and respond to crises;~~
- ~~((f)) (d) Medication management; and~~
- ~~((g)) (e) Coordination and collaboration with a contracted behavior support provider;~~

(2) Adult family homes with a specialized behavior support contract that will provide:

- (a) Personal care;
- (b) ~~((Supportive services;~~
- ~~(c) Supervision in the home and community;~~
- ~~(d) Twenty-four)) 24-hour on-site support and response staff;~~
- ~~((e)) (c) The development and implementation of an individualized behavior support plan to prevent and respond to crises;~~
- ~~((f)) (d) Medication management;~~
- ~~((g)) (e) Coordination and collaboration with a contracted behavior support provider; and~~

~~((h)) (f) Specialized behavior support that provides you with six to eight hours a day of individualized staff time;~~

(3) Assisted living facilities with a community stability supports contract that will provide:

- (a) Personal care;
- (b) 24-hour on-site support and response staff;
- (c) The development and implementation of an individualized behavior support plan to prevent and respond to crises;
- (d) Medication management; and
- (e) On-site staffing ratios and professional staffing as described in the contract;

~~((3)) (4) Enhanced services facilities that will provide:~~

- (a) Personal care;
- (b) ~~((Supportive services;~~
- ~~(c) Supervision in the home and community;~~
- ~~(d) Twenty-four)) 24-hour on-site support and response staff;~~

- ~~((e))~~ (c) The development and implementation of an individualized behavior support plan to prevent and respond to crises;
- ~~((f))~~ (d) Medication management; and
- ~~((g))~~ (e) On-site staffing ratios and professional staffing as described in WAC 388-107-0230 through ~~((WAC))~~ 388-107-0270;
- ~~((4))~~ (5) Specialized durable and nondurable medical equipment and supplies under WAC 182-543-1000 when:
- (a) Medically necessary under WAC 182-500-0005;
 - (b) Necessary:
 - (i) For life support;
 - (ii) To increase your ability to perform activities of daily living; or
 - (iii) To perceive, control, or communicate with the environment in which you live;
 - (c) Directly medically or remedially beneficial to you;
 - (d) They are additional and do not replace any medical equipment or supplies otherwise provided under medicaid, or medicare, or both; and
 - (e) In addition to and do not replace the services required by the department's contract with a residential facility;
- ~~((5))~~ (6) Client support training to address your needs identified in your CARE assessment or other professional evaluation that are additional and do not replace the services required by the department's contract with the residential facility and meet a therapeutic goal, such as:
- (a) Adjusting to a serious impairment;
 - (b) Managing personal care needs; or
 - (c) Developing necessary skills to deal with care providers;
- ~~((6))~~ (7) Nurse delegation under RCW 18.79.260 when:
- (a) You receive personal care from a registered or certified nursing assistant who has completed nurse delegation core training;
 - (b) The delegating nurse considers your medical condition stable and predictable;
 - (c) The services comply with WAC 246-840-930; and
 - (d) The services are additional and do not replace the services required by the department's contract with the residential facility;
- ~~((7))~~ (8) Skilled nursing when:
- (a) Provided by a registered nurse or licensed practical nurse under a registered nurse's supervision;
 - (b) Beyond the amount, duration, or scope of medicaid-reimbursed home health services as provided under WAC 182-551-2100; and
 - (c) Additional and do not replace the services required by the department's contract with the residential facility;
- ~~((8))~~ (9) Nursing services not already received from another resource, based on your individual need as determined by your CARE assessment and any additional collateral contact information obtained by your case manager, including any one or more of the following activities performed by a registered nurse:
- (a) Nursing assessment/reassessment;
 - (b) Instruction to you, your providers, and your caregivers;
 - (c) Care coordination and referral to other health care providers;
 - (d) Skilled treatment, only in the event of an emergency as in nonemergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider or other appropriate resource;
 - (e) File review; or

(f) Evaluation of health-related care needs affecting service plan and delivery;

~~((9))~~ (10) Adult day health services as described in WAC 388-71-0706 when:

(a) Your CARE assessment shows an unmet need for personal care or other core services, whether or not those needs are otherwise met; and

(b) Your CARE assessment shows an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under ~~((WAC))~~ 388-71-0714 and:

(i) There is a reasonable expectation that the services will improve, restore, or maintain your health status, or in the case of a progressive disabling condition, will either restore or slow the decline of your health and functional status or ease related pain and suffering;

(ii) You are at risk for deteriorating health, deteriorating functional ability, or institutionalization; or

(iii) You have a chronic acute health condition that you are not able to safely manage due to a cognitive, physical, or other functional impairment.

WSR 24-03-100

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed January 18, 2024, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-24-083.

Title of Rule and Other Identifying Information: WAC 182-550-5700
Hospital reports and audits.

Hearing Location(s): On February 27, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_oPnu_jscTpmcOi88CFPCRQ. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: February 28, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by February 27, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by February 16, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is revising this rule to remove subsection (4)(a) and (b) and revise the language to match 42 C.F.R. Part 447, Subpart C, Payment for Inpatient Hospital and Long-Term Care Facility Services, § 447.253(g) Other requirements.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: 42 C.F.R. Part 447, Subpart C, § 447.253(g).

Rule is necessary because of federal law, 42 C.F.R. Part 447, Subpart C, § 447.253(g).

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Abby Cole, 626 8th Avenue S.E., Olympia, WA 98504, 360-725-1835.

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

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

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 42 C.F.R. Part 447, Subpart C, § 447.253(g); if not adopted, HCA rules would continue to be out of alignment with federal law.

Scope of exemption for rule proposal:

Is fully exempt.

January 18, 2024

OTS-5138.1

AMENDATORY SECTION (Amending WSR 15-18-065, filed 8/27/15, effective 9/27/15)

WAC 182-550-5700 Hospital reports and audits. (1) In-state and border area hospitals will complete and submit a copy of their annual medicare cost reports (HCFA 2552) to the medicaid agency. These hospital providers will:

(a) Maintain adequate records for audit and review purposes, and assure the accuracy of their cost reports;

(b) Complete their annual medicare HCFA 2552 cost report according to the applicable medicare statutes, regulations, and instructions; and

(c) Submit a copy to the agency:

(i) Within (~~one hundred fifty~~) 150 days from the end of the hospital's fiscal year; or

(ii) If the hospital provider's contract is terminated, within (~~one hundred fifty~~) 150 days of effective termination date; or

(d) Request up to a (~~thirty~~) 30-day extension of the time for submitting the cost report in writing at least (~~ten~~) 10 days before the due date of the report. Hospital providers will include in the extension request the completion date of the report, and the circumstances prohibiting compliance with the report due date;

(2) If a hospital provider improperly completes a cost report or the cost report is received after the due date or approved extension date, the agency may withhold all or part of the payments due the hospital until the agency receives the properly completed or late report.

(3) Hospitals will submit other financial information required by the agency to establish rates.

(4) The agency will periodically audit(~~+~~

~~(a) Cost report data used for rate setting;~~

~~(b) Hospital billings; and~~

~~(c) Other~~) the financial and statistical records of participating providers as needed.

WSR 24-03-103**PROPOSED RULES****DEPARTMENT OF HEALTH**

(Board of Nursing)

[Filed January 18, 2024, 3:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-143.

Title of Rule and Other Identifying Information: Initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board and applicants applying via interstate endorsement. The Washington state board of nursing (board) is proposing amendments to WAC 246-840-030 and 246-840-090 to clarify specific licensing requirements for out-of-state registered nurse (RN) and licensed practical nurse (LPN) applicants.

Hearing Location(s): On March 8, 2024, at 1:15 p.m., at the Department of Health, Town Center 2, Room 166/167, 111 Israel Road S.E., Tumwater, WA 98501; or virtually via Zoom. Please follow this link to register for the virtual hearing which will give you instructions to either join the meeting on a device or call in to the meeting on the phone, <https://us02web.zoom.us/join/91772467546>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: March 8, 2024.

Submit Written Comments to: Bonnie King, P.O. Box 47864, Olympia, WA 98504-7864, email <https://fortress.wa.gov/doh/policyreview/>, fax 360-236-4738, by February 27, 2024.

Assistance for Persons with Disabilities: Contact Bonnie King, phone 564-669-9721, fax 360-236-4738, TTY 711, email WABONRules@doh.wa.gov, by February 27, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing amendments to WAC 246-840-030 and 246-840-090 to clarify specific licensing requirements for RN and LPN applicants. The proposal amends licensing requirements for RN and LPN applicants applying for initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board, and applicants applying via interstate endorsement.

The current rules state that a nurse who has graduated from another state's approved nursing program or from a substantially equivalent program may be licensed. The board is aware that certain nursing programs in Florida and elsewhere have programs fraudulently granting diplomas. The board is proposing amendments to clarify that the Washington state board of nursing determines if another state's board-approved nursing program substantially meets Washington state requirements. Other clarifying amendments are also proposed for readability without changing the existing requirements.

On May 5, 2023, the board filed emergency rules to amend WAC 246-840-030 and 246-840-090 as WSR 23-11-015. The emergency rules were extended on September 1, 2023, as WSR 23-18-064, and later on December 29, 2023, as WSR 24-02-059. Emergency rules are intended to be in place until permanent rules are adopted.

The amendments clarify that RN and LPN applicants applying by interstate endorsement or for initial licensure educated in a traditional nursing education program approved by another United States nursing board must successfully complete a nursing education program in another

er United States state, which is approved by the nursing board in that state and substantially meets requirements for nursing education approved in Washington state as determined by the Washington State Board of Nursing.

This rule-making proposal, if adopted, will reflect standards currently adopted in the emergency rules.

Reasons Supporting Proposal: The board must protect the people of Washington by only licensing qualified, properly trained nurses. The board is proposing to amend these rules to ensure that only programs that meet Washington state standards are accepted. The intent of the proposed rule is to ensure that they cannot be interpreted to mean a fraudulent nursing program or program not meeting Washington state standards as approved by another state must be accepted as qualifying RNs and LPNs for licensure in Washington state.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, 18.80.020.

Statute Being Implemented: RCW 18.79.010.

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

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

Name of Agency Personnel Responsible for Drafting: Bonnie King, 111 Israel Road S.E., Tumwater, WA 98504, 564-669-9721; Implementation: Amber Zawislak, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4785; and Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Bonnie King, P.O. Box 47864, Olympia, WA 98504-7864, phone 564-669-9721, fax 360-236-4738, TTY 711, email WABONRules@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

January 18, 2024

Alison Bradywood, DNP, MPH, RN, NHA, NEA-BC

Executive Director

Washington State Board of Nursing

OTS-4435.6

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-030 Initial licensure for registered nurses and practical nurses—Out-of-state traditional nursing education program approved by another United States nursing board. (1) Registered ((nursing)) nurse and practical ((nursing)) nurse applicants educated in a traditional nursing education program approved by another United

States nursing board and applying for initial licensure (~~(must)~~) shall:

~~((1))~~ (a) Successfully complete a ~~(board-approved)~~ nursing education program in another U.S. state, which:

(i) Is approved by the nursing board in that state; and

(ii) Substantially meets requirements for nursing education approved in Washington state. The board retains authority to evaluate and determine the sufficiency of academic preparation for all applicants.

~~((Applicants from a board approved registered nurse program who are applying for a practical nurse license:~~

~~(a) Complete all course work required of board approved practical nurse programs as listed in WAC 246-840-575(2). Required courses not included in the registered nurse program may be accepted if the courses were obtained through a commission approved program.~~

~~(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.~~

~~(2))~~ (b) Successfully pass the ~~(commission)~~ board-approved licensure examination as provided in WAC 246-840-050.

~~((3))~~ (c) Submit the following documents:

~~((a))~~ (i) A completed licensure application with the required fee as defined in WAC 246-840-990.

~~((b))~~ (ii) An official transcript sent directly from the applicant's nursing education program to the ~~(commission)~~ board. The transcript must include course names and credits accepted from other programs. The transcript must show:

~~((i))~~ (A) The applicant has graduated from an approved nursing program or has successfully completed the prelicensure portion of an approved graduate-entry registered nursing program; or

~~((ii))~~ (B) That the applicant has completed all course work required in a ~~(commission)~~ board-approved practical nurse program as listed in WAC ~~((246-840-575(2))~~ 246-840-539.

~~((e) Applicants)~~ (iii) An applicant from a board-approved registered nurse program who ~~(are)~~ is applying for a practical nurse license ~~(must)~~ shall also submit an attestation sent from the nurse administrator of the applicant's nursing education program indicating that the applicant is capable to safely practice within the scope of practice of a practical nurse.

(2) An applicant from an out-of-state board-approved registered nurse program who is applying for a practical nurse license shall:

(a) Complete all course work required of board-approved practical nurse programs as listed in WAC 246-840-539. Required courses not included in the registered nurse program may be accepted if the courses were obtained through a board-approved program.

(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-090 Licensure for nurses by interstate endorsement.

Registered nurse and practical nurse applicants for interstate en-

dorsement may be issued a license without examination provided the applicant meets the following requirements:

(1) The applicant graduated and holds a degree from:

(a) A ~~((commissioner))~~ state board-approved program preparing candidates for licensure as a nurse, which substantially meets requirements for nursing education approved in Washington state, as determined by the board; or

(b) A nursing program that is equivalent to ~~((commission))~~ board-approved nursing education in Washington state at the time of graduation as determined by the ~~((commission))~~ board.

(2) The applicant holds a current active nursing license in another state or territory, or holds an inactive or expired license in another state or territory and successfully completes a ~~((commission))~~ board-approved refresher course.

(a) An applicant whose license was inactive or expired must be issued a limited education authorization by the ~~((commission))~~ board to enroll in the clinical portion of the refresher course.

(b) The limited education authorization is valid only while working under the direct supervision of a preceptor and is not valid for employment as a registered nurse.

(3) The applicant was originally licensed to practice as a nurse in another state or territory after passing the National Council Licensure Examination (NCLEX).

(4) ~~((Applicants))~~ An applicant graduating from a nursing program ~~((s))~~ outside the U.S. ~~((must))~~ shall demonstrate English proficiency by:

(a) Passing a ~~((commission))~~ board-approved English proficiency test if the nursing education is not in one of the following countries: Canada (except for Quebec), United Kingdom, Ireland, Australia, New Zealand, American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands ~~((, or complete one thousand));~~ or

(b) Completing 1,000 hours of employment as a licensed nurse in another state ~~((, or provide))~~. The 1,000 hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the board; or

(c) Providing evidence directly from the ~~((school))~~ program of earning a high school diploma or college degree from a United States institution.

~~((The one thousand hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the commission.))~~

(5) For RNs: If the applicant is a graduate of a nontraditional nursing education program and:

(a) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ~~((must submit evidence of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035, or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory))~~ shall meet the requirements defined in WAC 246-840-048.

(b) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ~~((must))~~ shall submit evidence of at least ~~((one thousand))~~ 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(6) All applicants must submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the ~~((commission))~~ board if the education cannot be verified from the original board of nursing, or ~~((commission))~~ board-approved evaluation agency.

(i) The transcript must contain adequate documentation demonstrating that the applicant graduated from an approved nursing program or successfully completed the prelicensure portion of an approved graduate-entry registered nursing program.

(ii) The transcripts ~~((shall))~~ must include course names and credits accepted from other programs.

(c) Verification of an original registered or practical nurse license from the state or territory of original licensure. The verification must identify that issuance of the original licensure included passing the NCLEX.

(d) For an applicant~~((s))~~ educated outside the United States and in territories or countries not listed in subsection (4)(a) of this section, successful results of a ~~((commission))~~ board-approved English proficiency exam, or, evidence of ~~((one-thousand))~~ 1,000 hours worked as a nurse.

(e) For RNs: If the applicant is a graduate of a nontraditional program in nursing and:

(i) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ~~((must))~~ shall submit ~~((documentation of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035 or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory))~~ the requirements outlined in WAC 246-840-048.

(ii) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ~~((must))~~ shall submit documentation of at least ~~((one-thousand))~~ 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

WSR 24-03-115

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 22-14—Filed January 19, 2024, 11:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-09-044.

Title of Rule and Other Identifying Information: Ecology is formally proposing a new chapter of rule, chapter 173-187 WAC, Financial responsibility. Additionally, the existing chapter 317-50 WAC, Financial responsibility for small tank barges and oil spill response barges, will be incorporated into the new rule. After the new rule is adopted, the previous rule will be repealed. For more information on this rule making, visit our website here <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-187>.

Hearing Location(s): On Tuesday, February 27, 2024, at 1:00 p.m., webinar hearing via Zoom. Presentation and question and answer session, followed by the hearing. This is an online meeting that you can attend from any computer using internet access. Join online <https://waecy-wa-gov.zoom.us/j/83417472748>. For call in only, use your phone to call 253-205-0468 and enter meeting ID 834 1747 2748;

On Wednesday, February 28, 2024, at 6:00 p.m., webinar hearing via Zoom. Presentation and question and answer session, followed by the hearing. This is an online meeting that you can attend from any computer using internet access. Join online <https://waecy-wa-gov.zoom.us/j/83015033443>. For call in only, use your phone to call 253-215-8782 and enter meeting ID 830 1503 3443; and

On Thursday, February 29, 2024, at 10:00 a.m., webinar hearing via Zoom. Presentation and question and answer session, followed by the hearing. This is an online meeting that you can attend from any computer using internet access. Join online <https://waecy-wa-gov.zoom.us/j/87923319517>. For call in only, use your phone to call 253-215-8782 and enter meeting ID 879 2331 9517.

Date of Intended Adoption: June 13, 2024.

Submit Written Comments to: Diana Davis, Washington State Department of Ecology, Northwest Regional Office, Spill Prevention, Preparedness, and Response Program, P.O. Box 330316, Shoreline, WA 98133-9716 (United States mail); or parcel delivery services: Washington State Department of Ecology, Northwest Regional Office, Spill Prevention, Preparedness, and Response Program, 15700 Dayton Avenue North, Shoreline, WA 98133 by March 8, 2024. Please submit comments by mail, online via ecology's online comment tool, or at the public hearings, online <https://sppr.ecology.commentinput.com/?id=Njtx23iVBu>.

Assistance for Persons with Disabilities: Contact ecology ADA coordinator, phone 360-407-6831, TTY or Washington relay service call 711 or 877-833-6341, email ecyadacoordinator@ecy.wa.gov, by February 23, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will implement updates to chapter 88.40 RCW, Transport of petroleum products—Financial responsibility, as required under E2SHB 1691. The rule making will ensure that vessels and facility owners and operators have adequate financial resources to pay cleanup and damage costs arising from an oil spill. Additionally, the existing chapter 317-50 WAC, Financial responsibility for small tank barges and oil spill response barges, will be incorporated into the new rule. After the new rule is adopted, the previous rule will be repealed.

The new rule will:

- Define the entities subject to financial responsibility requirements.
- Establish required levels of financial responsibility for oil handling facilities and pipelines.
- Specify the procedures and timelines for obtaining or renewing a certificate of financial responsibility (COFR).
- Establish requirements for acceptable evidence of financial responsibility, including self-insurance.
- Outline the process for ensuring timely updates to changes in financial status.
- Define the processes governing the suspension, revocation, and reissuance of certificates of financial responsibility considering potential liabilities incurred by a covered entity after an oil spill or other incident.
- Incorporate and update financial responsibility requirements currently included in chapter 317-50 WAC, Financial responsibility for small tank barges and oil spill response barges.
- Repeal chapter 317-50 WAC.

Reasons Supporting Proposal: E2SHB 1691, codified in chapter 88.40 RCW, directs ecology to adopt rules regarding financial responsibility requirements for oil handling facilities and vessels. This new chapter will establish a process to ensure regulated entities meet financial responsibility requirements and to establish a process for requesting a Washington state COFR. Regulated entities must demonstrate financial responsibility for response cleanup costs and, as necessary, compensate the state and affected federally recognized Indian tribes, counties, and cities for damages that might occur during a spill.

Chapter 88.40 RCW outlines the amount of financial responsibility a vessel must demonstrate and provides authorization to establish a process for verification of protection and indemnity (P&I) club membership. P&I clubs are mutual insurance associations that serve the vessel community and that provide risk pooling for their members. They provide insurance type protection for oil pollution risk, as well as other risks that are common for the vessel industry. The rule-making process will be used to establish financial responsibility requirements for regulated facilities and vessels. The law directs consideration of the worst-case amount of oil that could be spilled, as calculated in the applicant's oil spill contingency plan approved under chapter 90.56 RCW, the cost of cleaning up the spilled oil, the frequency of operations at the facility, the damages that could result from the spill, and the commercial availability and affordability of financial responsibility. The proposed rule also outlines a phase-in schedule for vessels and facilities and ongoing compliance timelines to meet the requirements in the rule.

Statutory Authority for Adoption: Chapter 88.40 RCW, Transport of petroleum products—Financial responsibility.

Statute Being Implemented: Chapter 88.40 RCW, Transport of petroleum products—Financial responsibility.

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

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Diana Davis, Shoreline, Washington, 425-758-0483.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Diana Davis, Washington State Department of Ecology, Northwest Regional Office, Spill Prevention, Preparedness, and Response Program, P.O. Box 330316, Shoreline, WA 98133-9716, phone 425-758-0483, TTY or Washington relay service call 711 or 877-833-6341, email Diana.Davis@ECY.WA.GOV.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: Ecology baselines are typically complex, consisting of multiple requirements fully or partially specified by existing rules, statutes, or federal laws. Where the proposed rule differs from this baseline of existing requirements, it is typically subject to (i.e., not exempt from) analysis required under the Regulatory Fairness Act (RFA, chapter 19.85 RCW) based on meeting criteria referenced in RCW 19.85.025(3) as defined by the Administrative Procedure Act in RCW 34.05.310. The small business economic impact statement (SBEIS) below includes a summary of the baseline for this rule making, and whether or how the proposed rule differs from the baseline.

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

Small Business Economic Impact Statement

This SBEIS presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating action taken by ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the RFA as having 50 or fewer employees. Estimated costs are determined as compared to the existing regulatory environment; the regulations in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

This information is excerpted from ecology's complete set of regulatory analyses for this rule making. For complete discussion of the

likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the associated regulatory analyses document (**Ecology publication no. 24-08-001, January 2024**).

COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES:

Baseline: The baseline for our analyses generally consists of existing laws and rules. This is what allows us to make a consistent comparison between the state of the world with and without the proposed rule.

For this rule making, the baseline includes federal financial responsibility (FR) standards, and the state laws that authorize this rule making.

Under federal law (33 C.F.R. Part 138):

- Standards setting the amount of financial liability for facilities and vessels and responsibility required for vessels as defined in the Oil Pollution Act (OPA) of 1990.
- The Delaware River Protection Act of 2006, which increased liability limits.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), passed in 1980, which establishes separate, additional liability limits under its authority.

State law:

- The authorizing law that directs this rule making, chapter 88.40 RCW.
- The existing rule pertaining to oil barges, chapter 317-50 WAC.

Proposed: The proposed rule would:

- Define the entities subject to financial responsibility requirements.
- Establish required levels of financial responsibility for oil handling facilities and pipelines.
- Specify the procedures and timelines for obtaining or renewing a COFR.
- Establish requirements for acceptable evidence of financial responsibility, including self-insurance.
- Outline the process for ensuring timely updates to changes in financial status.
- Define the processes governing the suspension, revocation, and reissuance of certificates of financial responsibility considering potential liabilities incurred by a covered entity after an oil spill or other incident.
- Incorporate and update financial responsibility requirements currently included in chapter 317-50 WAC, Financial responsibility for small tank barges and oil spill response barges, and repeal that chapter.

1. Define the entities subject to FR requirements:

Baseline: Under chapter 88.40 RCW, FR requirements apply to the owners and operators of onshore facilities, offshore facilities, and covered vessels with the following exceptions:

- (a) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;
- (b) Retail motor vehicle motor fuel outlet;
- (c) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330;
- (d) Underground storage tank regulated by ecology or a local government under chapter 70A.355 RCW;

(e) Marine fuel outlet that does not dispense more than 3,000 gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(f) Covered vessels owned or operated by the federal government or by a state or local government; or

(g) Onshore or offshore facilities owned or operated by the federal government or by the state or local government.

The statute also defines multiple terms including, but not limited to:

(1) A "barge" means a vessel that is not self-propelled.

(2) A "cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, fishing vessel, or a passenger vessel, of 300 or more gross tons.

(3) A "covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(4) A "fishing vessel" means a self-propelled commercial vessel of 300 or more gross tons that is used for catching or processing fish.

(5) A "passenger vessel" means a ship of 300 or more gross tons with a fuel capacity of at least 6,000 gallons carrying passengers for compensation.

(6) A "tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that: (i) Operates on the waters of the state; or (ii) transfers oil in a port or place subject to the jurisdiction of this state. Articulated tug barges, tank barges, and tank ships are considered tank vessels.

Proposed: FR requirements apply to the owners and operators of onshore facilities, offshore facilities, and covered vessels. This includes the following entities, which are defined in the proposed rule:

- A "Class 1 facility" is defined as any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from any vessel with an oil carrying capacity over 250 barrels or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.
- A "Class 2 facility" refers to mobile tank units; including any motor vehicle, portable device or other rolling stock, while not transporting oil over the highways or rail lines of the state, used to transfer oil to a nonrecreational vessel.
- A "Class 3 facility" refers to small marine terminals; including any structure that (i) transfers oil to a nonrecreational vessel with a capacity of 10,500 or more gallons of oil whether the vessel's oil capacity is used for fuel, lubrication oil, bilge waste, or slops or other waste oils; (ii) does not transfer oil in bulk to or from a tank vessel or pipeline; and (iii) does not include any: Boatyard, railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; underground storage tank regulated by ecology or a local government under chapter 70A.355 RCW; motor vehicle motor fuel outlet; or facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330.

Chapter 88.40 RCW provides exclusions for railroads, motor vehicles, or other rolling stock while transporting oil over the highways or rail lines of the state and covered vessels and facilities owned or operated by the federal government or by a state or local government.

The proposed WAC 173-187-020 adds the following exceptions to covered vessels: Tribal vessels and vessels temporarily transiting waters of the state of Washington through international maritime routes that do not call on United States ports.

Expected impact: Defining Class 1, 2, and 3 facilities establishes the framework for FR requirements addressed in the next section.

International vessels not calling on United States ports fall outside Washington state's jurisdiction and are expected to spend little time in Washington waters. They are recognized under international law as conducting "innocent passage." However, vessels engaging in "willful and serious pollution" would violate the standard of innocent passage.

2. Establish required levels of FR for oil handling facilities and pipelines:

Baseline: RCW 88.40.025 specifies that "an onshore or offshore facility shall demonstrate financial responsibility in an amount determined by the department as necessary to compensate the state and affected federally recognized Indian tribes, counties, and cities for damages that might occur during a reasonable worst-case spill of oil from that facility into the navigable waters of the state. The department shall adopt a rule that considers such matters as the worst-case amount of oil that could be spilled, as calculated in the applicant's oil spill contingency plan approved under chapter 90.56 RCW, the cost of cleaning up the spilled oil, the frequency of operations at the facility, the damages that could result from the spill, and the commercial availability and affordability of financial responsibility." Under OPA, responsible parties (RP) must pay for all cleanup costs. However, that federal regulation also places a limit of liability at \$725,710,800 for onshore facilities.

Proposed: WAC 173-187-040 adopts the definition of facility from RCW 88.40.011 and defines three classes of facilities described above to be as consistent as possible with chapter 173-180 WAC, Facility oil handling standards. WAC 173-187-110 specifies the FR amounts for each facility class.

- Class 1 facilities will be required to establish FR of \$12,500 per barrel times the worst case spill volume up to a maximum of \$300 million.
- Class 2 facilities will be required to establish FR of \$12,500 per barrel times 30 percent of the entire contents of the container(s) in which oil is stored or transported, up to a maximum amount of \$5 million.
- Class 3 facilities will be required to provide FR proof of \$12,500 per barrel times the volume of the largest facility tank, up to a maximum of \$5 million.

Expected impact: Regulated facilities will incur costs of either purchasing insurance or otherwise demonstrating FR. A major benefit would be meeting the intent of the legislature as reflected in chapter 88.40 RCW. The public would also receive the benefit of knowing that oil handling facilities have demonstrated financial resources to pay for oil spill cleanup and damage costs.

3. Specify the procedures and timelines for obtaining or renewing a COFR:

Baseline: Procedures and timelines for obtaining a Washington COFR do not currently exist. Chapter 88.40 RCW specifies FR amounts for vessels over 300 gross tons and allows ecology to set requirements

for smaller vessels. It also allows for ecology to set FR requirements for facilities by rule. Under existing state law, the only FR requirements for vessels are in chapter 317-50 WAC, which applies to tank barges 300 gross tons or less or oil spill response barges. Their options for demonstrating current FR requirements include demonstrating P&I club membership, possessing a Coast Guard issued COFR, an insurance policy, or demonstration of ability to meet the required amount of FR to the Office of Marine Safety.

Proposed: Requirements under chapter 317-50 WAC will be incorporated into the proposed rule and then the chapter will be repealed. Chapter 88.40 RCW covers vessels over 300 gross tons including tank barges, and specifies FR requirements for them. The owner or operator of a vessel or facility that is required to demonstrate FR under this chapter, or their authorized representative, must apply for a Washington COFR based on guidance located on ecology's website. Alternatively, vessels may be verified as a member of a P&I club. Anyone who owns or operates more than one vessel or facility that is subject to FR requirements may obtain a single COFR that applies to multiple vessels or facilities based on the vessel or facility that represents the greatest financial risk for a spill.

The proposed rule specifies a phase-in timeline for the owners or operators of existing facilities and vessels operating in Washington to submit an application for a COFR. The proposed phase-in timeline details that:

- Class 1 facilities: Nine months after the effective rule date.
- Class 2 and 3 facilities: Fifteen months after the effective rule date.
- Vessels: Twenty-one months after the effective rule date or demonstrate P&I club membership.

The proposed rule specifies the timeline to submit an application for a COFR, for the owners or operators of facilities and vessels that begin operating in Washington after the effective date of the rule. The proposed timeline specifies that:

- Class 1, 2, and 3 facilities: Sixty-five days before beginning operation in the state.
- Vessels: At least 10 calendar days before entering the waters of the state, for any vessel that cannot demonstrate P&I club membership. The rule specifies conditions under which an expedited application review can take place in less than 10 days.

The proposed rule also specifies a timeline for COFR renewal. Washington COFRs expire two years after the issuance date. The RP must submit an application to renew their COFR between 30 and 90 calendar days before the expiration date.

Expected impact: The benefit of a web-based application process is simplicity and a streamlined COFR application process. A vessel's P&I club membership can be verified without any required action on the part of the vessel owner or operator, agent, or multi-vessel contingency plan holder. The benefit of allowing the owner or operator of multiple vessels or facilities to obtain one COFR that covers multiple vessels or facilities is reduced cost of compliance.

The benefits of the phase-in timeline for obtaining a COFR after the effective date of the proposed rule include allowing businesses time to determine and implement the method(s) of proving FR that provide the most benefit for their company, the best coverage with the least cost. The benefit of having the COFR expire after two years is

reduced administrative effort compared to having the COFR expire after one year.

4. Establish requirements for acceptable evidence of FR, including self-insurance:

Baseline: Under RCW 88.40.030, acceptable methods to demonstrate FR include: Evidence of insurance; surety bonds; guaranty; letter of credit; certificates of deposit; protection and indemnity club membership; a certificate providing evidence of compliance with the requirements of another state's FR requirements or federal FR requirements if the state or federal government requires a level of FR the same as or greater than that required under this chapter; or other evidence of financial responsibility deemed acceptable by ecology.

In addition to the options above, the owner or operator of a vessel or facility may demonstrate financial responsibility through qualification as a self-insurer. Self-insurance requires that the applicant demonstrate the security of their financial position. This demonstration may include assets, cash flow, equity, liabilities, and bond ratings. The self-insurance requirements must be no less protective than other jurisdictions with similar programs in jurisdictions that Washington imports from, or exports to, significant volumes of oil.

Proposed: WAC 173-187-220 describes the FR methods specified in RCW 88.40.030, including providing details about evidence required to demonstrate FR for each method, such as the documents that must be submitted and further definitions of the methods that may be used. For self-insurance, WAC 173-187-220 (6)(g)(ii) lists the required documentation that an owner or operator of a facility must provide when using the self-insurance option. If entities choose this option, audited annual financial statements and quarterly financial statements, as typically filed with the Securities and Exchange Commission, must be submitted to ecology.

Expected impact: There will be administrative costs associated with compiling and submitting this documentation. The benefit will be assurance to the public and ecology that FR requirements have been adequately established and documented.

5. Outline the process for ensuring timely updates to changes in financial status:

Baseline: Chapter 88.40 RCW does not list changes in financial status that must be reported to ecology.

Proposed: Proposed WAC 173-187-300 defines significant changes relevant to a vessel or facility's COFR that require notification to ecology within seven days. These changes include but are not limited to:

- A change in ownership or operational control.
- That a method of demonstrating FR will be terminated or any coverage thereunder will cease.
- Any FR coverage amount that will be changed or adjusted.

If there is a change in applicant name, vessel name change, if the Washington COFR expires, or there is any change in the FR coverage amount, a new Washington COFR will be necessary.

The holder of a Washington COFR for more than one covered vessel or facility must notify ecology within 10 calendar days if it experiences a spill or spill from a vessel or facility in another jurisdiction which significantly impacts its FR status in Washington. Ecology may request the owner or operator of a vessel that has been verified to be a member of an international P&I club to provide evidence that

it is able to maintain required levels of FR under chapter 173-187 WAC if it has an oil spill.

Expected impact: Small administrative costs are likely to result from this aspect of the rule. Assessing in a timely manner that owners or operators of vessels or facilities can still meet their financial obligations benefits the public and ecology. Were an entity to undergo organizational changes, or face liability for a spill, its ability to demonstrate ongoing FR may be affected. This may place its status outside of the specifications of this proposed rule, which carries out the legislative intent of chapter 88.40 RCW.

6. Define the processes governing the suspension, revocation, and reissuance of certificates of FR considering potential liabilities incurred by a covered entity after an oil spill or other incident:

Baseline: RCW 88.40.040(3) states that the holder of a Washington COFR under this chapter must notify ecology of an oil spill or discharge in state waters consistent with chapters 90.48 and 90.56 RCW.

It also states: "The holder of a certificate of financial responsibility for more than one covered vessel or facility must notify [ecology] if it experiences a spill or spill from a vessel or facility in another jurisdiction for which it may be liable and which may incur damages that exceed 15 percent of the financial resources reflected by the certificate." If a Washington COFR holder incurs an oil spill or discharge or other potential liability in another jurisdiction, ecology may reevaluate the validity of the COFR. Ecology must reevaluate the validity of a COFR if the damages exceed 25 percent of the resources specified in the COFR. Ecology may suspend or revoke a COFR if ecology determines that, because of a spill, discharge, or other action or potential liability, the holder of the COFR is likely to no longer have the financial resources to still meet its Washington COFR requirements.

Proposed: In the event of a spill occurrence in another jurisdiction, ecology must be notified within 10 days. All other requirements under this section can be found in the statute, RCW 88.40.040.

Expected impact: Ecology considers 10 days a reasonable time frame. It should allow staff to perform this requirement within their regular schedules. We expect it to produce no significant additional costs. Notification of a spill within another jurisdiction within 10 days provides ecology with enough time to monitor the incident and assess whether the liabilities incurred threaten the entity's COFR qualifications.

7. Incorporate and update FR requirements currently included in chapter 317-50 WAC, Financial responsibility for small tank barges and oil spill response barges, and repeal that chapter:

Baseline: Under the authorizing statute, RCW 88.40.020, the FR for tank vessels greater than 300 gross tons is \$1 billion. The statute does not specify the FR for tank vessels of 300 gross tons or less, but does allow rule making to establish a standard that is less than \$1 billion. Chapter 317-50 WAC currently requires demonstrated FR for tank barges of 300 gross tons or less. For barges certified to carry persistent oil, it requires \$2 million, or \$3,000 per barrel of the barge's total capacity (or allowed capacity if assigned a load line under 46 C.F.R. Parts 42 or 44), whichever is greater. For barges certified to carry nonpersistent oil, it requires \$2 million, or \$1,500 per barrel of the barge's total capacity (or allowed capacity if assigned a load line under 46 C.F.R. Parts 42 or 44), whichever is greater. Oil spill response barges are exempt from this requirement.

Tank vessels designated as oil spill response vessels are also exempt from this requirement.

Proposed: WAC 173-187-100 mandates demonstrated FR for tank vessels, including tank barges, of 300 gross tons or less of \$5 million or \$3,000 per barrel of the barge's total capacity, whichever is greater, regardless of whether it carries mostly persistent or nonpersistent oil. Oil spill response barges are exempt from this requirement.

This is the only vessel FR requirement in the proposed chapter 173-187 WAC that is not defined by chapter 88.40 RCW.

Expected impact: Only one vessel is known to fall into this category. It is a member of a P&I club and is covered for oil pollution risks up to the required amounts, and therefore is not required to demonstrate FR pursuant to RCW 88.40.020 (2)(c). We do not expect this element of the proposed rule to result in costs or benefits, as compared to the baseline.

COSTS OF COMPLIANCE: EQUIPMENT AND SUPPLIES: Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of equipment or supplies.

COSTS OF COMPLIANCE: LABOR: Providing evidence of FR: Ecology estimates that for entities, acquiring, compiling, and submitting the evidence of FR will take 16 hours for the initial application. Self-insuring entities may need two additional hours per quarter to submit required financial documents to ecology. Annual submission of insurance or another method of demonstration by facilities may take two hours per year. Assuming an average of five hours per year ongoing, we calculate the following cost across 47 estimated entities covered by the proposed rule. The estimated cost assumes an executive secretary will be performing this work for 16 hours per year at \$35.74, making the amount per entity total \$571.84 initially. On an ongoing basis, five hours per year at \$35.74 equals \$178.70 per year. Across 47 entities, Class 1, 2, 3 combined, the initial cost totals \$26,876.48, followed by \$8,398.90 in subsequent years. The 20-year present value (PV) is \$179,904.34.

Updates to changes in financial status: Ecology estimates the updates to changes in financial status, or responding to its requests for vessels to verify they are maintaining FR, to take roughly two hours annually. Ecology anticipates this work to be done by an executive secretary at a pay rate of \$35.74 per hour. At \$35.74 per hour over roughly 4,200 vessels and facilities, assuming 10 percent of them incur changes each year that require ecology to be notified, the estimated annual cost totals \$30,022 per year. The net PV through 20 years is then $21 \times 0.916 \times \$30,022/\text{year} = \$577,503$.

COSTS OF COMPLIANCE: PROFESSIONAL SERVICES: Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of professional services.

COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS: Where applicable, ecology estimates administrative costs (overhead) as part of the cost of labor and professional services above.

COSTS OF COMPLIANCE: OTHER: Ecology estimates there are eight Class 1 entities that will be required to demonstrate the \$300 million level of maximum FR. Eleven entities would face lower requirements. Seven Class 1 entities have California COFRs and will be able to use that demonstration of FR for part or all of ecology's requirements under the proposed rule. We estimate the annual cost for entities required to demonstrate \$300 million in FR to be \$4.2 million per year in the low-cost scenario, and \$9.7 million in the high-cost scenario. Companies

having to demonstrate the availability of \$220 million of resources outside of the formal insurance market is the largest cost driver for these entities, comprising nearly half of the total cost in the low-cost scenario, and nearly 80 percent of the total cost in the high-cost scenario.

- In aggregate, that is summing all Class 1 entities, the combined annual cost totals \$49.9 million dollars in the low-cost scenario, and \$101.5 million in the high-cost scenario.
- Using a real discount rate of 0.9 percent over the next 20 years, the PV for this aspect of the rule totals \$0.91 billion in the low-cost scenario, and \$1.85 billion in the high-cost scenario.

Class 2 facilities' (tanker trucks) FR requirements fall within the regular insurance markets. Ecology estimates their coverage can be purchased with provisions and deductibles for 0.9 percent of the covered amount. There are 19 such facilities. Two entities have California COFRs that will meet the proposed rule's requirements, and they will incur no additional costs. The 17 remaining entities would pay an average premium of \$4,605 per year, ranging from \$2,400 to \$8,000. This totals \$87,509 per year, with a PV over 20 years of \$1.47 million.

Class 3 facilities' (marine terminals) FR requirements are also covered by the regular insurance markets. As discussed above, ecology estimates their coverage can be purchased with provisions and deductibles for 0.9 percent of the covered amount. There are five such facilities, which would pay an average premium of \$18,374 per year. The resulting PV over 20 years using a real discount rate of 0.9 percent is \$1.77 million. These facilities vary widely in size, and the annual premiums are estimated to range from under \$1,870 per year to \$45,000 per year. This calculation uses the proposed rule's \$12,500 of coverage needed per barrel of oil. The premiums are estimated based upon the size of potential worst-case spills at the facilities, and the amount of FR required, \$208,000 at the low end, and \$5 million at the high end. Two facilities would be able to be covered by COFRs for other facilities owned by the same entity.

Table 1: Summary of Low-Cost Estimates to Entities.

Class Level	Average annual cost per entity	Summed Annual Cost for Entities in Class	PV over 20 years
Class 1 Entities	\$2.6 million	\$49.9 million	\$0.91 billion
Class 2 Entities	\$4.0 thousand	\$76.6 thousand	\$1.39 million
Class 3 Entities	\$18.4 thousand	\$91.8 thousand	\$1.67 million

Table 2: Summary of High-Cost Estimate to Entities.

Class Level	Average annual cost per entity	Summed Annual Cost for Entities in Class	PV over 20 years
Class 1 Entities	\$5.3 million	\$101.5 million	\$1.85 billion
Class 2 Entities	\$4.0 thousand	\$76.6 thousand	\$1.39 million
Class 3 Entities	\$18.4 thousand	\$91.8 thousand	\$1.67 million

COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES: We calculated the estimated per-business costs to comply with the proposed rule, based on the costs estimated in Chapter 3 of this document. In this section, we estimate compliance costs per employee.

The average affected small business among Class 1, 2, and 3 facilities likely to be covered by the proposed rule employs between 11 and 18 people. The largest 10 percent of affected businesses that own

Class 1 facilities employ an average of 74,150 people. Based on cost estimates in Chapter 3, we estimated the following compliance costs per employee.

Table 33 [3]: Compliance costs per employee for Class 1 facilities.

Type of cost (or total cost)	Small Businesses	Largest 10 Percent of Businesses
Average employment	11	74,150
Average Compliance Costs (low)	\$2,600,000	\$2,600,000
Average Compliance Costs (high)	\$5,300,000	\$5,300,000
Cost per employee (low)	\$236,364	\$35
Cost per employee (high)	\$481,818	\$71

The average compliance cost for small businesses that own Class 2 facilities was \$222 per employee and the average compliance cost for the largest 10 percent of businesses that own Class 2 facilities was \$0.20 per employee. The average compliance cost for small businesses that own Class 3 facilities was \$1,022 per employee and the average compliance cost for the largest 10 percent of businesses that own Class 3 facilities was \$58 per employee.

We conclude that the proposed rule is likely to have disproportionate impacts on small businesses, and therefore ecology must include elements in the proposed rule to mitigate this disproportion, as far as is legal and feasible.

MITIGATION OF DISPROPORTIONATE IMPACT: RFA states that:

"Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- (a) Reducing, modifying, or eliminating substantive regulatory requirements;
- (b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- (c) Reducing the frequency of inspections;
- (d) Delaying compliance timetables;
- (e) Reducing or modifying fine schedules for noncompliance; or
- (f) Any other mitigation techniques including those suggested by small businesses or small business advocates."

We considered all of the above options, the goals and objectives of the authorizing statutes (see Chapter 6), and the scope of this rule making. We limited compliance cost-reduction methods to those that: Are legal and feasible, meet the goals and objectives of the authorizing statute, and are within the scope of this rule making.

As part of the proposed rule, ecology allows for modifications in regulatory requirements, simplifications in reporting, and a delayed compliance timetable to reduce costs to small businesses. Details of these mitigation methods are outlined in the following subsections. The scope of this rule making does not include inspection frequency nor a schedule of fines for noncompliance.

Modifying regulatory requirements: There are several ways in which the rule reduces regulatory requirements for facilities or allows facilities to take actions to reduce or modify their regulatory requirements while achieving the objectives of the underlying statute.

The rule adopts alternative FR levels for different classes of facilities. Class 2 and 3 facilities tend to be smaller in scale than Class 1 facilities. FR for Class 2 and 3 facilities is limited to \$5 million in contrast to the \$300 million maximum for Class 1 facilities.

Facility owners or operators may request alternative FR calculations. As discussed in the least-burdensome alternative analysis (see Chapter 6), this allows for flexibility in meeting the intent of the statute. Covered entities may choose to comply with the regulation by making investments that reduce their worst-case spill volume or provide information that allows additional factors to be accounted for in determining the worst-case spill volume. Reducing a facility's worst-case spill volume may reduce their FR requirements.

The rule creates several avenues for the owners or operators of facilities to demonstrate FR. This added flexibility may reduce the burden of compliance for some facilities, particularly smaller facilities that may not be able to completely self-insure.

As discussed in the least-burdensome alternative analysis (see Chapter 6), ecology considered the following alternative regulatory requirements, but they were not included in the rule due, at least in part, to the additional compliance burden they would have imposed. The alternatives were: Requiring higher levels of FR; requiring a higher credit rating for insurance companies; requiring the state of Washington to be listed as additional insured or certificate holder; and requiring Class 2 facilities to prove FR for the entire contents of their oil storage or transportation container.

Additional reductions or modifications to the rule's regulatory requirements were considered, but these alternatives would have compromised the ability of the rule to meet the intent of the underlying statute.

Simplifying or reducing reporting requirements: As discussed in the least-burdensome alternative analysis (see Chapter 6), ecology considered the following alternative reporting requirements, but they were not included in the rule due, at least in part, to the additional compliance burden they would have imposed: Requiring vessel owners/operators or their agent to verify P&I club membership and require verification at least 10 days before entering state waters; and setting COFR expiration at one year.

Delaying compliance timetables: The rule institutes timelines for the phase-in of FR requirements. One of the purposes of this phase-in is to allow smaller entities additional time to apply for COFRs. Owners and operators of Class 1 facilities have nine months from the effective rule date to submit a COFR application. Owners and operators of other facilities and vessels have 15 months and 21 months, respectively.

SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION: Ecology involved small businesses and local governments in its development of the proposed rule using:

- Notice of rule making (proposal statement of inquiry; form CR-101), emails, updates, and workshop invitations directly to likely impacted entities, as well as entities that would not be impacted by the rule.
- Notice of rule making directly to state, regional, and local emergency and air quality bodies.
- Notice of rule making directly to 54 associations and organizations representing.

NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE: The proposed rule likely impacts the following industries, with associated NAICS codes. NAICS definitions and industry hierarchies are discussed at <https://www.census.gov/naics/>.

(321113) Sawmills, (324110) Petroleum Refineries, (424710) Petroleum Bulk Stations and Terminals, (424720) Petroleum and Petroleum Product Merchant Wholesalers (except bulk stations and terminals), (441222) Boat Dealers, (457120) Other Gasoline Stations, (483211) Inland Water Freight Transportation, (486110) Pipeline Transportation of Crude Oil, (486210) Pipeline Transportation of Natural Gas, (486910) Pipeline Transportation of Refined Petroleum Products, (493190) Other Warehousing and Storage, (541611) Administrative Management and General Management Consulting Services, (551112) Offices of Other Holding Companies, (562900) Remediation and Other Waste Management Services, and (562910) Remediation Services.

CONSIDERATION OF LOST SALES OR REVENUE, IMPACT ON JOBS: We used the REMI E3+ model for Washington state to estimate the impact of the proposed rule on directly affected markets, accounting for dynamic adjustments throughout the economy. The results of the REMI E3+ model show that the rule would impact a variety of industries, costing the Washington economy an estimated \$140 million to \$284 million in output at its peak (total amount of goods and services produced by Washington businesses) across all sectors. In the first quarter of 2023, Washington state's annual gross domestic product (GDP) was estimated at \$761 billion. \$284 million is equivalent 0.04 percent of the state's GDP.

Output losses are projected to be highest in the few years immediately following the rule implementation, with losses of \$123 million in the low-cost scenario and \$250 million in the high-cost scenario in the first year of the rule. These losses increase by 14 percent over the next two years, peaking in 2027 at \$140 million and \$284 million for the low- and high-cost scenarios, respectively. By 2045, the output loss is projected to have declined under the low- and high-cost scenarios to \$92 million and \$190 million, respectively.

REMI results project an immediate statewide loss of 459 full-time equivalent positions (FTEs) under the low-cost scenario, and a loss of 934 FTEs under the high-cost scenario, in the year 2025. This loss increases over the next two years, peaking in 2027 with a loss of 550 and 1120 FTEs, under the low-cost and high-cost scenarios, respectively. The statewide loss in FTEs is lessened after 2027 so that in 2045 the statewide projected loss is reduced to 273 FTEs in the low-cost scenario, and 565 FTEs in the high-cost scenario. Industries that are most impacted are listed in Table 4 below.

Table 44 [4]: Impacts on jobs.

Industry	2027 Impact (low)	2027 Impact (high)	2045 Impact (low)	2045 Impact (high)
Whole state	-550	-1120	-273	-565
Construction	-127	-259	-19	-39
State and local government	-48	-108	-32	-66
Wholesale trade	-44	-89	-20	-42
Warehousing and storage	-40	-82	-25	-51
Retail trade	-27	-56	-12	-25
Petroleum and coal products manufacturing	-4	-8	-2	-4

A copy of the statement may be obtained by contacting Diana Davis, Washington State Department of Ecology, Northwest Regional Of-

Office, Spill Prevention, Preparedness, and Response Program, P.O. Box 330316, Shoreline, WA 98133-9716, phone 425-758-0483, TTY or Washington relay service call 711 or 877-833-6341, email Diana.Davis@ECY.WA.GOV.

January 19, 2024
Heather R. Bartlett
Deputy Director

OTS-5055.4

**Chapter 173-187 WAC
FINANCIAL RESPONSIBILITY**

PART I: GENERAL REQUIREMENTS

NEW SECTION

WAC 173-187-010 Purpose. (1) The purpose of this chapter is to ensure that owners and operators of facilities and covered vessels have adequate financial resources to pay cleanup and damage costs arising from an oil spill.

(2) The required amounts of financial responsibility in no way restrict or set financial limitations on any duty, obligation, or liability of the responsible party.

NEW SECTION

WAC 173-187-020 Applicability. (1) This chapter applies to owners and operators of onshore facilities, offshore facilities, and covered vessels required to meet financial responsibility requirements under chapter 88.40 RCW.

(2) This chapter does not apply to owners or operators of:

(a) Railroads, motor vehicles, or other rolling stock while transporting oil over the highways or rail lines of the state;

(b) Covered vessels owned or operated by the federal government or by a state or local government;

(c) Onshore or offshore facilities owned or operated by the federal government or by the state or local government;

(d) Tribal vessels; or

(e) Vessels temporarily transiting waters of the state of Washington through international maritime routes that do not call on United States ports.

NEW SECTION

WAC 173-187-030 Authority. Chapter 88.40 RCW provides authority for the financial responsibility requirements established by this chapter.

NEW SECTION

WAC 173-187-040 Definitions. (1) "Authorized representative" means a person who has the authority, or delegated authority, to submit and attest to information relevant to the certificate of financial responsibility process.

(2) "Barge" means a vessel that is not self-propelled.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, fishing vessel, or a passenger vessel, of 300 or more gross tons.

(5) "Class 1 facility" means a facility as defined in RCW 88.40.011 as:

(a) Any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from any vessel with an oil carrying capacity over 250 barrels or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Retail motor vehicle motor fuel outlet;

(iii) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330;

(iv) Underground storage tank regulated by ecology or a local government under chapter 70A.355 RCW; or

(v) Marine fuel outlet that does not dispense more than 3,000 gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(6) "Class 2 facility" means a motor vehicle, portable device or other rolling stock, while not transporting oil over the highways or rail lines of the state, used to transfer oil to a nonrecreational vessel.

(7) "Class 3 facility" means a structure that:

(a) Transfers oil to a nonrecreational vessel with a capacity of 10,500 or more gallons of oil whether the vessel's oil capacity is used for fuel, lubrication oil, bilge waste, or slops or other waste oils;

(b) Does not transfer oil in bulk to or from a tank vessel or pipeline; and

(c) Does not include any: Boatyard, railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; underground storage tank regulated by ecology or a local government under chapter 70A.355 RCW; or a motor vehicle motor fuel outlet; or a facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330.

(8) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(9) "Ecology" means the state of Washington department of ecology.

(10) "Fishing vessel" means a self-propelled commercial vessel of 300 or more gross tons that is used for catching or processing fish.

(11) "Gross tons" means tonnage as determined by the United States Coast Guard under 33 C.F.R. Sec. 138.30.

(12) "Hazardous substances" means any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499. The following are not hazardous substances for purposes of this chapter:

(a) Wastes listed as F001 through F028 in Table 302.4; and

(b) Wastes listed as K001 through K136 in Table 302.4.

(13) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(14) "Nonpersistent or group 1 oil" means:

(a) A petroleum-based oil, such as gasoline, diesel, or jet fuel, which evaporates relatively quickly. Such oil, at the time of shipment, consists of hydrocarbon fractions of which:

(i) At least 50 percent, by volume, distills at a temperature of 340°C (645°F); and

(ii) At least 95 percent, by volume, distills at a temperature of 370°C (700°F).

(b) A nonpetroleum oil with a specific gravity less than 0.8.

(15) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(16) "Oil" or "oils" means oil of any kind that is liquid at 25 degrees Celsius and one atmosphere of pressure and any fractionation thereof including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(17) "Oil spill response barge" means a barge dedicated solely to oil spill response activities.

(18) "Onshore facility" means any facility, as defined in subsections (5), (6), and (7) of this section, any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(19) (a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(20) "Passenger vessel" means a ship of 300 or more gross tons with a fuel capacity of at least 6,000 gallons carrying passengers for compensation.

(21) "Persistent oil" means:

(a) Petroleum-based oil that does not meet the distillation criteria for a nonpersistent oil. Persistent oils are further classified based on both specific and American Petroleum Institute (API) observed gravities corrected to 60°F, as follows:

(i) Group 2 - Specific gravity greater than or equal to 0.8000 and less than 0.8500. API gravity less than or equal to 45.00 and greater than 35.0;

(ii) Group 3 - Specific gravity greater than or equal to 0.8500, and less than 0.9490. API gravity less than or equal to 35.0 and greater than 17.5;

(iii) Group 4 - Specific gravity greater than or equal to 0.9490 and up to and including 1.0. API gravity less than or equal to 17.5 and greater than 10.00; and

(iv) Group 5 - Specific gravity greater than 1.0000. API gravity equal to or less than 10.0.

(b) A nonpetroleum oil with a specific gravity of 0.8 or greater. These oils are further classified based on specific gravity as follows:

(i) Group 2 - Specific gravity equal to or greater than 0.8 and less than 0.85;

(ii) Group 3 - Specific gravity equal to or greater than 0.85 and less than 0.95;

(iii) Group 4 - Specific gravity equal to or greater than 0.95 and less than 1.0; or

(iv) Group 5 - Specific gravity equal to or greater than 1.0.

(22) "P&I club" means an international protection and indemnity mutual organization.

(23) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(24) "Spill" means an unauthorized discharge of oil into the waters of the state.

(25) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

Articulated tug barges (ATBs), tank barges, and tank ships are considered tank vessels.

(26) "Transfer" means any movement of oil in bulk to or from a nonrecreational vessel or transmission pipeline.

(27) "Transmission pipeline" means all parts of a pipeline whether interstate or intrastate, through which oil moves in transportation, including mainline, laterals, valves, and other appurtenances

such as pumping units, and fabricated assemblies associated with pumping units metering and delivery stations and fabricated assemblies therein, and breakout tanks.

(28) "Washington certificate of financial responsibility (COFR)" means an official written acknowledgment issued by ecology that an owner or operator of a covered vessel or facility, or the owner of the oil, has demonstrated to the satisfaction of ecology that the relevant entity has the financial ability to pay for costs and damages caused by an oil spill.

(29) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(30) "Worst case spill" means:

(a) For a Class 1 offshore facility, the largest possible spill considering storage, production, and transfer capacity complicated by adverse weather conditions; or

(b) For a Class 1 onshore facility, the entire volume of the largest above ground storage tank on the facility site complicated by adverse weather conditions, unless ecology determines that a larger or smaller volume is more appropriate given a particular facility's site characteristics and storage, production, and transfer capacity; or

(c) For a Class 2 facility, the entire contents of the container(s) in which the oil is stored or transported; or

(d) For a Class 3 facility, the entire volume of the largest above ground storage tank on the facility site complicated by adverse weather conditions, unless ecology determines that a larger or smaller volume is more appropriate given a particular facility's site characteristics and storage, production, and transfer capacity; or

(e) For pipelines, the size of the worst case spill is dependent on the location of pump stations, key block valves, geographic considerations, response zones, or volume of the largest breakout tank. For each it is the largest volume determined from the following three different methods, complicated by adverse weather conditions:

(i) The pipeline's maximum time to detect the release, plus the maximum shutdown response time multiplied by the maximum flow rate per hour, plus the largest line drainage volume after shutdown.

For planning purposes, the total time to detect the release and shutdown the pipeline should be based on historic discharge data or, in the absence of such historic data, the operator's best estimate. At a minimum, the total time to detect and shut down the pipeline must be equal to or greater than 30 minutes;

(ii) The maximum historic discharge from the pipeline; and

(iii) The largest single breakout tank or battery of breakout tanks within a single secondary containment system.

Each operator shall determine the worst case discharge and provide the methodology, including calculations, used to arrive at the volume.

(31) "Verification of financial responsibility" means a verification by ecology that a covered vessel is a current member of an international protection and indemnity (P&I) club.

NEW SECTION

WAC 173-187-050 Enforcement. Any violation of this chapter may be subject to enforcement and penalties under chapter 88.40 RCW, RCW 90.56.300 and 90.56.310.

NEW SECTION

WAC 173-187-060 Severability. If any provision of this chapter is held invalid, the remainder of the chapter is not affected.

PART II: FINANCIAL RESPONSIBILITY AMOUNTS FOR VESSELS AND FACILITIESNEW SECTION**WAC 173-187-100 Financial responsibility amounts for vessels.**

(1) The owner or operator of any vessel that is covered by this rule must demonstrate financial responsibility as defined in the table below:

Vessel Type	Financial Responsibility Amounts
Barges that transport hazardous substances in bulk as cargo	\$5,000,000 or \$300 per gross ton, whichever is greater
Tank vessels, including tank barges	\$1,000,000,000
Tank vessels, including tank barges, 300 gross tons or less	\$5,000,000 or \$3,000 per barrel of the barge's total capacity, whichever is greater
Cargo vessel	\$300,000,000
Passenger vessel	\$300,000,000
Passenger vessels that transport passengers and vehicles between Washington and a foreign country	\$500,000 or \$600 per gross ton, whichever is greater
Fishing vessel that carries predominantly nonpersistent oil	\$1,334,000 or \$133.40 per each barrel of total oil storage capacity, whichever is greater
Fishing vessel that carries predominantly persistent oil	\$6,670,000 or \$400.20 per each barrel of total oil storage capacity, whichever is greater

(2) A tank barge used solely as an oil spill response barge is not required to possess evidence of financial responsibility if the owner or operator submits to ecology a letter signed by an authorized representative that identifies the barge's name, official number, country of registry, and gross tonnage and certifies that:

(a) The barge is used exclusively for oil spill response activities and will not be used to carry oil in bulk in commerce; and

(b) The owner or operator is an approved primary response contractor under chapter 173-182 WAC.

If either certification becomes inaccurate, the owner or operator must notify ecology and must immediately comply with this chapter.

NEW SECTION**WAC 173-187-110 Financial responsibility amounts for facilities.**

The owner or operator of any facility that is covered by this rule must demonstrate financial responsibility as defined in the table below:

Facility Type	Financial Responsibility Amounts	Maximum Amount Required
Class 1 facility (oil handling facilities including refineries and marine terminals)	\$12,500 per barrel times worst case spill (WCS) volume	\$300,000,000
Class 1 facility (offshore facilities)	\$12,500 per barrel times worst case spill (WCS) volume	\$300,000,000
Class 1 facility (pipelines)	\$12,500 per barrel times worst case spill (WCS) volume	\$300,000,000
Class 2 facility (mobile tank units)	\$12,500 per barrel times 30 percent of the entire contents of the container(s) in which the oil is stored or transported	\$5,000,000
Class 3 facility (small marine terminals)	\$12,500 per barrel times the volume of the largest facility tank	\$5,000,000

NEW SECTION

WAC 173-187-120 Request for an alternative financial responsibility calculation. (1) A facility may submit to ecology a request for an alternative calculation to determine financial responsibility required under this chapter.

(a) The request must demonstrate financial responsibility capable of covering the response costs and damages that could occur during a reasonable worst case spill of oil from that facility into the navigable waters of the state.

(b) The request must include a detailed report justifying the alternative calculation. The report should include, but is not limited to:

(i) The worst case amount of oil that could be spilled, as calculated in the applicant's oil spill contingency plan approved under chapter 90.56 RCW, or as defined in this chapter;

(ii) The cost of cleaning up the spilled oil;

(iii) The type and frequency of operations at the facility;

(iv) The damages that could result from the spill;

(v) The facility's proximity to navigable waters of the state and how a spill could be prevented from reaching such waters;

(vi) The spill prevention and preparedness measures for the facility including spill response procedures, response equipment, personnel, training, maintenance systems, contracted response resources, monitoring and shut down systems, pipeline drain times, tank conditions, secondary containment systems, and third-party inspection information.

(2) Requests for an alternative must be submitted no less than 65 days prior to submitting an application for a Washington COFR. Ecology will approve or disapprove the request for an alternative financial responsibility calculation no later than 65 days from the submittal date.

(3) Requests for an alternative shall be subject to a 30 calendar day public review and comment period which includes, but is not limi-

ted to, interested local and tribal governments and other stakeholders.

(4) Ecology may revoke an approved alternate financial responsibility calculation at any time in response to new information or after operational or engineering changes that alter the conditions of the approval.

PART III: FINANCIAL RESPONSIBILITY - APPLYING FOR A WASHINGTON CERTIFICATE OF FINANCIAL RESPONSIBILITY (COFR)

NEW SECTION

WAC 173-187-200 Demonstrating financial responsibility. (1) The owner or operator of a vessel required to document financial responsibility under this chapter must:

(a) Obtain a Washington COFR; or

(b) Be verified by ecology to be a current member of a P&I club.

(2) The owner or operator of a facility required to demonstrate financial responsibility under this chapter must obtain a Washington COFR.

(3) An owner or operator of more than one vessel or facility subject to financial responsibility requirements under this chapter may obtain a single Washington COFR that applies to all of the owner's or operator's vessels and facilities. Ecology will base the terms of such Washington COFR upon the vessel or facility that represents the greatest financial risk in the event of a spill. Alternatively, the owners or operators may obtain separate Washington COFRs that each apply to a subset of the owner's or operator's vessels or facilities, provided that each vessel or facility of the owner or operator is covered by at least one valid Washington COFR.

NEW SECTION

WAC 173-187-210 Procedures for vessels to be verified as a member of an international protection and indemnity (P&I) club. (1) Ecology will verify, through its available means, that the vessel is currently a member of a P&I club.

(2) If ecology is unable to verify the vessel is a member of a P&I club, the vessel owner or operator must, upon request by ecology, provide the vessel's P&I club certificate of entry demonstrating the required levels of financial responsibility to ecology within 10 calendar days of receiving the request.

(3) If a vessel owner does not provide ecology the vessel's P&I club certificate of entry including financial coverage information within 10 calendar days of the request, they are subject to enforcement and penalties as described in WAC 173-187-050.

(4) If a vessel is not a member of an international P&I club, the vessel owner or operator must obtain a Washington COFR with required financial amounts issued by ecology following the process in WAC 173-187-220 and the timelines in WAC 173-187-230 and 173-187-240.

NEW SECTION

WAC 173-187-220 Procedures for applying for a Washington certificate of financial responsibility (COFR). (1) The owner or operator of a vessel or facility that is required to demonstrate financial responsibility under this chapter, or their authorized representative, must apply for a Washington COFR based on guidance located on ecology's website.

(2) Applications and associated materials must meet the following format requirements:

(a) All documents must be in English and all monetary terms must be in United States currency; and

(b) All fields in the application form must be completed with the requested information or the phrase "not applicable."

(3) The application must include the following:

(a) Proof of financial responsibility provided by one or more of the financial responsibility instruments described in subsection (6) of this section;

(b) Evidence of dollar amounts; and

(c) Effective date and term of coverage.

(4) All applications, including renewal applications, must include a statement which attests to the accuracy and completeness of the application and is signed by the owner, operator, or authorized representative of the owner or operator, whose title must be indicated on the attestation.

An authorized representative must have delegated authority to attest to the accuracy of the application and to bind the owner or operator to the financial responsibility amounts required under this chapter. If an authorized representative submits an application for a Washington COFR on behalf of an owner or operator, delegation of authority must be included with the application.

(5) The submitted application for financial responsibility shall bind the owner or operator of the vessel or facility to the financial responsibility amounts required under this chapter.

(6) The owner or operator of a vessel or facility must demonstrate financial responsibility through one or more of the following methods. If multiple methods are used, the total demonstrated financial responsibility must be greater than or equal to the required amount.

(a) Evidence of insurance:

(i) The owner or operator of a vessel or facility may demonstrate financial responsibility through one or more insurance policies. The applicant must provide proof of insurance issued by an insurer who is authorized to sell insurance in Washington under a certificate of authority issued by the Washington state insurance commissioner or that is procured through a licensed surplus line broker in accordance with chapter 48.15 RCW. The insurer providing coverage must also have a current AM Best rating of at least B+.

(ii) Submit a certificate of insurance signed by an authorized representative of the insurer using the form provided on ecology's website.

(iii) In addition to the certificate of insurance, the applicant must submit proof of insurance in the form of a binder or a copy of the policy. If a binder is submitted to meet the requirements of this subsection, a copy of the underlying insurance policy must also be provided to ecology within 90 calendar days of submitting an application.

(iv) The proof of insurance must include:

(A) Name and address of insured;

(B) Name and principal characteristics of vessels or facilities covered;

(C) Name and address of insurer(s);

(D) Policy number(s);

(E) Effective date and term of coverage;

(F) All conditions and limitations of the policy or certificate which may affect coverage in the event of an oil spill;

(G) An attestation that the policy covers damages for oil pollution claims and the unlawful discharge of oil;

(H) Evidence of dollar amounts of the insurance policy or certificate of insurance;

(I) Amount of deductibles and/or self-insured retention; and

(J) Language that termination or cancellation of this policy, insofar as it serves as proof of the insured's financial responsibility for damages for oil pollution claims and the unlawful discharge of oil, must not become effective until 30 calendar days after a notice of termination or cancellation has been submitted to ecology. However, this policy must only remain in effect for 10 calendar days after a notice of termination or cancellation for failure to pay the premium by the due date has been submitted to ecology, and the notice was issued after the date the premium was due.

(v) A deductible provision in any policy of insurance, binder, or certificate is acceptable if:

(A) The applicant demonstrates supplemental coverage for the amount of the deductible by means of other acceptable insurance, surety, guarantee, self-insurance, letter of credit, certificate of deposit, or other proof of financial responsibility approved by ecology if the deductible is greater than one percent of the policy coverage amount; and

(B) The deductible provision provides for a loss reimbursement plan that contains language guaranteeing that the insurer will be responsible for the payment of all claims on a first dollar basis.

(vi) No later than 30 calendar days following the expiration of a policy period, an applicant using insurance as evidence of financial responsibility must submit a certificate of insurance, or other written documentation acceptable to ecology evidencing that the renewal of the applicant's insurance policy occurred on or before the previous policy's expiration date. Failure to submit the certificate of insurance or other acceptable written documentation within 30 calendar days following the expiration of the current policy period, may result in the revocation of the Washington COFR;

(b) Surety bonds:

(i) The owner or operator of a vessel or facility may demonstrate financial responsibility with a surety bond for the amount required, in full or in part.

(ii) The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

(iii) Under the terms of the bond, the bond must be subject to and governed by the laws of the state of Washington.

(iv) The bond must not contain additional terms or conditions which limit the surety company's obligation to pay for costs and damages arising due to damages for oil pollution claims and/or the unlawful discharge of oil. The bond must possess an underwriting limitation of risk at least equal to the amount of the bond.

(v) An applicant utilizing a surety bond to demonstrate evidence of financial responsibility must establish a standby trust fund. The trust agreement form will be available on ecology's website and the completed form must be attached to the Washington COFR application. Under the terms of the bond, all payments made thereunder must be deposited by the surety directly into the standby trust fund in accordance with ecology's instructions.

(vi) Termination or cancellation of a surety bond that serves as proof of financial responsibility hereunder may not become effective until 60 calendar days after a notice of termination or cancellation has been submitted to ecology. The surety remains liable for any discharge occurring before the effective date of termination or cancellation;

(c) Guarantee:

(i) The owner or operator of a vessel or facility may demonstrate financial responsibility with a guarantee for the amount required, in full or in part.

(ii) The guarantee document must be executed and signed by the guarantor and must have a designated agent, located in the state of Washington, for service of process by the guarantor. The guarantor must be subject to and governed by the laws of the state of Washington.

(iii) The guarantee must indicate the expiration date of the guarantee or that it is a "continuing" guarantee.

(iv) The guarantee must indicate the maximum amount of financial responsibility that the guarantor is providing.

(v) The guarantee must not contain additional terms or conditions which limit the guarantee's obligation to pay for costs and damages arising due to damages for oil pollution claims and/or the unlawful discharge of oil.

(vi) The issuer of the guarantee must meet the financial, application, and reporting requirements of (g) of this subsection.

(vii) An applicant utilizing a guarantee to demonstrate evidence of financial responsibility must establish a standby trust fund. The trust agreement form will be available on ecology's website and the completed form must be attached to the Washington COFR application. Under the terms of the guarantee, all payments made thereunder must be deposited by the guarantor directly into the standby trust fund in accordance with ecology's instructions.

(viii) Termination or cancellation of a guarantee that serves as proof of financial responsibility may not become effective until 60 calendar days after a notice of termination or cancellation has been submitted to ecology. The guarantor remains liable for any discharge occurring before the effective date of termination or cancellation;

(d) Letter of credit:

(i) The owner or operator of a vessel or facility may demonstrate financial responsibility with a letter of credit, in favor of the state of Washington, for the amount required, in full or in part.

(ii) The letter of credit must be irrevocable in favor of the state of Washington, must be subject to and be governed by the laws of the state of Washington, must be effective on or before the approval date of the Washington COFR, and must specifically note the effective date and the expiration date.

(iii) The letter of credit must be issued by a financial institution that has the authority to issue letters of credit, and that is regulated and examined by state and federal banking agencies.

(iv) The letter of credit may not be used as collateral and may not be drawn upon by the owner or operator of the facility or vessel except to cover oil spill clean-up or damage costs.

(v) The letter of credit must not contain additional terms or conditions which limit the issuing institution's obligation to pay for costs and damages arising due to damages for oil pollution claims and/or the unlawful discharge of oil.

(vi) An applicant utilizing a letter of credit to demonstrate evidence of financial responsibility must establish a standby trust fund. The trust agreement form will be available on ecology's website and the completed form must be attached to the Washington COFR application. Under the terms of the letter of credit, all payments made thereunder must be deposited by the issuing institution directly into the standby trust fund in accordance with ecology's instructions;

(e) Certificates of deposit:

(i) The owner or operator of a vessel or facility may demonstrate financial responsibility with a certificate of deposit, in favor of the state of Washington, for the amount required, in full or in part.

(ii) The certificate of deposit must be held by a financial institution that has the authority to hold certificate of deposit, that is regulated and examined by state and federal banking agencies and that is a member of the Federal Deposit Insurance Corporation or National Credit Union Administration.

(iii) The certificate of deposit must be irrevocable in favor of the state of Washington with an automatically renewable term, must be subject to and be governed by the laws of the state of Washington, and must be effective on or before the approval date of the Washington COFR. The initial term and the automatic renewal term must be stated on the certificate of deposit.

(iv) The certificate of deposit may not be used as collateral and may not be drawn upon by the owner or operator of the facility or vessel except to cover oil spill clean-up or damage costs;

(f) A certificate evidencing compliance with the requirements of another state's financial responsibility requirements or federal financial responsibility requirements, if the state or federal government requires a level of financial responsibility the same as or greater than that required under this chapter. If this method is used to provide financial responsibility, the applicant must provide documentation of the financial responsibility instruments provided to the other state or federal agency; or

(g) Self-insurance:

(i) Must satisfy one of two tests:

(A) Test one

Solvency ratio:

(I) Total liabilities to net worth less than 1.5, or cash and cash equivalents at end of year or quarter minus \$20,000,000 to total liabilities greater than 0.1; and

(II) Worldwide owner's equity minus intangible assets (i.e., tangible net worth) greater than \$20,000,000 plus two times the amount of self-insurance that is required; and

(III) United States assets, not including assets that are petroleum inventory that may be affected by an oil spill from a facility covered by the self-insurance, equal to or greater than 90 percent of total assets or at least two times the amount of required self-insurance.

(B) Test two

(I) A current credit rating of BBB- stable or better from Standard and Poor's, Baa or better by Moody's, or commercial paper rate of A1, A2 or the equivalent;

(II) Worldwide owner's equity minus intangible assets (i.e., tangible net worth) greater than \$20,000,000 plus two times the amount of self-insurance that is required; and

(III) United States assets, not including assets that are petroleum inventory that may be affected by an oil spill from a facility covered by the self-insurance, equal to or greater than 90 percent of total assets or at least two times the amount of required self-insurance.

(ii) Documentation required. A self-insurance letter, available on ecology's website and signed by a financial officer, a general partner, the proprietor of a sole proprietorship, or an authorized representative of the applicant, stating:

(A) They are a financial officer, general partner, proprietor, or authorized representative of the organization or business entity;

(B) That the letter supports the use of a financial test to demonstrate financial responsibility by self-insurance pursuant to this section; and

(C) Whether the applicant, parent entity of the applicant, or a subsidiary of the applicant is the owner or operator of the vessels or facilities described in the application, or is the owner of the oil.

(iii) The proof of financial responsibility required under this section must be supported by the following, which must be submitted with the application for approval, and which must be later supplemented as described:

(A) Annual audited financial statements for consolidated holdings in the United States for the fiscal year ending immediately before each initial or renewal application, certified by an independent certified public accountant. If the financial statements do not specify what portion of the applicant's assets are located in the United States, the statements must be supplemented by an affidavit from the applicant's chief financial officer or treasurer, or a sworn statement by the certified public accountant who prepared the audit, certifying that the assets located in the United States are in an amount equal to the applicable amount required under this chapter; or

(B) A self-insuring applicant may provide ecology with a copy of the applicant's Form 10K as filed with the United States Securities and Exchange Commission for the fiscal year preceding application or renewal, and each Form 10Q subsequently filed with that commission, subject to the following conditions:

(I) If the applicant's fiscal year ended six months or more before initial application, the applicant's Form 10Q for the first quar-

ter of the current fiscal year must also be submitted with the initial application; and

(II) If the applicant's United States Securities and Exchange Commission forms do not specify what portion of its assets are located in the United States, those forms must be supplemented by an affidavit from the applicant's chief financial officer or treasurer, or a sworn statement by the certified public accountant who prepared the form, certifying that the assets located in the United States are in an amount equal to the applicable amount required under this chapter.

(C) Each quarter:

(I) The applicant must submit Form 10Q within two calendar months after the quarter ends; and

(II) Along with the Form 10Q, the applicant must submit subsequent quarterly affidavits attesting that the amounts of assets located in the United States are equal to the applicable amount required under this chapter; and

(D) Each year:

(I) The applicant must submit Form 10K within four calendar months after the applicant's fiscal year ends; and

(II) Along with the Form 10Q, the applicant must submit a subsequent affidavit attesting that the amounts of assets located in the United States are equal to the amount required under this chapter; and

(E) The applicant must notify ecology within seven calendar days if, at any time, the applicant fails to meet the self-insurance test criteria.

(h) Other evidence of financial responsibility deemed acceptable by ecology.

NEW SECTION

WAC 173-187-230 Phase-in schedule for vessels and facilities.

(1) Within nine months of the rule effective date, owners and operators of existing Class 1 facilities must submit an application to request a Washington COFR.

(2) Within 15 months of the rule effective date, owners and operators of existing Class 2 and Class 3 facilities must submit an application to request a Washington COFR.

(3) Within 21 months of the rule effective date, owners and operators of vessels regulated by this rule must submit an application to request a Washington COFR, or be verified as a member of a P&I club.

NEW SECTION

WAC 173-187-240 Submittal timeline. (1) Owners and operators of facilities that are beginning new operations in the state after the effective date of this rule are required to submit a completed and signed application for a Washington COFR at least 65 calendar days before beginning operations.

(2) (a) After the phase-in schedule described in WAC 173-187-230, owners and operators of vessels that are not members of P&I clubs must submit a completed and signed application for a Washington COFR, including attachments to prove financial responsibility, to ecology at least 10 calendar days before entering the waters of the state.

(b) Ecology will accept Washington COFR applications received less than 10 calendar days before the vessel enters the waters of the state and will expedite the review of the application, if:

(i) The application is received at least 24 hours before the vessel enters the waters of the state; and

(ii) The applicant demonstrates that unanticipated circumstances prevent the applicant from submitting an application at least 10 calendar days in advance.

NEW SECTION

WAC 173-187-250 Issuance of Washington COFRs. (1) Ecology will review applications and issue Washington COFRs for vessels and facilities within 30 calendar days of receipt of a complete application.

(2) If ecology approves the application for financial responsibility, it will issue a Washington COFR to the applicant stating that the proof of financial responsibility requirements have been met for each vessel or facility identified in the application. If the applicant submitted their Washington COFR application on ecology's website, the Washington COFR will be emailed to the applicant. If the applicant submitted their Washington COFR application via United States mail, the Washington COFR will be mailed to the applicant.

(3) Washington COFRs expire two years after the issuance date.

(4) The effective date and the expiration date will be marked on the Washington COFR.

(5) The original Washington COFR, or a copy of the original Washington COFR, demonstrating financial responsibility must be available for inspection by ecology upon request.

NEW SECTION

WAC 173-187-260 Washington COFR renewals. The owner or operator of the vessel or facility must submit an application to renew their Washington COFR at least 30 calendar days, but no more than 90 calendar days, before the expiration date of the Washington COFR.

PART IV: FINANCIAL RESPONSIBILITY - NOTIFICATION REQUIREMENTS

NEW SECTION

WAC 173-187-300 Significant changes to Washington COFRs require notification. (1) If the owner or operator of a vessel or facility becomes aware of a significant change after ecology has issued a Washington COFR, they must notify ecology of the change within seven calendar days after becoming aware of the significant change. Ecology may

suspend or terminate a Washington COFR if the owner or operator can no longer demonstrate financial responsibility based on the significant change. Significant changes include, but are not limited to:

- (a) A change in ownership or operational control;
- (b) That a method of demonstrating financial responsibility will be terminated or any coverage thereunder will cease;
- (c) Any financial responsibility coverage amount that will be changed or adjusted.

(2) If there is a change in applicant name, vessel name change, if the Washington COFR expires, or there is any change in the financial responsibility coverage amount, a new Washington COFR will be necessary.

(3) The holder of a Washington COFR under this chapter must notify ecology of an oil spill or discharge in state waters consistent with chapters 90.48 and 90.56 RCW.

(a) The holder of a Washington COFR for more than one covered vessel or facility must notify ecology within 10 calendar days if it experiences a spill or spill from a vessel or facility in another jurisdiction for which it may be liable and which may incur damages that exceed 15 percent of the financial resources reflected by the Washington COFR.

(b) Upon notification of an oil spill or discharge or other potential liability by the owner or operator of a vessel or facility that holds a Washington COFR under (a) of this subsection, ecology may reevaluate the validity of the Washington COFR under this chapter. Ecology must reevaluate the validity of a Washington COFR under this chapter upon notification of a spill for which the Washington COFR holder may be liable and which may incur damages that exceed 25 percent of the financial resources reflected by the Washington COFR. Ecology may suspend or revoke a Washington COFR if ecology determines that, because of a spill, discharge, or other action or potential liability, the holder of the Washington COFR is likely to no longer have the financial resources to both pay damages for the oil spill or discharge or other action or potential liability and have resources remaining available in an amount sufficient to meet the requirements of this chapter, effective 10 days after its determination.

(c) Ecology may request the owner or operator of a vessel that has been verified to be a member of an international P&I club to provide evidence that it is able to maintain required levels of financial responsibility required under this chapter if it has an oil spill.

OTS-5056.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 317-50-010	Purpose.
WAC 317-50-020	Application.
WAC 317-50-030	Definitions.

- WAC 317-50-040 Financial responsibility for small tank barges.
- WAC 317-50-050 Evidence of financial responsibility for small tank barges.
- WAC 317-50-060 Submitting evidence of financial responsibility.
- WAC 317-50-070 Enforcement.
- WAC 317-50-080 Financial responsibility for oil spill response barges.
- WAC 317-50-900 Severability.

WSR 24-03-123
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed January 19, 2024, 4:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-24-068.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)?

Hearing Location(s): On February 27, 2024, at 10:00 a.m., virtually via Microsoft Teams call in. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: No earlier than February 28, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by February 27, 2024, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by February 13, 2024, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Federal law requires DSHS to maintain a minimum threshold of state spending towards supplemental security income (SSI) state supplement payment (SSP) benefits each calendar year in order to continue to draw down federal medicaid funds. DSHS may propose modifying rules in order to stay within available state funds to support this requirement. These amendments also clarify cost-of-living-adjustments to SSP standards for medically institutionalized recipients of SSI, as determined by the Social Security Administration.

Related emergency rules (for the cost-of-living adjustment portion of this proposed change) are currently in effect under WSR 24-02-041.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, 74.08A.250.

Rule is necessary because of federal law, C.F.R. 20 § 416.2095 through § 416.2099.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Gary Fryer, P.O. Box 45470, Olympia, WA 98504-5770, 253-720-5306.

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

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt as allowed under RCW 34.05.328 (5) (b) (vii) which in part states, "this section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: C.F.R. 20 § 416.2095 through § 416.2099.

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

Explanation of exemptions: The proposed amendments do not impact small business. They only impact DSHS clients.

Scope of exemption for rule proposal:

Is fully exempt.

January 12, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5015.4

AMENDATORY SECTION (Amending WSR 23-24-009, filed 11/27/23, effective 12/28/23)

WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? (1) The SSP is a state-funded cash assistance program issued to certain individuals who the Social Security Administration (SSA) determines are eligible for supplemental security income (SSI) as described in WAC 388-474-0012.

(2) Monthly SSP rate standards for eligible persons as described in WAC 388-474-0012 are:

(a) (~~(\$38.25)~~) \$35.50 for:

- (i) Individuals with an ineligible spouse;
- (ii) Aged 65 and older;
- (iii) Blind as determined by SSA; or
- (iv) Disabled as determined by SSA.

(b) Between \$0.54 and \$199.77 for grandfathered clients as defined in 388-474-0001 and varies by individual based on federal requirements.

(c) \$70.00 as of July 2023 for individuals residing in a medical institution. It is based on increasing the federal SSI personal needs allowance (PNA) of \$30.00 up to the current Washington state institutional PNA standard described in subsection (5) of WAC 182-513-1105. Starting January 1, 2024, this payment increases annually by a cost-of-living-adjustment (COLA) determined by SSA. The current state PNA standard for institutional apple health is located at <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(3) A change in living situation, (~~cost-of-living-adjustment (COLA)~~) COLA, or federal benefit rate (FBR) can affect a grandfathered client. A grandfathered 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 COLA since then; or

(b) The current payment standard.

(4) SSP rate standards may be adjusted at the end of the calendar year to comply with WAC 388-478-0057.

WSR 24-03-124
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Office of the Secretary)
(Board of Appeals)
[Filed January 19, 2024, 5:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-24-017.

Title of Rule and Other Identifying Information: WAC 388-02-0020
What does good cause mean? and 388-02-0085 Do you have a right to a hearing?

Hearing Location(s): On February 27, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. See the department of social and health services (DSHS) website <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: No earlier than February 28, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on February 27, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay, email Tencza@dshs.wa.gov, by 5:00 p.m. on February 13, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Provide statutory definition of "good cause" for late-filed hearing requests in public assistance cases.

Reasons Supporting Proposal: New state statute, effective July 1, 2023.

Statutory Authority for Adoption: RCW 34.05.220, 34.05.220(4), 43.17.060, 43.20A.075, and 74.08.080(2).

Statute Being Implemented: RCW 74.08.080(2).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed rule amendments define "good cause" for late-filed hearing requests in public assistance cases, based on recent statutory changes to RCW 74.08.080(2).

Name of Proponent: DSHS, board of appeals, office of the secretary, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Marc Lampson, 1115 Washington Street S.E., Olympia, WA 98504, 360-664-6093.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule amendments define "good cause" for late-filed hearing requests in public assistance cases, based on recent statutory changes, with no costs anticipated to anyone. These rules are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule amendments define "good cause" for late-filed hearing requests in public assistance cases, based on recent statutory changes to RCW 74.08.080(2). These amendments do not impact small businesses. They only impact DSHS public assistance clients and applicants.

Scope of exemption for rule proposal:

Is fully exempt.

January 19, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5007.1

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

WAC 388-02-0020 What does good cause mean? (1) Good cause is a substantial reason or legal justification for failing to appear, to act, or respond to an action. To show good cause, the ALJ must find that a party had a good reason for what they did or did not do, using the provisions of Superior Court Civil Rule 60 as a guideline.

(2) Good cause may include, but is not limited to, the following examples.

(a) You ignored a notice because you were in the hospital or were otherwise prevented from responding; or

(b) You could not respond to the notice because it was written in a language that you did not understand.

(3) For purposes of public assistance cases, good cause has the same meaning as described in RCW 74.08.080. Good cause for not requesting a hearing before the deadline may include, but is not limited to: Military deployment, medical reasons, housing instability, language barriers, or domestic violence.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

WAC 388-02-0085 Do you have a right to a hearing? (1) You have a right to a hearing only if a law or DSHS rule gives you that right. If you are not sure, you should request a hearing to protect your right.

(2) Some DSHS programs may require you to go through an informal administrative process before you can request or have a hearing. The notice of DSHS action sent to you should include information about this requirement if it applies.

(3) You have a limited time to request a hearing. The deadline for your request varies by the DSHS program involved. You should submit your request right away to protect your right to a hearing, even if you are also trying to resolve your dispute informally. For public assistance cases, if an applicant or recipient does not file a request for a hearing within 90 calendar days after receiving notice of an aggrieving decision, the request may still be filed within one year of the aggrieving decision upon a showing of good cause. For purposes of public assistance cases, as defined in RCW 74.08.080, good cause for not requesting a hearing before the deadline may include, but is not limited to: military deployment, medical reasons, housing instability, language barriers, or domestic violence.

(4) If you request a hearing, one is scheduled.

(5) If DSHS or the ALJ questions your right to a hearing, the ALJ decides whether you have that right.

(6) If the ALJ decides you do not have a right to a hearing, your request is dismissed.

(7) If the ALJ decides you do have a right to a hearing, the hearing proceeds.

WSR 24-03-134

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed January 23, 2024, 10:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-22-126.

Title of Rule and Other Identifying Information: Emergency waiver of certain requirements, chapter 180-111 WAC; WAC 180-111-050 Emergency waiver of certain graduation requirements in response to novel coronavirus.

Hearing Location(s): On March 13, 2024, at 12:30 p.m., at the Old Capitol Building, Office of Superintendent of Public Instruction, 600 Washington Street S.E., Brouillet Conference Room, Olympia, WA 98504; also online with Zoom, <https://us02web.zoom.us/j/87891941209>.

Date of Intended Adoption: April 11, 2024.

Submit Written Comments to: Jacki Verd, 600 Washington Street S.E., Olympia, WA 98504, email rulescoordinatorSBE@k12.wa.us, fax 360-753-6713, by March 30, 2024.

Assistance for Persons with Disabilities: Contact Jacki Verd, phone 360-725-6025, fax 360-753-6731, TTY 360-664-3631, email rulescoordinatorSBE@k12.wa.us, by March 5, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to the COVID-19 pandemic, the state board of education (SBE) adopted emergency rules for an emergency waiver program that permitted districts and other local educational agencies to waive graduation requirements for individual students. The purpose of the waiver program was to provide a last resort option to allow students whose education had been disrupted by the pandemic to graduate. SBE later adopted permanent rules and extended the waiver to allow for qualifying students graduating in 2022-23 to waive two credit graduation requirements and the pathway requirement, and for students graduating in 2023-24 to waive one credit graduation requirement.

The proposal will modify the waiver of graduation requirements that districts may grant to qualifying students graduating in the 2023-24 school year by allowing the waiver of the graduation pathway requirement under certain circumstances in addition to the waiver of one credit graduation requirement.

Reasons Supporting Proposal: Public comments and correspondence to SBE from education practitioners requested SBE consider extending an emergency waiver of graduation pathway requirements due to continuing effects of the COVID-19 pandemic. Some students missed or were unsuccessful in meeting graduation requirement because of factors related to the pandemic that were out of the students' control.

Statutory Authority for Adoption: RCW 28A.230.090, 28A.150.220(7).

Statute Being Implemented: RCW 28A.230.090, 28A.150.220(7).

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

Name of Proponent: SBE, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Randy Spaulding, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6024.

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

A cost-benefit analysis is not required under RCW 34.05.328.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

January 22, 2024
Randy Spaulding
Executive Director

OTS-5135.1

AMENDATORY SECTION (Amending WSR 22-12-025, filed 5/23/22, effective 6/23/22)

WAC 180-111-050 Emergency waiver of certain graduation requirements in response to novel coronavirus. This section is for the novel coronavirus emergency, in response to the gubernatorial declaration of emergency on February 29, 2020. It applies to the classes of 2020 through 2024 beginning in the 2020-21 school year. Beginning from the date of approval of a school district's emergency waiver application, in accordance with WAC 180-111-040:

(1) Waived credit graduation requirements are limited to the student's classes impacted by the novel coronavirus disruption. The school district shall prioritize student completion of core coursework and coursework related to the student's high school and beyond plan under RCW 28A.230.090. School districts may waive credits for eligible students in the classes of 2020 to 2024. In addition to existing waiver authorities as described in WAC 180-111-040 (2)(a):

(a) For the classes of 2020 to 2023, school districts may waive up to two additional credits under this emergency waiver, provided that students graduate with no fewer than a total of 20 credits.

(b) For the class of 2024, school districts may waive up to one additional credit under this emergency waiver, provided that students graduate with no fewer than a total of 21 credits.

(2) For the class of 2020, 2021, 2022, and 2023: The emergency waiver may be applied to core credits or flexible credits, provided that no more than one credit in each core subject area is waived. The terms "core" and "flexible credits" used in this section are defined in WAC 180-51-210.

(3) For the class of 2024: The emergency waiver may be applied to core or flexible credits.

(4) A student's graduation pathway requirement may be waived for eligible students in the classes of 2020 to ((2023)) 2024 after a school district has made a good faith effort to help the student meet their pathway requirement, as defined in WAC 180-111-020. For students graduating in 2024, the district may not waive a graduation pathway option in English language arts or math if the student received a waiver of credit in the same subject area.

(5) The graduation pathway requirement may also be waived for a student so that the student may earn a diploma before their planned graduation year, provided that:

(a) The student may not be granted an emergency waiver of credit requirements; and

(b) The student must meet all other state graduation requirements including credit requirements under WAC 180-51-210.

(6) This emergency waiver may apply to individual students participating in the international baccalaureate diploma programme as defined in RCW 28A.230.122 to enable these students to earn a Washington high school diploma.

(7) Schools operating under the waiver defined in WAC 180-18-055 may waive graduation requirements in a manner consistent with this section.

220-330-140), the department is exempt from the requirements of chapter 19.85 RCW because the proposed recreational fishing rules do not regulate small businesses; these rule changes clarify dates for anticipated open and closed periods and areas for harvesting clams and oysters for personal use. There are no anticipated professional services required to comply.

Scope of exemption for rule proposal:

Is fully exempt.

January 23, 2024
Scott Bird
Rules Coordinator

OTS-5146.2

AMENDATORY SECTION (Amending WSR 23-06-065, filed 2/28/23, effective 3/31/23)

WAC 220-330-110 Clams other than razor clams, and mussels—Areas and seasons. It is lawful to take, dig for, and possess clams and mussels for personal use from public tidelands year-round, except the following restrictions apply to the public tidelands at the beaches listed below:

- (1) Ala Spit: All public tidelands of Ala Spit are open May 1 through May 31 only.
- (2) Alki Park: Closed year-round.
- (3) Alki Point: Closed year-round.
- (4) Bay Center Oyster Reserve (Willapa Harbor reserves): Palix River channel, extending from the Palix River bridge to beyond Bay Center to the north of Goose Point, is closed year-round.
- (5) Bay View State Park: Closed year-round.
- (6) Belfair State Park: Open (~~August~~) July 1 through September 30 only.
- (7) Billy Frank Jr. Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.
- (8) Blaine Marine Park: Closed year-round.
- (9) Blake Island State Park Marina: Closed year-round.
- (10) Blowers Bluff North: Closed year-round.
- (11) Brown's Point Lighthouse: Closed year-round.
- (12) Budd Inlet: All state-owned tidelands of Budd Inlet south of a line drawn from the southern boundary of Burfoot Park west to the opposite shore near 68th Avenue N.W. are closed year-round.
- (13) Cama Beach State Park: Closed year-round.
- (14) Camano Island State Park: Closed year-round.
- (15) Chuckanut Bay: All tidelands of Chuckanut Bay north of the railroad trestle are closed year-round.
- (16) Coupeville: Closed year-round.
- (17) Cultus Bay: Closed year-round.
- (18) Dash Point County Park: Closed year-round.
- (19) Dash Point State Park: Open September 1 through May 31 only.
- (20) Dave Mackie County Park: Closed year-round.

- (21) Deception Pass State Park: Open year-round, except the tidelands of Rosario Bay from the northern park boundary, south to Rosario Head (48.4172°, -122.6663°) are closed year-round.
- (22) Des Moines City Park: Closed year-round.
- (23) Discovery Park: Closed year-round.
- (24) DNR-142: Closed year-round.
- (25) DNR-144 (Sleeper): Closed year-round.
- (26) Dockton County Park: Closed year-round.
- (27) Dosewallips State Park: The area defined by boundary markers and signs posted on the beach is open July 15 through September 30 only.
- (28) Dosewallips State Park South: Closed year-round south of the line defined by boundary markers and signs posted on the beach.
- (29) Drayton Harbor: All public tidelands of Drayton Harbor are open year-round, except tidelands identified as prohibited by the department of health and defined by boundary markers and signs posted on the beach are closed year-round.
- (30) Duckabush: Open November 1 through April 30 only.
- (31) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands: Open May 15 through September 30 only.
- (32) Eagle Creek: Open (~~(July)~~) August 1 through (~~(August 31)~~) September 15 only.
- (33) East San de Fuca: Tidelands east of the Rolling Hills Glencairn Community dock are closed year-round.
- (34) Eld Inlet Oyster Reserves (Mud Bay reserves): Closed year-round.
- (35) English Camp: Tidelands between the National Park Service dinghy dock to the southern park boundary are closed year-round.
- (36) Evergreen Rotary Park (Port Washington Narrows): Closed year-round.
- (37) Fay Bainbridge Park: Closed year-round.
- (38) Fort Flagler State Park: Open January 1 through April 15 and (~~(June 15)~~) July 1 through December 31 only, except that portion of Rat Island and the spit west and south of the park boundary is closed year-round from two white posts on the north end of the island at the vegetation line south to the end of the island.
- (39) Freeland County Park: Open October 1 through May 31 only.
- (40) Frye Cove County Park: Open May 1 through May 31 only.
- (41) Fudge Point State Park: Closed year-round.
- (42) Gertrude Island: All tidelands of Gertrude Island are closed year-round.
- (43) Golden Gardens: Closed year-round.
- (44) Graveyard Spit: Closed year-round.
- (45) Guillemot Cove Nature Reserve: Closed year-round.
- (46) Guss Island: All tidelands of Guss Island are closed year-round.
- (47) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.
- (48) Howarth Park/Darlington Beach: Closed year-round.
- (49) Illahee State Park: Open April 1 through July 31 only.
- (50) Indian Island County Park/Lagoon Beach: From the jetty boundary with Port Townsend Ship Canal east to the beach access stairs on Flagler Road near milepost 4 open April 1 through (~~(May 31)~~) June 30 only.
- (51) Jacoby (Shorecrest) County Park: Closed year-round.
- (52) Ingvald J. Gronvold Park: Open April 1 through May 31 only.
- (~~(+52+)~~) (53) Joemma Beach State Park: Closed year-round.

- ((+53+)) (54) Kayak Point County Park: Closed year-round.
- ((+54+)) (55) Kitsap Memorial State Park: Closed year-round.
- ((+55+)) (56) Kopachuck State Park: Open April 1 through May 31 only.
- ((+56+)) (57) Lent Landing (Port Washington Narrows): Closed year-round.
- ((+57+)) (58) Liberty Bay: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed year-round, except the western shoreline of Liberty Bay from the unincorporated Kitsap County line south to Virginia Point is open October 1 through April 30 only.
- ((+58+)) (59) Lincoln Park: Closed year-round.
- ((+59+)) (60) Lions Park (Bremerton): Closed year-round.
- ((+60+)) (61) Lofall: Closed year-round.
- ((+61+)) (62) Long Island Oyster Reserve, Diamond Point and Pinnacle Rock (Willapa Harbor reserves): Diamond Point on the northwest side of Long Island between reserve monuments 39 and 41 and Pinnacle Rock on the southwest side of Long Island between reserve monuments 58 and 59 is open year-round.
- ((+62+)) (63) Long Island Slough Oyster Reserve (Willapa Harbor reserves): Closed year-round.
- ((+63+)) (64) Long Point West: Closed year-round.
- ((+64+)) (65) Lower Roto Vista Park: Closed year-round.
- ((+65+)) (66) Maple Grove County Park: Closed year-round.
- (67) March Point Recreation Area: Closed year-round.
- ((+66+)) (68) McNeil Island: All tidelands of McNeil Island are closed year-round.
- ((+67+)) (69) Meadowdale County Park: Closed year-round.
- ((+68+)) (70) Mee-Kwa-Mooks Park: Closed year-round.
- ((+69+)) (71) Monroe Landing: Closed year-round.
- ((+70+)) (72) Mukilteo: Closed year-round.
- ((+71+)) (73) Mystery Bay State Park: Open October 1 through April 30 only.
- ((+72+)) (74) Nahcotta Tidelands: State-owned tidelands east of the Willapa Bay Field Station and Nahcotta Tidelands interpretive site are closed year-round.
- ((+73+)) (75) Nemah Oyster Reserve (Willapa Harbor reserves): Oyster reserves between reserve monuments 10 and 11 are closed year-round.
- ((+74+)) (76) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1,900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30 and September 1 through October 15, from one hour before official sunrise until one hour after official sunset only.
- ((+75+)) (77) North Beach County Park: Closed year-round.
- ((+76+)) (78) Oak Bay County Park: Closed year-round.
- ((+77+)) (79) Oak Harbor: Closed year-round.
- ((+78+)) (80) Oak Harbor Beach Park: Closed year-round.
- ((+79+)) (81) Oak Harbor City Park: Closed year-round.
- ((+80+)) (82) Oakland Bay: State-owned oyster reserves are open year-round except in areas defined by boundary markers and signs posted on the beach.
- ((+81+)) (83) Old Mill County Park (Silverdale): Closed year-round.
- ((+82+)) (84) Olympia Shoal: Closed year-round.
- ((+83+)) (85) Pat Carey Vista Park: Closed year-round.

- ~~((84))~~ (86) Penrose Point State Park: Open March 1 through April 30 only, except that part of Mayo Cove within the commercially prohibited growing area is closed year-round.
- ~~((85))~~ (87) Picnic Point County Park: Closed year-round.
- ~~((86))~~ (88) Pitship Point: Closed year-round.
- ~~((87))~~ (89) Pitt Island: All tidelands on Pitt Island are closed year-round.
- ~~((88))~~ (90) Pleasant Harbor State Park: Closed year-round.
- ~~((89))~~ (91) Pleasant Harbor WDFW Boat Launch: Closed year-round.
- ~~((90))~~ (92) Point Defiance: Closed year-round.
- ~~((91))~~ (93) Point Whitney Tidelands and Point Whitney Lagoon: Closed year-round.
- ~~((92))~~ (94) Port Angeles Harbor: All public tidelands of Port Angeles Harbor and interior tidelands of Ediz Hook are closed year-round.
- ~~((93))~~ (95) Port Gamble Heritage Park Tidelands: Open August 1 through September 30 only.
- ~~((94))~~ (96) Port Gardner: Closed year-round.
- ~~((95))~~ (97) Port Townsend Ship Canal/Portage Beach: Open April 1 through ~~(May 31)~~ June 30 only.
- ~~((96))~~ (98) Post Point: Closed year-round.
- ~~((97))~~ (99) Potlatch State Park and Potlatch DNR tidelands: Open April 1 through May 31 only.
- ~~((98))~~ (100) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open April 1 through April 30 only.
- ~~((99))~~ (101) Quilcene Bay Tidelands: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams year-round, except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open year-round.
- ~~((100))~~ (102) Quilcene Bay Boat Ramp: Open January 1 through May ~~(31)~~ 15 only.
- ~~((101))~~ (103) Retsil: Closed year-round.
- ~~((102))~~ (104) Richmond Beach Saltwater Park: Closed year-round.
- ~~((103))~~ (105) Salt Creek Recreation Area (DNR-419): Closed year-round.
- ~~((104))~~ (106) Saltair Beach (Kingston Ferry Terminal): Closed year-round.
- ~~((105))~~ (107) Saltwater State Park: Closed year-round.
- ~~((106))~~ (108) Samish Bay: Public tidelands of Samish Bay between Scotts Point and a point on the shore (48.5745°, -122.4440°) are closed year-round.
- ~~((107))~~ (109) Scenic Beach State Park: Closed year-round.
- ~~((108))~~ (110) Seahurst County Park: Closed year-round.
- ~~((109))~~ (111) Semiahmoo County Park: Closed year-round.
- ~~((110))~~ (112) Semiahmoo Marina: Closed year-round.
- ~~((111))~~ (113) Sequim Bay State Park: Open January 1 through ~~(April)~~ May 15 only.
- ~~((112))~~ (114) Shine Tidelands State Park: Open January 1 through May 15 only.
- ~~((113))~~ (115) Silverdale Waterfront Park: Closed year-round.
- ~~((114))~~ (116) Sinclair Inlet: All public tidelands of Sinclair Inlet west of a line drawn from the intersection of Bancroft Road and Beach Drive East northerly to Point Herron are closed year-round.

((115)) (117) Skagit Bay Estuary Wildlife Areas: All public tidelands of Skagit Bay Estuary Wildlife Area, Fir Island Farms Reserve Wildlife Area, Island Wildlife Area, Camano Island Wildlife Area and Leque Island Wildlife Area are closed year-round.

((116)) (118) South Carkeek Park: Closed year-round.

((117)) (119) South Lilliwaup: Open November 1 through April 30 only.

(120) Southworth: Closed year-round.

((118)) (121) Spencer Spit State Park: Open March 1 through July 31 only.

((119)) (122) Squaxin Park (Priest Point County Park): Closed year-round.

((120)) (123) Stuart Island State Park - Reid Harbor (South Beach): Closed year-round.

((121)) (124) Taylor Bay: Closed year-round.

((122)) (125) Totten Inlet Oyster Reserve (Oyster Bay reserves): Closed year-round.

((123)) (126) Triton Cove Tidelands: Open June 1 through August 31 only.

((124)) (127) Twanoh State Park: Open August 1 through (~~September 30~~) August 31 only.

((125)) (128) Walker County Park: Closed year-round.

((126)) (129) WDFW Hoodspout Hatchery: Tidelands at Hoodspout Salmon Hatchery are closed year-round.

((127)) (130) West Dewatto: DNR Beach 44A open July 1 through September 30 only.

((128)) (131) West Pass Access: Closed year-round.

((129)) (132) West Penn Cove: From the property boundary at the Grasser's Lagoon access on Highway 20 to the dock extending across the tidelands from Captain Whidbey Inn on Madrona Road is open (~~July~~) June 15 through September 30 only.

((130)) (133) Willapa River Oyster Reserve (Willapa Harbor reserves): Reserves located in the Willapa River channel extending west and upriver from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel are closed year-round.

((131)) (134) Wolfe Property State Park: Open January 1 through May 15 only.

((132)) (135) Woodard Bay Natural Resource Conservation Area: Closed year-round.

((133)) (136) It is lawful to take, dig for, and possess clams and mussels, not including razor clams, for personal use from the Pacific Ocean beaches from November 1 through March 31 only.

AMENDATORY SECTION (Amending WSR 23-06-065, filed 2/28/23, effective 3/31/23)

WAC 220-330-140 Oysters—Areas and seasons. It is lawful to take and possess oysters for personal use from public tidelands year-round except the following restrictions apply to the public tidelands at the beaches listed below:

(1) Ala Spit: All public tidelands of Ala Spit open May 1 through May 31 only.

(2) Alki Park: Closed year-round.

- (3) Alki Point: Closed year-round.
- (4) Bay Center Oyster Reserve (Willapa Harbor reserves): Palix River channel, extending from the Palix River bridge to beyond Bay Center to the north of Goose Point, is closed year-round.
- (5) Bay View State Park: Closed year-round.
- (6) Belfair State Park: Open (~~August~~) July 1 through September 30 only.
- (7) Billy Frank Jr. Nisqually National Wildlife Refuge: All state-owned tidelands of the Nisqually River delta south of a line drawn from Luhr Beach boat ramp to Sequelitchew Creek are closed year-round.
- (8) Blaine Marine Park: Closed year-round.
- (9) Blake Island State Park Marina: Closed year-round.
- (10) Blowers Bluff North: Closed year-round.
- (11) Brown's Point Lighthouse: Closed year-round.
- (12) Budd Inlet: All state-owned tidelands of Budd Inlet south of a line drawn from the southern boundary of Burfoot Park west to the opposite shore near 68th Avenue N.W. are closed year-round.
- (13) Cama Beach State Park: Closed year-round.
- (14) Camano Island State Park: Closed year-round.
- (15) Chuckanut Bay: All tidelands of Chuckanut Bay north of the railroad trestle are closed year-round.
- (16) Coupeville: Closed year-round.
- (17) Cultus Bay: Closed year-round.
- (18) Dash Point County Park: Closed year-round.
- (19) Dash Point State Park: Open September 1 through May 31 only.
- (20) Dave Mackie County Park: Closed year-round.
- (21) Deception Pass State Park: Open year-round, except the tidelands of Rosario Bay from the northern park boundary to Rosario Head (48.4172°, -122.6663°) are closed year-round.
- (22) Des Moines City Park: Closed year-round.
- (23) Discovery Park: Closed year-round.
- (24) DNR-142: Closed year-round.
- (25) DNR-144 (Sleeper): Closed year-round.
- (26) Dockton County Park: Closed year-round.
- (27) Dosewallips State Park: Open year-round only in the area defined by boundary markers and signs posted on the beach.
- (28) Dosewallips State Park South: Closed year-round south of the line defined by boundary markers and signs posted on the beach.
- (29) Drayton Harbor: All public tidelands of Drayton Harbor are open year-round, except the tidelands identified as prohibited by the department of health and defined by boundary markers and signs posted on the beach are closed year-round.
- (30) Duckabush: Open November 1 through April 30 only.
- (31) Dungeness Spit/National Wildlife Refuge: Open May 15 through September 30 only.
- (32) East San de Fuca: Tidelands east of the Rolling Hills Glen-cairn Community dock are closed year-round.
- (33) Eld Inlet Oyster Reserves (Mud Bay reserves): Closed year-round.
- (34) English Camp: Tidelands between the National Park Service dinghy dock to the southern park boundary are closed year-round.
- (35) Evergreen Rotary Park (Port Washington Narrows): Closed year-round.
- (36) Fay Bainbridge Park: Closed year-round.
- (37) Fort Flagler State Park: Open January 1 through April 15 and (~~June 15~~) July 1 through December 31 only, except that portion of

Rat Island and the spit west and south of the park boundary is closed year-round from two white posts on the north end of the island at the vegetation line south to the end of the island.

(38) Freeland County Park: Open October 1 through May 31 only.

(39) Frye Cove County Park: Open May 1 through May 31 only.

(40) Fudge Point State Park: Closed year-round.

(41) Gertrude Island: All tidelands of Gertrude Island are closed year-round.

(42) Golden Gardens: Closed year-round.

(43) Graveyard Spit: Closed year-round.

(44) Guillemot Cove Nature Reserve: Closed year-round.

(45) Guss Island: All tidelands of Guss Island are closed year-round.

(46) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.

(47) Howarth Park/Darlington Beach: Closed year-round.

(48) Illahee State Park: Open April 1 through July 31 only.

(49) Indian Island County Park/Lagoon Beach: From the jetty boundary with Port Townsend Ship Canal east to the beach access stairs on Flagler Road near milepost 4 open April 1 through ~~(May 31)~~ June 30 only.

(50) Ingvald J. Gronvold Park: Open April 1 through May 31 only.

(51) Jacoby (Shorecrest) County Park: Closed year-round.

(52) Joemma Beach State Park: Closed year-round.

~~((52))~~ (53) Kayak Point County Park: Closed year-round.

~~((53))~~ (54) Kitsap Memorial State Park: Closed year-round.

~~((54))~~ (55) Kopachuck State Park: Open April 1 through May 31 only.

~~((55))~~ (56) Lent Landing (Port Washington Narrows): Closed year-round.

~~((56))~~ (57) Liberty Bay: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed year-round, except the western shoreline of Liberty Bay from the unincorporated Kitsap County line south to Virginia Point is open October 1 through April 30 only.

~~((57))~~ (58) Lincoln Park: Closed year-round.

~~((58))~~ (59) Lions Park (Bremerton): Closed year-round.

~~((59))~~ (60) Lofall: Closed year-round.

~~((60))~~ (61) Long Island Oyster Reserve, Diamond Point and Pinnacle Rock (Willapa Harbor reserves): Diamond Point on the northwest side of Long Island between reserve monuments 39 and 41 and Pinnacle Rock on the southwest side of Long Island between reserve monuments 58 and 59 is open year-round.

~~((61))~~ (62) Long Island Slough Oyster Reserve (Willapa Harbor reserves): Closed year-round.

~~((62))~~ (63) Long Point West: Closed year-round.

~~((63))~~ (64) Lower Roto Vista Park: Closed year-round.

~~((64))~~ (65) Maple Grove County Park: Closed year-round.

(66) March Point Recreation Area: Closed year-round.

~~((65))~~ (67) McNeil Island: All tidelands of McNeil Island are closed year-round.

~~((66))~~ (68) Meadowdale County Park: Closed year-round.

~~((67))~~ (69) Mee-Kwa-Mooks Park: Closed year-round.

~~((68))~~ (70) Monroe Landing: Closed year-round.

~~((69))~~ (71) Mukilteo: Closed year-round.

~~((70))~~ (72) Mystery Bay State Park: Open October 1 through April 30 only.

~~((71))~~ (73) Nahcotta Tidelands: State-owned tidelands east of the Willapa Bay Field Station and Nahcotta Tidelands interpretive site are open year-round.

~~((72))~~ (74) Nemah Oyster Reserve (Willapa Harbor reserves): Oyster reserves between reserve monuments 10 and 11 are closed year-round.

~~((73))~~ (75) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1,900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30 and September 1 through October 15, from one hour before official sunrise until one hour after official sunset only.

~~((74))~~ (76) North Beach County Park: Closed year-round.

~~((75))~~ (77) Oak Bay County Park: Closed year-round.

~~((76))~~ (78) Oak Harbor: Closed year-round.

~~((77))~~ (79) Oak Harbor Beach Park: Closed year-round.

~~((78))~~ (80) Oak Harbor City Park: Closed year-round.

~~((79))~~ (81) Oakland Bay: State-owned oyster reserves are open year-round except in areas defined by boundary markers and signs posted on the beach.

~~((80))~~ (82) Old Mill County Park (Silverdale): Closed year-round.

~~((81))~~ (83) Olympia Shoal: Closed year-round.

~~((82))~~ (84) Pat Carey Vista Park: Closed year-round.

~~((83))~~ (85) Penrose Point State Park: Open March 1 through April 30 only, except that part of Mayo Cove within the commercially prohibited growing area is closed year-round.

~~((84))~~ (86) Picnic Point County Park: Closed year-round.

~~((85))~~ (87) Pitship Point: Closed year-round.

~~((86))~~ (88) Pitt Island: Closed year-round.

~~((87))~~ (89) Pleasant Harbor State Park: Closed year-round.

~~((88))~~ (90) Pleasant Harbor WDFW Boat Launch: Closed year-round.

~~((89))~~ (91) Point Defiance: Closed year-round.

~~((90))~~ (92) Point Whitney Tidelands and Point Whitney Lagoon: Open January 1 through June 30 only.

~~((91))~~ (93) Port Angeles Harbor: All public tidelands of Port Angeles Harbor and interior tidelands of Ediz Hook are closed year-round.

~~((92))~~ (94) Port Gamble Heritage Park Tidelands: Open August 1 through September 30 only.

~~((93))~~ (95) Port Gardner: Closed year-round.

~~((94))~~ (96) Port Townsend Ship Canal/Portage Beach: Open April 1 through ~~(May 31)~~ June 30 only.

~~((95))~~ (97) Post Point: Closed year-round.

~~((96))~~ (98) Potlatch State Park and Potlatch DNR tidelands: Open April 1 through May 31 only.

~~((97))~~ (99) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open April 1 through April 30 only.

~~((98))~~ (100) Quilcene Bay Tidelands: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed year-round except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open year-round.

~~((99))~~ (101) Quilcene Boat Ramp: Open January 1 through May ~~(31)~~ 15 only.

- ~~((100))~~ (102) Retsil: Closed year-round.
~~((101))~~ (103) Richmond Beach Saltwater Park: Closed year-round.
~~((102))~~ (104) Salt Creek Recreation Area (DNR-419): Closed year-round.
~~((103))~~ (105) Saltair Beach (Kingston Ferry Terminal): Closed year-round.
~~((104))~~ (106) Saltwater State Park: Closed year-round.
~~((105))~~ (107) Samish Bay: Public tidelands of Samish Bay between Scotts Point and a point on the shore (48.5745°, -122.4440°) are closed year-round.
~~((106))~~ (108) Scenic Beach State Park: Closed year-round.
~~((107))~~ (109) Seahurst County Park: Closed year-round.
~~((108))~~ (110) Semiahmoo County Park: Closed year-round.
~~((109))~~ (111) Semiahmoo Marina: Closed year-round.
~~((110))~~ (112) Sequim Bay State Park: Open January 1 through ~~((April))~~ May 15 only.
~~((111))~~ (113) Shine Tidelands State Park: Open January 1 through May 15 only.
~~((112))~~ (114) Silverdale Waterfront Park: Closed year-round.
~~((113))~~ (115) Sinclair Inlet: All public tidelands of Sinclair Inlet west of a line drawn from the intersection of Bancroft Road and Beach Drive East northerly to Point Herron are closed year-round.
~~((114))~~ (116) Skagit Bay Estuary Wildlife Areas: All public tidelands of the Skagit Bay Estuary Wildlife Area, Fir Island Farms Reserve Wildlife Area, Island Wildlife Area, Camano Island Wildlife Area and Leque Island Wildlife Area are closed year-round.
~~((115))~~ (117) South Carkeek Park: Closed year-round.
~~((116))~~ (118) South Lilliwaup: Open November 1 through April 30 only.
(119) Southworth: Closed year-round.
~~((117))~~ (120) Spencer Spit State Park: Open March 1 through July 31 only.
~~((118))~~ (121) Squaxin Park (Priest Point County Park): Closed year-round.
~~((119))~~ (122) Stuart Island State Park - Reid Harbor (South Beach): Closed year-round.
~~((120))~~ (123) Taylor Bay: Closed year-round.
~~((121))~~ (124) Totten Inlet Oyster Reserve (Oyster Bay reserves): Closed year-round.
~~((122))~~ (125) Walker County Park: Closed year-round.
~~((123))~~ (126) WDFW Hoodspout Hatchery: Open April 1 through ~~((May 31))~~ June 30, from one hour before official sunrise until one hour after official sunset only.
~~((124))~~ (127) West Pass Access: Closed year-round.
~~((125))~~ (128) West Penn Cove: From the property boundary at the Grasser's Lagoon access on Highway 20 to the dock extending across the tidelands from Captain Whidbey Inn on Madrona Road is open ~~((July))~~ June 15 through September 30 only.
~~((126))~~ (129) Willapa River Oyster Reserve (Willapa Harbor reserves): Reserves located in the Willapa River channel extending west and upriver from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel are closed year-round.
~~((127))~~ (130) Wolfe Property State Park: Open January 1 through May 15 only.
~~((128))~~ (131) Woodard Bay Natural Resource Conservation Area: Closed year-round.

((~~129~~)) (132) It is lawful to take and possess oysters for personal use from the Pacific Ocean beaches from November 1 through March 31 only.

WSR 24-03-143
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed January 23, 2024, 2:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-01-063.

Hearing Location(s): On March 1, 2024, at 1:30 p.m., via Zoom

[https://utc-wa-gov.zoom.us/j/85624363395?](https://utc-wa-gov.zoom.us/j/85624363395?pwd=U519MiuuhqbG1COYTpPxCC0x87KE89.1)

[pwd=U519MiuuhqbG1COYTpPxCC0x87KE89.1](https://utc-wa-gov.zoom.us/j/85624363395?pwd=U519MiuuhqbG1COYTpPxCC0x87KE89.1). To participate by phone, call 253-215-8782 and use Meeting ID 856 2436 3395 and Passcode 311911.

Public hearing to consider adoption of the proposed rules.

Date of Intended Adoption: March 1, 2024.

Submit Written Comments to: Executive Director and Secretary, P.O. Box 47250, Olympia, WA 98504-7250, email records@utc.wa.gov, by February 28, 2024.

Assistance for Persons with Disabilities: Contact human resources, phone 360-664-1160, TTY 360-586-8203, email human_resources@utc.wa.gov, by February 20, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these proposed revisions is to make permanent exemptions to the odorization requirements of WAC 480-93-015 for operators of class 1 and 2 renewable natural gas (RNG) transmission facilities (pipelines) with hydrogen sulfide (H₂S) present in the gas. These exemptions were added by emergency rule making at WSR 23-23-059. WAC 480-93-015(2) previously required all gas pipeline operators, without exception, to odorize their lines and perform a sniff test to detect odorization. Because H₂S is toxic to humans, class 1 and 2 transmission pipelines where H₂S is present should be exempt from the odorization and sniff test requirements to prevent injuries that would be incurred by meeting the sniff test requirement.

Reasons Supporting Proposal: To meet the odorization requirements of WAC 480-93-015 prior to the emergency rule amendment, operators of class 1 and 2 RNG transmission pipeline facilities were required to put employees at significant risk of injury. Performing a sniff test when H₂S is present in the pipeline exposes the tester to a substance that is toxic and hazardous. Exempting odorization of these lines, in addition to exempting the sniff test, is necessary because the addition of odor without confirmation via a sniff test makes the effectiveness of odorization questionable. Additionally, if odorization is not being checked via a sniff test, this may result in under-odorization which could cause leaks to go unnoticed. Unodorized lines are required under WAC to be checked each month via a gas leak survey. The proposed permanent revisions include the requirement that under the exempted circumstances, operators must be able to otherwise demonstrate impurity levels.

Statutory Authority for Adoption: RCW 80.01.040, 81.01.010, 81.04.160, and 80.24.020.

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

Name of Proponent: Washington utilities and transportation commission (UTC), governmental.

Name of Agency Personnel Responsible for Drafting: Scott Rukke, 621 Woodland Square Loop S.E., Lacey, WA 98503, 360-870-4923; **Implementation and Enforcement:** Kathy Hunter, 621 Woodland Square Loop S.E., Lacey, WA 98503, 360-701-1612.

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

A cost-benefit analysis is not required under RCW 34.05.328. UTC is not an agency to which RCW 34.05.328 applies.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. UTC is proposing to revise rules to add an exemption to the odorization and sniff test requirements for pipelines where such tests would be hazardous to human health. The exemption does not impose new or additional obligations on pipeline operators. Additionally, on December 13, 2023, UTC mailed a notice to all persons interested in or affected by the rule making, providing a copy of the draft rules and an opportunity to respond to a small business economic impact statement questionnaire. The notice requested that entities affected by the proposed rules provide information about possible cost impacts of the rules with specific information for each rule that the entity identified as causing an impact. UTC did not receive any information in response to the questionnaire. Based on the information available to it, UTC determined that the proposed rule does not impose additional costs on businesses.

January 23, 2024

Kathy Hunter

Acting Executive Director and Secretary

OTS-5067.3

AMENDATORY SECTION (Amending WSR 08-12-046, filed 5/30/08, effective 6/30/08)

WAC 480-93-015 Odorization of gas. (1) Each gas pipeline company must odorize the gas in its pipeline at a concentration in air of at least one-fifth of the lower explosive limit, so that the gas is readily detectable by a person with a normal sense of smell.

(2) Each gas pipeline company must use an odorant testing instrument when conducting sniff tests. Sniff tests must be performed at least once monthly. Master meter systems that comply with 49 C.F.R. § 192.625(f) are exempt from this requirement.

(3) Each gas pipeline company must take prompt action to investigate and remediate odorant concentrations that do not meet the minimum requirements of subsection (1) of this section.

(4) Each gas pipeline company must follow the odorant testing instrument manufacturer's recommendations for maintaining, testing for accuracy, calibrating and operating such instruments. When the manufacturer does not provide a recommendation, each gas pipeline company must conduct accuracy checks and calibrate such instruments at least once annually, if the instrument is outside specified tolerances.

(5) Each gas pipeline company must keep all records of odorant usage, sniff tests performed, and odorant testing instrument calibration for five years.

(6) Exceptions. This rule does not apply to gas pipelines where the odorant would make the gas unfit for its intended purpose or where sniff tests would be hazardous to human health due to impurities in

the gas stream such as hydrogen sulfide. Operators must be able to demonstrate the level of impurity through tests or records. Nothing in this section is intended to preclude the application of federal regulatory requirements applicable to any facility.

WSR 24-03-144
PROPOSED RULES
OLYMPIC REGION
CLEAN AIR AGENCY

[Filed January 23, 2024, 2:30 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Olympic Region Clean Air Agency (ORCAA) Regulation 4 Registration, Rule 4.1 Registration Required, 4.1 (b)(91) exemption to registration.

Hearing Location(s): On March 13, 2024, at 10:00 a.m., at ORCAA, 2940 Limited Lane N.W., Olympia, WA 98502. In addition to attending the hearing in person, remote participation via Zoom is also an option. Please see our website for log-in information www.orcaa.org/about/board-of-directors/.

Date of Intended Adoption: March 13, 2024.

Submit Written Comments to: Mike Shults, 2940 Limited Lane N.W., email mike.shults@orcaa.org, fax 360-491-6308, by March 12, 2024.

Assistance for Persons with Disabilities: Contact Dan Nelson, phone 360-539-7610 ext. 111, fax 360-491-6308, email dan.nelson@orcaa.org, by March 6, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ORCAA proposes to add an exemption to Rule 4.1 for gasoline dispensing facilities with an annual throughput less than 50,000 gallons of gasoline. ORCAA anticipates discontinuing registration for up to 24 gasoline dispensing facilities. Gasoline dispensing facilities will still be required to comply with all applicable local, state, and federal air quality regulations and performance standards.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Statute Being Implemented: Chapter 70A.15 RCW.

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

Name of Proponent: ORCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Robert Moody, 2940 Limited Lane N.W., Olympia, 360-539-7610 ext. 106; Implementation and Enforcement: Jeff C. Johnston, Ph.D., 2940 Limited Lane N.W., Olympia, 360-539-7610 ext. 100.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 applies to state government. It does not apply to local air agencies per RCW 70A.15.2040.

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

Is exempt under RCW 19.85.011.

Explanation of exemptions: Chapter 19.85 RCW applies to "rules adopted by state agencies." RCW 70A.15.2040(1) states: "An air pollution control authority shall not be deemed to be a state agency." ORCAA is an air pollution control authority.

Scope of exemption for rule proposal:

Is fully exempt.

January 23, 2024
Jeff C. Johnston, Ph.D.
Executive Director

AMENDED SECTION

RULE 4.1 REGISTRATION REQUIRED

(a) All stationary sources within the jurisdiction of the Agency, except for any stationary sources required to obtain an air operating permit under chapter 173-401 WAC, must be registered with the Agency. Notwithstanding the exemptions provided in Rule 4.1(b), the following stationary sources must be registered with the Agency:

(1) Any stationary source subject to a standard under New Source Performance Standards, 40 CFR Part 60, except; New Residential Wood Heaters (Subpart AAA); Kraft Pulp Mills (Subpart BB); and Primary Aluminum Reduction Plants (Subpart S);

(2) Any stationary source subject to a performance standard under National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, except for asbestos demolition and renovation projects subject to 40 CFR Part 61 Subpart M;

(3) Any stationary source subject to a performance standard under National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63;

(4) Any stationary source that includes equipment or control equipment subject to an Approval Order issued by the Agency.

(b) The following stationary sources are exempt from registration requirements under Regulation 4. All stationary sources exempt from registration under Regulation 4 are still required to comply with other applicable air pollution requirements.

Maintenance/construction:

- (1) Cleaning and sweeping of streets and paved surfaces;
- (2) Concrete application, and installation;
- (3) Dredging wet spoils handling and placement;
- (4) Paving application and maintenance, excluding asphalt plants;
- (5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine housekeeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);
- (6) Plumbing installation and plumbing protective coating application associated with plant maintenance activities;
- (7) Roofing application;
- (8) Insulation application and maintenance, excluding products for resale;
- (9) Janitorial services and consumer use of janitorial products;
- (10) Asphalt laying equipment including asphalt-roofing operations (not including manufacturing or storage);
- (11) Blast cleaning equipment that uses a suspension of abrasives in liquid water;
- (12) Spray painting or blasting equipment used at temporary locations to clean or paint bridges, water towers, buildings, or similar structures.

Storage tanks:

- (13) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;
- (14) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;
- (15) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions;
- (16) Process and white-water storage tanks;

- (17) Storage tanks and storage vessels, with lids or other appropriate closure and less than 260-gallon capacity (35 cu ft);
- (18) Storage tanks of a capacity of 10,000 gallons or less, with lids or other appropriate closure, used for the storage of materials containing organic compounds, but not for use with materials containing toxic air pollutants (as defined in chapter 173-460 WAC);
- (19) Storage tanks of a capacity of 40,000 gallons or less, with lids or other appropriate closure, used for storage of organic compounds, but not for use with materials containing toxic air pollutants (as defined in chapter 173-460 WAC), with a true vapor pressure less than 0.01 kPa (0.002 psia) (0.0001 atm);
- (20) Storage tanks of a capacity of 40,000 gallons or less used for the storage of butane, propane, or liquefied petroleum gas;
- (21) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases, and acids;
- (22) Storage tanks used exclusively for storage of diesel fuel;
- (23) Loading and unloading equipment used exclusively for the storage tanks exempted under this rule.
- Combustion:
- (24) Fuel burning equipment (not including incinerators) that:
- (i) is used solely for a private dwelling serving five families or less; or
- (ii) has a maximum heat input rate of 5 MMBtu/hr or less if burning natural gas, propane, or LPG; or
- (iii) has a maximum heat input rate of 0.5 MMBtu/hr or less if burning waste-derived fuels; or
- (iv) has a maximum heat input rate of 1 MMBtu/hr or less if burning recycled or used oil per the requirements of RCW 70A.15.4510; or
- (v) has a maximum heat input rate of 1 MMBtu/hr or less if burning any other type of fuel and with less than or equal to 0.05% sulfur by weight.
- (25) All stationary gas turbines with a rated heat input less than 10 million Btu per hour.
- (26) Stationary internal combustion engines having rated capacity:
- (i) less than 50 horsepower output; or
- (ii) less than 500 horsepower and used only for standby emergency power generation.
- (27) Nonroad engines.
- Material handling:
- (28) Storage and handling of water-based lubricants for metal working where organic content of the lubricant is less than 10%;
- (29) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallons, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.
- Water treatment:
- (30) Septic sewer systems, not including active wastewater treatment facilities;
- (31) NPDES permitted ponds and lagoons used solely for settling suspended solids and skimming of oil and grease;
- (32) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;
- (33) Process water filtration system and demineralizer vents;

- (34) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;
- (35) Demineralizer tanks;
- (36) Alum tanks;
- (37) Clean water condensate tanks;
- (38) Oil/water separators, except those at petroleum refineries;
- (39) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes;
- (40) Municipal sewer systems, including wastewater treatment plants and lagoons with a design capacity of one million gallons per day or less, if they do not use anaerobic digesters, chlorine disinfections or sewer sludge incinerators.
Environmental chambers and laboratory equipment:
 - (41) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;
 - (42) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;
 - (43) Laboratory fume hoods;
 - (44) Laboratory calibration and maintenance equipment.Monitoring/quality assurance/testing:
 - (45) Equipment and instrumentation used for quality control/assurance or inspection purpose;
 - (46) Hydraulic and hydrostatic testing equipment;
 - (47) Sample gathering, preparation and management;
 - (48) Vents from continuous emission monitors and other analyzers.Miscellaneous:
 - (49) Single-family residences and duplexes;
 - (50) Plastic pipe welding;
 - (51) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;
 - (52) Insecticide, pesticide, or fertilizer spray equipment;
 - (53) Comfort air conditioning;
 - (54) Flares used to indicate danger to the public;
 - (55) Natural and forced air vents and stacks for bathroom/toilet activities;
 - (56) Personal care activities including establishments like beauty salons, beauty schools, and hair cutting establishments;
 - (57) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;
 - (58) Tobacco smoking rooms and areas;
 - (59) Noncommercial smokehouses;
 - (60) Blacksmith forges for single forges;
 - (61) Vehicle maintenance activities, not including vehicle surface coating;
 - (62) Vehicle or equipment washing;
 - (63) Wax application;
 - (64) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
 - (65) Ozone generators and ozonation equipment;
 - (66) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;
 - (67) Electrical circuit breakers, transformers, or switching equipment installation or operation;
 - (68) Pneumatically operated equipment, including tools and hand-held applicator equipment for hot melt adhesives;

- (69) Firefighting and similar safety equipment and equipment used to train fire fighters;
- (70) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;
- (71) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;
- (72) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm HG @21°C, and not containing toxic air pollutants (as defined in chapter 173-460 WAC);
- (73) Surface coating, aqueous solution or suspension containing less than 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;
- (74) Cleaning and stripping activities and equipment using solutions having less than 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;
- (75) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC;
- (76) Laundry dryers, extractors or tumblers used exclusively for the removal of water from fabric;
- (77) Residential composting facilities;
- (78) Restaurants and other retail food preparing establishments;
- (79) Routing, turning, carving, cutting, and drilling equipment used for metal, wood, plastics, rubber, leather, or ceramics;
- (80) Steam cleaning equipment used exclusively for office or residential housekeeping;
- (81) Vacuum cleaning systems used exclusively for office or residential housekeeping;
- (82) Vacuum producing devices used in laboratory operations and vacuum producing devices that do not remove or convey air contaminants from or to another source;
- (83) Vents used exclusively for:
- (i) Sanitary or storm drainage systems; or
- (ii) Safety valves.
- (84) Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process;
- (85) Welding, brazing or soldering equipment;
- (86) Coffee roaster with a design capacity less than 10 pounds per batch;
- (87) Bark and soil screening operations;
- (88) Portable sand and gravel plants and crushed stone plants with a cumulative rated capacity of all crushers less than or equal to 150 tons per hour;
- (89) Fixed sand and gravel plants and crushed stone plants with a cumulative rated capacity of all crushers less than or equal to 25 tons per hour;
- (90) Any portable stationary source approved by the Agency for temporary operation at a single location.
- (91) Gasoline dispensing facilities who adequately demonstrate that gasoline throughput from the last three consecutive years was less than 50,000 gallons each year. The demonstration must be submitted in writing to the Executive Director with a request to be removed from ORCAA's registration program. Once granted, this exemption will continue to apply provided gasoline throughput remains below 50,000 gallons a year.

WSR 24-03-149
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 23, 2024, 3:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-06-068.

Title of Rule and Other Identifying Information: Safety standards for firefighters; WAC 296-305-03002 Hazardous materials and 296-305-04001 Respiratory equipment protection.

Hearing Location(s): On February 28, 2024, at 10:00 a.m., virtual hearing via Zoom. Join electronically <https://lni-wa-gov.zoom.us/j/86198428444?pwd=MVkyVzE0UlnZUjVJTHZueVNBVovdz09>, Password (if prompted) Fire@930; or join by phone (audio only) 253-205-0468 or 253-215-8782, Meeting ID 861 9842 8444, Password 47522467. A prehearing overview will occur 30 minutes prior to the start of the hearing at 9:30 a.m. The hearing will begin at the indicated time and will continue until all oral comments are received.

Date of Intended Adoption: April 16, 2024.

Submit Written Comments to: Tari Enos, Department of Labor and Industries (L&I), Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, email Tari.Enos@Lni.wa.gov, fax 360-902-5619, by March 6, 2024.

Assistance for Persons with Disabilities: Contact Tari Enos, phone 360-902-5541, fax 360-902-5619, email Tari.Enos@Lni.wa.gov, by February 14, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: L&I received a petition requesting L&I engage in rule making to update the language in WAC 296-305-03002 Hazardous materials. There have been many technological advances in the years since this WAC code was written, including in personal protective equipment (PPE) materials, certification, and testing. The proposed rule updates the required standards for hazardous materials protective equipment. The current rule requires compliance with the following National Fire Protection Association (NFPA) standards for hazard material protective equipment: NFPA 1991 (2000 edition), NFPA 1992 (2000 edition), and NFPA 1994 (2001 edition). The proposed rule updates the requirements to the NFPA 1990 (2022 edition), which is a consolidation of the currently referenced NFPA standards and the current edition. As requested in the petition, the proposed rule allows an exemption from the requirement that protective ensembles and liquid splash-protective ensembles completely cover the wearer's respiratory protection when respiratory protection meets the National Institute for Occupational Safety and Health chemical, biological, radiological, and nuclear self-contained breathing apparatus testing.

WAC 296-305-04001 Respiratory equipment protection, which has guidance for breathing air quality for firefighters, will also be updated. The reference to ANSI/CGA G6-1, Commodity Specification for Air, needs to be updated to fix a typo in the standard number.

Reasons Supporting Proposal: The reason supporting this proposal is enhancing the safety of responders. Updating the language in WAC 296-305-03002 will improve the speed of action by the responders. Technological advancements in protective ensembles have increased the dexterity as well as the overall protectiveness of these ensembles, which allows firefighters and departments to better protect workers based on the associated hazards of the given emergency response. The

changes enhance safety and align with the current version of the consolidated NFPA standard for hazardous materials protective equipment.

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

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy West, Tumwater, Washington, 509-237-2372; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

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

A cost-benefit analysis is not required under RCW 34.05.328. The rule making is exempt from a cost-benefit analysis per RCW 34.05.328 (5)(b)(iii) and (iv). This rule making proposes to adopt a national consensus standard which provides clarity and updated options for selection of PPE when engaged in activities under the rule and a house-keeping update to correct a reference in the rule.

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

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

Scope of exemption for rule proposal:

Is fully exempt.

January 23, 2024
Joel Sacks
Director

OTS-4787.2

AMENDATORY SECTION (Amending WSR 18-22-116, filed 11/6/18, effective 12/7/18)

WAC 296-305-03002 Hazardous materials. (1) Fire department personnel involved in hazardous materials incidents must be protected against potential chemical hazards. Chemical protective clothing must be selected according to the technical data package provided by the clothing manufacturer and used to protect the skin, eyes, face, hands, feet, head and body.

(2) Fire departments must select, provide, and require the use of additional personal protective equipment as required in chapter 296-842 WAC, Respiratory protection.

(3) ~~((Hazardous chemical protective equipment must be classified by performance and is defined as:~~

~~(a) Vapor-protective suits (level A) meeting the criteria outlined in the 2000 edition of NFPA 1991, Standard on Vapor-Protective Ensembles for Hazardous Materials Emergencies.~~

~~(b) Liquid splash-protective suits (level B) meeting the criteria outlined in the 2000 edition of NFPA 1992, Standard on Liquid Splash-Protective Ensembles and Clothing for Hazardous Materials Emergencies.~~

~~(c) CBRN terrorism incident protective ensembles and ensemble elements meeting the criteria outlined in the 2001 edition of NFPA 1994, Standard on Protective Ensembles for First Responders to CBRN Terrorism Incidents.)) Protective ensembles for hazardous materials and CBRN operations must meet the design and performance criteria outlined in the 2022 edition of NFPA 1990.~~

(4) Vapor protective ensembles, liquid splash-protective ensembles, and CBRN protective ensembles must completely cover both the wearer and the wearer's respiratory protection unless the respiratory protection has been specifically designed by the manufacturer for that type of chemical exposure, or meet the Statement of Standard for NIOSH CBRN SCBA Testing.

(5) Vapor protective suits and liquid splash-protective suits must not be used alone for any firefighting applications or for protection from radiological, biological, or cryogenic agents or in flammable or explosive atmospheres.

(6) Liquid splash-protective suits must not be used when operations are likely to result in significant exposure to chemicals or specific chemical mixtures with known or suspected carcinogenicity as indicated by any one of the following documents if it can be reasonably expected that the firefighters in vapor-protective suits would be significantly better protected:

(a) Dangerous Properties of Industrial Chemicals, 10th edition-2000, N. Irving Sax.

(b) NIOSH Pocket Guide to Chemical Hazards, 2006 edition.

(c) U.S. Coast Guard Chemical Hazard Response Information System (CHRIS), Volume 13, Hazardous Chemical Data.

(7) Liquid splash-protective suits must not be used when operations are likely to result in significant exposure to chemicals or specific chemical mixtures with skin toxicity notations as indicated by the American Conference of Government Industrial Hygienists (ACGIH) Threshold Limit Values for Chemical Substances and Agents and Biological Exposure Indices for 2004 or 2007 if it can be reasonably expected that firefighters in vapor-protective suits would be significantly better protected.

(8) Firefighters assigned to functional support operations outside the hot zone during hazardous chemical emergencies must be provided with and must use personal protective garments appropriate for the type of potential chemical hazard exposure.

(9) Fire departments responding to uncontrolled release of hazardous materials must comply with chapter 296-824 WAC, Emergency response.

AMENDATORY SECTION (Amending WSR 18-22-116, filed 11/6/18, effective 12/7/18)

WAC 296-305-04001 Respiratory equipment protection. (1) Fire-fighter's self-contained breathing apparatus (SCBA) must, at a minimum, meet the requirements of the 1997 edition of NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire Fighters. Equipment purchased after the effective date of this rule must meet the 2007 edition of NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Emergency Services.

(2) Closed circuit SCBA must:

(a) Be positive pressure;

(b) Be NIOSH certified; and

(c) Have a minimum (~~(thirty)~~) 30-minute service duration.

(3) Members using SCBAs must operate in teams of two or more.

(4) Except as otherwise provided in this chapter, fire departments must adopt, maintain and implement a written respiratory protection program that addresses the requirements of chapter 296-842 WAC, Respiratory protection. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional information on respirators and respirator usage can be found in ANSI Z88.2 - American National Standard for Respiratory Protection and various NFPA publications (1981, 1404, 1500, etc.).

(5) Reserved.

(6) When the fire department makes its own breathing air or uses vendor supplied breathing air, they must maintain documentation certifying breathing air quality. The breathing air must:

(a) Be tested at least quarterly by using an air sample taken from the same outlet and in the same manner as the respirator breathing air cylinders are filled or air line respirators are connected.

(b) Meet the requirements of either the 2003 edition of NFPA 1989, Standard on Breathing Air Quality for Fire and Emergency Services Respiratory Protection or the 1997 edition of ANSI/CGA (~~(G6-1)~~) G7-1 - Commodity Specification for Air, with a minimum air quality of grade D.

(c) Meet a water vapor level of 24 ppm or less.

(7) Fit testing must be conducted in accordance with this section and chapter 296-842 WAC, Respiratory protection.

(a) Each new member shall be tested by a qualitative or quantitative method before being permitted to use SCBA's in a hazardous atmosphere.

(b) Only firefighters with a properly fitting facepiece must be permitted by the fire department to function in a hazardous atmosphere with SCBA.

(c) Fit testing must be repeated:

(i) At least once every (~~(twelve)~~) 12 months.

(ii) Whenever there are changes in the type of SCBA or facepiece used.

(iii) Whenever there are significant physical changes in the user. Example: Weight change of (~~(ten)~~) 10 percent or more, scarring of face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal.

(d) The fit testing is done only in a negative-pressure mode. If the facepiece is modified for fit testing, the modification must not affect the normal fit of the device. Such modified devices must only be used for fit testing.

(e) The fit test procedures and test exercises described in WAC 296-842-15005 and 296-842-22010 must be followed unless stated otherwise in this chapter.

(f) Respirator fit test records must include:

(i) Written guidelines for the respirator fit testing program including pass/fail criteria;

(ii) Type of respirator tested including manufacturer, model, and size;

(iii) Type of fit test and instrumentation or equipment used;

(iv) Name or identification of test operator;

(v) Name of person tested;

(vi) Date of test; and

(vii) Results of test.

Note: Firefighters should be issued individual facepieces.

(8) Facial hair, contact lenses, and eye and face protective devices.

(a) A negative pressure respirator, any self-contained breathing apparatus, or any respirator which is used in an atmosphere immediately dangerous to life or health (IDLH) equipped with a facepiece must not be worn if facial hair comes between the sealing periphery of the facepiece and the face or if facial hair interferes with the valve function.

(b) The wearer of a respirator must not be allowed to wear contact lenses if the risk of eye damage is increased by their use.

(c) If corrective lenses must be worn with a facepiece, they must be worn so as to not adversely affect the seal of the facepiece to the face. See WAC 296-842-18005(3).

(d) Straps or temple bars must not pass between the seal or surface of the respirator and the user's face.

(9) At the end of suppression activities (to include fire overhaul) and before returning to quarters:

(a) Gross/field decontamination must be performed on firefighters prior to removal of their respirator whenever firefighting activities resulted in exposure to a hazardous substance.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions must be taken to maintain uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(10) Self-contained respiratory equipment must be available and used by all firefighters who enter into hazardous atmospheres during structural firefighting activities.

(11) Reserved.

(12) Respirators must be provided for, and shall be used by, all personnel working in areas where:

(a) The atmosphere is hazardous;

(b) The atmosphere is suspected of being hazardous; or

(c) The atmosphere may rapidly become hazardous.

Reference: See WAC 296-305-05002(13) for additional requirements.

(13) Reserved.

(14) Firefighters using a properly functioning SCBA must not compromise the protective integrity of the SCBA by removing the facepiece for any reason in hazardous atmospheres or in atmospheres where the quality of air is unknown.

(15) Firefighters must receive training for each type and manufacturer of respiratory equipment available for their use, the step-

by-step procedure for donning the respirator and checking it for proper function. Required training must include:

- (a) Recognizing hazards that may be encountered;
- (b) Understanding the components of the respirator;
- (c) Understanding the safety features and limitations of the respirator; and
- (d) Donning and doffing the respirator.

(16) After completing such training, each firefighter must practice at least quarterly, for each type and manufacture of respirator available for use, the step-by-step procedure for donning the respirator and checking it for proper function.

(17) Members must be tested at least annually on the knowledge of respiratory protection equipment operation, safety, organizational policies and procedures, and facepiece seals, to the fire department's standard. Such records must remain part of the member training file.

(18) Members must be allowed to use only the make, model, and size respirator for which they have passed a fit test within the last ((twelve)) 12 months.

(19) In cases where there is a reported failure of a respirator, it must be removed from service, tagged and recorded as such, and tested before being returned to service.

(20) Firefighters must be thoroughly trained in accordance with the manufacturer's instructions on emergency procedures such as use of regulator bypass valve, corrective action for facepiece and breathing tube damage, and breathing directly from the regulator (where applicable).

(21) Reserved.

(22) SCBA cylinders must be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

WSR 24-03-151
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed January 23, 2024, 3:29 p.m.]

Supplemental Notice to WSR 23-21-078.

Preproposal statement of inquiry was filed as WSR 23-16-126.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing to amend WAC 388-447-0001 What are the incapacity requirements for referral to the housing and essential needs (HEN) program? and 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?

Hearing Location(s): On February 27, 2024, at 10:00 a.m., virtually via Microsoft Teams. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: Not earlier than February 28, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by February 27, 2024, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email Tencza@dshs.wa.gov, by February 13, 2024, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments clarify program rules regarding disability requirements for the ABD cash and incapacity requirements for the HEN referral program. Formal comments were incorporated after the original CR-102 was filed.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050 and 74.08.090.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sam Del Vecchio, P.O. Box 45470, Olympia, WA 98504-5470, 564-233-1647.

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

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

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

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

Scope of exemption for rule proposal: These amendments do not impact small businesses. They only impact DSHS customers.

Is fully exempt.

January 18, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5004.4

AMENDATORY SECTION (Amending WSR 18-18-007, filed 8/23/18, effective 9/23/18)

WAC 388-447-0001 What are the incapacity requirements for referral to the housing and essential needs (HEN) program? (1) For the purposes of this chapter, the following definitions apply:

- (a) "We" and "us" mean the department of social and health services.
- (b) "You" means the applicant or recipient.
- (c) "Incapacitated" means you cannot be gainfully employed due to a physical or mental impairment that is expected to continue for at least ~~((ninety))~~ 90 days from the date you apply.
- (d) "Mental impairment" means a diagnosable mental disorder.
- (e) "Physical impairment" means a diagnosable physical illness.
- (2) You must be incapacitated in order to receive a HEN referral.
- (3) We determine if you are incapacitated when:
 - (a) You apply for a referral to the HEN program;
 - (b) You become gainfully employed; or
 - (c) ~~((You obtain work skills by completing a training program;~~
 - (d) ~~We receive new information that indicates you may be able to work; or~~
 - (e) Your incapacity authorization period ends.
- (4) We deny your HEN referral if you are gainfully employed at the time of application for referral to the HEN program. "Gainfully employed" means you are performing, in a regular predictable manner, an activity usually done for pay or profit and earning more than the substantial gainful activity standard defined by the Social Security Administration (SSA).
- (5) We do not consider you to be gainfully employed if you are working:
 - (a) Under special conditions that go beyond providing reasonable accommodation; or
 - (b) Occasionally or part-time because your impairment limits the hours you are able to work compared to unimpaired workers in the same job.
- (6) We determine you are incapacitated if you are:
 - (a) Eligible for the aged, blind, or disabled (ABD) cash assistance program;
 - (b) Approved through the progressive evaluation process (PEP). The PEP is a sequence of eight steps described in WAC 388-447-0030 through 388-447-0100;
 - (c) Eligible for services from the developmental disabilities administration (DDA);
 - (d) Diagnosed as having an intellectual disability based on a full scale score of ~~((seventy))~~ 70 or lower on the Wechsler adult intelligence scale (WAIS);
 - (e) Eligible for long-term care services from the aging and long-term support administration (ALTSA);
 - (f) Released from a medical institution where you received services from ALTSA within the past 90 days; or
 - (g) Released from inpatient treatment for a mental impairment within the past 90 days if:
 - (i) The release from inpatient treatment was not against medical advice; and

(ii) You were discharged into outpatient mental health treatment.

(7) If you have a physical or mental impairment or are impaired due to a substance use disorder, and do not meet the other incapacity criteria in subsection (6)(c) through (g) of this section, we decide if you are incapacitated by applying the PEP.

(8) In determining incapacity, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling; and other physical functions (including manipulative or postural functions such as pushing, pulling, reaching, handling, stooping, or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors, ~~((and))~~ co-workers, ~~((tolerating the pressures of a))~~ and usual work ((setting)) situations, maintaining appropriate behavior, using judgment, and adapting to changes in a routine work setting.

AMENDATORY SECTION (Amending WSR 23-01-057, filed 12/14/22, effective 1/14/23)

WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program? (1) For the purposes of this chapter, the following definitions apply:

(a) "We" and "us" ~~((refer to))~~ mean the department of social and health services.

(b) "You" means the applicant or recipient.

(c) "Disabled" means the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which has lasted or can be expected to last for a continuous period of not less than 12 months with available treatment or result in death.

(d) "Physical impairment" means a diagnosable physical illness.

(e) "Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to a substance use disorder.

(2) We ~~((determine))~~ review if you ~~((are likely to be disabled))~~ meet disability requirements when:

(a) You apply for ABD cash benefits;

(b) You become employed; or

(c) ~~((You obtain work skills by completing a training program; or~~

~~((d) We receive new information that indicates you may be employable))~~ A disability review is required under WAC 388-449-0150.

(3) ~~((We determine you are likely to be disabled if:))~~ You are likely to meet disability requirements if:

(a) You are determined to meet SSA disability criteria by the Social Security Administration (SSA);

(b) You are determined to meet SSA disability criteria by disability determination services (DDDS) based on the most recent DDDS determination;

(c) ~~((The Social Security Administration ((-))) SSA((+)))~~ stops your supplemental security income (SSI) payments solely because you are not a citizen;

(d) You are eligible for services through the developmental disabilities administration (DDA) for a medical condition that is expected to last 12 months or more or result in death;

(e) You are eligible for long-term care services from the aging and long-term support administration (AL TSA) for a medical condition that is expected to last 12 months or more or result in death;

(f) You have been civilly committed to eastern or western state hospital;

(g) You have been placed in eastern or western state hospital for an offense you have been found not guilty by reason of insanity;

~~((e))~~

(h) You have been diagnosed as having an intellectual disability based on a full scale score of 70 or lower on the Wechsler adult intelligence scale (WAIS); or

(i) You are approved through the sequential evaluation process (SEP) defined in WAC 388-449-0005 through 388-449-0100. The SEP is the sequence of five steps. Step 1 considers whether you are currently working. Steps 2 and 3 consider medical evidence and whether you are likely to meet or equal a listed impairment under Social Security's rules. Steps 4 and 5 consider your residual functional capacity and vocational factors such as age, education, and work experience in order to determine your ability to do your past work or other work.

(4) If you have a physical or mental impairment and you are impaired by a substance use disorder and do not meet the other disability criteria in subsections (2) (a) - ~~((d))~~ (c) of this section, we decide if you are eligible for ABD cash by applying the sequential evaluation process described in WAC 388-449-0005 through 388-449-0100. You ~~((aren't))~~ are not eligible for ABD cash benefits if you are disabled primarily because of a substance use disorder.

(5) In determining disability, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling, and other physical functions (including manipulative or postural functions such as pushing, pulling, reaching, handling, stooping, or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors, ~~((and coworkers))~~ co-workers, and usual work situations, ~~((tolerating the pressures of a work setting,))~~ maintaining appropriate behavior, and adapting to changes in a routine work setting.

(6) We determine you are not likely to meet ~~((SSI))~~ disability criteria if SSA denied your application for SSI or Social Security Disability Insurance (SSDI) based on disability in the last 12 months unless:

(a) You file a timely appeal with SSA;

(b) SSA decides you have good cause for a late appeal; or

(c) You give us medical evidence of a potentially disabling condition that SSA did not consider or medical evidence confirming your condition has deteriorated.

WSR 24-03-153

PROPOSED RULES

SECRETARY OF STATE

[Filed January 23, 2024, 4:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-14-009.

Title of Rule and Other Identifying Information: Ballot declaration signature verification.

Hearing Location(s): On March 6, 2024, 2:30 - 3:30 p.m., at the Washington Secretary of State, Washington State Library, 6880 Capitol Boulevard S.E., Tumwater, WA 98501. When attending the hearing in person, walk into the front lobby of the Washington State Library. You will be escorted to the conference room at 2:29 p.m. to be present when the hearing begins at 2:30 p.m. If you arrive after that time, there will be a staff member available in the lobby to escort you to the conference room.

Date of Intended Adoption: March 7, 2024.

Submit Written Comments to: Dave Piersma, P.O. Box 40229, Olympia, WA 98504, email dave.piersma@sos.wa.gov, fax 360-664-4619, by March 5, 2024.

Assistance for Persons with Disabilities: Contact Dave Piersma, phone 360-902-4172, fax 360-664-4619, email dave.piersma@sos.wa.gov, by March 5, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the process and standards for verifying ballot declaration signatures in a manner that ensures consistency in counties throughout the state. The consistency provided by these rules should assist county election offices in accurately verifying signatures on ballots. These changes will make it easier for voters to cure any challenges that occur in the signature verification process.

Reasons Supporting Proposal: The signature verification process ensures that only valid ballots are counted in elections. The rules intend to implement consistent best practices for signature verification throughout all of the state's election offices. These changes will make it easier for voters to cure any challenges that occur in the signature verification process.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: RCW 29A.40.110, 29A.40.160, 29A.60.165, 29A.60.195.

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

Name of Proponent: Office of the secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Stuart Holmes, Olympia, 360-902-4151.

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

A cost-benefit analysis is not required under RCW 34.05.328.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:

Is fully exempt.

January 24, 2024
Amanda Doyle
Chief of Staff

OTS-4842.3

AMENDATORY SECTION (Amending WSR 20-14-035, filed 6/24/20, effective 7/25/20)

WAC 434-250-120 Verification of the signature and return date.

(1) A ballot shall be counted if:

(a) The voter has not already cast a ballot that has been accepted in the election;

(b) The voter signed the ballot declaration (~~(is signed)~~) with a valid signature (~~(. A valid signature may be the voter's name or a distinctive mark or symbol signed by the voter:~~

~~(i) If the voter is unable to sign their name, the voter may make a mark or symbol with two witnesses' signatures. A signature stamp accompanied by two witness signatures is an acceptable mark;~~

~~(ii) A power of attorney cannot be used as a signature for a voter.~~

~~(c) The signature has been verified by the county of current registration pursuant to WAC 434-379-020; and~~

~~(d))~~, as determined by WAC 434-261-051 through 434-261-053, or the voter has provided identification at a voting center; and

(c) The envelope is returned in one of the following methods:

(i) The envelope is postmarked not later than the day of the election and received not later than close of business the day before certification of the election. A postmark is any official mark, imprint, or application that verifies when a ballot entered the U.S. postal system. The mailing date of a ballot sent through a commercial mailing service, such as FedEx or UPS, may be considered a postmark. The postmark on the envelope is the official date of mailing. If there are (~~two~~) multiple postmarks, the (~~earlier~~) earliest postmark is the date of mailing. A hand cancellation by an agent of the U.S. Postal Service is a postmark.

If the postmark is illegible or missing, the date of the voter's signature is the date of mailing as per RCW 29A.40.110. If the postmark is illegible or missing and the voter did not include a date with their signature, county auditors may use available U.S. Postal Service tools to verify the date of mailing;

(ii) The ballot is deposited in a ballot drop box no later than 8:00 p.m. on election day; or

(iii) For service and overseas voters, the ballot is received by fax or email no later than 8:00 p.m. on election day. Only service and overseas voters can submit ballots by fax or email.

(2) Postage that includes a date, such as meter postage or a dated stamp, does not qualify as a postmark. If an envelope lacks a postmark or if the postmark is unreadable, the date to which the voter has attested on the ballot declaration determines the validity of the ballot, per RCW 29A.40.110. If a ballot is from a service or overseas

voter, the date to which the voter has attested on the ballot declaration determines the validity of the ballot, per RCW 29A.40.100.

(3) Consistent with WAC 434-250-080, the voter's current ballot and signed declaration shall be accepted for initial processing; ballots previously or subsequently received for the same voter are not counted nor rejected by the county canvassing board. Such ballots ~~((shall be))~~ are invalid and categorized as informational only.

(a) If the first ballot received is identical to the voter's current ballot because the voter submitted a replacement ballot, the replacement ballot shall be referred to signature verification for initial processing.

(b) If the first ballot received is suspended because of a voter registration update, the suspended ballot shall be held by the county of current registration. The county of registration may choose to manually check the suspended ballot for signature issues and send a ~~((eure))~~ signature update form, while allowing time for the current ballot to be received and accepted.

(4) ~~((The signature on the ballot declaration must be compared with the signature in the voter's voter registration file using the standards established in WAC 434-379-020. The signature on))~~ A ballot ~~((declaration))~~ may not be rejected merely because the ~~((signature))~~ ballot envelope is not dated, unless the date is necessary to validate the timeliness of the ballot. The signature on a ballot declaration may not be rejected merely because the name in the signature is a variation of the name on the voter registration record. ~~((The canvassing board may designate in writing representatives to perform this function. All personnel assigned to the duty of signature verification shall subscribe to an oath administered by the county auditor regarding the discharge of their duties. Personnel shall be instructed in the signature verification process prior to actually canvassing any signatures. Local law enforcement officials may instruct those employees in techniques used to identify forgeries.))~~

(5) Only service and overseas voters are eligible to return a ballot by fax or email. For ~~((service and overseas))~~ ballots returned by fax or email from service or overseas voters, the county auditor must apply procedures to protect the secrecy of the ballot.

(a) If returned by email, the county auditor must print the email and attachments; the printed email and signed declaration page must be processed and retained like other ballot declarations, and the printed ballot must be processed and retained like other ballots. The electronic versions of the email, ballot declaration, and ballot are exempt from public disclosure in order to maintain secrecy of the ballot. Voted service and overseas ballots returned by email may be returned with multiple attachments or in multiple emails.

~~((a))~~ (b) Service and overseas ballots returned by fax or email with a missing or mismatched signature are processed as established in RCW 29A.60.165 and WAC 434-261-050.

~~((b) Only service and overseas voters are eligible to return a ballot electronically.))~~

(6) For ~~((electronic))~~ faxed or emailed ballots received from voters who are not service or overseas voters the county auditor must:

~~((i))~~ (a) Contact the voter immediately if a ~~((fax*))~~ faxed or ~~((email))~~ emailed ballot is received to notify the voter that they must return their ballot by mail or ballot drop box.

~~((ii))~~ (b) Count only the ballot received by mail or ballot drop box if the voter returns both ~~((an electronic))~~ a faxed or emailed ballot and a ballot by mail or ballot drop box.

~~((iii))~~ (c) Send the ~~((electronic))~~ faxed or emailed ballot to the canvassing board for rejection if the voter did not return a ballot by mail or ballot drop box.

~~((6))~~ (7) The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board to ensure that order is maintained and to safeguard the integrity of the process.

OTS-4846.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-261-050 Unsigned ballot declaration or mismatched signatures.

OTS-4827.4

NEW SECTION

WAC 434-261-051 Standards for verifying ballot declaration signatures. (1) This regulation, together with WAC 434-261-052 and 434-261-053, describes the process for verifying that a signature on the ballot declaration is the voter's registration signature.

(2) At each stage of the signature verification process, there is a presumption that the signature on the ballot declaration is the voter's signature.

(3) When reviewing ballot declaration signatures, staff assigned to verify signatures shall consider the following criteria:

(a) Agreement in style and general appearance, including basic construction, skill, alignment, fluency, and a general uniformity and consistency between signatures;

(b) Agreement in the proportions of individual letters, height to width, and heights of the upper to lower case letters;

(c) Irregular spacing, slants, or sizes of letters that are duplicated in both signatures;

(d) Agreement of the most distinctive, unusual traits of the signatures;

(e) The ballot declaration signature is in the same format as the voter registration signatures, such as printed, in cursive, or another form;

(f) Agreement of individual characteristics, such as how "t's" are crossed, "i's" are dotted, or loops are made on letters;

(g) Agreement of initial strokes and connecting strokes of the signature;

(h) Agreement of similar endings, such as an abrupt end, a long tail, or loop back around;

- (i) Agreement of presence or absence of pen lifts;
 - (j) Agreement in the way names are spelled; and
 - (k) After considering the general traits, agreement of the most distinctive, unusual traits of the signatures.
- (4) When reviewing ballot declaration signatures that appear to contain discrepancies, staff verifying signatures should accept signatures if the appearance of a discrepancy can reasonably be explained by the following:
- (a) A shaky signature that could be health-related or the result of aging;
 - (b) The voter's use of a variation of the voter's full name, such as the use of initials, including or omitting a middle name, or substituting a middle name for a first name;
 - (c) A change in the voter's signature over time;
 - (d) A signature written in haste;
 - (e) A signature in the voter's registration file that was written with a stylus pen or other electronic signature tool, which may result in a thick or fuzzy quality;
 - (f) A writing surface that was hard, soft, uneven, or unstable;
 - (g) The voter has a limited history of fewer than three ballots returned; and
 - (h) Any other reasonable factor.
- (5) An agent, including someone acting under a power of attorney, cannot sign a ballot declaration on behalf of their principal.
- (6) If a voter inadvertently signs another voter's ballot declaration, but elections personnel can identify the correct voter and verify that voter's signature, the signature and the ballot must be accepted for the voter that signed the ballot declaration.
- (7) All staff verifying ballot declaration signatures must receive training on these signature verification standards before verifying ballot declaration signatures. They must attend the training at least once every two years. This applies to, but is not necessarily limited to, individuals performing the initial review, secondary review, and review of signatures as part of the cure process. Members of the county canvassing board are required to receive training except as exempted by RCW 29A.04.540.
- (8) The canvassing board may designate the county auditor or the county auditor's staff to perform the signature verification function. All personnel assigned to the duty of signature verification shall subscribe to an oath administered by the county auditor regarding the discharge of their duties.
- (9) The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board to ensure that order is maintained and to safeguard the integrity of the process.

NEW SECTION

WAC 434-261-052 Initial and secondary review of ballot declaration signatures. (1) When conducting an initial review of a ballot declaration signature, the county auditor must accept the signature under the following conditions:

- (a) The county auditor must accept the signature unless, considering the criteria in WAC 434-261-051 (3) and (4), the signature on

the ballot envelope has multiple, significant, and obvious discrepancies from all signatures in the voter's registration record; or

(b) If the voter is unable to sign their name as they are registered to vote, the signature must be accepted so long as the voter has made a mark, symbol, or signature stamp, and the ballot declaration includes two witness signatures.

(2) If the signature is not accepted following the initial review, the ballot declaration signature must be referred to a second review.

(a) A different person who has received signature verification training under WAC 434-261-051(7) must conduct the second review of the signature.

(b) If, considering the criteria in WAC 434-261-051 (3) and (4), the second reviewer determines that there are multiple, significant, obvious discrepancies from all signatures in the voter's registration record, the voter must be notified of the process to cure the signature;

(3) The county auditor may conduct additional reviews of ballot declaration signatures that have not yet been accepted. For example, if the county auditor becomes aware of reasonable explanations that should be considered under WAC 434-261-051(4), an additional review may be appropriate.

(4) Even if the ballot declaration signature appears to match the signature in the voter registration record, and notwithstanding any other provision, a ballot may be referred to the canvassing board if there is clear, objective evidence, beyond the signature itself, that a ballot declaration signature is fraudulent. This provision is intended to apply only very rarely, such as in instances of confessed forgery or similar circumstances. A person verifying signatures may refer a ballot declaration signature to the county auditor, and, if satisfied that the standard is met, the county auditor may refer the ballot to the canvassing board. The county auditor and the canvassing board may refer the matter to law enforcement.

(5) The county auditor may conduct the initial signature review by using an automated verification system approved by the secretary of state. If a signature is not accepted by the automated verification system, the county auditor must manually use the process described in this section.

(6) If two ballots are returned in one return envelope, ballots may be accepted in the following manner. In all other circumstances, the ballots must be referred to the canvassing board for rejection.

(a) If there is only one valid signature on the ballot declaration and the races and measures voted are the same on both ballots, the races and measures voted the same on both ballots may be counted once;

(b) If there are two valid signatures on the ballot declaration, both ballots may be counted in their entirety; or

(c) If there is one valid signature on the ballot declaration and the envelope contains one voted ballot and one blank ballot without marked votes, the voted ballot may be counted in its entirety.

NEW SECTION

WAC 434-261-053 Ballot declaration signature cure process. (1)

If a ballot declaration signature is not accepted following secondary

review, the voter used a mark or signature stamp but did not include witnesses, or if the ballot declaration was not signed, the ballot cannot be counted until the voter cures their signature. The voter identified on the ballot return envelope must be notified as soon as practicable, but no later than three business days following receipt, of the procedure for curing their signature by:

(a) A notice letter package sent by first class mail with a signature update form or a missing signature form. The forms must include the ballot declaration required by WAC 434-230-015. The notice letter package must also include a prepaid envelope in which to return a completed signature update or missing signature form. The notice letter must:

(i) Be in substantially the same form as the sample notice letter created by the secretary of state; and

(ii) Be available in all languages required by the Department of Justice.

(b) Phone (if the voter has provided a phone number);

(c) Text message (if the voter has opted into text message notifications); and

(d) Email (if the voter has provided an email address).

(2) The voter may cure their ballot signature no later than the close of business the day before the election is certified.

(3) A voter may cure a missing signature by:

(a) Returning a signed missing signature form. The signature on the form must be compared to the voter's signature in the voter registration record using the process described in WAC 434-261-052; or

(b) Appearing in person and signing the ballot declaration. The signature on the ballot declaration must be compared to the voter's signature in the voter registration record using the process described in WAC 434-261-052.

(4) A voter using a mark may cure a failure to have two witnesses attest to the ballot declaration signature by returning a missing signature form. The form must contain the voter's mark and the signatures of two witnesses.

(5) A voter may cure a nonmatching signature by either:

(a) Returning a signature update form or appearing in person and signing a new registration form.

(i) The signature on the form must be compared to the signature on the ballot declaration using the process described in WAC 434-261-052;

(ii) The signature on the form is saved as a new signature in the voter registration record for the current and future elections; or

(b) Providing valid secondary identity verification. The county auditor must verify the secondary identification is for the voter who signed the ballot declaration. Secondary identification may be:

(i) The last four digits of the voter's Social Security number or the voter's full driver's license number or state identity card number;

(ii) Photo identification, valid enrollment card of a federally recognized Indian tribe in Washington state, copy of a current utility bill or current bank statement, copy of a current government check, copy of a current paycheck, or a government document, other than a voter registration card, that shows both the name and address of the voter; or

(iii) A multifactor authentication code, from a system approved by the secretary of state, the county auditor sent to the voter's

phone number or email address that has previously been provided by the voter.

If a voter successfully provides secondary identity verification and confirms, orally or in writing, that the voter in fact returned the ballot, the ballot must be accepted unless two persons who have received signature verification training under WAC 434-261-051(7) conclude beyond a reasonable doubt that a person other than the voter signed the ballot declaration. This conclusion may be based on evidence including, but not limited to, other ballots in the same election bearing the same signature.

(6) If the registered voter asserts that the signature on the ballot declaration is not the voter's signature prior to 8:00 p.m. on election day, the voter may vote a provisional ballot.

(7) If the voter does not successfully cure their signature by close of business the day before certification of the election, the ballot must be sent to the canvassing board.

(8) A record must be kept of the process used to cure ballot envelopes with missing and mismatched signatures. The record must contain the date on which each voter was contacted, the notice was mailed, and the date on which each voter subsequently submitted a signature to cure the missing or mismatched signature.

OTS-4845.1

AMENDATORY SECTION (Amending WSR 12-14-074, filed 7/2/12, effective 8/2/12)

WAC 434-264-010 Recount. (1) A recount is the process for retabulating the votes, including write-ins, for a specific office or issue on all valid ballots cast in a primary or election.

(2) All questions of voter registration, voter qualification, and voter intent previously considered during the original count shall not be reconsidered during a recount. If a ballot has been duplicated in accordance with WAC 434-261-005, the duplicate shall be counted.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) Prior to beginning the recount, the county auditor shall exercise due diligence to confirm that all returned ballots have been identified and reconciled, and that no ballots have been erroneously omitted from the original count.

~~((4))~~ (5) If any ballots or votes are discovered during the recount process that were erroneously not counted or canvassed during the original count or during a previous recount, the ballots shall be presented to the county canvassing board in accordance with RCW 29A.60.050, and the county canvassing board shall determine whether such ballots are to be included in the recount.

OTS-4843.3

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

WAC 434-262-031 Rejection of ballots or parts of ballots. (1)

The disposition of provisional ballots is governed by WAC 434-262-032. The county canvassing board must reject any ballot cast by a voter who was not qualified to vote, or for other reasons required by law or administrative rule. A log must be kept of all voted ballots rejected, and must be included in the minutes of each county canvassing board meeting.

(2) Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

(a) ~~((Where two voted ballots are returned together:~~

~~(i) If the two ballots are returned with only one valid signature on the ballot declaration, the races and measures voted the same on both ballots may be counted once;~~

~~(ii) If the two ballots are returned with two valid signatures on the ballot declaration, both ballots may be counted in their entirety;~~

~~(iii) If two ballots are returned with one valid signature on the ballot declaration, one voted ballot and one blank ballot without marked votes, the voted ballot may be counted in its entirety.~~

~~(b))~~ Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent consistent with WAC 434-261-086;

~~((e))~~ (b) Where the voter has voted for candidates or issues for whom ~~((he or she))~~ the voter is not entitled to vote;

~~((d))~~ (c) Where the voter has overvoted;

~~((e))~~ (d) Where the ballot was created for a prior election;

(e) Where a ballot was submitted with a fraudulent signature; and

(f) Where the ballot signature did not match the voter registration signature or the signature was missing and the voter did not cure the signature by close of business the day before the election was certified.

OTS-4841.2

AMENDATORY SECTION (Amending WSR 19-12-115, filed 6/5/19, effective 7/6/19)

WAC 434-262-032 Provisional ballots—Disposition. Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the county auditor must investigate the circumstances surrounding the provisional ballot prior to certification of the primary or election. A voted ballot received from an unregistered voter, other than a service, overseas, or conditionally registered voter, is considered a provisional ballot. A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record. Once the provisional ballot has been investigated, disposition of the ballot is as follows:

(1) If the voter was previously registered ~~((and))~~, their voter registration was later canceled, and the auditor determines that the

cancellation was in error, the voter's registration must be immediately restored and the provisional ballot counted.

(2) If the voter was previously registered ~~((and))~~, their voter registration was later canceled, and the auditor determines that the cancellation was not in error, register the voter and count the ballot.

(3) If a registered voter has voted a ballot for a previous address, the auditor must ensure that only those votes for the positions and measures for which the voter was eligible to vote are counted.

(4) If the voter is registered in another county, the auditor shall immediately forward the ballot to the elections official for the jurisdiction in which the voter is registered. The provisional ballot must be forwarded within seven calendar days after a primary or special election and ~~((fourteen))~~ 14 calendar days after a general election, and as soon as possible if past that date.

(5) If the voter voted a regular ballot and a provisional ballot, the provisional ballot is not counted if the regular ballot has already been counted. The regular ballot is not counted if the provisional ballot has already been counted.

(6) If the voter voted a provisional ballot because ~~((he or she))~~ the voter failed to produce identification at a voting center, the ballot is counted if the signature on the envelope matches the signature in the voter registration record, using the standards and processes set forth in WAC 434-261-051 through 434-261-053.

(7) If the voter voted a provisional ballot because the voter is provisionally registered and the voter's registration record is still flagged as requiring verification of identity, the provisional ballot is not counted.

(8) Provisional ballots voted for reasons not covered by this section or state statute must be determined by the county canvassing board.

OTS-4844.1

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

WAC 434-324-111 Voluntary cancellation of voter registration. A voter may cancel their own voter registration by submitting a signed written notification to the auditor for the county in which the voter is registered to vote. Prior to cancellation of such a registration record, the auditor must ensure the signature on the notification matches the signature in the voter registration file by utilizing criteria outlined in WAC ~~((434-379-020))~~ 434-261-051. A county auditor may not process a voluntary cancellation between the deadline in RCW 29A.08.140 for updating a registration and certification of the primary or election.

A participant in the future voter program established under RCW 29A.08.170 may be removed from the program by submitting a signed written notification to the auditor for the county in which they live. The auditor shall process the notification in the same manner as other voluntary cancellations.

WSR 24-03-158
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed January 24, 2024, 7:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-05-008.

Title of Rule and Other Identifying Information: WAC 181-79A-257
Military servicemembers or spouse licensure.

Hearing Location(s): On March 21, 2024, at 8 a.m., in SeaTac, Washington. Exact meeting location and a link to listen to the meeting virtually will be available several weeks prior to the meeting. More information regarding this can be found on our website <https://www.pesb.wa.gov/about-us/board-meetings/>.

Date of Intended Adoption: March 21, 2024.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8 a.m. on Monday, March 18, 2024.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb.k12.wa.us, by Thursday, March 7, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update WAC with new language to align with federal licensing guidelines for military servicemembers or their spouses.

Reasons Supporting Proposal: Federal rules require adoption of [the proposal] to align state policy.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

Rule is necessary because of federal law, 50 U.S.C. 4025a.

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Nguyen, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-489-4471; Implementation: Jeffrey Youde, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-870-0143; and Enforcement: Erica Hernandez-Scott, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-2443.

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

A cost-benefit analysis is not required under RCW 34.05.328.

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

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

Scope of exemption for rule proposal:

Is fully exempt.

January 24, 2024
Michael Nguyen
Rules Coordinator

OTS-4376.3

AMENDATORY SECTION (Amending WSR 21-19-131, filed 9/21/21, effective 10/22/21)

WAC 181-79A-257 Out-of-state candidates. Candidates for certification from other states who meet the general certificate requirements described in WAC 181-79A-150 (1) and (2), and the specific requirements for the certificate being sought in chapter 181-77 or 181-79A WAC including, but not limited to, degree, continuing education credit hours, and certification/licensure, shall be eligible for Washington certificates as follows:

(1) **Residency or initial certificates.** The residency or initial certificate shall be issued by the superintendent of public instruction to any candidate who meets requirements for the certificate including testing requirements as described in RCW 28A.410.220, and chapters 181-01 and 181-02 WAC, and who meets one of the following:

(a) Has completed a state approved preparation program in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 181-79A-150(4). Such programs shall include a defined course of study and a supervised internship.

(b) If a candidate for teacher, administrator, or educational staff associate certification does not meet the qualifications described in (a) of this subsection, a residency or initial certificate shall be issued to a candidate who holds or has held a certificate in the role, comparable to a residency or initial certificate, issued by another state and has practiced at the P-12 level in the role outside the state of Washington for at least three years.

(c) Holds an appropriate degree from an accredited college or university and has practiced three years as an educational staff associate in that role in a state where such certificate was not required.

(d) Holds a valid Nationally Certified School Psychologist (NCSP) credential issued by the National Association of School Psychologists (NASP); and applies for a residency educational staff associated school psychologist certificate.

(2) **Professional certificate.** The professional certificate shall be issued to out-of-state candidates if the candidate meets requirements for the initial or residency certificate including testing requirements as described in RCW 28A.410.220 and chapters 181-01 and 181-02 WAC, meets the issues of abuse or emotional or behavioral distress requirement as described in WAC 181-79A-200, and if one of the following conditions is met:

(a) The candidate has completed an advanced level certification procedure approved by the professional educator standards board as equivalent to the approved program procedure required in Washington; or

(b) The candidate holds a valid teaching certificate issued by the National Board for Professional Teaching Standards; or

(c) The candidate holds a valid school counselor certificate issued by the National Board for Professional Teaching Standards.

(3) **Military servicemembers and spouses of military servicemembers.**

(a) A residency, initial, or professional certificate shall be issued by the superintendent of public instruction to any candidate who holds a valid certificate in the role, comparable to a residency, initial, or professional certificate, who:

(i) Is a military servicemember or spouse of a military servicemember; and

(ii) Remains in good standing with the licensing authority that issued the certificate, and with every other licensing authority that has issued the servicemember or the spouse of a servicemember a license valid at a similar scope of practice.

(b) Under RCW 18.340.020 out-of-state candidates who are military spouses shall receive expedited issuance of the appropriate certificate within 30 days of receiving a completed application in accordance with this section.

(4) (a) Out-of-state candidates must meet the assessment requirements per chapters 181-01 and 181-02 WAC. Equivalent assessments will be published by the board.

(b) Military servicemembers or spouses of military servicemembers issued certificates under subsection (3) (a) of this section are considered to have met assessment requirements per chapters 181-01 and 181-02 WAC.

(5) Out-of-state candidates for educational staff associate certificates under WAC 181-79A-223 are considered to have met the requirement for the professional transitions to public schools course work provided they meet one or more of the following:

(a) Have completed a state-approved program as an educational staff associate in the role; or

(b) Hold or have held a certificate in the role, comparable to a residency or initial certificate, issued by another state and have practiced at the P-12 school level in the role outside the state of Washington for at least three years; or

(c) Hold an appropriate degree from an accredited college or university and have practiced three years as an educational staff associate in that role in a state where such certificate was not required.

WSR 24-03-159
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed January 24, 2024, 7:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-21-039.

Title of Rule and Other Identifying Information: WAC 181-78A-105
Procedures for initial approval of an educator preparation program.

Hearing Location(s): On March 21, 2024, at 8 a.m., in SeaTac, Washington. Exact meeting location and a link to listen to the meeting virtually will be available several weeks prior to the meeting. More information regarding this can be found on our website <https://www.pesb.wa.gov/about-us/board-meetings/>.

Date of Intended Adoption: March 21, 2024.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8 a.m., Monday, March 18, 2024.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by Thursday, March 7, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The new WAC language changes the name of "27 month review" to "initial review" and also addresses the barrier to the school counselor preparation program approval timeline.

Reasons Supporting Proposal: To address the barrier for the school counselor and school psychologist preparation program approval and review process/timeline.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

Rule is necessary because of federal law, 50 U.S.C. 4025a.

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Nguyen, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-489-4471; Implementation: Jeffrey Youde, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-870-0143; and Enforcement: Erica Hernandez-Scott, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-2443.

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

A cost-benefit analysis is not required under RCW 34.05.328.

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

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

Scope of exemption for rule proposal:

Is fully exempt.

January 24, 2024
Michael Nguyen
Rules Coordinator

OTS-5108.2

AMENDATORY SECTION (Amending WSR 21-20-052, filed 9/28/21, effective 10/29/21)

WAC 181-78A-105 Procedures for initial approval of an educator preparation program. A prospective provider desiring to establish a preparation program shall comply with the following:

(1) Notification of intent. Prospective providers must submit the appropriate form, published by the professional educator standards board, declaring an intent to apply for approval to offer an educator preparation program or a new educator certification program.

(a) The notification of intent will be posted on the board website as public notice.

(b) The board will contact the prospective provider to begin the preproposal process.

(2) Preproposal. The prospective provider will develop and submit a preproposal that addresses all requirements approved and published by the board including evidence of necessary capacity, resources, and projected sustainability of the program. After board staff verify the preproposal is complete, the preproposal will be brought to the board.

(3) Final proposal. The prospective provider may be approved to develop a final proposal or the preproposal may be denied.

(a) If denied, the provider may resubmit its preproposal informed by suggestions of the board.

(b) If the preproposal is approved by the board, the prospective provider must develop and submit a written plan which addresses all final proposal elements including domains, components, and other program approval requirements contained in chapter 181-78A WAC and published by the board, including letters of support from partner districts and/or community agencies as evidence of how the program will meet Washington educator workforce needs.

(c) Final proposals submitted by prospective providers of school counselor preparation programs shall include evidence of seeking accreditation as soon as eligible by the council for the accreditation for counseling and related education programs.

(d) Final proposals submitted by prospective providers of school psychologist programs shall include evidence of seeking accreditation by the National Association for School Psychologists.

(4) After reviewing a prospective provider's final program proposal, the board may approve or deny the program approval:

(a) The program may be approved in a specific location(s) for an initial approval period of up to (~~twenty-seven~~) 27 months following the beginning of instruction. The prospective provider must notify the board when instruction has begun. If initial approval is denied, the prospective provider may resubmit a revised plan informed by suggestions given by the board and its staff.

(b) School counselor and school psychologist programs: Approve the program for a time period to align with their respective national association approvals.

(5) Prior to the expiration of initial approval, staff of the board shall conduct a site visit to determine if the program is in full compliance and performance aligned with the state approval requirements. This includes a review of all applicable indicators and domain components for the type of program.

(a) The (~~twenty-seven-month~~) initial review is a formal review to evaluate recently approved educator preparation programs and consider them for continued approval.

(i) The formal review will incorporate the following elements:

(A) The board shall determine the schedule for formal reviews and the forms of documentation and validation that will be used for evaluation.

(B) Preparation program providers will submit requested evidence to the staff of the board.

(C) A review team will review the evidence and request additional information including information provided through documents and interviews with program provider staff or affiliates as needed. One board staff member will serve as chair on the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include ~~((one))~~ one member of the ~~((programs))~~ program's professional educator advisory board, one P-12 practitioner with expertise related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members must be identified individuals with expertise related to the domains of practice and standard components identified in annual written program feedback analyses.

(ii) The ~~((twenty-seven-month))~~ initial review team will use multiple data sources to address the specific goals listed in this section.

(A) The ~~((twenty-seven-month))~~ initial review team and the preparation program provider will use annual performance indicator data available at the time of review. Performance of programs on board approved indicators will be used by the review team to write the review report and by the board in consideration of the program's continued approval status.

(B) The ~~((twenty-seven-month))~~ initial review team and the preparation program provider will use evidence compiled by the provider that demonstrates performance aligned with all program standards and requirements. Programs' demonstration of upholding board approved standards and requirements will be used by the review team to write the review report and will be used by the board in consideration of continued approval status. Staff of the board will offer program providers guidance regarding the evidence required, how it may be gathered and used, and how it must be submitted.

(C) The ~~((twenty-seven-month))~~ initial review team and the preparation program provider will evaluate whether and to what degree the provider of the program under review has implemented the program in alignment with the goals and design for which it was approved. Fidelity to approved program designs and outcomes will be used by the review team to write the review report and by the board in consideration of continued approval status.

(D) The ~~((twenty-seven-month))~~ initial review team and the preparation program provider will evaluate whether and to what degree the provider of the program under review has demonstrated continuous improvement in its implementation and outcomes. Providers' ability to demonstrate continuous improvement in processes and outcomes will be used by the review team to write the review report and by the board in consideration of continued approval status.

(iii) Following the review, the review team will provide a report identifying any areas of practice in which program performance is out of alignment with standards and requirements.

(A) The report may also verify or contradict that the approved indicators or thresholds are functioning as intended.

(B) The review team's report and other appropriate documentation will be submitted to the provider and the board within six months of the formal ~~((twenty-seven-month))~~ initial review.

(C) Providers may submit a reply to the review team report within three weeks following receipt of the report. The board shall publish the process for submitting and reviewing the reply.

(D) In considering the review team's report, the board may request additional information for review, or take action to extend or change the educator preparation program's approval status.

(iv) Based upon the review team's report, the program provider's response, and any subsequent requests for information, as applicable, the board shall take one of the following actions:

(A) The board shall give full approval as described in WAC 181-78A-110 (1)(a).

(B) Limited approval as described in WAC 181-78A-110 (1)(b).

(C) Disapproval as described in WAC 181-78A-110 (1)(c).

(v) The board's staff may provide technical assistance to providers to help them improve their performance as described in WAC 181-78A-110 (1)(b)(iv).

(b) A provider may request a hearing in instances where it disagrees with the professional educator standards board's decision. This request must be made within (~~twenty~~) 20 days from the decision date. The hearing will be conducted through the office of administrative hearings by an administrative law judge under chapter 34.05 RCW. The provider seeking a hearing will provide a written request to the board in accordance with WAC 10-08-035.

WSR 24-03-160
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed January 24, 2024, 7:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-21-040.

Title of Rule and Other Identifying Information: WAC 181-82A-208
Specialty endorsements and educator certificates.

Hearing Location(s): On March 21, 2024, at 8 a.m., in SeaTac, Washington. Exact meeting location and a link to listen to the meeting virtually will be available several weeks prior to the meeting. More information regarding this can be found on our website <https://www.pesb.wa.gov/about-us/board-meetings/>.

Date of Intended Adoption: March 21, 2024.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8 a.m., Monday, March 18, 2024.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by Thursday, March 7, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The new WAC will add adapted physical education (PE) as a specialty endorsement to the state system along with prerequisite as to who can hold this specialty endorsement.

Reasons Supporting Proposal: PESB approved of adding adapted PE specialty endorsement to the state system as well as prerequisites as to who can hold this specialty endorsement.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

Rule is necessary because of federal law, 50 U.S.C. 4025a.

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Nguyen, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-489-4471; Implementation: Jeffrey Youde, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-870-0143; and Enforcement: Erica Hernandez-Scott, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-2443.

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

A cost-benefit analysis is not required under RCW 34.05.328.

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

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

Scope of exemption for rule proposal:

Is fully exempt.

January 24, 2024
Michael Nguyen
Rules Coordinator

OTS-5109.1

AMENDATORY SECTION (Amending WSR 21-20-047, filed 9/28/21, effective 10/29/21)

- WAC 181-82A-208 Specialty endorsements and educator certificates.** (1) The following specialty endorsements may only be added to an existing endorsed teacher certificate:
- (a) Environmental and sustainability education.
 - (b) Teacher of the visually impaired. Upon adoption of a content knowledge assessment by the professional educator standards board, teacher of the visually impaired will be available as an endorsement. Until adoption, teacher of the visually impaired will be available as a specialty endorsement.
 - (c) Gifted education.
 - (d) Elementary mathematics specialist.
 - (e) Adapted physical education. Only teachers holding a health/fitness, special education, early childhood special education, deaf education, deaf education with American sign language (ASL) proficiency, or teacher of the visually impaired endorsement may add the adapted physical education specialty endorsement.
 - (f) Other specialty endorsements as approved by the professional educator standards board.
- (2) The following specialty endorsements may be added to an existing administrator certificate, educational staff associate certificate, or endorsed teacher certificate:
- (a) Elementary computer science.
 - (b) Secondary computer science.
 - (c) Other specialty endorsements as approved by the professional educator standards board.
- (3) Providers approved by the professional educator standards board may recommend a candidate for a specialty endorsement to the superintendent of public instruction.