

**WSR 24-05-003**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)  
[Filed February 8, 2024, 8:23 a.m., effective March 10, 2024]

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

Purpose: The department of social and health services (department) is amending WAC 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540 and 388-115-05410; and repealing WAC 388-112A-0130 in response to and in compliance with E2SHB 1694 (chapter 424, Laws of 2023) passed during the 2023 legislative session. The changes bring the rules into compliance with that law. Changes include the definition of "date of hire," clarification on when the date of hire may be reset, and additional family relationships related to long-term care worker training and continuing education requirements. Changes related to numerical representation, consistency, and inclusive language are also included. These rules are in place by emergency filing. When effective, this permanent adoption will supersede the emergency rules.

Citation of Rules Affected by this Order: Repealing WAC 388-112A-0130; and amending WAC 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540, and 388-115-05410.

Statutory Authority for Adoption: RCW 18.88B.021, 18.88B.041, 18.88B.060, 74.08.090, 74.39A.076, and 74.39A.341.

Adopted under notice filed as WSR 23-23-043 on November 6, 2023.

A final cost-benefit analysis is available by contacting David Chappell, P.O. Box 45600, Lacey, WA 98504-5600, phone 360-735-3516, email david.chappell@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 21, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 1.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 21, Repealed 1.

Date Adopted: February 8, 2024.

Lisa N. H. Yanagida  
Chief of Staff

**SHS-4990.8**

AMENDATORY SECTION (Amending WSR 22-19-048, filed 9/15/22, effective 10/16/22)

**WAC 388-71-0523 What are the training and certification requirements for individual providers and home care agency long-term care workers?** The following chart provides a summary of the training and certification requirements for individual providers and home care agency long-term care workers (~~(, including)~~). This includes criteria for those providers working limited hours for one person, caring only for one's child, (~~(or)~~) parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, (~~(and)~~) providing respite services (~~(only)~~), or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, CN-A, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. <u>For NA-C and those with special education training 12 hours is required for each year worked in long-term care.</u>	<del>((Not required. Must maintain in good standing the certification or credential of other professional role listed in WAC 388-71-0839))</del> <u>Required under chapter 246-980 WAC.</u>
(2) An individual provider or home care agency long-term care worker with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of <del>((his or her))</del> hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	<u>12 hours is required for each year worked in long-term care ((Required. 12 hours))</u> under WAC 388-71-0990 and 388-71-0991.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(3) An individual provider or home care agency long-term care worker.	Hired by a licensed home care agency or the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. 12 hours under WAC 388-71-0990 and 388-71-0991.	((Home care aide certification required under WAC 388-71-0975. Home care aide certification required under WAC 388-71-0975 within 200 days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065))) Required under chapter 246-980 WAC.
(4) An individual provider who works limited hours for one person.	((Contracted individual)) An individual provider employed by the consumer directed employer providing 20 hours or less of nonrespite care for one person per calendar month and does not meet the criteria in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
<p><del>[(5)]</del> An individual who provides <del>((only))</del> respite services and works 300 hours or less in any calendar year.</p>	<p>(a) An individual providing <del>((only))</del> respite care who <del>((and))</del> works no more than 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection <del>((7))</del> (6) of this section.                      (b) Individual providing <del>((only))</del> respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. <del>((Seven))</del> <u>Nine</u> hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>
<p>(6) An individual provider caring only for <del>((his or her))</del> <u>the provider's biological, step, or adoptive adult child.</u></p>	<p>An individual providing care only for <del>((his or her))</del> <u>the provider's adult child that receives services through the developmental disabilities administration and not exempt under subsection (1) or (2) of this section.</u></p>	<p>Required. Two hours per WAC 388-71-0895.</p>	<p>Required. Three hours under WAC 388-71-0895.</p>	<p>Required. Seven hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(7) An individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive child, or parent.	An individual providing care <u>only</u> to <del>(his or her)</del> the individual's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	<del>(Required for an)</del> <u>12 hours is required for each year worked in long-term care for an individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive <del>(child or)</del> parent under WAC 388-71-0990 and 388-71-0991.</u> Not required for an individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive child under WAC 388-71-1001.	Not required.
(8) An individual provider caring only for the provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.	An individual providing care <u>only</u> for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet the criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
(9) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.	A long-term care worker providing approved services <u>only</u> for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 22-10-024, filed 4/25/22, effective 5/26/22)

**WAC 388-71-0836 What definitions apply to the long-term care worker training requirements?** The following definitions apply to the long-term care worker training requirements:

(1) **"Activities of daily living"** means self-care abilities related to personal care such as bathing, eating, using the toilet, medication assistance, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Care team"** means the client and everyone involved in (~~his or her~~) the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the client's well-being. However, the client directs the care plan.

(3) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed and may only be used when basic training is not required.

(4) **"Client"** means an individual receiving in-home services.

(5) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing training in a required topic area. Learning objectives are associated with each competency.

(6) **"Competency testing"** means evaluating a student to determine if (~~he or she~~) the student can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training, and the specialty and expanded specialty trainings. Training programs may integrate competency testing within (~~their~~) each program's approved curricula.

(7) **"Core basic training"** means the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

(8) **"Date of hire"** for determining time frames related to training and certification, means the (~~date of hire as described in chapter 246-980 WAC~~) first day the long-term care worker is employed by any employer.

(9) **"DDA"** refers to the developmental disabilities administration.

(10) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes client care workers).

(11) **"Department"** or **"DSHS"** means the department of social and health services.

(12) **"Enhancement"** means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements can include new student materials, videos or DVDs, online materials, and additional student activities.

(13) **"Expanded specialty training"** means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(14) **"Guardian"** means an individual as defined in chapter ~~((11.88))~~ 11.130 RCW.

(15) **"Home care aide"** or **"certified home care aide"** means a long-term care worker who has obtained and maintains a home care aide certification through the department of health.

(16) **"Hybrid"** means a combination of online training and in-person, remote, or virtual classroom instruction.

(17) **"Individual provider"** or **"IP"** means a person (~~(who has contracted with the department)~~) employed by the consumer directed employer to provide personal care or respite care services to persons with functional disabilities under a medicaid state plan program, such as the medicaid personal care or community first choice programs, ~~((or))~~ under a federal medicaid waiver program, or through the veteran directed home care (VDHC) program.

(18) **"Learning objectives"** means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum developers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

(19) **"Long-term care worker"** means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

(20) **"Online training"** means a course taken through an automated, asynchronous learning management system or other technology that conforms to the online training standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>.

(21) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living that are provided to the client.

(22) **"Remote skills training"** means training conducted in a virtual classroom environment, or online when a student either demonstrates a skill live or provides a video recorded file of themselves performing a skill that is forwarded for feedback to an approved instructor or a proctor trained by an approved instructor, or both. A training program must be approved by DSHS to provide remote skills training.

(23) **"70-hour home care aide training"** means the 70 hours of required training that a new long-term care worker must complete within 120 days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(24) **"Specialty training"** means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.

(25) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum. Training entities may only deliver approved curriculum.

(26) **"Training partnership"** means a joint partnership or trust that includes the office of the governor, and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

(27) **"Virtual classroom"** means a synchronous, instructor-led, remote learning environment conducted in real time that conforms to the virtual classroom standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>. A training program must be approved by DSHS to provide virtual classroom instruction.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0837 How does DSHS determine a long-term care worker's date of hire and when may a long-term care worker be eligible to have the date of hire reset?** (1) The department determines a long-term care worker's date of hire according to ~~((chapter 246-980 WAC))~~ the first day the long-term care worker is employed by any employer.

(2) The date of hire is specific to each long-term care worker. ~~((It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-71-0980.))~~ A long-term care worker, including an individual or agency provider who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, and a worker who is not currently certified or eligible to reactivate an expired credential, shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) This section does not apply to background check requirements under this chapter.



AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0839 Which long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour basic training requirements?** The following long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour (~~home care aide~~) basic training requirement:

- (1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;
- (2) An individual previously employed as a long-term care worker who completed the basic training requirements in effect on the date of hire, and was employed as a long-term care worker at some point between January 1, 2011, and January 6, 2012;
- (3) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW;
- (4) Nursing assistants certified under chapter 18.88A RCW and persons in an approved training program for certified nursing assistants under chapter 18.88A RCW provided that they complete the training program within 120 days of the date of hire and the department of health has issued a nursing assistant certified credential within 200 days of the date of hire;
- (5) A home health aide who was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R., Sec. 484.36;
- (6) An individual with special education training who has an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and
- (7) A home care aide (HCA) certified under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0875 Who must complete the 70-hour basic training and by when?** Unless exempt from training in WAC 388-71-0839(1) through (7), all long-term care workers must complete core and population specific competencies within 120 days of the date of hire as described in (~~chapter 246-980~~) WAC 388-71-0837.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0880 Who must ~~((take))~~ complete the ~~((thirty))~~ 30-hour basic training and by when must it be completed?** Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), the following individuals must ~~((take))~~ complete the ~~((thirty))~~ 30-hour basic training under WAC 388-71-0885 within 120 days of the date of hire as described in WAC 388-71-0837:

- (1) An individual provider who only cares for that provider's:
  - ~~((i))~~ (a) (~~Cares for his or her~~) biological, step, or adoptive child, or parent; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(2) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs; or

~~((ii))~~ (3) ((Provides)) A long-term care worker who provides no more than ((twenty)) 20 hours of nonrespite care for one person who is not the individual provider's:

(a) biological, step, or adoptive child, or parent((-)); or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

~~((2) An individual who provides only respite services to clients not covered under title 71A RCW, works three hundred hours or less in any calendar year and is not exempt from basic training under WAC 388-71-0839.))~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0888 When do the ((seventy)) 70-hour basic training and certification requirements apply to an individual whose required basic training was previously less than ((seventy)) 70 hours?** (1) The following individual providers ((eligible for limited training under WAC 388-71-0880 and 388-71-0893, who begin to work for a second client who is not)) must complete 70 hours of basic training and become a certified home care aide under WAC 388-71-0523:

(a) Individual providers who previously provided no more than 20 hours of nonrespite care in any calendar month for one person who is not the provider's:

(i) ((their)) biological, step, or adoptive child or parent((-));  
~~((or))~~

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs;

(A) who continue to work for one unrelated client whose authorized monthly hours fluctuate above 20 hours per month; or

(B) who begin to work for a second client.

(b) Individual providers who provide respite services and worked more than 300 respite hours in any calendar year;

(c) Individual providers who begin working for an unrelated client who previously only provided personal care to the provider's:

(i) biological, step, or adoptive child, or parent; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.

~~((continue to work for one client whose authorized monthly hours fluctuate above twenty hours per month must:~~

- ~~(a) Complete the seventy hours of basic training; and  
(b) Become a certified home care aide under WAC 388-71-095.))~~

(2) When an IP described in subsection (1) of this section is required to complete the 70-hour basic training and become a certified home care aide, the IP will:

(a) Have 120 days from the date of the change to complete the 70-hour basic training and 200 days from the date of the change to become certified; and

(b) Be required to complete continuing education under WAC 388-71-0990.

~~((2) Individual providers who provide only respite services and worked more than three hundred hours in any calendar year must complete the seventy hours of basic training and become a certified home care aide.))~~

(3) For the purpose of this section, the date of the change means the date on which the IP:

(a) Began working for a client that is not the individual's:

(i) biological, step, or adoptive child, or parent; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

(b) Exceeded 20 hours of work in one month; or

(c) Exceeded 300 respite hours in one calendar year.

~~((3) Individual providers who previously only provided personal care to their biological, step, or adoptive child or parent through DDA or HCS who begin working for an unrelated client must complete the seventy hour basic training and become a certified home care aide.))~~

(4) If an IP is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to 20 or fewer hours;

(b) The individual no longer works for more than one unrelated client; or

(c) The individual works 300 or fewer respite hours in a calendar year.

~~((4) When an IP described in subsections (1), (2), or (3) of this section is required to complete the seventy hour basic training and become a certified home care aide, the IP will:~~

~~(a) Have one hundred twenty days from the date of the change to complete the seventy hour basic training and two hundred days from the date of the change to become certified; and~~

~~(b) Be required to complete continuing education under WAC 388-71-0990.))~~

(5) The training and certification requirements for an individual that met the criteria in subsection (4) of this section does not apply if the individual returns to work only for the individual's:

(a) biological, step, or adoptive parent, or adult child,

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(c) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

~~((5) For the purpose of this section, the date of the change means the date on which the IP:~~

~~(a) Began working for a client that is not his or her biological, step or adoptive child or parent;~~

~~(b) Exceeded twenty hours of work in one month; or~~

~~(c) Exceeded more than three hundred respite hours in one calendar year.~~

~~(6) If an IP is required to or chooses to become a certified home care aide and completes the seventy hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain his or her credential and complete continuing education requirements even if:~~

~~(a) The monthly authorized hours are later reduced to twenty or fewer hours;~~

~~(b) He or she no longer works for a second unrelated client; or~~

~~(c) The individual works less than three hundred respite hours in a calendar year.~~

~~(7) The training and certification requirements for an individual that met the above criteria in subsection (6) does not apply if the individual returns to work only for his or her biological, step, or adoptive parent or adult child.)~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0893 Who must ~~((take))~~ complete the nine-hour basic training and by when must it be completed?** (1) Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), an individual provider must ~~((take))~~ complete orientation and safety training and nine hours of training within 120 days of the date of hire as described in WAC 388-71-0837 if ~~((he or she))~~ the provider meets the following criteria:

(a) Provides ~~((only))~~ respite services for individuals with developmental disabilities receiving services under Title 71A RCW; and

(b) Works ~~((three hundred))~~ 300 hours or less of respite in any calendar year.

(2) The individual provider must complete the orientation and safety training before providing care.

(3) The training partnership identified in RCW 74.39A.360 must offer at least ~~((twelve))~~ 12 of the ~~((fourteen))~~ 14 total hours online and five of these online hours must be individually selected from elective courses.

(4) An individual must complete the nine hours basic training required under this section within ~~((one hundred twenty))~~ 120 days of the long-term care worker's date of hire.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0975 Who is required to obtain certification as a home care aide, and by when?** In order to be authorized to provide department paid in-home services, all long-term care workers must obtain home care aide certification as provided in chapter 246-980 WAC unless exempt for the 70-hour basic training as described in WAC 388-71-0875.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0977 Once an individual is required to obtain certification as a home care aide, may that individual revert to exempt status?** (1) If an individual is required to or chooses to become a certified home care aide and completes the ~~((seventy))~~ 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain ~~((his or her))~~ the credential and complete continuing education requirements even if:

- (a) The monthly authorized hours are later reduced to ~~((twenty))~~ 20 or fewer hours;
- (b) ~~((He or she))~~ The individual no longer works for a second unrelated client; or
- (c) The individual works 300 ~~((less than three hundred))~~ respite hours or less in a calendar year.

(2) The training and certification requirements for an individual that met the ~~((above))~~ criteria in subsection (1) of this section does not apply when the individual returns to work only for ~~((his or her))~~ the individual's:

- (a) biological, step, or adoptive parent, or adult child((-)); or
- (b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or
- (c) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0980 ((May)) When may a home care agency or client employ a long-term care worker who has not completed the 70-hour basic training or certification requirements?** (1) If an individual has previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, and ~~((74.39A.096))~~ 74.39A.076, and this chapter, a home care agency or client must not employ the individual to work as a long-term care worker until the individual has completed the required training certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The date of hire may be reset according to ~~((chapter 246-980))~~ WAC 388-71-0837.

(3) Unless exempt from the 70-hour basic training as described in WAC 388-71-0875, individuals who meet the criteria in subsection (2) of this section are allowed a new 120 days to complete the 70-hour home care aide basic training and a new 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (2) of this section must submit a new application and fee to the department of health.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-1001 Which long-term care workers are exempt from the continuing education requirement?** Continuing education is not required for any of the following:

(1) Individual providers caring only for the provider's:

(a) ~~((their))~~ biological, step, or adoptive child; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(2) Individual providers that:

(a) Provide ~~((care to only one person and provide))~~ no more than 20 hours of nonrespite care in any calendar month to only one person who is not the provider's: ~~((or))~~

(i) biological, step, or adoptive child; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(b) ~~((Individual providers who only))~~ Provide respite services and work 300 hours or less of respite in any calendar year;

(3) Before January 1, 2016, a long-term care worker employed by a community residential service business; and

(4) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 22-10-024, filed 4/25/22, effective 5/26/22)

**WAC 388-112A-0010 What definitions apply to this chapter?** The following definitions apply to this chapter:

(1) **"Activities of daily living"** means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, medication assistance, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Adult family home training network"** means a nonprofit organization established by the exclusive bargaining representative of adult family homes designated under RCW 41.56.026 with the capacity to provide training, workforce development, and other services to adult family homes.

(3) **"Applicant"** means:

- (a) An individual who is applying for an adult family home license;
- (b) An individual with an ownership interest in a partnership, corporation, or other entity that is applying for an adult family home license; or
- (c) An individual who is applying for an enhanced services facility license.
- (4) **"Capable caregiving training"** means the DSHS developed training curricula in dementia and mental health that will be available in three class levels. The level one series of the class in both dementia and mental health meets the requirements under RCW 18.20.270 and RCW 70.128.230 for specialty training. The level two and level three capable caregiving classes, when developed in both topics, may be completed for continuing education credits.
- (5) **"Care team"** includes the resident and everyone involved in ~~((their))~~ the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the resident's well-being. However, the resident directs the service plan when able.
- (6) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed.
- (7) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.
- (8) **"Competency testing"** including challenge testing, evaluates a student to determine if they can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course.
- (9) **"Core basic training"** is the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.
- (10) **"Date of hire"** for determining time frames related to training and certification ~~((r))~~ means ~~((date of hire according to chapter 246-980 WAC))~~ the first day the long-term care worker is employed by any employer.
- (11) **"DDA"** means the developmental disabilities administration.
- (12) **"Designee"** means a person in an assisted living facility or enhanced services facility who supervises long-term care workers and is designated by an assisted living facility administrator or enhanced services facility administrator to take the trainings in this chapter required of the facility administrator. An assisted living facility or enhanced services facility administrator may have more than one designee.
- (13) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes direct care workers).
- (14) **"Direct supervision"** means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or has been exempted from the basic training requirements, and is on the premises and quickly available to the caregiver.
- (15) **"DSHS"** or **"department"** means the department of social and health services.

(16) "**Enhancement**" means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements may include new student materials, videos or DVDs, online materials, and additional student activities.

(17) "**Entity representative**" means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

(18) "**Expanded specialty training**" means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(19) "**Guardian**" means an individual as defined in chapter ~~(11.88)~~ 11.130 RCW.

(20) "**Home**" means adult family homes, enhanced services facilities, and assisted living facilities.

(21) "**Home care aide certified**" or "**home care aide**" means a person who obtained and maintains a home care aide certification through the department of health.

(22) "**Hybrid**" means a combination of online training and in-person, remote, or virtual classroom instruction.

(23) "**Indirect supervision**" means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or was exempted from basic training requirements, and who is quickly and easily available to the long-term care worker, but not necessarily on-site.

(24) "**Learning objectives**" means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing.

(25) "**Long-term care worker**" means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.



(26) **"Online training"** means a course taken through an automated, asynchronous learning management system or other technology that conforms to the online training standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>.

(27) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living, which is provided to meet the resident's care needs.

(28) **"Provider"** means any person or entity licensed by the department to operate an adult family home, enhanced services facility, or assisted living facility, or any person or entity certified by the department to provide instruction and support services to meet the needs of persons receiving services under Title 71A RCW.

(29) **"Remote skills training"** means training conducted in a virtual classroom environment, or online when a student either demonstrates a skill live or provides a video recorded file of themselves performing a skill that is forwarded for feedback to an approved instructor or a proctor trained by an approved instructor, or both. A training program must be approved by DSHS to provide remote skills training.

(30) **"Renewal period"** means the certification renewal period as defined in WAC 246-12-010.

(31) **"Resident"** means a person residing and receiving long-term care services at an assisted living facility, enhanced services facility, or adult family home. As applicable, "resident" also means the resident's legal guardian or other surrogate decision maker.

(32) **"Resident manager"** means a person employed or designated by the provider to manage the adult family home who meets the requirements in WAC 388-76-10000 and this chapter.

(33) **"Routine interaction"** means regular contact with residents.

(34) **"70-hour home care aide basic training"** means the 70-hours of required training that a new long-term care worker must complete within 120 days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(35) **"Special needs"** means a resident has dementia consistent with WAC 388-78A-2510 for assisted living or WAC 388-76-10000 for adult family homes; mental illness consistent with WAC 388-78A-2500 for assisted living or WAC 388-76-10000 for adult family homes; or developmental disabilities consistent with WAC 388-78A-2490 for assisted living or WAC 388-76-10000 for adult family homes.

(36) **"Specialty training"** means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, ((WAC)) 388-112A-0440, or ((WAC)) 388-112A-0450.

(37) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum.

(38) **"Virtual classroom"** means a synchronous, instructor-led, remote learning environment conducted in real time that conforms to the virtual classroom standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>. A training program must be approved by DSHS to provide virtual classroom instruction.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0110 May a home employ a long-term care worker who has not completed the 70-hour home care aide training or certification requirements?** (1) If an individual previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, 74.39A.076, and this chapter, an adult family home, enhanced services facility, or assisted living facility must not employ the individual to work as a long-term care worker until the individual has completed the required training or certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The original date of hire may be reset according to (~~chapter 246-980~~) WAC 388-112A-0115. A long-term care worker who is not currently certified or eligible to reactivate an expired credential shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) Individuals who meet the criteria in subsection (2) of this section are allowed a new 120 days to complete the orientation, safety, and 70-hour home care aide basic trainings and a new 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (2) of this section must submit (~~a new~~) an application and fee to the department of health.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0115 How does DSHS determine a long-term care worker's date of hire and when may a long-term care worker be eligible to have the date of hire reset?** (1) The department determines a long-term care worker's date of hire according to (~~chapter 246-980 WAC~~) the first day the long-term care worker is employed by any employer.

(2) The date of hire is specific to each long-term care worker. (~~It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-112A-0110~~) A long-term care worker, including an individual who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, and a worker who is not currently certified or eligible to reactivate an expired credential, shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) This section does not apply to background check requirements under this chapter.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0503 What definitions apply to WAC 388-115-0500 through 388-115-05640?** (1) "Area agencies on aging (AAA)" means a

contracted entity that aging and long-term support administration (AL TSA) grants funds to in order to carry out the functions of the Older Americans Act, general-fund state programs, and to provide case management services and supports to individuals 18 and older who receive medicaid-funded LTC in ~~((their))~~ the individual's own ~~((homes))~~ home.

(2) **"Applicant"** means a person who is in the process of becoming an in-home long-term care worker.

(3) **"Negative actions"** are listed in WAC 388-113-0030.

(4) **"Background check"** means a name and date of birth check or a fingerprint-based background check, or both.

(5) **"Background check result"** is defined in WAC 388-113-0101.

(6) **"Background check central unit(") (BCCU)"** means the DSHS entity responsible for conducting background checks for the department.

(7) **"Character, competence, and suitability determination (CC&S)"** is defined in WAC 388-113-0050.

(8) **"Client"** means an individual receiving medicaid~~((-))~~ or veterans' administration funded in-home long term services from the department.

(9) **"Consumer directed employer (CDE)"** is a private entity that contracts with the department to be the legal employer of individual providers for purposes of performing administrative functions. The consumer directed employer is patterned after the agency with choice model, recognized by the federal centers for medicare and medicaid services for financial management in consumer directed programs. The entity's responsibilities are described in RCW 74.39A.515 and throughout ~~((this))~~ chapter 74.39A RCW and include:

~~((1))~~ (a) Coordination with the consumer, who is the individual provider's managing employer;

~~((2))~~ (b) Withholding, filing, and paying income and employment taxes, including workers' compensation premiums and unemployment taxes, for individual providers;

~~((3))~~ (c) Verifying an individual provider's qualifications;  
and

~~((4))~~ (d) Providing other administrative and employment-related supports. The consumer directed employer is a social service agency and its employees are mandated reporters as defined in RCW 74.34.020.

(10) **"Date of hire"** for determining time frames related to training and certification means the first day the long-term care worker is employed by any employer.

(11) **"Department"** means the department of social and health services (DSHS).

(12) **"Fingerprint-based background check"** means an in-state criminal history records check through the Washington state patrol and a national criminal history records check through the Federal Bureau of Investigation.

(13) **"Individual provider (IP)"** as defined in RCW 74.39A.240 limited to individual providers employed by the consumer directed employer.

(14) **"Managing employer"** means a consumer who employs one or more individual providers and whose responsibilities include:

~~((1))~~ (a) Choosing potential individual providers and referring them to the consumer directed employer;

~~((2))~~ (b) Selecting an individual provider(s);

~~((3))~~ (c) Overseeing the day-to-day management and scheduling of the individual provider's tasks consistent with the plan of care;  
and

~~((4))~~ (d) Dismissing the individual provider when desired.

(15) "Name and date of birth check" is a search, conducted by the background check central unit (BCCU), of Washington state ~~((check))~~ criminal history and negative action records using the applicant's name and date of birth.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0505 What is the client's role as managing employer of an individual provider?** The client, or ~~((their))~~ the client's representative, is the managing employer and:

- (1) Has the primary responsibility to select, dismiss, assign hours, and supervise the work of one or more individual providers; and
- (2) May receive assistance from the consumer directed employer or other resources in identifying potential providers.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0520 What are the training requirements for an individual provider?** An individual hired on or after January 7, 2012, must meet the training requirements described in WAC 388-71-0836 through 388-71-1006. ~~((These training requirements also apply to individual providers who were hired before January 7, 2012, if they did not complete prior training requirements within one hundred twenty days of hire and they want to be reinstated to work. These training requirements and certification if required must be met prior to reinstating these individuals to work.))~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0523 What are the training and certification requirements for individual providers?** The following chart provides a summary of the training and certification requirements for individual providers ~~((, including))~~. This includes criteria for those providers working limited hours for one person, caring only for one's child, ~~((or))~~ parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, ~~((and))~~ providing respite services ((only)), or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
(1) An individual provider who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, NA-C, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required ((twelve)) 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. <u>For NA-C and those with special education training, 12 hours is required for each year worked in long-term care.</u>	<del>((Not required. Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839))</del> Required under chapter 246-980 WAC.
(2) An individual provider with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on <del>((his or her))</del> <u>the worker's date of hire.</u> WAC 388-71-0839.	Not required.	Not required.	Not required.	<del>((Required. Twelve))</del> 12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.
(3) An individual provider.	Hired by the consumer directed employer to provide personal care service as defined in WAC 388-71-0836((g)) and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. <del>((Seventy))</del> 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. <del>((Twelve))</del> 12 hours under WAC 388-71-0990 and 388-71-0991.	<del>((Home care aide certification required under WAC 388-71-0975 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065)))</del> Required under chapter 246-980 WAC.

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
(4) An individual provider who works limited hours for one person.	<u>An individual provider employed by the consumer directed employer</u> providing <del>((twenty))</del> <u>20</u> hours or less of <u>nonrespite</u> care for one person per calendar month( <del>(s)</del> ) and does not meet the criteria in <u>subsection (1) or (2)</u> of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. <del>((Thirty))</del> <u>30</u> hours under WAC 388-71-0880.	Not required.	Not required.
(5) An individual who provides <del>((only))</del> respite services and works <del>((three hundred))</del> <u>300</u> hours or less in any calendar year.	(a) <u>An individual providing</u> <del>((only))</del> respite care and works no more than <del>((three hundred))</del> <u>300</u> hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section. (b) <u>An individual providing</u> <del>((only))</del> respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working <del>((three hundred))</del> <u>300</u> hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. <del>((Thirty))</del> <u>Nine</u> hours under WAC <del>((388-71-0880))</del> <u>388-71-0890</u> .	Not required.	Not required.
(6) An individual provider caring only for <del>((his or her))</del> <u>the provider's biological, step, or adoptive adult child</u> .	<u>An individual providing care only for ((his or her)) the provider's adult child</u> that receives services through the developmental disabilities administration and not exempt under <u>subsection (1) or (2)</u> of this section.	Required. Two hours per WAC 388-71-0895.	Required. Three hours under WAC 388-71-0895.	Required. Seven hours under WAC 388-71-0890.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
<p>(7) An individual provider caring only for <del>((his or her))</del> the provider's biological, step, or adoptive child, or parent.</p>	<p>An individual providing care <u>only</u> to <del>((his or her))</del> the provider's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. <del>((Thirty))</del> 30 hours under WAC 388-71-0880.</p>	<p>12 hours is required for each year worked in long-term care for an individual provider caring only for <del>((his or her))</del> the individual's biological, step, or adoptive parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for <del>((his or her))</del> the individual's biological, step, or adoptive child under WAC 388-71-1001.</p>	<p>Not required.</p>
<p>(8) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.</p>	<p>An individual providing care only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. 30 hours under WAC 388-71-0880.</p>	<p>Not required.</p>	<p>Not required.</p>
<p>(9) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.</p>	<p>A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. 30 hours under WAC 388-71-0880.</p>	<p>12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.</p>	<p>Not required.</p>

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0540 When will the consumer directed employer (CDE) reject your selected individual provider?** (1) The CDE will reject an individual provider who:

(a) Is the client's spouse, except in the case of an individual provider for a chore services client or when the client is receiving services under the veteran directed home care program;

(b) Is the natural, step, or adoptive parent of a minor client aged (~~seventeen~~) 17 or younger;

(c) Is the foster parent providing personal care or skills acquisition training to a child residing in (~~the~~) the individual's licensed foster home; or

(d) Does not meet the qualifications under WAC 388-115-0510.

(2) The CDE will also reject an individual provider when the CDE believes that the individual will be unable to appropriately meet the care needs of the consumer, including health and safety.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-05410 What are the client's rights if the consumer directed employer rejects (~~their~~) the selection of a person to serve as (~~their~~) the client's individual provider or discontinues (~~their~~) the current individual provider's assignment?** (1) The client may choose to receive services from a different individual provider or another qualified provider.

(2) The client has the right to dispute the decision under the consumer directed employer's dispute resolution process.

(3) The client does not have a right to a hearing under chapter 34.05 RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-112A-0130 When and how may a long-term care worker be eligible to reset date of hire?



WSR 24-06-005  
PERMANENT RULES  
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 22, 2024, 10:03 a.m., effective March 24, 2024]

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

Purpose: The department of social and health services is adopting amendments to WAC 388-436-0065 What is the pandemic emergency assistance fund (PEAF)? These housekeeping amendments clarify the federal poverty level year when considering PEAFF eligibility and do not change the effect of the rule.

Citation of Rules Affected by this Order: Amending WAC 388-436-0065.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.250.

Adopted under notice filed as WSR 24-01-066 on December 13, 2023.

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

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

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

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

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

Date Adopted: February 22, 2024.

Katherine I. Vasquez  
Rules Coordinator

## SHS-5011.1

AMENDATORY SECTION (Amending WSR 22-07-019, filed 3/8/22, effective 4/24/22)

**WAC 388-436-0065 What is the pandemic emergency assistance fund (PEAF)?** (1) What is the pandemic emergency assistance fund (PEAF)?

The pandemic emergency assistance fund (PEAF) is administered by the department of social and health services and provides a one-time cash benefit to low income families with at least one qualifying child, to support them in meeting their basic needs as a result of the COVID-19 pandemic.

(2) The following definitions apply to PEAFF:

(a) "Household" as defined in WAC 388-408-0015 or WAC 388-408-0035.

(b) "Qualifying child" means a child as defined in WAC 388-404-0005.

(3) Who is eligible for the PEAFF?

Each child in your household may be eligible for PEAFF if your child meets all of the following:

(a) A qualifying child lives in your home and has not already received PEAFF;

(b) The household is active, eligible, and receiving TANF, SNAP, SFA, or FAP benefits in the month of issuance;

(c) The reported household income, as defined in chapter 388-450 WAC, at the time of issuance is at or below 75% of the 2022 federal poverty level;

(d) You reside in Washington state as required under WAC 388-468-0005.

(4) How do I apply for the pandemic emergency assistance fund?

(a) The department automatically reviews your eligibility for PEAFF during the month of issuance:

(b) When you apply for TANF, SFA, SNAP, or FAP; or

(c) You are an active household receiving TANF, SFA, SNAP, or FAP.

(5) What benefits will I receive if I am eligible for PEAFF?

(a) PEAFF is issued only once per qualifying child.

(b) The amount of the PEAFF benefit is the same for each qualifying child and is determined based on:

(i) The amount of available PEAFF funding; and

(ii) The number of qualifying children in the month of issuance.

## WSR 24-06-008

## PERMANENT RULES

## HEALTH CARE AUTHORITY

[Filed February 22, 2024, 2:41 p.m., effective April 1, 2024]

Effective Date of Rule: April 1, 2024.

Purpose: The health care authority is amending this rule to increase the eligibility threshold for the qualified medicare beneficiary program and the qualified individual program per a legislative directive in the 2023-2025 operating budget (section 211(84), chapter 475, Laws of 2023).

Citation of Rules Affected by this Order: Amending WAC 182-517-0100.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Section 211(84), chapter 475, Laws of 2023.

Adopted under notice filed as WSR 24-02-013 on December 21, 2023.

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

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

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

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

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

Date Adopted: February 22, 2024.

Wendy Barcus  
Rules Coordinator

**OTS-5104.1**

AMENDATORY SECTION (Amending WSR 23-04-034, filed 1/25/23, effective 2/25/23)

**WAC 182-517-0100 Federal medicare savings programs.** (1) Available programs. The medicaid agency offers eligible clients the following medicare savings programs (MSPs):

- (a) The qualified medicare beneficiary (QMB) program;
- (b) The specified low-income medicare beneficiary (SLMB) program;
- (c) The qualified individual (QI-1) program; and
- (d) The qualified disabled and working individuals (QDWI) program.

(2) Eligibility requirements.

(a) To be eligible for an MSP, a client must:

(i) Be entitled to medicare Part A; and

(ii) Meet the general eligibility requirements under WAC

182-503-0505.

(b) To be eligible for QDWI, a client must be under age 65.

(c) Income limits.

(i) Income limits for all MSPs are found at [www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources](http://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources).

(ii) If a client's countable income is less than or equal to ~~((100))~~ 110 percent of the federal poverty level (FPL), the client is income eligible for the QMB program.

(iii) If a client's countable income is over ~~((100))~~ 110 percent of the FPL, but does not exceed 120 percent of the FPL, the client is income eligible for the SLMB program.

(iv) If a client's countable income is over 120 percent of the FPL, but does not exceed ~~((135))~~ 138 percent of the FPL, the client is income eligible for the QI-1 program.

(v) If a client's countable income is over ~~((135))~~ 138 percent of the FPL, but does not exceed 200 percent of the FPL, the client is income eligible for the QDWI program if the client is employed and meets disability requirements described in WAC 182-512-0050.

(d) The federal MSPs do not require a resource test.

(3) MSP income eligibility determinations.

(a) The agency has two methods for determining if a client is eligible for an MSP:

(i) The agency first determines if the client is eligible based on SSI-rated methodologies under chapter 182-512 WAC. Under this method, the agency calculates the household's net countable income and compares the result to the one-person standard. However, if the spouse's income is deemed to the client, or if both spouses are applying, the household's net countable income is compared to the two-person standard.

(ii) If the client is not eligible under the methodology described in (a)(i) of this subsection, the agency compares the same countable income, as determined under (a)(i) of this subsection, to the appropriate FPL standard based on family size. The number of individuals that count for family size include:

(A) The client;

(B) The client's spouse who lives with the client;

(C) The client's dependents who live with the client;

(D) The spouse's dependents who live with the spouse, if the spouse lives with the client; and

(E) Any unborn children of the client, or of the spouse if the spouse lives with the client.

(b) Under both eligibility determinations, the agency follows the rules for SSI-related people under chapter 182-512 WAC for determining:

(i) Countable income;

(ii) Availability of income;

(iii) Allowable income deductions and exclusions; and

(iv) Deemed income from and allocated income to a nonapplying spouse and dependents.

(c) The agency uses the eligibility determination that provides the client with the highest level of coverage.

(i) If the MSP applicant is eligible for QMB coverage under (a)(i) of this subsection, the agency approves the coverage.

(ii) If the MSP applicant is not eligible for QMB coverage, the agency determines if the applicant is eligible under (a)(ii) of this subsection.

(iii) If neither eligibility determination results in QMB coverage, the agency uses the same process to determine if the client is eligible under any other MSP.

(d) When calculating income under this section:

(i) The agency subtracts client participation from a long-term care client's countable income under WAC 182-513-1380, 182-515-1509, or 182-515-1514.

(ii) The agency counts the annual Social Security cost-of-living increase beginning April 1st each year.

(4) Covered costs.

(a) The QMB program pays:

(i) Medicare Part A and Part B premiums using the start date in WAC 182-504-0025; and

(ii) Medicare coinsurance, copayments, and deductibles for Part A, Part B, and Part C, subject to the limitations in WAC 182-502-0110.

(b) If the client is eligible for both SLMB and another medicaid program:

(i) The SLMB program pays the Part B premiums using the start date in WAC 182-504-0025; and

(ii) The medicaid program pays medicare coinsurance, copayments, and deductibles for Part A, Part B, and Part C subject to the limitations in WAC 182-502-0110.

(c) If the client is only eligible for SLMB, the SLMB program covers medicare Part B premiums using the start date in WAC 182-504-0025.

(d) The QI-1 program pays medicare Part B premiums using the start date in WAC 182-504-0025 until the agency's federal funding allotment is spent. The agency resumes QI-1 benefit payments the beginning of the next calendar year.

(e) The QDWI program covers medicare Part A premiums using the start date in WAC 182-504-0025.

(5) MSP eligibility. Medicaid eligibility may affect MSP eligibility:

(a) QMB and SLMB clients may receive medicaid and still be eligible to receive QMB or SLMB benefits.

(b) QI-1 and QDWI clients who begin receiving medicaid are no longer eligible for QI-1 or QDWI benefits, but may be eligible for the state-funded medicare buy-in program under WAC 182-517-0300.

(6) Right to request administrative hearing. A person who disagrees with agency action under this section may request an administrative hearing under chapter 182-526 WAC.

**WSR 24-06-020**  
**PERMANENT RULES**  
**BOARD OF REGISTRATION**  
**FOR PROFESSIONAL ENGINEERS**  
**AND LAND SURVEYORS**

[Filed February 27, 2024, 3:53 p.m., effective March 29, 2024]

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

Purpose: Minor housekeeping changes were made to the existing language to help clarify requirements to take the fundamentals of land surveying examination. Existing language was amended to allow individuals to get certified as a land surveyor-in-training in Washington regardless of where they took the NCEES FLS examination, as long as requirements are met.

Citation of Rules Affected by this Order: Repealing WAC 196-21-030; and amending WAC 196-21-005, 196-21-010, 196-21-025, and 196-21-040.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 24-01-093 on December 18, 2023.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 1.

Date Adopted: February 22, 2024.

Ken Fuller  
 Director

**OTS-5098.2**

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

**WAC 196-21-005 Declaration and purpose.** This chapter contains rules and procedures for applications, eligibility ~~((and))~~ to take the fundamentals of land surveying examination~~((s))~~, and to ~~((be enrolled as))~~ apply for a land surveyor~~((s))~~-in-training certificate.

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

**WAC 196-21-010 Eligibility and applications.** Eligibility for taking the fundamentals of land surveying exam requires completion and

verification of four years of experience. These four years can be achieved through board approved education; board approved practical experience or a combination of both. All applications must be completed in accordance with instructions provided by the board. Once an applicant is notified of board approval to sit for the fundamentals of surveying examination (~~(he or she)~~) they will be instructed to (~~register directly~~) schedule their examination with the National Council of Examiners for Engineering and Surveying (NCEES) (~~(for admittance to the examination)~~).

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

**WAC 196-21-025 Educational experience.** All applicants are required to have (~~(original)~~) official transcripts submitted to the board (~~(by the school registrar in order)~~) to obtain maximum educational experience credit. Applicants enrolled in a school or college that have achieved senior standing in a baccalaureate curriculum in land surveying approved by the board are eligible to take the fundamentals-of-land surveying examination (~~(without having college transcripts submitted)~~).

Qualifying educational experience may be:

- (1) A baccalaureate degree in land surveying from a board approved curriculum for up to four years; or
- (2) An associate degree in land surveying from a board approved curriculum for up to two years; or
- (3) Each year of qualifying board approved coursework in land surveying, without a degree, that will be evaluated for relevancy and equivalency to a structured curriculum for up to one year;
- (4) A postgraduate degree approved by the board for up to one year.

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

**WAC 196-21-040 (~~(How do I obtain)~~) Obtaining certification as a land surveyor-in-training in Washington(?).** To obtain certification as a land surveyor-in-training in Washington (~~(is only available to those applicants who designate Washington as their practice state when registering to take)~~) you must pass the fundamentals of surveying exam and (~~(who also pass the fundamentals of surveying exam. Those that meet the above conditions must)~~) submit an application (~~(for certification as a land surveyor-in-training)~~) to the board showing you meet the requirements listed in WAC 196-21-020 and 196-21-025.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-21-030

Fundamentals-of-land surveying  
examination.



**WSR 24-06-023**  
**PERMANENT RULES**  
**LIQUOR AND CANNABIS**  
**BOARD**

[Filed February 28, 2024, 10:28 a.m., effective March 30, 2024]

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

Purpose: The Washington state liquor and cannabis board (board) has adopted amendments to the rule as described in WSR 24-02-094 to amend WAC 314-02-1071 to clarify the language regarding exceptions to trade area requirements for spirits retailers in locations that are primarily accessed by boat, and to exempt businesses on tribal land and owned by tribal enterprises from the 20 mile travel distance requirement in WAC 314-02-1071(1). The proposed changes include defining the terms "tribe" and "tribal enterprise," as well as moving around some of the language of existing WAC 314-02-1071 to enable better flow and readability of the rule language overall.

Citation of Rules Affected by this Order: Amending WAC 314-02-1071.

Statutory Authority for Adoption: RCW 66.08.030.

Adopted under notice filed as WSR 24-02-094 on January 3, 2024.

A final cost-benefit analysis is available by contacting Daniel Jacobs, Rules and Policy Coordinator, 1025 Union Avenue S.E., Olympia, WA 98501, phone 360-480-1238, fax 360-664-3208, email rules@lcb.wa.gov, website www.lcb.wa.gov.

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

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

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

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

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

Date Adopted: February 28, 2024.

David Postman  
Chair

**OTS-5059.3**

AMENDATORY SECTION (Amending WSR 13-20-148, filed 10/2/13, effective 11/2/13)

**WAC 314-02-1071** (~~((What is "trade area?"))~~) **Trade area.** (1)

"Trade area" as used in RCW 66.24.630 means an area where there is no spirits retail license within a (~~(twenty)~~) 20-mile travel distance at the time of license application.

(2) (~~(The board will use the following criteria when determining to accept))~~) For a spirits retail license application where the pro-

posed premises ((location)) is less than ((ten thousand)) 10,000 square feet of fully enclosed retail space((+)

~~(a) There is no spirits retail license holder or auction title holder),~~ the board will determine if there is an existing spirits retailer within ((twenty)) 20 travel miles at the time of license application((+ and

~~(b) The board will determine travel distance by a publicly available mapping tool which may be accessed on the board's website. The web address of this site at the time of rule adoption is <http://wsleeb.maps.aregis.com/home/>).~~

(3) Former contract or state liquor store((s and title holders by those who purchased a state store at auction)) owners are exempt from the ((ten thousand)) 10,000 square foot minimum required by law. ((Should)) If either entity chooses to locate within ((an establish- ed)) a trade area ((and)) as defined in this section, they may be is- sued a license as long as they are in compliance with ((board)) relo- cation criteria((, they may be issued a license)) as established by the board.

(4) Spirits retailers owned and operated by a tribe or its tribal enterprise, located in Indian country as defined by 18 U.S.C. Sec. 1151, including reservation and all lands held in trust by the United States for the tribe or its members, are exempt from the 20-mile travel distance requirement.

(a) For purposes of this subsection, "tribe" means a federally recognized tribe as defined by 25 U.S.C. Sec. 4103 (13) (B).

(b) For purposes of this subsection, "tribal enterprise" means a wholly owned business enterprise of the tribe.

(5) The board may make an exception to the ((twenty)) 20-mile travel distance requirement for ((the following:)) a spirits retail license application ((is for a location)) where ((the significant mode)) access to the proposed location is by means of travel ((is)) other than ((by)) automobile.

**WSR 24-06-025**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed February 28, 2024, 10:56 a.m., effective April 1, 2024]

Effective Date of Rule: April 1, 2024.

Purpose: The department of social and health services (department) is adopting amendments to WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? Federal law requires the department 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. The department may propose modifying rules in order to stay within available state funds to support this requirement. These amendments also clarify cost-of-living adjustments (COLA) to SSP standards for medically institutionalized recipients of SSI, as determined by the Social Security Administration.

Related emergency rules (for the COLA portion of this proposed change) are currently in effect under WSR 24-02-041. When effective, this permanent filing supersedes the emergency rule filed under WSR 24-02-041.

Citation of Rules Affected by this Order: Amending WAC 388-478-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and 74.08A.250.

Adopted under notice filed as WSR 24-03-123 on January 19, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: February 28, 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 24-06-036

## PERMANENT RULES

## HEALTH CARE AUTHORITY

[Filed February 29, 2024, 9:46 a.m., effective March 31, 2024]

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

Purpose: The health care authority revised 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.

Citation of Rules Affected by this Order: Amending WAC 182-550-5700.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: 42 C.F.R. Part 447, Subpart C, §447.253(g).

Adopted under notice filed as WSR 24-03-100 on January 18, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: February 29, 2024.

Wendy Barcus  
Rules Coordinator

## 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 24-06-040**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Office of the Secretary)

[Filed February 29, 2024, 3:43 p.m., effective April 1, 2024]

Effective Date of Rule: April 1, 2024.

Purpose: Adds statutory language from RCW 74.08.080(2) about "good cause" for late-filed hearing requests in public assistance cases to two hearing rules concerning good cause in all other cases.

Citation of Rules Affected by this Order: Amending WAC 388-02-0020 and 388-02-0085.

Statutory Authority for Adoption: RCW 34.05.220, 43.17.060, 43.20A.075, and 74.08.080(2).

Adopted under notice filed as WSR 24-03-124 on January 19, 2024.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: February 29, 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 24-06-041

## PERMANENT RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed February 29, 2024, 3:52 p.m., effective March 31, 2024]

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

Purpose: This rule making will update WAC 192-150-055 to reflect portions of ESHB 1106 (2023), which, among other things, expanded good cause for voluntarily quitting a job due to death, illness, or disability and expands "immediate family member" to "family member." Therefore, this rule making changes "immediate family" to "family member" effective September 3, 2023, defines "family member," updates various definitions of family members, and requires that, to establish good cause for leaving work voluntarily because of illness or disability or the illness, disability, or death of a family member, a claimant must make reasonable efforts to preserve their employment status by requesting changes in working conditions, changes to work schedule, or a leave of absence.

Citation of Rules Affected by this Order: Amending WAC 192-150-055.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department, RCW 50.20.050.

Adopted under notice filed as WSR 23-19-005 [23-22-090] on September 6, 2023 [October 30, 2023].

A final cost-benefit analysis is available by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, TTY relay 711, email rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/rulemaking/expanding-good-cause-voluntary-quitting-employment>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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

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

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

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

Date Adopted: February 29, 2024.

Joy E. Adams, Acting Director  
Employment Security Policy and Integrity Division

OTS-4924.1

AMENDATORY SECTION (Amending WSR 23-15-009, filed 7/6/23, effective 8/6/23)

**WAC 192-150-055 Leaving work because of illness or disability—**

**General rules and definitions—RCW 50.20.050 (1)(b)(ii) and**

**(2)(b)(ii).** (1) For separations occurring before September 3, 2023:

~~(a)~~ **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

~~((a))~~ (i) You left work primarily because of such illness, disability, or death; and

~~((b))~~ (ii) The illness, disability, or death made it necessary for you to leave work; and

~~((c))~~ (iii) You first exhausted all reasonable alternatives prior to leaving work, including:

~~((i))~~ (A) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; ~~(and~~

~~(ii))~~ (B) Requesting changes in working conditions, changes to your work schedule, or a leave of absence; and

(C) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

~~((2))~~ (b) For claims with an effective date of January 4, 2004, or later, you ~~((are not eligible for unemployment benefits))~~ will not be deemed to have left work with good cause unless, in addition to the requirements of ((subsection (1)(a) through (c) of this section))

(a)(i) through (iii) of this subsection, you terminate your employment and are not entitled to be reinstated in the same or similar position.

~~((3))~~ (c) Exception. You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by ~~((subsection (1)(c) of this section))~~ (a)(iii) of this subsection if you can show that doing so would have been a futile act.

~~((4))~~ (d) Definitions. For purposes of this chapter:

~~((a))~~ (i) "Disability" means a sensory, mental, or physical condition that:

~~((i))~~ (A) Is medically recognizable or diagnosable;

~~((ii))~~ (B) Exists as a record or history; and

~~((iii))~~ (C) Substantially limits the proper performance of your job~~((+))~~.

~~((b))~~ (ii) "Immediate family" means your spouse, domestic partner, and the children (including unborn children), siblings, step-children, foster children, or parents of either spouse or domestic partner, whether living with you or not, and other relatives who temporarily or permanently reside in your household~~((+))~~.

~~((c))~~ (iii) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work~~((+))~~.

~~((d))~~ (iv) "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of an infection from a disease that is the subject of a public health emergency that is active on the date of the request to enter isolation or quarantine, even if you or your immediate family member have not been actually diagnosed with the disease that is the subject of a public health emergency.

(2) For separations occurring on or after September 3, 2023:

(a) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a family member, you must demonstrate that:

(i) You left work primarily because of such illness, disability, or death; and

(ii) The illness, disability, or death made it necessary for you to leave work; and

(iii) You first exhausted all reasonable alternatives prior to leaving work, including:

(A) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060;

(B) Requesting changes in working conditions, changes to your work schedule, or a leave of absence; and

(C) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(b) You will be deemed to not have left work with good cause unless, in addition to the requirements of (a)(i) through (iii) of this subsection, you terminate your employment and are not entitled to be reinstated in the same or similar position.

(c) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by (a)(iii) of this subsection if you can show that doing so would have been a futile act.

(d) **Definitions.** For purposes of this chapter:

(i) "Disability" means a sensory, mental, or physical condition that:

(A) Is medically recognizable or diagnosable;

(B) Exists as a record or history; and

(C) Substantially limits the proper performance of your job.

(ii) "Family member" means your child, grandchild, grandparent, parent, sibling, or spouse, and also includes any individual who regularly resides in your home or with whom you are in a relationship that creates an expectation that you care for the person, and that individual depends on you for care. "Family member" includes any individual who regularly resides in your home, except that it does not include an individual who simply resides in your home with no expectation that you care for the individual.

(iii) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom you stand in loco parentis, are a legal guardian, or are a de facto parent, regardless of age or dependency status of the child, and including an unborn child.

(iv) "Grandchild" means a child of your child.

(v) "Grandparent" means a parent of your parent.

(vi) "Parent" means your or your spouse's biological, adoptive, de facto, or foster parent, stepparent, or legal guardian, or an individual who stood in loco parentis to you when you were a child.

(vii) "Sibling" means an individual with whom you share at least one parent.

(viii) "Spouse" means a husband or wife or a state-registered domestic partner.

(ix) "De facto parent" means an adult who has fully and completely undertaken a permanent, unequivocal, committed, and responsible parental role in a child's life in which the natural or legal parent consented to and fostered the parent-like relationship.

(x) "In loco parentis" means a situation in which an individual acts in place of a parent, intentionally takes over parental duties, and is responsible for exercising day-to-day care and control fulfilling the child's physical and psychological needs.

(xi) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work.

(xii) "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of an infection from a disease that is the subject of a public health emergency, even if you or your family member have not been actually diagnosed with the disease that is the subject of a public health emergency.

## WSR 24-06-044

## PERMANENT RULES

## STATE BOARD OF EDUCATION

[Filed February 29, 2024, 5:24 p.m., effective March 31, 2024]

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

Purpose: The proposed rules help to implement SB [ESSB] 5515 and SB [E2SSB] 5315, from the 2023 legislative session. SB [ESSB] 5515 Protecting children from child abuse and neglect, concerns new regulation for private residential schools, including private boarding schools approved as private schools by the state board of education (SBE). Section 3 of the bill, codified at RCW 26.44.210, defines "Residential private school," and the proposed rule adopts the same definition.

SB [E2SSB] 5315 Concerning nonpublic agencies operating special education programs for students with disabilities, enacts additional requirements for organizations authorized by the office of the superintendent of public instruction (OSPI) to provide special education services through contracts with school districts. These organizations include some private schools approved by SBE. Section 5 of the bill, codified at RCW 28A.155.245, requires SBE to notify OSPI of any unresolved concerns, deficiencies, or deviations related to a private school authorized by OSPI under RCW 28A.300.690 that is also approved by SBE under chapter 28A.195.RCW. The proposed rule implements this requirement.

In addition to aligning rules with the requirements of the legislation, the proposed rules clarify rule language, remove outdated language, and update rules to align with current practice. Specifically, the proposed rule:

- Clarifies, in alignment with previous guidance, that "Washington state certificated teacher, administrator, or superintendent" means an educator that holds particular certificates and that a "Non-Washington state certificated teacher" means a person that does not hold any of those certificates but who meets certain other requirements.
- Clarifies that SBE may suspend or rescind approval if a school fails to verify that the school maintains certain conditions for approval.
- Adds a reference to an online complaint form to align the rules with current practice.
- Removes outdated language that permitted an exception to the physical facilities requirement and applied only during the 2020-21 school year.

Citation of Rules Affected by this Order: Amending WAC 180-90-112 Definitions, 180-90-139 Approval action by SBE, 180-90-141 Loss of private school approval, and 180-90-170 Complaints against private schools.

Statutory Authority for Adoption: RCW 28A.195.040.

Adopted under notice filed as WSR 23-23-187 on November 22, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: February 15, 2023 [2024].

Randy Spaulding  
Executive Director

## OTS-4993.1

AMENDATORY SECTION (Amending WSR 22-07-048, filed 3/14/22, effective 4/14/22)

**WAC 180-90-112 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Private school" means a nonpublic school or nonpublic school district approved by the state board of education pursuant to RCW 28A.305.130, and chapter 28A.195 RCW and in accordance with the minimum standards for approval as prescribed in this chapter.

(2) (a) "Reasonable health requirements" means those standards contained in chapter 246-366 WAC as adopted by the state board of health, and other applicable health requirements for private schools set by federal, state, or local health authorities.

(b) "Reasonable fire safety requirements" means those standards adopted by the state fire marshal pursuant to chapter 43.44 RCW.

(3) (a) "Minor deviation" means a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel, and which does not impact the ability of the school to provide an educational program which is in substantial compliance with the minimum standards set forth in WAC 180-90-160, and which, therefore, does not preclude the granting of full approval.

(b) "Major deviation" means a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel but may impact the ability of the school to provide an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160, but is not so serious as to constitute an unacceptable deviation.

(c) "Unacceptable deviation" means a variance from the standards established by these regulations which either:

(i) Constitutes a threat to the health or safety of students or school personnel; or

(ii) Demonstrates that the school is not capable of providing an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160.

(4) "Total instructional hour offering" means those hours when students are provided the opportunity to engage in educational activi-

ty planned by and under the direction of school staff, as directed by the administration and board of directors, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the approved private school for the purpose of discussing students' educational needs for progress, and exclusive of time actually spent for meals.

(5) "Washington state certificated teacher, administrator, or superintendent" or "certified person" in this chapter means an educator holding a residency, professional, initial, continuing, or standard certificate under WAC 181-79A-142(1); or a first peoples' language, culture, and oral tribal traditions certificate under WAC 181-78A-700.

(6)(a) "Non-Washington state certificated teacher" means a person who does not ((have a Washington state certification consistent with WAC 181-79A-030(2),) hold a residency, professional, initial, continuing, or standard certificate under WAC 181-79A-142(1); or a first peoples' language, culture, and oral tribal traditions certificate under WAC 181-78A-700 but who has:

(i) A K-12 teaching certificate from a nationally accredited preparation program, other than Washington state, recognized by the U.S. Department of Education; or

(ii) A minimum of a baccalaureate degree in the subject matter to be taught or in a field closely related to the subject matter to be taught; or

(iii) A minimum of one calendar year of experience in a specialized field. For purposes of this subsection the term "specialized field" means a specialized area of the curriculum where skill or talent is applied and where entry into an occupation in such field generally does not require a baccalaureate degree including, but not limited to, the fields of art, drama, dance, music, physical education, and career and technical or occupational education.

(b) "Exceptional case" means that a circumstance exists within a private school in which:

(i) The educational program offered by the private school will be significantly improved with the employment of a non-Washington state certificated teacher. Each teacher not holding a valid Washington state certificate shall have experience or academic preparation appropriate to K-12 instruction and consistent with the school's mission. Such experience or academic preparation shall be consistent with the provisions of (c) of this subsection; and

(ii) The school employs at least one Washington state certified teacher, administrator, or superintendent who provides general supervision to any non-Washington state certificated teacher. The school will annually report to the state board of education the academic preparations and experience of each non-Washington state certificated teacher providing k-12 instruction in an addendum to the certificate of compliance as provided in WAC 180-90-160; and

(iii) The non-Washington state certificated teacher of the private school, employed pursuant to this section, has been verified by the private school, as meeting the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2), and has not had his or her teacher's certificate revoked by any state or foreign country consistent with WAC 181-79A-155 (5) (a).

(c) "Unusual competence": As applied to an exceptional case wherein the educational program as specified in RCW 28A.195.010 and WAC 180-90-160(7) will be significantly improved with the employment of a non-Washington state certificated teacher as defined in (a) of this subsection.

(d) "General supervision" means that a Washington state certificated teacher, administrator, or superintendent shall be generally available at the school site to observe and advise the teacher employed under provision of (c) of this subsection and shall evaluate pursuant to policies of the private school.

~~((6))~~ (7) "Business day" means a weekday, excluding weekends, state holidays, and state closures unless otherwise specified.

~~((7))~~ (8) "Filing" means the process by which a document is officially delivered to a state board of education staff member. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified state board of education staff member;

(b) By sending the document by email and first class mail to the specified state board of education email address and state board of education's office address on its website; or

(c) By submitting an initial or annual application and certification of compliance as required in WAC 180-90-130 or 180-90-160.

Documents required to be filed shall be deemed filed upon actual receipt during office hours at the office of the state board of education.

~~((8))~~ (9) "Executive director" means the executive director of the state board of education.

~~((9))~~ (10) "SBE private school officer" means the person designated by the executive director to administer the state board of education's private school program.

~~((10))~~ (11) "SBE representative" means the person designated by the executive director to administer the state board of education's private school program or another SBE staff person, and may be represented by an assistant attorney general.

~~((11))~~ (12) "Hearing officer" means the person designated by the executive director, in consultation with the SBE executive committee, to conduct a brief administrative proceeding or a summary suspension hearing on the loss of private school approval.

~~((12))~~ (13) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by both email, and by either certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail.

~~((13))~~ (14) "Loss of approval" means either a suspension or rescission of a private school's approval by the state board of education. Suspension is for a set period of time or until specified conditions are met and rescission is permanent until a new application for approval is granted.

~~((14))~~ (15) "School" means and includes each building, facility, and location, including online program components, where any portions of a kindergarten and grades one through 12 program of education and related activities are conducted for two or more children by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.305.130, chapter 28A.195 RCW, and this chapter.

~~((15))~~ (16) "Residential private school," per RCW 26.44.210, means a nonpublic school or nonpublic school district subject to approval by the state board of education pursuant to RCW 28A.305.011 and



chapter 28A.195 RCW that provides sleeping and living facilities or residential accommodations for enrolled students.

~~((17))~~ (17) "Summary suspension" means the immediate, temporary suspension of a private school's approval in an administrative procedure.

~~((16))~~ (18) "Threat to health or safety" means the physical facilities, personnel, or practices of the school do not meet reasonable health requirements or reasonable fire safety requirements; or failure to meet the requirements or legal obligations that private schools are subject to, including those enumerated in this chapter or in chapter 28A.195 RCW.

~~((17))~~ (19) "School or district administrator" means administrative or executive authority of private schools or private school districts. The terms "head of school," "principal," or "superintendent" may also be used in rule or application materials to refer to the administrative or executive authority of the private school or private school district.

~~((18))~~ (20) "Review committee" means a committee of three to five SBE members identified by the SBE chair who will conduct reviews of initial decisions of brief adjudicative proceedings pursuant to WAC 180-90-143.

AMENDATORY SECTION (Amending WSR 15-24-108, filed 12/1/15, effective 1/1/16)

**WAC 180-90-139 Approval action by SBE.** The state board of education shall take one of the following actions:

(1) If no deviations are found, the state board of education shall grant full approval.

(2) If minor deviations are found and the private school has resolved the deviations, the state board of education shall grant full approval.

(3) If major deviations are found and the private school in its narrative report provides satisfactory assurance of compliance by the commencement of the annual school term, the state board of education shall grant full approval.

(4) If major deviations are found and the private school in its narrative report, supplemented by direct testimony to the state board of education, demonstrates it is not practical to correct such major deviations prior to the commencement of the annual school term but establishes to the satisfaction of the state board of education its ability to correct such deviation as soon as is practical, the state board of education shall grant such private school provisional approval for the period of time the state board of education determines is necessary to correct the major deviation but no longer than one year.

(5) If unacceptable deviations are found or if the private school fails to comply with timely corrective conditions within subsection (2), (3), or (4) of this section for minor or major deviations, state board of education approval shall be denied or rescinded.

(6) If any unresolved concerns, deficiencies, or deviations are found and the private school is an entity authorized by the superintendent of public instruction to provide a program of special education and related services for students with disabilities under RCW 28A.300.690, the state board of education will notify the office of the superintendent of public instruction of the unresolved concerns, deficiencies, or deviations.

AMENDATORY SECTION (Amending WSR 22-07-048, filed 3/14/22, effective 4/14/22)

**WAC 180-90-141 Loss of private school approval.** The state board of education may suspend or rescind approval of a private school for one or more of the following reasons:

(1) Failure to have students enrolled for any six consecutive calendar months in the school's physical facilities or failure to provide evidence of student enrollment upon request of the state board of education for the said period of time.

~~((a) For the 2020-21 school year, schools that implement an on-line education program consistent with the provisions of RCW 28A.195.090 will not be subject to rescission based on a failure to have students enrolled in the school's physical facilities; and~~

~~(b) The school maintains a physical address in Washington and plans to resume classroom instruction when the governing body of the school determines it is safe to do so and resumption is allowable under state and local emergency status.))~~

(2) Failure to provide verification that the approved private school maintains teaching staff ~~((have a valid))~~ with appropriate Washington state ~~((teaching certificate or meet the provisions of WAC 180-90-112(5)))~~ certification or otherwise meet the requirements of WAC 180-90-160 (1)(c).

(3) Failure to provide verification that the school maintains physical facilities ~~((of the school))~~ that meet all reasonable health requirements and all reasonable fire safety requirements.

(4) Failure to meet any of the requirements or legal obligations that private schools are subject to, including those enumerated in this chapter or in chapter 28A.195 RCW.

AMENDATORY SECTION (Amending WSR 18-24-090, filed 12/3/18, effective 1/3/19)

**WAC 180-90-170 Complaints against private schools.** (1) Complaints about an approved private school may be made in writing to the state board of education and may be made through an online form available on the state board of education's website.

(2) If a complaint against a private school is received, the state board of education will:

(a) Notify the complainant that the communication was received;

(b) Notify the school of the complaint, provide a copy of the complaint if requested, and provide an opportunity for the school to respond. All correspondence will conform to state and federal student privacy laws; and

(c) Review the complaint and the school's response and may take appropriate action it deems necessary. Any action taken by the state board of education will be limited to authority pursuant to chapter 28A.195 RCW and the rules promulgated thereunder.

(3) The record of the complaint, the response and any action taken will be retained according to the record retention schedule established by the office of the secretary of state for the state board of education.

(4) The state board of education will follow the process described in subsections (2) and (3) of this section if complaints are relayed to the state board of education by other state agencies regard-

ing a private school, including the office of the superintendent of public instruction regarding private schools authorized to provide special education and related services for students with disabilities under RCW 28A.300.690, and by the department of children, youth, and families concerning residential private schools under RCW 26.44.210.

**WSR 24-06-045**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed March 1, 2024, 8:08 a.m., effective April 1, 2024]

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

Purpose: Minimum standards for land boundary surveys; relative accuracy, WAC 332-130-080. Clarification of guidelines for using and reporting relative accuracy when used to analyze a land boundary survey.

Citation of Rules Affected by this Order: Amending WAC 332-130-080.

Statutory Authority for Adoption: RCW 58.24.040(1).

Adopted under notice filed as WSR 24-02-005 on December 20, 2023.

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

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

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

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

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

Date Adopted: February 22, 2024.

Todd Welker  
Deputy Supervisor  
State Uplands

**OTS-4732.2**

AMENDATORY SECTION (Amending WSR 22-04-049, filed 1/27/22, effective 2/27/22)

**WAC 332-130-080 Relative accuracy—Principles.** The following principles of relative accuracy are provided to guide those who may be analyzing their work by these procedures.

(1) Relative accuracy means the theoretical uncertainty in the location of any point or corner relative to other points or corners set, found, reestablished, or established. A standard of relative accuracy can be achieved by using appropriate equipment and implementing field and office procedures that will result in a 95 percent probability of achieving the accuracy required.

(2) In the application of a relative accuracy standard, the surveyor must consider the established land use patterns, land values of and in the vicinity of the surveyed parcel, and the client's intended use of the property. Higher levels of measurement precision are expected to be used in situations necessitating higher accuracy being achieved.

(3) Each land boundary survey analyzed using relative accuracy should contain a statement reporting the relative accuracy achieved and identifying the method of mathematical analysis used in achieving a stated relative accuracy.

## WSR 24-06-046

## PERMANENT RULES

## STATE BOARD OF HEALTH

[Filed March 1, 2024, 9:06 a.m., effective April 1, 2024]

Effective Date of Rule: WAC 246-272A-0110 is effective 31 days after filing; WAC 246-272A-0340 is effective on February 1, 2025; and all other sections are effective April 1, 2025.

Purpose: On-site sewage system. The state board of health (board) has adopted amendments to chapter 246-272A WAC to address changes to existing requirements, including requirements governing local management plans, repairs, registration of proprietary treatment products, minimum lot sizes, treatment levels, and licensing of operations and maintenance providers. The adopted rule establishes new requirements, including requirements for field verification of proprietary products, property transfer inspections, remediation, and product supply chain issues. The adopted rule also makes several editorial updates to improve clarity and repeals obsolete rules.

Citation of Rules Affected by this Order: New WAC 246-272A-0007, 246-272A-0013, 246-272A-0233, 246-272A-0278 and 246-272A-0282; repealing WAC 246-272A-0020, 246-272A-0125, 246-272A-0135, 246-272A-0150 and 246-272A-0175; and amending WAC 246-272A-0001, 246-272A-0005, 246-272A-0010, 246-272A-0015, 246-272A-0025, 246-272A-0100, 246-272A-0110, 246-272A-0120, 246-272A-0130, 246-272A-0140, 246-272A-0145, 246-272A-0170, 246-272A-0200, 246-272A-0210, 246-272A-0220, 246-272A-0230, 246-272A-0232, 246-272A-0234, 246-272A-0238, 246-272A-0240, 246-272A-0250, 246-272A-0260, 246-272A-0265, 246-272A-0270, 246-272A-0280, 246-272A-0290, 246-272A-0300, 246-272A-0310, 246-272A-0320, 246-272A-0340, 246-272A-0400, 246-272A-0410, 246-272A-0420, 246-272A-0425, 246-272A-0430, and 246-272A-0440.

Statutory Authority for Adoption: RCW 43.20.050(3) and 43.20.065; chapters 70A.105 and 70A.110 RCW.

Adopted under notice filed as WSR 23-22-062 on October 25, 2023.

Changes Other than Editing from Proposed to Adopted Version: Several nonsignificant corrections were made based on comments received during the formal comment period. Some of the changes include spelling, formatting, and grammar corrections. Some changes were technical, provided clarity, and did not change the effect of the rule.

- Consistently fixed "mL" as the correct abbreviation for milliliter.
- Consistently fixed "E. coli" as the correct abbreviation for Escherichia coli.
- Correctly site "NSF International" standards.
- Ensure formatting is in accordance with the Code Reviser Bill Drafting Guide (2023).
- Added missing table footnotes.
- Corrected citations to WAC and table titles.
- Nonsubstantive changes to WAC 246-272A-0010, 246-272A-0100, 246-272A-0110, 246-272A-0120, 246-272A-0230, 246-272A-0280, 246-272A-0300, 246-272A-0420, and 246-272A-0430.
- Amended WAC 246-272A-0140(2), 246-272A-0210(1), and 246-272A-0430(4) to replace "shall" with "must" to correctly align with the Code Reviser Bill Drafting Guide (2023).
- Amended WAC 246-272A-0238 (1)(c)(i) to provide clarity to the rule.

A final cost-benefit analysis is available by contacting Peter Beaton, Department of Health, P.O. Box 47824, Olympia, WA 98504-7824, phone 360-236-3150, TTY 711, email peter.beaton@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 5, Amended 36, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 36, Repealed 5.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 36, Repealed 5.

Date Adopted: March 1, 2024.

Michelle A. Davis, MPA  
Executive Director

## OTS-4868.6

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0001 Purpose, objectives, and authority.** (1) The purpose of this chapter is to protect the public health by minimizing:

(a) The potential for public exposure to sewage from on-site sewage systems (OSS); and

(b) Adverse effects to public health that discharges from (~~on-site sewage systems~~) OSS may have on ground and surface waters.

(2) This chapter regulates the location, design, installation, operation, maintenance, and monitoring of (~~on-site sewage systems~~) OSS to:

(a) Achieve effective long-term sewage treatment and effluent dispersal; and

(b) Limit the discharge of contaminants to waters of the state.

(3) The state board of health is authorized under RCW 43.20.050 to establish minimum requirements for the department of health and local boards of health, and consistent with RCW 43.70.310 integrating the preservation of public health with protection of the environment in order to endorse policies in common.

(4) This chapter is intended to coordinate with other applicable statutes and rules for the design of (~~on-site sewage systems~~) OSS under chapter 18.210 RCW and chapter 196-33 WAC.

(5) This chapter is intended to coordinate with other applicable statutes for land use planning under chapters 36.70 and 36.70A RCW, and the statutes for subdivision of land under chapter 58.17 RCW.

(6) The local health officer may designate low-lying marine shorelines in their jurisdiction.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0005 Administration.** The local health officers and the department shall administer this chapter under the authority and requirements of chapters 70.05, 70.08, (~~(70.118,)~~) 70.46, 70A.105, 70A.110, and 43.70 RCW. RCW 70.05.060(7) authorizes local health officers to charge fees for the administration of this chapter.

NEW SECTION

**WAC 246-272A-0007 Applicability.** (1) The local health officer:

- (a) Shall apply this chapter to OSS for treatment, siting, design, installation, and operation and maintenance measures treating sewage and dispersing effluent from residential sources with design flows up to 3,500 gallons per day;
  - (b) May apply this chapter to OSS for nonresidential sources of sewage if treatment, siting, design, installation, and operation and maintenance measures provide treatment and effluent dispersal equal to that required of residential sources;
  - (c) May not apply this chapter to industrial wastewater.
- (2) The department shall apply the requirements of this chapter for the registration of proprietary treatment and distribution products.
- (3) A valid OSS design approval, or installation permit issued prior to the effective date of these rules:
- (a) Shall be acted upon in accordance with the requirements of this chapter in force at the time of issuance;
  - (b) Remains valid for a period of not more than five years from the date of approval or issuance, or remains valid for an additional year beyond the effective date of this chapter, whichever has the most lenient expiration date; and
  - (c) May be modified to include additional requirements if the health officer determines that a serious threat to public health exists.
- (4) This chapter does not apply to facilities regulated as reclaimed water use under chapters 90.46 RCW and 173-219 WAC.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0010 Definitions.** (~~((1) Acronyms used in this chapter:~~

~~"ANSI" means American National Standards Institute.~~

~~"BOD" means biochemical oxygen demand, typically expressed in mg/L.~~

~~"CBOD<sub>5</sub>" means carbonaceous biochemical oxygen demand, typically expressed in mg/L.~~

~~"FC" means fecal coliform, typically expressed in number colonies/100 ml.~~

~~"LOSS" means a large on-site sewage system (see chapter 246-272B WAC).~~



~~"NSF" means National Sanitation Foundation International.~~

~~"O&G" (formerly referred to as FOG) means oil and grease, a component of sewage typically originating from food stuffs (animal fats or vegetable oils) or consisting of compounds of alcohol or glycerol with fatty acids (soaps and lotions). Typically expressed in mg/L.~~

~~"OSS" means on-site sewage system.~~

~~"RS&G" means recommended standards and guidance.~~

~~"SSAS" means a subsurface soil absorption system.~~

~~"TAC" means the technical advisory committee established in WAC 247-272A-0400.~~

~~"TN" means total nitrogen, typically expressed in mg/L.~~

~~"TSS" means total suspended solids, a measure of all suspended solids in a liquid, typically expressed in mg/L.~~

~~"USEPA" means United States Environmental Protection Agency.~~

~~(2) Definitions used in this chapter:)~~

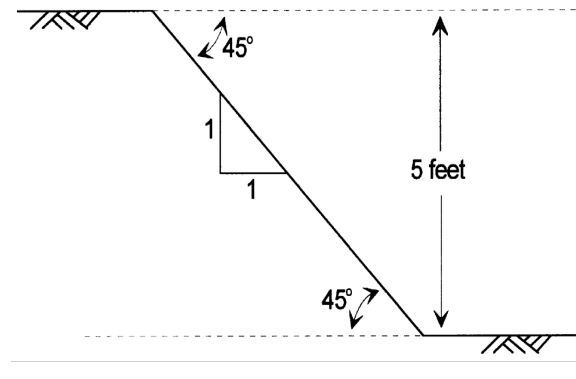
The definitions used in this section apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Additive" means a commercial product added to an ((on-site sewage system)) OSS intended to affect the performance or aesthetics of an ((on-site sewage system)) OSS.

(2) "ANSI" means American National Standards Institute.

(3) "Approved" means a written statement of acceptability issued by the local health officer or the department.

(4) "Bank" means any naturally occurring slope greater than 100 percent (45 degrees) and extending vertically at least five feet from the toe of the slope to the top of the slope as follows:



(5) "Bed" means a soil dispersal component consisting of an excavation with a width greater than three feet.

(6) "BL" means bacterial level.

(7) "Black water" means any waste from toilets or urinals.

(8) "BOD" means biochemical oxygen demand, typically expressed in mg/L.

(9) "Building drain" means that part of the lowest piping of a building's drainage system that receives the discharge of sewage from pipes inside the walls of the building and conveys it to the building sewer beginning two feet outside the building wall.

(10) "Building sewer" means that part of the horizontal piping of a drainage system extending from the building drain, which collects sewage from all the drainage pipes inside a building, to an ((on-site sewage system)) OSS. It begins two feet outside the building wall and conveys sewage from the building drain to the ((remaining portions of the on-site sewage system)) OSS.

(11) "CBOD<sub>5</sub>" means carbonaceous biochemical oxygen demand, typically expressed in mg/L.

(12) "Cesspool" means a pit receiving untreated sewage and allowing the liquid to seep into the surrounding soil or rock.

(13) "Conforming system" means any (~~on-site sewage system~~) OSS or component, meeting any of the following criteria:

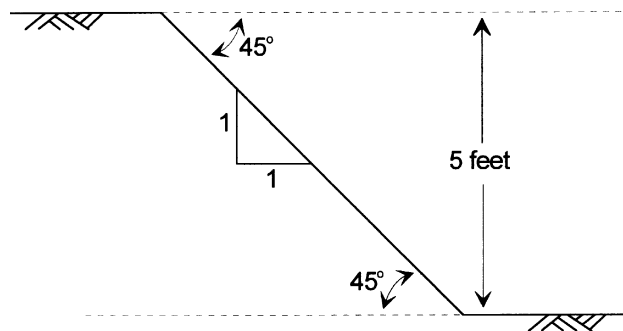
(a) In full compliance with new construction requirements under this chapter; or

(b) Approved, installed, and operating in accordance with requirements of previous editions of this chapter; or

(c) Permitted by the waiver process under WAC 246-272A-0420 (~~that assures public health protection by higher treatment performance or other methods~~).

(14) "Cover material" means soil placed over a soil dispersal component composed predominately of mineral material with no greater than (~~ten~~) 10 percent organic content. Cover material may contain an organic surface layer for establishing a vegetative landscape to reduce soil erosion.

(15) "Cuts (~~and/or banks~~)" means any (~~naturally occurring or~~) artificially formed slope greater than (~~one hundred~~) 100 percent (~~(forty-five)~~) 45 degrees) and extending vertically at least five feet from the toe of the slope to the top of the slope as follows:



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

(17) "Designer" means a person who matches site and soil characteristics with appropriate on-site sewage technology. Throughout this chapter this term applies to both (~~on-site sewage treatment system~~) OSS designers licensed under chapter 18.210 RCW and professional engineers licensed under chapter 18.43 RCW.

(18) "Design flow" means the maximum volume of sewage a residence, structure, or other facility is estimated to generate in a (~~twenty-four-hour~~) 24-hour period. It incorporates both an operating capacity and a surge capacity for the (~~system~~) OSS during periodic heavy use events. The sizing and design of the (~~on-site sewage system~~) OSS components are based on the design flow.

(19) "Detention pond" means an earthen impoundment used for the collection and temporary storage of stormwater runoff.

(20) "Development" means the creation of a residence, structure, facility, subdivision, site, area, or similar activity resulting in the production of sewage.

(21) "Disinfection" means the process of destroying pathogenic microorganisms in sewage through the application of ultraviolet light, chlorination, or ozonation.

(22) "Distribution technology" means any arrangement of equipment (~~(and/)~~) or materials that distributes sewage within an (~~(on-site sewage system)~~) OSS.

(~~("Drain field" see subsurface soil absorption system (SSAS) and soil dispersal component.)~~)

(23) "Drainrock" means clean washed gravel or crushed rock ranging in size from three-quarters inch to two and one-half inches (~~(7)~~) and containing no more than two percent by weight passing a US No. 8 sieve and no more than one percent by weight passing a US No. 200 sieve.

(24) "DS&G" means department standards and guidance.

(25) "*E. coli*" means *Escherichia coli* bacteria. Counts of these organisms are typically used to indicate potential contamination from sewage or to describe a level of needed disinfection, typically expressed as colony forming units/100 mL.

(26) "Effluent" means liquid discharged from a (~~(septic)~~) sewage tank or other (on-site sewage system) OSS component.

(27) "EPA" means United States Environmental Protection Agency.

(28) "Expanding clay" means a clay soil with the mineralogy of clay particles, such as those found in the Montmorillonite/Smectite Group, which causes the clay particles to expand when they absorb water, closing the soil pores, and contract when they dry out.

(29) "Expansion" means a change in a residence, facility, site, or use that:

(a) Causes the sewage quantity or quality to exceed the existing design flow of the (~~(on-site system)~~) OSS, for example, when a residence is increased from two to three bedrooms or a change in use from an office to a restaurant; or

(b) Reduces the treatment or dispersal capability of the existing (~~(on-site sewage system)~~) OSS or the reserve area, for example, when a building is placed over a reserve area.

(30) "Extremely gravelly" means soil with (~~(sixty)~~) 60 percent or more, but less than (~~(ninety)~~) 90 percent rock fragments by volume.

(31) "Failure" means a condition of an (~~(on-site sewage system)~~) OSS or component that threatens the public health by inadequately treating sewage or by creating a potential for direct or indirect contact between sewage and the public. Examples of failure include:

(a) Sewage on the surface of the ground;

(b) Sewage backing up into a structure caused by slow soil absorption of septic tank effluent;

(c) Sewage leaking from a sewage tank or collection system;

(d) Cesspools or seepage pits where evidence of groundwater or surface water quality degradation exists;

(e) Inadequately treated effluent contaminating groundwater or surface water; or

(f) Noncompliance with standards stipulated on the permit.

(32) "Fecal coliform" or "FC" means bacteria common to the digestive systems of warm-blooded animals that are cultured in standard tests. Counts of these organisms are typically used to indicate potential contamination from sewage or to describe a level of needed disinfection (~~(. Generally)~~) typically expressed (~~(as colonies per)~~) in colony forming units/100 mL.

(33) "Fill" means unconsolidated material that:

(a) Meets soil types 1-6 textural criteria and is used as part of a soil dispersal component;

(b) Is used to change grade or to enhance surface water diversion; or

(c) Is any other human-transported material.

(34) "Flood plain" means an area that is low-lying and adjacent to a stream or river that is covered by water during a flood.

(35) "GPD" means gallons per day.

(36) "Gravelly" means soils with ((fifteen)) 15 percent or more, but less than ((thirty-five)) 35 percent rock fragments by volume.

((("Gray water" means sewage from)) (37) "Greywater" means sewage from any source in a residence or structure that has not come into contact with toilet or urinal wastes, including bathtubs, showers, bathroom sinks, washing machines, dishwashers, and kitchen sinks. ((It includes sewage from any source in a residence or structure that has not come into contact with toilet wastes.))

(38) "Groundwater" means subsurface water occupying the zone of saturated soil, permanently, seasonally, or as the result of the tides. Indications of groundwater may include:

(a) Water seeping into or standing in an open excavation from the soil surrounding the excavation or monitoring ports.

(b) Spots or blotches of different color or shades of color interspersed with a dominant color in soil, caused by reduction and oxidation of iron. These color patterns are redoximorphic features, commonly referred to as mottling. Redoximorphic features often indicate the intermittent presence of groundwater and may indicate poor aeration and impeded drainage. ((Also see "water table."))

(39) "Holding tank sewage system" means an ((on-site sewage system which)) OSS that incorporates a sewage tank without a discharge outlet, the services of a sewage pumper/hauler, and the offsite treatment and disposal for the sewage generated.

(40) "Hydraulic loading rate" means the amount of effluent applied to a given treatment step, ((in this chapter)) expressed as gallons per square foot per day or ((+)gal/sq.ft./day((+)).

(41) "Industrial wastewater" means the water or liquid carried waste from an industrial process. These wastes may result from any process or activity of industry, manufacture, trade or business, from the development of any natural resource, or from animal operations such as feedlots, poultry houses, or dairies. ((The term)) Industrial wastewater includes contaminated stormwater and leachate from solid waste facilities.

(42) "Infiltration pond" means an earthen impoundment used for the collection, temporary storage, and infiltration of stormwater runoff.

(43) "Infiltrative surface" means the surface within a treatment component or soil dispersal component to which effluent is applied and through which effluent moves into original, undisturbed soil or other porous treatment media.

(44) "Installer" means a person approved by the local health officer to install ((on-site sewage systems)) an OSS or OSS components.

(45) "Local health officer" means the health officer of the city, county, or city-county health department or district within the state of Washington, or a representative authorized by and under the direct supervision of the local health officer, as defined in chapter 70.05 RCW.

(46) "LOSS" means a large on-site sewage system under chapter 246-272B WAC.

(47) "Maintenance" means the actions necessary to keep the ((on-site sewage system)) OSS components functioning as designed.

(48) "Maintenance service provider" means a management entity certified by the local health officer and conducts a comprehensive analysis of an OSS.

(49) "Malfunction" means a damaged or deficient previously conforming OSS component that may be corrected by means of a minor repair.

(50) "Massive structure" means the condition of a soil layer in which the layer appears as a coherent or solid mass not separated into peds of any kind.

(51) "mg/L" means milligrams per liter.

(52) "mL" means milliliter.

(53) "Minimum usable land area" means the minimum land area within the minimum lot size required per development using an OSS, which is based on soil type and type of water supply. Minimum usable land area is free of all physical restrictions and meet minimum vertical and horizontal separations.

(54) "Minor repair" means the repair or replacement of any of the following existing damaged or malfunctioning OSS components except that the repair or replacement of a sewage tank, treatment component, or soil dispersal component is not considered a minor repair:

(a) Control panels;

(b) Building sewers;

(c) Any other portions of tightline in the OSS;

(d) Risers and riser lids;

(e) Sewage tank baffles;

(f) Effluent filters;

(g) Sewage tank pumps and lids;

(h) Pump control floats; and

(i) OSS inspection boxes and ports.

(55) "Moderate structure" means well-formed distinct peds evident in undisturbed soil. When disturbed, soil material parts into a mixture of whole peds, broken peds, and material that is not in peds.

(56) "Modification" means the alteration of an existing OSS component that does not result in an expansion of the system. A modification is not considered a repair.

(57) "Monitoring" means periodic or continuous checking of an (~~on-site sewage system~~) OSS, which is performed by observations and measurements, to determine if the system is functioning as intended and if system maintenance is needed. Monitoring also includes maintaining accurate records that document monitoring activities.

(~~"On-site sewage system" (OSS) means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, and/or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage system also refers to a holding tank sewage system or other system that does not have a soil dispersal component.~~)

(58) "NSF" means NSF International.

(59) "O&G" means oil and grease, a component of sewage typically originating from food stuffs such as animal fats or vegetable oils, or consisting of compounds of alcohol or glycerol with fatty acids such as soaps and lotions, typically expressed in mg/L.

(60) "Operating capacity" means the average daily volume of sewage an OSS can treat and disperse on a sustained basis. The operating capacity, which is lower than the design flow, is an integral part of the design and is used as an index in OSS monitoring.

(61) "Ordinary high-water mark" means the mark on lakes, streams, springs, and tidal waters, found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland with respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter. The following ~~((definitions))~~ conditions apply where the ordinary high-water mark cannot be found:

(a) The ordinary high-water mark adjoining marine water is the elevation at mean higher high tide; and

(b) The ordinary high-water mark adjoining freshwater is the line of mean high water.

(62) "OSS" means on-site sewage system, an integrated system of components, located on or nearby the property it serves, which conveys, stores, treats, and provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment component sequence, and a soil dispersal component. An OSS also refers to a holding tank sewage system or other system that does not have a soil dispersal component. The term "on-site sewage system (OSS)" does not include any system regulated by a water quality discharge permit issued under chapter 90.48 RCW.

(63) "PAG" means policy advisory group.

(64) "PDP" means product development permit.

(65) "Ped" means a unit of soil structure such as blocks, column, granule, plate, or prism formed by natural processes.

(66) "Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities. For the purposes of WAC 246-272A-0430 and 246-272A-0440, a person is defined to include:

(a) Applicant;

(b) Reapplicant;

(c) Permit holder; or

(d) Any individual associated with (a), (b) or (c) of this subsection including, but not limited to:

(i) Board members;

(ii) Officers;

(iii) Managers;

(iv) Partners;

(v) Association members;

(vi) Agents; and

(vii) Third persons acting with the knowledge of such persons.

(67) "Planned unit development" means a subdivision characterized by a unified site design, clustered residential units ~~((and/))~~ or commercial units, and areas of common open space.

(68) "Platy structure" means soil that contains flat peds that lie horizontally and often overlap. This type of structure ~~((will))~~ impedes the vertical movement of water.

(69) "Pressure distribution" means a system of small diameter pipes equally distributing effluent throughout ~~((a SSAS))~~ an OSS, as described in the ~~((department's "Recommended Standards and Guidance"))~~ DS&G for Pressure Distribution Systems, ~~(("-2001"))~~ 2022. A subsurface drip system ~~((may be used wherever the chapter requires))~~ is considered a pressure distribution system.

(70) "Professional engineer" means a person who is currently licensed as an engineer under the provisions of chapter 18.43 RCW.

(71) "Proprietary product" means a sewage treatment and distribution technology, method, or material subject to a patent or trademark.

(72) "Public domain technology" means a sewage treatment and distribution technology, method, or material not subject to a patent or trademark.

(73) "Public sewer system" means a sewerage system:

(a) Owned or operated by a city, town, municipal corporation, county, or other approved ownership consisting of a collection system and necessary trunks, pumping facilities and a means of final treatment and disposal; and

(b) Approved by or under permit from the department of ecology, the department of health ((and/)), or a local health officer.

(74) "Puget Sound counties" means Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and Whatcom. All other counties are defined as non-Puget Sound counties.

(75) "Pump chamber" means a watertight receptacle placed after a septic tank, sewage tank, or other treatment facility that contains the required controls and alarms to convey sewage effluent to a treatment or dispersal component.

(76) "Pumper" means a person approved by the local health officer to remove and transport sewage or septage from ((on-site sewage systems)) an OSS.

(77) "Record drawing" means an accurate graphic and written record of the location and features of the OSS that are needed to properly monitor, operate, and maintain that system. Also known as an "as-built" drawing.

(78) "Remediation" means any action, approved by the local health officer, which attempts to restore the function of a previously conforming OSS dispersal component that has failed. Remediation is not considered:

(a) A minor repair;

(b) A repair;

(c) An additive; or

(d) A treatment or distribution technology that allows the OSS to meet a specific treatment level.

(79) "Repair" means the relocation, replacement, or reconstruction of a failed ((on-site sewage system)) OSS, or any OSS components not included in the list for a minor repair, which have failed in order to restore the OSS to a nonfailure status.

(80) "Reserve area" means an area of land approved for the installation of a conforming ((system)) OSS that is protected and maintained for replacement of the OSS upon its failure.

(81) "Residential sewage" means sewage having the constituency and ((strength)) quality typical of ((wastewater from domestic households)) residential septic tank effluent consistent with treatment level E identified in Table III in WAC 246-272A-0110.

(82) "Restrictive layer" means a stratum impeding the vertical movement of water, air, and growth of plant roots, such as hardpan, claypan, fragipan, caliche, some compacted soils, bedrock, and unstructured clay soils.

(83) "Rock fragment" means rock or mineral fragments having a diameter of two millimeters or more ((; for example)). Examples include, gravel, cobbles, stones, and boulders.

(84) "Seepage pit" means an excavation more than three feet deep where the sidewall of the excavation is designed to dispose of septic

tank effluent. Seepage pits ((may)) are also ((be called "dry wells.")) known as dry wells.

(85) "~~Septage~~" means ((the mixture of solid wastes, scum, sludge, and liquids pumped from within septic tanks, pump chambers, holding tanks, and other OSS components)) liquid or solid material removed from sewage tanks, cesspools, portable toilets, type III marine sanitation devices, vault toilets, pit toilets, recreational vehicle holding tanks, or similar systems that receive only domestic sewage.

(86) "Septic tank" means a watertight treatment receptacle receiving the discharge of sewage from a building sewer or sewers, designed and constructed to ((permit separation of)) separate settleable and floating solids from the liquid, detention and anaerobic digestion of the organic matter, prior to discharge of the liquid.

((~~"Septic system" see on-site sewage system or OSS.~~))

(87) "Sewage" means any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places.

(88) "Sewage quality" means contents in sewage that include:

(a) CBOD<sub>5</sub>, TSS, and O&G;

(b) Other parameters that ((can)) may adversely affect treatment. Examples include pH, temperature, and dissolved oxygen; or

(c) Other constituents that create concerns due to specific site sensitivity. Examples include fecal coliform, E. coli, phosphorus, and nitrogen.

(89) "Sewage tank" means a prefabricated or cast-in-place septic tank, pump ((~~tank/dosing~~)) chamber, dosing chamber, holding tank, grease interceptor, recirculating filter tank or any other tanks as they relate to ((~~on-site sewage systems~~)) OSS including tanks for use with proprietary products.

(90) "Soil dispersal component" means a technology that releases effluent from a treatment component into the soil for dispersal, final treatment and recycling.

(91) "Soil log" means a detailed description of soil characteristics providing information on the soil's capacity to act as an acceptable treatment and dispersal medium for sewage.

(92) "Soil scientist" means a person certified by the American Society of Agronomy as a Certified Professional Soil Scientist.

(93) "Soil type" means one of seven numerical classifications of fine earth particles and rock fragments as described in WAC 246-272A-0220 (2) (e).

(94) "Standard methods" means the ((~~20th~~)) 23rd Edition of Standard Methods for the Examination of Water and Wastewater, prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation.

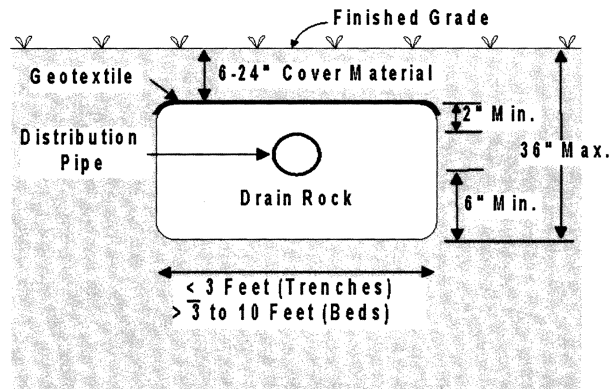
(95) "Strong structure" means peds are distinct in undisturbed soil. They separate cleanly when soil is disturbed, and the soil material separates mainly into whole peds when removed.

(96) "Subdivision" means a division of land or creation of lots or parcels, described under chapter 58.17 RCW, including both long and short subdivisions, planned unit developments, and mobile home parks.

(97) "Subsurface drip system" means an efficient pressurized wastewater distribution system that can deliver small, precise doses of effluent to soil surrounding the drip distribution piping ((~~called~~)), also known as dripline((~~+~~)), as described in the ((~~department's "Recommended Standards and Guidance~~)) DS&G for Subsurface Drip Systems, 2020.((~~"~~))



~~(("Subsurface soil absorption system" (SSAS) means))~~ (98) "SSAS" means a subsurface soil absorption system that is a soil dispersal component of trenches or beds containing either a distribution pipe within a layer of drainrock covered with a geotextile, or an approved gravelless distribution technology, designed and installed in ~~((original, undisturbed, unsaturated soil providing at least minimal vertical separation as established in this chapter))~~ suitable soil, with either gravity or pressure distribution of the treatment component effluent.



(99) "Suitable" means original, undisturbed, unsaturated soil of soil types 1-6 with at least the vertical separation established in this chapter.

(100) "Surface water" means any fresh or marine body of water (~~((whether fresh or marine,))~~) flowing or contained in natural or artificial unlined depressions for significant periods of the year, including natural and artificial lakes, ponds, springs, rivers, streams, swamps, marshes, irrigation canals, and tidal waters.

(101) "TAG" means the technical advisory group established in WAC 246-272A-0400.

(102) "Timed dosing" means delivery of discrete volumes of sewage at prescribed time intervals.

(103) "TN" means total nitrogen, typically expressed in mg/L.

(104) "Treatment component" means a technology that treats sewage in preparation for further treatment (~~((and/))~~) or dispersal into the soil environment. Some treatment components, such as mound systems, incorporate a soil dispersal component in lieu of separate treatment and soil dispersal components.

(105) "Treatment component sequence" means any series of treatment components that discharges treated sewage to the soil dispersal component.

(106) "Treatment level" means one of ~~((six))~~ the following levels (A, B, C, ~~((D))~~ BL1, BL2, BL3, E, & N (~~((used in these rules))~~) to:

(a) Identify treatment component performance demonstrated through requirements specified in WAC 246-272A-0110; and

(b) Match site conditions of vertical separation and soil type with treatment components. ~~((Treatment levels used in these rules are not intended to be applied as field compliance standards. Their intended use is for establishing treatment product performance in a product testing setting under established protocols by qualified testing entities.))~~

~~"Treatment sequence" means any series of treatment components that discharges treated sewage to the soil dispersal component.)~~

(107) "Trench" means a soil dispersal component consisting of an excavation with a width of three feet or less.

(108) "TSS" means total suspended solids, a measure of all suspended solids in a liquid, typically expressed in mg/L.

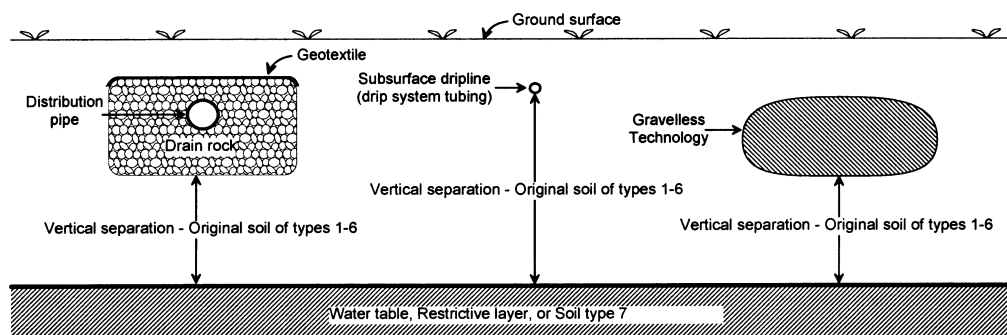
(109) "Unit volume of sewage" means:

- (a) Flow from a single-family residence;
- (b) Flow from a mobile home site in a mobile home park; or
- (c) Four hundred fifty gallons of sewage per day where the proposed development is not single-family residences or a mobile home park.

(110) "Unknown OSS" means an OSS that was installed without the knowledge or approval of the local health jurisdiction, including those that were installed before such approval was required.

(111) "Unpermitted sewage discharge" means the discharge of sewage or treated effluent from an unknown OSS.

(112) "Vertical separation" means the depth of (~~unsaturated, original, undisturbed soil of soil types 1-6~~) suitable soils between the bottom infiltrative surface of a soil dispersal component and the highest seasonal water table, a restrictive layer, or soil type 7 as illustrated below by the profile drawing of subsurface soil absorption systems:



(113) "Very gravelly" means soil containing (~~thirty-five~~) 35 percent or more, but less than (~~sixty~~) 60 percent rock fragments by volume.

(114) "Water supply protection zone" means the land area around each existing or proposed well site to protect the water supply from contamination.

(115) "Water table" means the upper surface of the groundwater, whether permanent or seasonal. Also see "groundwater" as defined in this section. ("")

(116) "Well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering or withdrawal of groundwater for agricultural, municipal, industrial, domestic, or commercial use. (~~Excluded are~~) The following are not considered a well:

- (a) A temporary observation or monitoring well used to determine the depth to a water table for locating an OSS;
- (b) An observation or monitoring well used to measure the effect of an OSS on a water table; (~~and~~)
- (c) An interceptor or curtain drain constructed to lower a water table; and
- (d) A dewatering well used temporarily for the purpose of a sewage tank or pump chamber installation.

**GENERAL REQUIREMENTS**NEW SECTION

**WAC 246-272A-0013 Local rules.** (1) The local health officer shall enforce the requirements of this chapter until a local board of health adopts local OSS regulations. A local board of health may adopt and enforce local rules governing OSS when the local regulations are:

(a) Consistent with, and at least as stringent as this chapter; and  
(b) Approved by the department prior to the effective date of local regulations.

(2) To apply for department approved local OSS regulations a local board of health shall submit the proposed local regulations to the department.

(3) Within 90 days of receipt of proposed local regulations, the department shall:

(a) Approve the proposed regulations; or  
(b) Deny the proposed regulations if the department determines local regulations are not consistent with this chapter or less stringent than this chapter and provide specific reasons for the denial.

(4) Upon receipt of department approval, or after 90 days if the department fails to act, the local board may implement adopted regulations. The local board shall provide a copy of the adopted local regulations to the department.

(5) If the department denies approval of local regulations, the local board of health may:

(a) Resubmit revised regulations that address the specific reasons for the denial for department consideration; or  
(b) Submit a request to the department to review its denial within 120 days from the date the local board of health receives the specific reasons for the denial.

(6) Upon receipt of request for review of the department denial, the department shall:

(a) Acknowledge the receipt of the request within 30 days; and  
(b) Form a mutually acceptable advisory panel to review the department denial and reach an agreement within a reasonable time. The panel shall consist of:

(i) One representative from the department;  
(ii) One representative from a local health jurisdiction other than that which requested the review; and  
(iii) One member of the TAG.

(7) If good faith efforts to reach agreement are unsuccessful between the department and a local board of health, the local board of health may appeal the denial to the Washington state board of health for resolution.

(8) Nothing in this chapter shall prohibit the adoption and enforcement of more stringent regulations by a local board of health.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0015 Local management (~~(and regulation)~~) plans.**

(1) (~~(By July 1, 2007,)~~) The local health officer (s of health jurisdictions in the twelve counties bordering) for each Puget Sound county shall develop a written local management plan (that will) to provide guidance to the local health jurisdiction regarding development and management activities for all OSS within the jurisdiction. The (plan) department will review the existing OSS local management plans for all Puget Sound counties within two years of the effective date of the rule. If the department determines a plan revision is necessary upon review, the local health officer shall revise the local management plan for all OSS within the local health jurisdiction consistent with subsection (2) of this section.

(2) At a minimum, the local management plan for Puget Sound counties must specify how the local health jurisdiction will:

(a) Progressively develop and maintain an inventory including the type and location of all known OSS in operation within the jurisdiction;

(b) Identify any areas where OSS could pose an increased public health risk. The following areas shall be given priority in this activity:

(i) Shellfish protection districts or shellfish growing areas;

(ii) Sole source aquifers as designated by the (~~(USEPA)~~) EPA;

(iii) Areas in which aquifers used for potable water as designated under the Washington State Growth Management Act(~~(7)~~) under chapter 36.70A RCW are critically impacted by recharge;

(iv) Designated wellhead protection areas (~~(for)~~) in Group A public water (~~(systems)~~) supplies under chapter 246-290 WAC;

(v) Up-gradient areas directly influencing water recreation facilities designated for swimming in natural waters with artificial boundaries within the waters as described by the Water Recreation Facilities Act(~~(7)~~) under chapter 70.90 RCW;

(vi) Areas designated (~~(by the department of ecology)~~) as special protection areas under WAC 173-200-090 (~~(7, Water quality standards for groundwaters of the state of Washington)~~);

(vii) Wetland areas under production of crops for human consumption;

(viii) Frequently flooded areas including areas delineated by the Federal Emergency Management Agency (~~(and)~~) or as designated under the Washington State Growth Management Act(~~(7)~~) under chapter 36.70A RCW;

(ix) Areas where nitrogen has been identified as a contaminant of concern including, but not limited to, the marine waters of Puget Sound; (and)

(x) Areas where phosphorous has been identified as a contaminant of concern;

(xi) Areas where sea level rise may impact adequate horizontal separations to surface water; and

(xii) Other areas designated by the local health officer.

(c) Identify operation, maintenance, and monitoring requirements commensurate with risks posed by OSS within the geographic areas identified in (b) of this subsection;

(d) (~~(Facilitate education of homeowners regarding their responsibilities under this chapter and provide operation and maintenance information for all types of systems in use within the jurisdiction;~~

~~(e) Remind and encourage homeowners to complete the operation and maintenance inspections required by WAC 246-272A-0270;~~

~~(f)) Educate OSS owners about their responsibilities to perform OSS operation and maintenance, including information for owners to complete any inspection required by WAC 246-272A-0270;~~

~~(e) Maintain records required under this chapter, including ((ef)) all operation and maintenance activities as identified; ((and)) ((g)) (f) Enforce OSS owner permit application, operation, monitoring and maintenance and failure repair requirements ((defined)) in WAC 246-272A-0200((+1)) (2), 246-272A-0260, 246-272A-0270, 246-272A-0275, and 246-272A-0280 ((-1) and (-2));~~

~~((h)) (g) Describe the capacity of the local health jurisdiction to ((adequately)) fund the local ((OSS plan, including)) management plan, which includes a summary of program expenditures by activity, source of funds, a strategy to fill any funding gaps, and the ability to find failing and unknown systems; and~~

~~((i) Assure that it) (h) Verify that the local management plan was developed ((to coordinate)) in coordination with the comprehensive land use plan of the entities governing development ((in the health officer's)) within the local health jurisdiction.~~

~~((2) After being approved by the local board of health following a public hearing, the local health officers required to develop a written plan under subsection (1) of this section shall:~~

~~(a) Supply a copy of the plan to the department;~~

~~(b) Supply a copy of the plan to the entities responsible for land use planning and development regulations in the health officer's jurisdiction; and~~

~~(c) Implement the plan described in subsection (1) of this section.~~

~~(3) The plans of local health jurisdictions required to develop a written plan under subsection (1) of this section shall be submitted to the department by July 1, 2007, and shall be reviewed to ensure the elements described in subsection (1) of this section have been addressed. The department shall provide in writing to the local board of health its review of the completeness of the plan.~~

~~(4) For purposes of this chapter, the local health jurisdictions in marine counties are Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston and Whatcom.)~~

~~(3) The department shall review the local management plan for Puget Sound counties at least once every five years. If the department determines plan revision is necessary upon review of the local management plan described in subsection (2) of this section, the department shall notify the local health officer of their findings.~~

~~(4) The local health officer for Puget Sound counties shall:~~

~~(a) Review and update the local management plan, as necessary, or at least once every five years;~~

~~(b) If after the review the local management plan is updated, provide an opportunity for public input on the local management plan;~~

~~(c) Following local board of health approval, submit the local management plan to the department for review;~~

~~(d) Implement the local management plan;~~

~~(e) Submit an annual report to the department including all of the following in a format specified by the department:~~

~~(i) Number of OSS;~~

~~(ii) Number of unknown OSS identified;~~

~~(iii) Number of failures found;~~

(iv) Number of failures repaired; and

(v) Status of compliance with inspections required by WAC 246-272A-0270;

(f) Supply a copy of the local management plan to the entities responsible for land use planning and development regulations in the local health jurisdiction.

~~(5) The local health officer((s)) for ((all other jurisdictions not required to develop a written plan under subsection (1) of this section)) a non-Puget Sound county shall develop a written local management plan that will provide guidance to the local health jurisdiction regarding development and management activities for all OSS within the jurisdiction. At a minimum the plan shall include:~~

~~(a) A description of the capacity of the local health jurisdiction to provide education and operation and maintenance information for all types of systems in use within the jurisdiction;~~

~~(b) A description of how the local health officer will remind and encourage homeowners to complete the operation and maintenance inspection required by WAC 246-272A-0270; and~~

~~(c) A description of the capacity of the local health jurisdiction to adequately fund the local OSS plan.~~

~~(6) In order to implement the plan described in subsections (1) and (5) of this section, the local health officer shall require the owner of the OSS to:~~

~~(a) Comply with additional requirements identified in the plan for the location, design, or performance; and~~

~~(b) Comply with the conditions of the operational permit if one is required.~~

~~(7) In order to implement the plan described in subsections (1) and (5) of this section, the local health officer may require the owner of the OSS to:~~

~~(a) Ensure additional maintenance and monitoring of the OSS;~~

~~(b) Provide dedicated easements for inspections, maintenance, and potential future expansion of the OSS; and~~

~~(c) Place a notice to title identifying any additional requirements for OSS operation, maintenance, and monitoring(, and~~

~~(d) Have an inspection of the OSS at the time of property transfer including the preparation of a "record drawing" if necessary.~~

~~(8) No later than July 1, 2006, the department shall develop guidance on local management programs to assist marine local health jurisdictions in plan development.~~

~~(9) Until such time as the local board of health decides to adopt its own rules, the local health officer shall enforce this chapter. Local boards of health may adopt and enforce local rules and regulations governing on-site sewage systems when the local regulations are:~~

~~(a) Consistent with, and at least as stringent as, this chapter; and~~

~~(b) Approved by the department prior to the effective date of local regulations.~~

~~(10) A local board of health shall apply for departmental approval of local regulations by initiating the following procedure:~~

~~(a) The local board shall submit the proposed local regulations to the department.~~

~~(b) Within ninety days of receipt, the department shall:~~

~~(i) Approve the regulation in writing; or~~

~~(ii) Signify automatic tacit approval with the local regulations and permitting local implementation by failing to act; or~~

~~(iii) Deny approval of the regulations. If the department determines local regulations are not consistent with this chapter, the department shall provide specific reasons for denial.~~

~~(11) Upon receipt of departmental approval or after ninety days without notification, whichever comes first, the local board may implement adopted regulations. The local board shall provide a copy of the adopted local regulations to the department.~~

~~(12) If the department denies approval of local regulations, the local board of health may:~~

~~(a) Resubmit revised regulations for departmental consideration; or~~

~~(b) Submit a written request for a review of the departmental denial within one hundred twenty days from the date the local board of health receives the written reasons for the denial.~~

~~(13) Upon receipt of written request for review of the departmental denial, the department shall:~~

~~(a) Acknowledge the receipt of the request in writing; and~~

~~(b) Form a mutually acceptable advisory panel consisting of:~~

~~(i) One departmental employee;~~

~~(ii) One employee from a local health jurisdiction other than that which requested the review; and~~

~~(iii) One member of the technical advisory committee.~~

~~(14) If good faith efforts to reach agreement are unsuccessful, the local board of health may appeal the denial to the Washington state board of health for resolution.~~

~~(15) Nothing in this chapter shall prohibit the adoption and enforcement of more stringent regulations by local health departments.~~

~~(16) In the plan required in subsection (1) of this section and in local regulations, the local health officer may address water conservation and include options for the nonpotable reuse of gray water. Any treatment and dispersal of gray water outside the residence or structure must comply with this chapter).~~

(8) The department shall maintain and update guidance and provide technical assistance to assist local health jurisdictions in local management plan development.

**( (GENERAL REQUIREMENTS) )**

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0025 Connection to public sewer system. (1)**

((When)) Upon the failure of an existing OSS within the service area of a sewer utility, the local health officer shall:

(a) Permit the repair or replacement of the OSS only if a conforming OSS can be designed and installed, excluding OSS designed in compliance with or proposing to use Table X in WAC 246-272A-0280; or

(b) Require connection to a public sewer system if the sewer utility allows the connection and has adequate public sewer services

~~((are)) available within ((two hundred feet of the residence or facility, the local health officer, upon the failure of an existing on-site sewage system may:~~

~~(a) Require hook-up to a public sewer system; or~~

~~(b) Permit the repair or replacement of the on-site sewage system only if a conforming system can be designed and installed.~~

~~(2) Except as noted in subsection (1) of this section, the owner of a failure shall abandon the OSS under WAC 246-272A-0300 and connect the residence or other facility to a public sewer system when:~~

~~(a) The distance between the residence or other facility and an adequate public sewer is two hundred feet or less as measured along the usual or most feasible route of access; and~~

~~(b) The sewer utility allows the sewer connection.~~

~~(3)) 200 feet from where the existing building drain connects to the existing building sewer, or where no building drain exists, within 200 feet from where the sewer line begins, as measured along the usual or most feasible route of access.~~

~~(2) The owner of a ((residence or other facility)) structure served by ((a system meeting the requirements of Table IX of this chapter)) an OSS permitted as a repair under Table X in WAC 246-272A-0280 shall abandon the OSS ((according to the requirements)) as specified in WAC 246-272A-0300, and connect the ((residence or other facility)) structure to a public sewer system when:~~

~~(a) Connection is deemed necessary to protect public health by the local health officer;~~

~~(b) An adequate public sewer becomes available within ((two hundred)) 200 feet of the ((residence or other facility)) existing structure, or in cases where no building drain exists, within 200 feet from where the sewer for the building begins, as measured along the usual or most economically feasible route of access; and~~

~~(c) The sewer utility allows the sewer connection.~~

~~((4)) (3) Local boards of health may require a new development to connect to a public sewer system to protect public health.~~

~~((5)) (4) Local boards of health shall require new development or a development with a failing ((system)) OSS to connect to a public sewer system if it is required by the comprehensive land use plan or development regulations.~~

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0100 Sewage technologies.** (1) The department ((may develop recommended)) shall maintain standards and guidance ((to assist)) for local health officers ((in permitting different types of)) to permit sewage treatment and distribution technologies ((including the following four broad categories:

~~(a) Public domain treatment technologies (e.g., sand filters);~~

~~(b) Proprietary treatment products (e.g., aerobic treatment systems and packed bed filters);~~

~~(c) Public domain distribution technologies (e.g., gravel or generic gravel substitutes, gravity and pressure distribution methods and materials);~~

~~(d) Proprietary distribution products (e.g., subsurface dripline products or gravelless distribution products)).~~



(2) ~~((All types of))~~ Before the local health officer permits sewage technologies, the sewage technologies must ~~((have either standards))~~ be registered for use as described in this chapter, have standards for use as described or referenced in this chapter, or ~~((departmental recommended standards and guidance before the local health officer may permit them. Recommended standards and guidance may include information and detail such as:~~

- ~~(a) Application;~~
- ~~(b) Design;~~
- ~~(c) Installation;~~
- ~~(d) Operation, monitoring and maintenance;~~
- ~~(e) Performance expectations; and~~
- ~~(f) Sources of information.))~~

have DS&G describing sewage technologies uses as maintained by the department.

(3) The department may remove, restrict, or suspend a proprietary product's approval for use based on failure to meet required standards or conditions of approval or if the information provided by the manufacturer is false, erroneous, or unrepresentative of the approved product.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0110 Proprietary treatment products—~~((Certification and))~~ Eligibility for registration.** (1) ~~Manufacturers shall register~~ ~~((their))~~ a proprietary treatment product ~~((s))~~ with the department using the process described in WAC 246-272A-0120 before ~~((the))~~ a local health officer may permit ~~((their))~~ use of the product.

(2) ~~To~~ ~~((qualify))~~ be eligible for product registration, manufacturers desiring to sell or distribute proprietary treatment products in Washington state shall:

(a) Verify product performance through testing using the testing protocol established in Table I ~~((and register their product with the department using the process described in WAC 246-272-0120))~~ of this section;

(b) Report product test results of influent and effluent sampling obtained throughout the testing period (including normal and stress loading phases) for evaluation of constituent reduction according to the requirements in Table II of this section;

(c) Demonstrate product performance according to the requirements in Table III of this section. All ~~((thirty-day))~~ 30-day averages and geometric means obtained throughout the test period must meet the identified threshold values to qualify for registration at that threshold level; and

(d) ~~((For registration at levels A, B, and C))~~ Verify bacteriological reduction according to WAC 246-272A-0130 for product registration utilizing bacterial levels BL1, BL2, and BL3.

(3) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility accredited by ANSI:

(a) ~~((ANSI/NSF Standard))~~ NSF/ANSI 40 ~~((—))~~: Residential Wastewater Treatment Systems;

(b) ~~((NSF Standard))~~ NSF/ANSI 41: Non-Liquid Saturated Treatment Systems;

(c) NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation; ~~(( $\neq$ ))~~

(d) ~~((Protocol))~~ NSF/ANSI 245: Residential Wastewater Treatment Systems - Nitrogen Reduction; or

(e) NSF/ANSI 385: Residential Wastewater Treatment Systems - Disinfection Mechanics for Bacteriological Reduction described in WAC 246-272A-0130.

(4) Manufacturers verifying product performance through testing according to ~~((the following standards or protocols shall have product testing conducted by a testing facility meeting the requirements established by the Testing Organization and Verification Organization, consistent with the test protocol and plan:~~

~~(a) EPA/NSF Protocol for the Verification of Wastewater Treatment Technologies; or~~

~~(b) EPA Environmental Technology Verification Program protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction.)~~ EPA Method 1664, Revision B and using a wastewater laboratory certified by the Washington department of ecology shall provide supporting information, including flow data, and influent and effluent quality sampling results from a minimum of three installations with similar design loading to demonstrate product performance to Category 2 standards.

(5) Treatment levels ~~((used in these rules are not intended to be applied as field compliance standards. Their intended use is for establishing))~~ established in Table III of this section are intended to establish treatment product performance in a product testing setting under established protocols by qualified testing entities. Field compliance standards for proprietary treatment products shall follow the requirements in WAC 246-272A-0120 (5).

(6) Manufacturers may submit a written request to substitute components of a registered product's construction in cases of supply chain shortage or similar manufacturing disruptions impacting installations, operation, or maintenance. The substitution request must include a report stamped, signed, and dated by a professional engineer demonstrating the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product. If approved, substitution is authorized until rescinded by the department.

~~((TABLE I))~~

**Table I**

Testing Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Required Testing Protocol
<del>Category 1</del> <del>Designed to treat ((sewage with strength typical of a residential source when))</del> septic tank effluent <del>((is))</del> anticipated to be equal to or less than treatment level E.	<del>((ANSI/NSF))</del> <u>NSF/ANSI 40—Residential Wastewater Treatment Systems</u> <del>((protocols))</del> versions dated between <del>((July 1996 and the effective date of these rules))</del> <u>January 2009 and May 31, 2021)</u>
<del>Category 2</del> <del>Designed to treat ((high-strength sewage when septic tank))</del> effluent <del>((is))</del> or sewage with sewage quality parameters anticipated to be greater than treatment level E.  (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	<del>((EPA/NSF Protocol for the Verification of Wastewater Treatment Technologies/ EPA Environmental Technology Verification (April 2001)))</del> <u>EPA Method 1664, Revision B (February 2010)</u>
<del>Category 3</del> <del>Black water component of residential sewage (such as composting* and incinerating** toilets).</del>	<del>NSF/ANSI ((Standard)) 41: Non-Liquid Saturated Treatment Systems</del> <del>((September 1999))</del> <u>Versions dated between February 2011 and May 31, 2021)</u>

Testing Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Required Testing Protocol
	**NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation (April 2000)
<b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b>	((Protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction/EPA Environmental Technology Verification Program (November, 2000))) NSF/ANSI 245: Residential Wastewater Treatment Systems – Nitrogen Reduction (Versions dated between January 2018 and May 31, 2021)

( ( ~~TABLE II~~ ) )

**Table II**

Test Results Reporting Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Testing Results Reported
<p><b>Category 1</b> Designed to treat ((sewage with strength typical of a residential source when) septic tank effluent ((is)) anticipated to be equal to or less than treatment level E.</p>	<p>Report the following test results of influent and effluent sampling obtained throughout the testing period for evaluation of ((constituent)) reduction ((for the parameters:)) of CBOD<sub>5</sub><sup>2</sup>, and TSS:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Average</li> <li><input type="checkbox"/> Minimum</li> <li><input type="checkbox"/> Median</li> <li><input type="checkbox"/> 30-day Average (for each month)</li> <li><input type="checkbox"/> Standard Deviation</li> <li><input type="checkbox"/> Maximum</li> <li><input type="checkbox"/> Interquartile Range</li> </ul> <p>For evaluation of bacteriological reduction performance((;)).</p> <p><u>Report complete treatment component sequence testing as described in Table III, Category 1.</u></p> <p><u>For evaluation of performance meeting treatment level BL1:</u>                      (1) Report fecal coliform test results of influent and effluent sampling by geometric mean from samples drawn within ((thirty)) 30-day or monthly calendar periods, obtained from a minimum of three samples per week throughout the testing period. See WAC 246-272A-0130.                      (2) Report complete testing results for supplemental bacteriological reduction technology<sup>1</sup> when the required treatment levels for fecal coliform in Table III, Category 1 are not met by the primary proprietary treatment product.</p> <p><u>For evaluation of performance meeting treatment level BL2 or BL3:</u>                      (1) Report fecal coliform test results of influent and effluent sampling by geometric mean from samples drawn within 30-day or monthly calendar periods, obtained from a minimum of three samples per week throughout the testing period as described in WAC 246-272A-0130; or                      (2) Report complete testing results for supplemental bacteriological reduction technology<sup>1</sup> when the required treatment levels for fecal coliform in Table III, Category 1 are not met by the primary proprietary treatment product.</p> <p>For all options, test report must also include the individual results of all samples drawn throughout the test period.</p>
<p><b>Category 2</b> Designed to treat ((high-strength sewage when septic tank)) effluent ((is)) or sewage with sewage quality parameters anticipated to be greater than treatment level E.  (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, atypical residences, etc.)</p>	<p>Report all individual test results and full test average values of influent and effluent sampling obtained throughout the testing period for the evaluation of reduction of: CBOD<sub>5</sub>, TSS and O&amp;G. Establish the treatment capacity of the product tested in pounds per day for CBOD<sub>5</sub>.</p>

Test Results Reporting Requirements for Proprietary Treatment Products	
<b>Category 3</b> Black water component of residential sewage (such as composting and incinerating toilets).	Report test results on all required performance criteria according to the format prescribed in the NSF test protocol described in Table I.
<b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b>	Report test results on all required performance criteria according to the format prescribed in the test protocol described in Table I.

- <sup>1</sup> Test results for BOD<sub>5</sub> may be submitted in lieu of test results for CBOD<sub>5</sub>. In these cases numerical values for CBOD<sub>5</sub> will be determined using the following formula: (BOD<sub>5</sub> × 0.83 = CBOD<sub>5</sub>).
- <sup>2</sup> Supplemental bacteriological reduction technology must be tested for influent/effluent fecal coliform or *E. coli* per WAC 246-272A-0130 (bacteriological reduction testing protocol). Supplemental fecal coliform or *E. coli* reducing technologies will be rated for log base 10 removal of fecal coliform or *E. coli*. The lowest 30-day geometric mean will be used to rate reduction level. The highest monthly geometric mean for treatment technology fecal coliform or *E. coli* reduction will be used as the baseline value for review.

(( TABLE III ))  
**Table III**

((Product Performance Requirements for Proprietary Treatment Products						
Treatment Component/Sequence Category	Product Performance Requirements					
<b>Category 1</b> Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	<b>Treatment System Performance Testing Levels</b>					
	<b>Level</b>	<b>Parameters</b>				
		<b>CBOD<sub>5</sub></b>	<b>TSS</b>	<b>O&amp;G</b>	<b>FC</b>	<b>TN</b>
	<b>A</b>	10 mg/L	10 mg/L	—	200/100 ml	—
	<b>B</b>	15 mg/L	15 mg/L	—	1,000/100 ml	—
	<b>C</b>	25 mg/L	30 mg/L	—	50,000/100 ml	—
	<b>D</b>	25 mg/L	30 mg/L	—	—	—
	<b>E</b>	125 mg/L	80 mg/L	20 mg/L	—	—
<b>N</b>	—	—	—	—	20 mg/L	
Values for Levels A – D are 30-day values (averages for CBOD <sub>5</sub> , TSS, and geometric mean for FC.) All 30-day averages throughout the test period must meet these values in order to be registered at these levels. Values for Levels E and N are derived from full test averages.						
<b>Category 2</b> Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.  (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	All of the following requirements must be met:  (1) All full test averages must meet Level E; and (2) Establish the treatment capacity of the product tested in pounds per day for CBOD <sub>5</sub> .					
<b>Category 3</b> Black water component of residential sewage (such as composting and incinerating toilets).	Test results must meet the performance requirements established in the NSF test protocol.					
<b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b>	Test results must establish product performance effluent quality meeting Level N, when presented as the full test average.)					

<b>Product Performance Requirements for Proprietary Treatment Products</b>							
<b><u>Treatment Component/Sequence Category</u></b>	<b><u>Product Performance Requirements</u></b>						
<b><u>Category 1</u></b> Designed to treat effluent anticipated to be equal to or less than treatment level E.	<b><u>Treatment System Performance Testing Levels</u></b>						
	<b><u>Level</u></b>	<b><u>Parameters</u></b>					
		<b><u>CBOD<sub>5</sub></u></b> <b><u>mg/L</u></b>	<b><u>TSS</u></b> <b><u>mg/L</u></b>	<b><u>O&amp;G</u></b> <b><u>mg/L</u></b>	<b><u>FC</u></b> <b><u>cfu/100 mL</u></b>	<b><u>TN</u></b> <b><u>mg/L</u></b>	<b><u>E. coli</u></b> <b><u>cfu/100 mL</u></b>
	<b><u>A</u></b>	10	10	==	==	==	==
	<b><u>B</u></b>	15	15	==	==	==	==
	<b><u>C</u></b>	25	30	==	==	==	==
	<b><u>BL1</u></b>			==	200	==	126
	<b><u>BL2</u></b>	==	==	==	1,000	==	==
	<b><u>BL3</u></b>	==	==	==	50,000	==	==
	<b><u>E</u></b>	228	80	20	==	==	==
<b><u>N</u></b>	==	==	==	==	30 (or 50% reduction based on mass loading as required in WAC 246-272A-0320)	==	
Values for Levels A - C are 30-day values (averages for CBOD <sub>5</sub> , TSS, and geometric mean for FC.) All 30-day averages throughout the test period must meet these values in order to be registered at these levels. Values for Levels E and N are derived from full test averages.							
<b><u>Category 2</u></b> Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.  (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	All of the following requirements must be met: (1) All full test averages must meet Level E; and (2) Establish the treatment capacity of the product tested in pounds per day for CBOD <sub>5</sub> .						
<b><u>Category 3</u></b> Black water component of residential sewage (such as composting and incinerating toilets).	Test results must meet the performance requirements established in the NSF test protocol.						
<b><u>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</u></b>	Test results must establish product performance effluent quality meeting Level N, when presented as the full test average.						

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0120 Proprietary treatment product registration— Process and requirements.** (1) Manufacturers shall register ((their)) proprietary treatment ((product(s))) products with the department by

submitting a complete registration application for review and approval in the format provided by the department, including:

- (a) Manufacturer's name, mailing address, (~~street address and~~) phone number, email address, and website address;
- (b) Contact (~~individual's~~) person's name, title, mailing address, (~~street~~) email address, and phone number. The contact (~~individual~~) person must be vested with the authority to represent the manufacturer in this capacity;
- (c) Name, including specific brand and model, of the proprietary treatment product;
- (d) A description of the function of the proprietary treatment product along with any known limitation on the use of the product;
- (e) Product description and technical information, including process flow drawings and schematics; materials and characteristics; component design specifications; design capacity, volumes and flow assumptions and calculations; components; dimensioned drawings and photos;
- (f) For treatment systems in Category 2, daily capacity of the model or models in pounds per day of CBOD<sub>5</sub>;
- (g) Siting and installation requirements;
- (h) Detailed description, procedure, and schedule of routine service and system maintenance events;
- (i) Estimated operational costs for the first five years of the treatment component's life. This (~~shall~~) must include both estimated annual electricity costs, and routine maintenance costs, including replacement of parts;
- (j) Identification of information subject to protection from disclosure of trade secrets;
- (k) Most current dated copies of product brochures (~~&~~) and manuals: *Sales & Promotional; Design; Installation; Operation & Maintenance; and Homeowner Instructions*;
- (l) The most recently available product test protocol dated no earlier than the dates in WAC 246-272A-0110 Table I and the results report;
- (m) A signed and dated certification by the manufacturer's agent specifically including the following statement, "I certify that I represent (INSERT MANUFACTURING COMPANY NAME) and I am authorized to prepare or direct the preparation of this application for registration. I attest, under penalty of law, that this document and all attachments are true, accurate, and complete. I understand and accept that the product testing results reported with this application for registration are the parameters and values to be used for determining conformance with Treatment System Performance Testing Levels established in chapter 246-272A WAC";
- (n) A signed and dated certification from the testing entity including the statement, "I certify that I represent (INSERT TESTING ENTITY NAME), that I am authorized to report the testing results for this proprietary treatment product. I attest, under penalty of law, that the report about the test protocol and results is true, accurate, and complete"; and
- (o) The fee described in WAC (~~(246-272A-990)~~) 246-272-2000.

(2) Products within a single series or model line, (~~(+)~~) sharing distinct similarities in design, materials, and capacities (~~(+)~~), may be registered under a single application, consistent with the provisions of their test protocol for the certification of other products

within a product series. Products outside of the series or model line must be registered under separate applications.

(3) Upon receipt of ~~((a))~~ a registration application the department shall:

(a) Verify that the application is complete including dated and current copies of all of the required manuals; and

(b) If ~~((complete))~~ approved, place the product on the department's list of ((proprietary)) registered on-site treatment and distribution products.

(4) All registrations are valid for up to one year, expiring on December 31<sup>st</sup> of each year. Fees are not prorated.

(5) In order to renew a proprietary treatment product technology registration, a manufacturer shall:

(a) Apply for renewal of product registration using the ~~((form or in the))~~ format provided by the department ~~((-))~~;

(b) Submit ~~((the results of))~~ any of the following applicable reports:

(i) A retesting ~~((, if the product has completed retesting))~~ report from the testing entity according to the protocol required for registration ~~((and a report from the testing entity has been issued since initial registration or previous renewal. Renewal shall be based on the most recent test results.))~~ as identified in this section;

(ii) A field verification performance report as identified in the proprietary on-site wastewater treatment products DS&G, dated February 1, 2025. If field performance results demonstrate that the product has failed to meet the requirements in the DS&G, the manufacturer shall report to the department describing the reasons for the failure to meet the requirements consistent with the DS&G;

(c) Provide an ~~((affidavit))~~ attestation to the department verifying whether or not the product has changed over the previous year. If the product has changed, the ~~((affidavit))~~ attestation must also include a full description of the changes. If the product has changed in a way that affects performance, the product may not be renewed and shall meet the requirements for initial registration ~~((-))~~;

(d) Provide a statement that all required dated manuals are current, or submit the updated and dated new manuals; and

(e) Submit the fee established in WAC ~~((246-272A-990))~~ 246-272-2000.

(6) As part of product registration renewal, the department shall:

(a) Request field assessment comments from local health officers no later than October 31<sup>st</sup> of each year. These comments may include concerns about a variety of field assessment issues, including:

(i) Product function, including verification of field performance testing as identified in the DS&G;

(ii) Product reliability ~~((r))~~;

(iii) Problems arising with operation and maintenance;

(b) Discuss with the ~~((TAC))~~ TAG any field assessment information that may impact product registration renewal;

(c) Notify the manufacturer of any product to be discussed with the ~~((TAC))~~ TAG, prior to discussion with the ~~((TAC))~~ TAG, regarding the nature of comments received; ~~((and))~~

(d) Renew the product registration unless:

(i) The manufacturer of a product does not apply for renewal; or

(ii) The department, after deliberation with the ~~((TAC))~~ TAG, concludes product registration renewal should not be given or should

be delayed until the manufacturer submits information that satisfactorily answers concerns and issues; and

(e) Provide a compliance plan to the manufacturer within 90 days based on departmental concerns of public health risk related to the product.

(7) The department shall maintain a list of (~~proprietary treatment~~) registered on-site treatment and distribution products meeting the registration requirements established in this chapter. The product registration is a condition of approval for use.

(8) Manufacturers shall have readily accessible product information for designers, (~~homeowners,~~) regulators, (~~system~~) OSS owners and other interested parties (~~about their product~~) posted on the manufacturer's website including the most current dated version of:

- (a) Product manuals;
- (b) Design instructions;
- (c) Installation instructions;
- (d) Operation and maintenance;
- (e) (~~Homeowner~~) Owner instructions; and

(f) How to locate a list of representatives and manufacturer certified maintenance service providers, if any.

AMENDATORY SECTION (Amending WSR 06-01-020, filed 12/12/05, effective 1/12/06)

**WAC 246-272A-0130 Bacteriological reduction.** This section establishes the requirements for registering bacteriological reduction processes.

(1) Manufacturers shall, for the purpose of product registration as described in WAC 246-272A-0110 and 246-272A-0120 (~~for meeting treatment levels A, B, or C, verify bacteriological reduction performance by sampling for fecal coliform.~~

~~(a) For products not yet tested according to ANSI/NSF Standard 40 testing protocol dated July 1996 or later, the requirements of both ANSI/NSF Standard 40 and the protocol specified in subsection (2) of this section for verifying bacteriological reduction must be met.~~

~~(b) For products that have been tested according to ANSI/NSF Standard 40 dated July 1996 or later but have not yet been tested for bacteriological reduction, treatment performance of the treatment product or sequence may be established based on test results for CBOD<sub>5</sub> and TSS obtained from the previous ANSI/NSF Standard 40 testing and bacteriological reduction performance based on testing according to the protocol in subsection (2) of this section. Provided that the testing entity must verify the influent wastewater stream throughout the bacteriological testing period meets the influent threshold levels for CBOD<sub>5</sub> and TSS required by ANSI/NSF Standard 40 testing protocol):~~

(a) For meeting treatment level BL1, verify bacteriological reduction performance by sampling for fecal coliform or *E. coli*.

(b) For meeting treatment level BL2 or BL3, verify bacteriological reduction performance by sampling for fecal coliform.

(2) All test data submitted for product registration shall be produced by an ANSI accredited, third-party testing and certification organization whose accreditation is specific to on-site wastewater treatment products. Bacteriological reduction performance must be determined (~~while~~) either:



(a) According to the procedures in NSF/ANSI 385 for supplemental bacteriological reduction; or

(b) Concurrent with testing protocol. The treatment product or treatment component sequence ((is tested)) testing according to the ((ANSI/NSF Standard)) NSF/ANSI 40 testing protocol. ((During this))

(3) Testing under subsection (2)(b) of this section shall be completed in compliance with the following requirements ((apply)):

(a) Collect samples from both the influent and effluent streams, identifying the treatment performance achieved by the full treatment process, ((+)) component or sequence ((+));

(b) Obtain influent characteristics falling within a range of  $10^{(6)} - 10^8$  fecal coliform/100 mL or  $10^2 - 10^6$  *E. coli*/100 mL calculated as ((thirty)) 30-day geometric means during the test ((-));

(c) Test the influent to any disinfection unit and report the following at each occasion of sampling performed in (d) of this subsection:

(i) Flow rate;

(ii) pH;

(iii) Temperature;

(iv) Turbidity; and

(v) Color ((-));

(d) Obtain samples for fecal coliform or *E. coli* analysis during both the design loading and stress loading periods identified by ((NSF Standard)) NSF/ANSI 40. Grab samples shall be collected from both the influent and effluent on three separate days of the week. Each set of influent and effluent grab samples must be taken from a different dosing time frame, either ((+)) morning, afternoon, or evening ((+)), so that samples have been taken from each dosing time frame by the end of the week ((-));

(e) Conduct analyses according to standard methods;

(f) Report the geometric mean of fecal coliform or *E. coli* test results from all samples taken within ((thirty)) 30-day or monthly calendar periods;

(g) Report the individual results of all samples taken throughout the test period design and stress loading; and

(h) Report all maintenance and servicing conducted during the testing period, including for example, instances of cleaning a UV lamp, or replenishment of chlorine chemicals.

((3)) (4) Manufacturers may register products in treatment levels ((A)) BL1 and ((B)) BL2 using disinfection.

((4)) (5) Manufacturers may not register products for treatment level ((C)) BL3 using disinfection.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0140 Proprietary distribution products—Certification ((and registration)) requirements.** (1) ((Manufacturers shall register proprietary distribution products, including gravelless distribution products and subsurface dripline products, with the department before the local health officer may permit their use.

(2) Manufacturers desiring to sell proprietary distribution products shall certify that the product(s) meets the standards established

~~in this chapter and register their product(s) with the department using the process described in WAC 246-272A-0145.~~

~~(3))~~ Proprietary distribution products, including gravelless distribution products and subsurface dripline products, must be registered with the department before permitting, sale, and use. To be eligible for registration as described in WAC 246-272A-0145, products must first be certified as described in this section.

(2) To be certified, proprietary gravelless distribution products ((shall)) must:

(a) Be constructed or manufactured from materials that are nondecaying and nondeteriorating and do not leach chemicals when exposed to sewage and the subsurface soil environment;

(b) Provide liquid storage volume at least equal to the storage volume provided within the ~~((thirty))~~ 30 percent void space in a ~~((twelve))~~ 12-inch layer of drainrock in a drainrock-filled distribution system. This storage volume must be established by the gravelless distribution products, ~~((system))~~ OSS design and installation and must be maintained for the life of the ~~((system))~~ OSS. This requirement may be met on a lineal-foot, or on an overall system design basis;

(c) Provide ~~((suitable))~~ effluent distribution to the infiltrative surface at the soil interface; and

(d) Maintain the integrity of the trench or bed. The material used, by its nature and its manufacturer-prescribed installation procedure, must withstand the physical forces of the soil sidewalls, soil backfill, and the weight of equipment used in the backfilling.

~~((4))~~ (3) Proprietary subsurface dripline products shall:

(a) Be warranted by the manufacturer for use with sewage and for resistance to root intrusion~~((-))~~;

(b) Incorporate emitters with a maximum nominal rated discharge of 1.3 gallons per hour. Emitter discharge rate may be controlled either by use of pressure-compensating emitters or with a pressure regulator~~((-))~~; and

(c) Be color-coded purple to identify that the pipe contains nonpotable water from a sewage source.

(4) To be certified by the department, the manufacturer must submit:

(a) A signed and dated statement by the manufacturer's agent specifically including the following statement, "I certify that I represent (INSERT MANUFACTURING COMPANY NAME) and I am authorized to prepare or direct the preparation of this application for product registration. I attest, under penalty of law, that this document and all attachments, are true, accurate, and complete."

(b) A signed and dated statement from the licensed professional engineer including the statement, "I certify that I represent (INSERT PROFESSIONAL ENGINEERING FIRM NAME), that I am authorized to certify the performance characteristics for the proprietary distribution product presented in this application. I attest, under penalty of law, that the technology report is true, accurate, and complete."

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0145 Proprietary distribution product registration**  
**—Process and requirements.** (1) Manufacturers shall register their

proprietary distribution (~~(product(s))~~) products with the department by submitting a complete application for review and approval in the format provided by the department, including:

(a) Manufacturer's name, mailing address, (~~(street address, and)~~) phone number, email address, and website address;

(b) Contact (~~(individual's)~~) person's name, title, mailing address, (~~(street)~~) email address, and phone number. The contact (~~(individual)~~) person must be vested with the authority to (~~(act as)~~) represent the agent of the manufacturer in this capacity;

(c) Name, including specific brand and model, of the proprietary distribution product;

(d) A description of the function of the proprietary distribution product along with any known limitations on (~~(its)~~) the use of the product;

(e) Product description and technical information, including schematics; materials and characteristics; component design specifications; design capacity, volumes and flow assumptions and calculations; components; dimensioned drawings and photos;

(f) Siting and installation requirements;

(g) Detailed description, procedure, and schedule of routine service and system maintenance events;

(h) Identification of information subject to protection from disclosure of trade secrets;

(i) Most current, dated copies of product brochures and manuals: *Sales & Promotional; Design; Installation; Operation & Maintenance; and (~~(Homeowner)~~) Owner Instructions*;

(j) For gravelless chamber systems a quantitative description of the actual exposed trench-bottom infiltrative surface area for each model seeking registration;

(k) A statement from a professional engineer that certifies the technology meets the standards established in WAC 246-272A-0140;

(l) (~~(A signed and dated certification by the manufacturer's agent specifically including the following statement, "I certify that I represent (INSERT MANUFACTURING COMPANY NAME) and I am authorized to prepare or direct the preparation of this application for product registration. I attest, under penalty of law, that this document and all attachments, are true, accurate, and complete."~~)

(~~m~~) A signed and dated certification from the licensed professional engineer including the statement, "I certify that I represent (~~INSERT PROFESSIONAL ENGINEERING FIRM NAME~~), that I am authorized to certify the performance characteristics for the proprietary distribution product presented in this application. I attest, under penalty of law, that the technology report is true, accurate, and complete."

(~~n~~) The fee established in WAC (~~(246-272A-0990)~~) 246-272-2000.

(2) Products within a single series or model line, (~~(+) sharing~~) distinct similarities in design, materials, and capacities (~~(+)~~), may be registered under a single application. Products outside of the series or model line must be registered under separate applications.

(3) Upon receipt of an application the department shall:

(a) Verify that the application is complete, including dated and current copies of all required manuals; and

(b) If (~~(complete)~~) approved, place the product on the list of (~~(proprietary)~~) registered on-site treatment and distribution products.

(4) All registrations are valid for up to one year, expiring on December 31st of each year. Required fees are not prorated.

(5) In order to renew a proprietary distribution product registration, a manufacturer ~~((must))~~ shall:

(a) Apply for renewal of product registration using the form or in the format provided by the department;

(b) Provide an ~~((affidavit))~~ attestation to the department verifying whether or not the product has changed over the previous year. If the product has changed, the ~~((affidavit))~~ attestation must also include a full description of the changes. If the product has changed in a way that affects performance, the product may not be renewed and shall meet the requirements of initial registration; ~~((and))~~

(c) Provide a statement that all required dated manuals are current, or submit the updated and dated new manuals; and

(d) Submit the fee established in WAC ((246-272A-0990)) 246-272-2000.

(6) As part of product registration renewal, the department ~~((shall))~~ will:

(a) Request field assessment comments from local health officers ~~((no later than October 31st))~~ before November 1st of each year. These comments may include concerns about a variety of field assessment issues, including product function, product reliability, and problems arising with operation and maintenance;

(b) Discuss with the ~~((TAC))~~ TAG any field assessment information that may impact product registration renewal;

(c) Notify the manufacturer of any product to be discussed with the ~~((TAC))~~ TAG, prior to discussion with the ~~((TAC))~~ TAG, regarding the nature of comments received; ~~((and))~~

(d) Renew the product registration unless:

(i) The manufacturer of a product does not apply for renewal; or

(ii) The department, after deliberation with the ~~((TAC))~~ TAG, concludes product registration renewal should not be given or should be delayed until the manufacturer submits information that satisfactorily answers concerns and issues; and

(e) Provide a compliance plan to the manufacturer within 90 days based on departmental concerns of public health risk related to the product.

(7) The department shall maintain a list of proprietary distribution products meeting the registration requirements established in this chapter. The product registration is a condition of approval for use.

(8) Manufacturers shall have readily accessible product information for designers, ~~((homeowners,))~~ regulators, ~~((system))~~ OSS owners and other interested parties ~~((about their product))~~ posted on the manufacturer's website including the most current dated version of:

(a) Product manuals;

(b) Design instructions;

(c) Installation instructions;

(d) Operation and maintenance;

(e) ~~((Homeowner))~~ Owner instructions; and

(f) How to locate a list of representatives and manufacturer certified maintenance service providers, if any.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0170 Product development permits.** (1) A local health officer may issue a ~~((product development permit (PDP)))~~ PDP for any proprietary treatment component or sequence to be used during a development period. ~~((In order))~~ To protect public health during the development period, a complete ~~((system))~~ OSS meeting the requirements of this chapter and the site must already be installed. The ~~((product))~~ component or sequence under development may then be added to the treatment system allowing the ~~((product))~~ developer to gather data about ~~((the product's))~~ performance in the field. The PDP allows ~~((product))~~ developers to explore ~~((and develop))~~ new technologies prior to product testing and registration under WAC 246-272A-0110 and 246-272A-0120. The PDP is not an alternative to testing and registration.

(2) An ~~((application))~~ applicant for a PDP ~~((shall include))~~ must submit an application to the local health officer including all of the following:

(a) Proof of an existing conforming ~~((system))~~ OSS in compliance with all local requirements, or a permit for a conforming ~~((system))~~ OSS. The conforming ~~((system))~~ OSS must be installed in its entirety before the PDP becomes valid;

(b) A description of the product under development including performance goals and a description of how the system will be used to treat sewage;

(c) ~~((Documentation of))~~ Financial assurance ~~((that will cover))~~ covering the correction of any potential public health threats or environmental damage resulting from the use of the product under development. Instruments of financial assurance include:

(i) An irrevocable letter of credit in the amount required by the local health officer issued by an entity authorized to issue letters of credit in Washington state;

(ii) Cash or security deposit payable to the local health jurisdiction in the amount required by the local health officer; or

(iii) Any other financial assurance that satisfies the local health officer.

(d) Documentation signed by the owner of the proposed product development site allowing access to the local health officer for inspection of the site; and

(e) Any other information required by the local health officer.

(3) The local health officer may ~~((stipulate))~~ impose additional requirements for a PDP necessary to ~~((assure))~~ safeguard the performance of the conforming ~~((system))~~ OSS, including providing performance data to the local health officer.

(4) A PDP is a site-specific permit. Product development at multiple sites requires a PDP for each site.

(5) During the term of the PDP, product development, testing and sampling are under the full control of the product developer and all data collected is considered proprietary information.

(6) A PDP is valid for one year and may be renewed by the local health officer.

(7) The product development period is over when the original PDP or any subsequently renewed permits have expired. At this time, the product developer:

(a) Shall, at the direction of the local health officer, remove the product under development from the site, reestablishing all appro-

private plumbing and power connections for the conforming ((system)) OSS.

(b) May subject the product to performance testing described in WAC 246-272A-0110 ((in order)) to allow the product to be eligible for registration with the department.

(8) The local health officer may revoke or amend a PDP:

(a) If the continued operation or presence of the product under development:

(i) Presents a risk to ((the)) public health or the environment;

(ii) Causes adverse effects on the proper function of the conforming ((system)) OSS on the site; or

(iii) Leaks or discharges sewage on the surface of the ground.

(b) If the developer fails to comply with any requirements stipulated on the permit by the local health officer.

(9) The local health officer may charge fees adequate to administer the PDP program.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0200 Permit requirements.** (1) ((Prior to beginning the construction process)) A permit is not required for a minor repair. The local health officer may require the owner to submit information regarding any activities defined as a minor repair for record-keeping purposes.

(2) Except for a minor repair, a person proposing the installation, repair, modification, connection to, or expansion of an OSS, shall ((report the following)) submit an application and obtain a permit from the local health officer prior to beginning construction. The permit application must include the following:

(a) General information including:

(i) Name and address of the property owner and the applicant at the head of each page of the submission;

(ii) Parcel number and if available, the address of the site;

(iii) Source of drinking water supply;

(iv) Identification if the property is within the boundaries of a recognized sewer utility;

(v) Size of the parcel;

(vi) Type of permit for which application is being made((τ)). For example, new installation, repair, expansion, modification, or operational;

(vii) Source of sewage((τ)). For example, residence, restaurant, or other type of business;

(viii) Location of utilities;

(ix) Name of the site evaluator;

(x) Name, signature and stamp of the designer;

(xi) Date of application; and

(xii) Name and signature of the fee simple owner, the contract purchaser of the property, or the owner's authorized agent.

(b) The soil and site evaluation as specified under WAC 246-272A-0220((τ));

(c) A dimensioned site plan of the proposed initial ((system)) OSS, the reserve area and those areas immediately adjacent that contain characteristics impacting design including:

- (i) Designated areas for the proposed initial ((system)) OSS and the reserve area;
- (ii) The location of all soil logs and other soil tests for the OSS;
- (iii) General topography and(~~/or~~) slope;
- (iv) Drainage characteristics;
- (v) Horizontal separations as noted in Table IV in WAC 246-272-0210;
- (vi) The location of existing and proposed encumbrances affecting ((system)) OSS placement, including legal access documents if any component of the OSS is not on the lot where the sewage is generated; ((and
- ~~(vi)~~) (vii) An arrow indicating north;
- (viii) A legend of symbols used;
- (ix) Plan scale and a graphic scale bar;
- (x) Vertical datum used (such as "assumed," "North American Vertical Datum of 1988 (NAVD 88)," "National Shoreline Reference Station (NSRS)," or "unknown");
- (xi) An elevation benchmark and relative elevations of system components;
- (xii) Name, signature, stamp, and contact information of the designer; and
- (xiii) A statement on limitation of use indicating the site plan is not a survey.
- (d) A detailed ((system)) OSS design meeting the requirements under WAC 246-272A-0230, 246-272A-0232, 246-272A-0234, and 246-272A-0238 including:
- (i) A drawing showing the dimensioned location of components of the proposed OSS, and the system designed for the reserve area if reserve site characteristics differ significantly from the initial area;
- (ii) Vertical cross-section drawings showing:
- (A) The depth of the soil dispersal component, the vertical separation, and depth of cover material; and
- (B) Other new OSS components constructed at the site.
- (iii) Calculations and assumptions supporting the proposed design, including:
- (A) System operating capacity and design flow;
- (B) Soil type; ((and))
- (C) Hydraulic loading rate in the soil dispersal component; and
- (e) Any additional information as deemed necessary by the local health officer.
- ~~((2) A permit is not required for replacement, addition, or modification of broken or malfunctioning building sewers, risers and lids, sewage tank lids, sewage tank baffles, sewage tank pumps, pump control floats, pipes connecting multiple sewage tanks, and OSS inspection boxes and ports where a sewage tank, treatment component, or soil dispersal component does not need to be replaced. The local health officer may require the owner to submit information regarding these activities for recordkeeping purposes.)~~
- (3) The local health officer may develop the information required in subsection ((1)) (2) of this section if authorized by local ((regulations)) rules.
- (4) The local health officer shall:
- (a) Respond to an application within ((thirty)) 30 days as required in RCW 70.05.074((~~-~~));

(b) Permit only public domain treatment technologies that ~~((have departmental RS&G.))~~ are described in this chapter or in a current DS&G;

~~(c) Permit only proprietary products that are registered by the department ((. During the period of transition from the list of approved systems and products to the registered list, the local health officer may permit products on the list of approved systems and products.~~

~~(e))~~;

~~(d) Issue a permit when the information submitted under subsection ((1))~~ (2) of this section meets the requirements contained in this chapter and in local ((regulations)) rules;

~~((d))~~ (e) Identify the permit as a new installation, repair, expansion, modification, or operational permit;

~~((e))~~ (f) Specify the expiration date on the permit. The expiration date may not exceed five years from the date of permit issuance;

~~((f))~~ (g) Include a reminder on the permit application of the applicant's right of appeal; and

~~((g))~~ (h) If requiring an operational permit, state the period of validity and the date and conditions of renewal including any required field compliance.

(5) The local health officer may revoke or deny a permit for just cause. Examples include, but are not limited to:

(a) Construction or continued use of an OSS that threatens ~~((the))~~ public health;

(b) Misrepresentation or concealment of material fact in information submitted to the local health officer; or

(c) ~~((Failure to meet))~~ Noncompliance with the conditions of the permit, this chapter or any local ((regulations)) rules.

~~(6) ((Before the local health officer issues a permit for the installation of an OSS to serve more than one development, the applicant shall show:~~

~~(a) An approved public entity owning or managing the OSS in perpetuity; or~~

~~(b) A management arrangement acceptable to the local health officer, recorded in covenant, lasting until the on-site system is no longer needed, and containing, but not limited to:~~

~~(i) A recorded easement allowing access for construction, operation, monitoring maintenance, and repair of the OSS; and~~

~~(ii) Identification of an adequate financing mechanism to assure the funding of operation, maintenance, and repair of the OSS.))~~ An applicant for a permit to install an OSS serving more than one development must submit an application that proves the OSS:

(a) Is owned or managed in perpetuity by a public entity;

(b) Is described in a separate writing including, but not limited to, an easement, covenant, contract, or other legal document authorizing access for construction, operation maintenance, and repair; and

(c) If owned privately, is adequately financed.

(7) The local health officer shall not delegate the authority to issue permits.

(8) The local health officer may stipulate additional requirements for a particular permit if necessary ~~((for))~~ to protect public health ~~((protection))~~.



AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0210 Location.** (1) (~~Persons shall design and install~~) OSS must be designed and installed to meet at least the minimum horizontal separations shown in Table IV (~~(, Minimum Horizontal Separations)~~):

**Table IV**  
**Minimum Horizontal Separations**

Items Requiring Setback	From edge of soil dispersal component and reserve area	From sewage tank and distribution box	From building sewer, and nonperforated distribution pipe
Well ( <del>(or suction line)</del> )	100 ft.	50 ft.	50 ft.
Public drinking water well	100 ft.	100 ft.	100 ft.
<u>Nonpublic drinking water well</u>	<u>100 ft.</u>	<u>50 ft.</u>	<u>50 ft.</u>
Public drinking water spring or surface water measured from the ordinary high-water mark	200 ft.	200 ft.	100 ft.
<u>Nonpublic drinking water spring or surface water ((used as drinking water source)) measured from the ordinary high-water mark<sup>1</sup></u>	100 ft.	50 ft.	50 ft.
<u>Nonpublic, in-ground, drinking water containment vessel<sup>3</sup></u>	<u>20 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>
Pressurized water supply line or easement for water supply line	10 ft.	10 ft.	10 ft.
<u>Closed geothermal loop<sup>4</sup> or pressurized nonpotable water line</u>	<u>10 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>
Decommissioned well (decommissioned in accordance with chapter 173-160 WAC)	10 ft.	N/A	N/A
Surface water measured from the ordinary high-water mark	100 ft.	50 ft.	10 ft.
Building foundation/in-ground swimming pool	10 ft.	5 ft.	2 ft.
Property or easement line	5 ft.	5 ft.	N/A
<u>Lined<sup>5</sup> stormwater detention pond<sup>6</sup></u>			
<u>Down-gradient<sup>7</sup>:</u>	<u>30 ft.</u>	<u>N/A</u>	<u>N/A</u>
<u>Up-gradient<sup>7</sup>:</u>	<u>10 ft.</u>	<u>N/A</u>	<u>N/A</u>
<u>Unlined<sup>8</sup> stormwater infiltration pond<sup>6</sup> (up or down-gradient)<sup>7</sup></u>	<u>100 ft.</u>	<u>50 ft.</u>	<u>10 ft.</u>
<u>Irrigation canal or irrigation pond (up or down-gradient)</u>	<u>100 ft.</u>	<u>50 ft.</u>	<u>10 ft.</u>
Interceptor/curtain drains/foundation drains/drainage ditches			
Down-gradient <sup>2</sup> :	30 ft.	5 ft.	N/A
Up-gradient <sup>2</sup> :	10 ft.	N/A	N/A
<u>Subsurface stormwater infiltration or dispersion component<sup>6</sup></u>			
<u>Down-gradient<sup>7</sup>:</u>	<u>30 ft.</u>	<u>10 ft.</u>	<u>N/A</u>
<u>Up-gradient<sup>7</sup>:</u>	<u>30 ft.</u>	<u>10 ft.</u>	<u>N/A</u>
Other site features that may allow effluent to surface			
Down-gradient <sup>2</sup> :	30 ft.	5 ft.	N/A
Up-gradient <sup>2</sup> :	10 ft.	N/A	N/A

Items Requiring Setback	From edge of soil dispersal component and reserve area	From sewage tank and distribution box	From building sewer, and nonperforated distribution pipe
Down-gradient cuts or banks with at least 5 ft. of original, undisturbed soil above a restrictive layer due to a structural or textural change	25 ft.	N/A	N/A
Down-gradient cuts or banks with less than 5 ft. of original, undisturbed soil above a restrictive layer due to a structural or textural change	50 ft.	N/A	N/A
<del>((Other adjacent))</del> Soil dispersal components <del>((/ subsurface stormwater infiltration systems))</del> serving a separate OSS	10 ft.	N/A	N/A

- <sup>1</sup> If surface water is used as a public drinking water supply, the designer shall locate the OSS outside of the required source water protection area.
- <sup>2</sup> The item is down-gradient when liquid will flow toward it upon encountering a water table or a restrictive layer. The item is up-gradient when liquid will flow away from it upon encountering a water table or restrictive layer.
- <sup>3</sup> Any in-ground containment vessel used to store drinking water.
- <sup>4</sup> A network of underground piping carrying fluid under pressure used to heat and cool a structure.
- <sup>5</sup> Lined means any component that has the intended function of detaining the stormwater with no intention of dispersal into surrounding soil.
- <sup>6</sup> OSS components take precedence in cases of horizontal setback conflicts between OSS and stormwater components.
- <sup>7</sup> Down-gradient means that subsurface water flows toward and is usually located lower in elevation. Up-gradient means subsurface water does not flow toward and generally flat, or flows away from and generally located higher in elevation.
- <sup>8</sup> Unlined means any component that has the ability to or intended function of infiltrating the stormwater.

(2) ~~((If any condition indicates))~~ When conditions indicate a greater potential for contamination or pollution, the local health officer may increase the minimum horizontal separations. Examples of such conditions include, but are not limited to, excessively permeable soils, unconfined aquifers, shallow or saturated soils, dug wells, and improperly abandoned wells.

(3) The local health officer may allow a reduced horizontal separation to not less than two feet from where the property line, easement line, ~~((in-ground swimming pool,))~~ or building foundation is up-gradient.

(4) The local health officer may require an applicant to demonstrate the OSS meets (a), (b), or (c) of this subsection when determining if a horizontal separation to a minimum of 75 feet between an OSS dispersal component and ((an individual)) a water well, ((individual)) spring, or surface water that is not a public water source ((can be reduced to a minimum of seventy-five feet, by the local health officer, and be described as a conforming system upon signed approval by the health officer if the applicant demonstrates)) is allowed:

(a) Adequate protective site-specific conditions, such as physical settings with low ~~((hydro-geologic))~~ hydrogeologic susceptibility from contaminant infiltration. Examples of such conditions include evidence of confining layers ~~((and/or aquatards separating))~~, an aquatard that separates potable water from the OSS treatment zone, excessive depth to groundwater, down-gradient contaminant source, or outside the zone of influence; or

(b) Design and proper operation of an OSS ~~((system assuring))~~ with enhanced treatment performance beyond that accomplished by meeting the vertical separation and effluent distribution requirements described in Table VI in WAC 246-272A-0230 ((Table VI)); or

(c) Evidence ~~((of protective conditions involving both))~~ the OSS satisfies the requirements of (a) and (b) of this subsection.

(5) Persons shall design ~~((and/))~~ or install a soil dispersal component only if:

(a) The slope is less than ~~((forty-five))~~ 45 percent ~~((+twenty-four))~~ or 24 degrees ~~((+))~~;

(b) The area is not subject to:

(i) Encroachment by buildings or construction such as placement of power poles and underground utilities;

(ii) Cover by impervious material;

(iii) Vehicular traffic; or

(iv) Other activities adversely affecting the soil or the performance of the OSS.

(c) Sufficient reserve area for replacement exists to treat and dispose one hundred percent of the design flow;

(d) The land is stable; and

(e) Surface drainage is directed away from the site.

(6) The local health officer may approve a sewer transport line within ten feet of a water supply line if the sewer line is constructed in accordance with section ((~~C1-9~~)) C1-9.1 of the department of ecology's "*Criteria For Sewage Works Design*," ((~~December 1998~~)) 2008.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0220 Soil and site evaluation.** (1) Only professional engineers, designers, or local health officers may perform soil and site evaluations. Soil scientists may only perform soil evaluations.

(2) The person evaluating the soil and site shall:

(a) Report:

(i) A sufficient number of soil logs to evaluate conditions within:

(A) The initial soil dispersal component; and

(B) The reserve area.

(ii) The groundwater conditions, the date of the observation, and the probable maximum height;

(iii) The topography of the proposed initial ((~~system~~)) OSS, the reserve area, and those areas immediately adjacent that contain characteristics impacting the design;

(iv) The drainage characteristics of the proposed initial ((~~system~~)) OSS, the reserve area and those areas immediately adjacent that contain characteristics impacting the design;

(v) The existence of structurally deficient soils subject to major wind or water erosion events such as slide zones and dunes;

(vi) The existence of designated flood plains ((~~and~~));

(vii) Other areas identified in the local management plan required in WAC 246-272A-0015; and

((~~(vii)~~)) (viii) The location of existing features affecting ((~~system~~)) OSS placement, such as, but not limited to:

(A) Wells ((~~and suction lines~~));

(B) Water sources and supply lines;

(C) Surface water and stormwater infiltration areas;

(D) Abandoned wells;

(E) Outcrops of bedrock and restrictive layers;

(F) Buildings;

(G) Property lines and lines of easement;

(H) Interceptors such as footing drains, curtain drains, and drainage ditches;

(I) Cuts, banks, and fills;

(J) Driveways and parking areas;

(K) Existing OSS; and

(L) Underground utilities;

(b) Use the soil and site evaluation procedures and terminology in accordance with Chapter 5 of the *On-site Wastewater Treatment Systems Manual*, EPA 625/R-00/008, February 2002 except where modified by, or in conflict with, this chapter (~~((available upon request to the department))~~);

(c) Use the soil names and particle size limits of the United States Department of Agriculture Natural Resources Conservation Service classification system;

(d) Determine texture, structure, compaction, and other soil characteristics that affect the treatment and water movement potential of the soil by using normal field (~~and~~) or laboratory procedures such as particle size analysis; and

(e) Classify the soil as in Table V (~~(Soil Type Descriptions)~~):

~~((TABLE V))~~ **Table V**  
**Soil Type Descriptions**

Soil Type	Soil Textural Classifications
1	Gravelly and very gravelly coarse sands, all extremely gravelly soils excluding those with soil types 5 and 6 as the nongravel portion, and all soil types with greater than or equal to 90% rock fragments.
2	Coarse sands.
3	Medium sands, loamy coarse sands, loamy medium sands.
4	Fine sands, loamy fine sands, sandy loams, loams.
5	Very fine sands, loamy very fine sands; or silt loams, sandy clay loams, clay loams and silty clay loams with a moderate or strong structure (excluding platy structure).
6	Other silt loams, sandy clay loams, clay loams, silty clay loams.
7 <b>Unsuitable for treatment or dispersal</b>	Sandy clay, clay, silty clay, strongly cemented or firm soils, soil with a moderate or strong platy structure, any soil with a massive structure, any soil with appreciable amounts of expanding clays.

(3) The owner of the property or ~~((his))~~ the owner's agent shall:

(a) Prepare the soil log excavation to:

(i) Allow examination of the soil profile in its original position by:

(A) Excavating pits of sufficient dimensions to enable observation of soil characteristics by visual and tactile means to a depth three feet deeper than the anticipated infiltrative surface at the bottom of the soil dispersal component; or

(B) Stopping at a shallower depth if a water table or restrictive layer is encountered;

(ii) Allow determination of the soil's texture, structure, color, bulk density or compaction, water absorption capabilities or permeability, and elevation of the highest seasonal water table; and

(b) Assume responsibility for constructing and maintaining the soil log excavation in a manner to prevent injury as required by chapter 296-155 WAC.

(4) The local health officer:

(a) Shall render a decision on the height of the water table within (~~twelve~~) 12 months of receiving the application under precipitation conditions typical for the region;

(b) May require water table measurements to be recorded during months of probable high-water table conditions, if insufficient information is available to determine the highest seasonal water table;

(c) May require any other soil and site information affecting location, design, or installation; (~~and~~)

(d) May reduce the required number of soil logs for OSS serving a single-family residence if adequate soils information has previously been developed; and

(e) May require another site and soil evaluation if the site has been altered since the initial site and soil evaluation was submitted to the local health officer.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0230 Design requirements—General.** (1) (~~On-site sewage systems may~~) OSS must only be designed by a professional engineer(~~s~~), licensed under chapter 18.43 RCW, or (~~on-site sewage treatment system~~) an OSS designer(~~s~~), licensed under chapter 18.210 RCW, except:

(a) If at the discretion of the local health officer, a resident owner of a single-family residence not (~~adjacent to~~) within 200 feet of a marine shoreline is allowed to design (~~a system~~) an OSS for that residence; or

(b) If the local health officer performs the soil and site evaluation, the health officer (~~is allowed to~~) may design (~~a system~~) the OSS.

(2) The designer shall use the following criteria when developing a design for an OSS:

(a) All sewage from the building served is directed to the OSS;

(b) Sewage tanks (~~have been reviewed and approved by the department~~) are in compliance with chapter 246-272C WAC;

(c) Drainage from the surface, footing drains, roof drains, sub-surface stormwater infiltration systems, and other nonsewage drains is prevented from entering the OSS, the area where the OSS is located, and the reserve area;

(d) The OSS is designed to treat and disperse the sewage volume as follows:

(i) For single-family residences:

(A) The operating capacity is based on 45 gpd per capita with two people per bedroom(~~-~~); i

(B) The minimum design flow per bedroom per day is the operating capacity of (~~ninety~~) 90 gallons multiplied by 1.33 to account for a

33 percent surge capacity. This results in a minimum design flow of ((one hundred twenty)) 120 gallons per bedroom per day((-));

(C) ((A factor greater than 0.33 to account for surge capacity may be required by)) The local health officer((-)) may require a factor greater than 33 percent to account for surge capacity;

(D) The minimum design flow of the OSS is 240 gpd; and

(E) The local health officer may require an increase of the design flow for dwellings with anticipated greater flows, such as larger dwellings((-

day-)); or

(ii) For single-family residences with one additional dwelling served by the same OSS:

(A) All requirements in (d)(i) of this subsection apply;

(B) The minimum design flow for one additional dwelling is 120 gallons per bedroom; and

(C) The local health officer may require an increase of the design flow for dwellings with anticipated greater flows; or

(iii) For three or more dwellings served by the same OSS:

(A) All requirements in (d)(i) of this subsection apply;

(B) The minimum design flow for the first dwelling is 240 gallons per day;

(C) The minimum design flow for each additional dwelling is 120 gallons per bedroom;

(D) The local health officer may require an increase of the design flow for dwellings with anticipated greater flows; and

(E) The local health officer shall require documentation including, but not limited to, an easement, covenant, contract, or other legal document authorizing access for construction, operation, maintenance, and repair; or

(iv) For other facilities, the design flows noted in "On-site Wastewater Treatment Systems Manual," USEPA, EPA-625/R-00/008, February 2002 ((available upon request to the department) shall) must be used. Sewage flows from other sources of information may be used in determining system design flows if they incorporate both an operating capacity and a surge capacity((-));

(e) The OSS is designed to address sewage quality as follows:

(i) For all systems, the designer shall consider:

(A) CBOD<sub>5</sub>, TSS, and O&G;

(B) Other parameters that can adversely affect treatment anywhere along the treatment component sequence. Examples include pH, temperature, and dissolved oxygen;

(C) The sensitivity of the site where the OSS will be installed. Examples include areas where fecal coliform constituents can result in public health concerns, such as shellfish growing areas, designated swimming areas, and other areas identified by the local management plan required in WAC 246-272A-0015((-)); and

(D) Nitrogen contributions. Where nitrogen has been identified as a contaminant of concern by the local management plan required in WAC 246-272A-0015, it ((shall)) must be addressed through lot size ((and/or)) treatment, or both.

(ii) For OSS treating sewage from a nonresidential source, the designer shall provide the following information showing:

(A) ((Information to show)) The sewage is not industrial wastewater;

(B) ~~((Information regarding))~~ The sewage effluent quality and identifying chemicals found in the sewage ~~((that))~~ effluent are not found in sewage effluent from a residential source; and

(C) A site-specific design providing the necessary treatment ~~((level equal to that required of))~~ equaling required treatment of sewage effluent quality from a residential source;

(f) The vertical separation ~~((to be))~~ used to establish the treatment levels and application rates. The selected vertical separation ~~((shall))~~ must be used consistently throughout the design process ~~((-))~~; and

(g) Treatment levels:

(i) Requirements for matching treatment component and method of distribution with soil conditions of the soil dispersal component are listed in Table VI of this section. The treatment levels correspond with those established for treatment components under the product performance testing requirements in Table III of WAC 246-272A-0110. The method of distribution applies to the soil dispersal component.

(ii) Disinfection may not be used ~~((to achieve the fecal coliform requirements to meet:~~

~~(A) Treatment levels A or B in Type 1 soils; or~~

~~(B) Treatment level C))~~ :

(A) To achieve BL1 or BL2 in type 1 soils; or

(B) BL3.

~~((TABLE VI))~~ **Table VI**  
**Treatment Component Performance Levels and**  
**Method of Distribution<sup>1</sup>**

Vertical Separation in inches	Soil Type		
	1	2	3-6
12 < 18	A & <u>BL1</u> - pressure with timed dosing	B & <u>BL2</u> - pressure with timed dosing	B & <u>BL2</u> - pressure with timed dosing
≥18 < 24	B & <u>BL2</u> - pressure with timed dosing	<del>((B))</del> C & <u>BL3</u> - pressure with timed dosing	<del>((B))</del> C & <u>BL3</u> - pressure with timed dosing
≥24 < 36	B & <u>BL2</u> - pressure with timed dosing	C & <u>BL3</u> - pressure with timed dosing	E - pressure with timed dosing
≥36 < 60	B & <u>BL2</u> - pressure with timed dosing	E - pressure	E - gravity
≥60	C & <u>BL2</u> - pressure	E - gravity	E - gravity

<sup>1</sup> The treatment component performance levels correspond with those established for treatment components under the product testing requirements in WAC 246-272A-0110.

(3) The coarsest textured soil within the vertical separation selected by the designer ~~((shall))~~ determines the minimum treatment level and method of distribution.

(4) The local health officer shall not approve designs for:

(a) Cesspools; or

(b) Seepage pits.

(5) The local health officer may approve a design for the reserve area different from the design approved for the initial OSS, if both designs meet the requirements of this chapter for new construction.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0232 Design requirements—Septic tank sizing.** Septic tanks (~~shall~~) must:

(1) Have at least two compartments with the first compartment liquid volume equal to one-half to two-thirds of the total liquid volume. This standard may be met by one tank with two compartments or by two single compartment tanks in series.

(2) Have the following minimum liquid volumes:

(a) For a single-family residence use Table VII (~~(Required Minimum Liquid Volumes of Septic Tanks)~~):

~~((TABLE VII))~~ **Table VII**  
**Required Minimum Liquid Volumes of Septic Tanks**

Number of Bedrooms	Required Minimum Liquid Tank Volume in Gallons
<del>((3</del>	900
<b>4</b>	<del>+000))</del>
<u>≤4</u>	<u>1,000</u>
<b>Each additional bedroom</b>	250

(b) For OSS treating sewage from a residential source, other than one single-family residence, (~~(two hundred fifty))~~ 250 gallons per bedroom with a minimum of (~~(one thousand))~~ 1,000 gallons;

(c) For OSS treating sewage from a nonresidential source, three times the design flow.

(3) Comply with chapter 246-272C WAC.

NEW SECTION

**WAC 246-272A-0233 Design requirements—Pump chambers.** (1) All pump chambers, except pump basins, must be designed to meet the following requirements:

(a) Have a minimum volume of 1,000 gallons;

(b) Provide an internal volume to account for the design flow, full-time pump submergence, space for sludge accumulation below the pump inlet and emergency storage volume of at least 75 percent of the design flow;

(c) Follow any applicable DS&G or proprietary product design manual for all OSS components included in the pump chamber; and

(d) Comply with chapter 246-272C WAC.

(2) For the purposes of this section, "pump basin" means a watertight receptacle that contains a pump to convey sewage from a limited use area that is separate from the main wastewater sewer pipe leaving a structure, to the main treatment component of an OSS; typically much smaller than a pump chamber and separate from the main sewer pipe due



to elevation restrictions. Pump basins are intended for limited, specialized uses, and not intended as a replacement or substitute for a pump chamber. Pump basins must be in compliance with chapter 246-272C WAC.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0234 Design requirements—Soil dispersal components.** (1) All soil dispersal components, except one using a subsurface dripline product, ~~((shall))~~ must be designed to meet the following requirements:

(a) Maximum hydraulic loading rates ~~((shall be based on the rates))~~ described in Table VIII ~~((†))~~.

~~((TABLE VIII))~~

**Table VIII**

**Maximum Hydraulic Loading Rate**

		<u>Column A</u>	<u>Column B</u>
<u>Soil Type</u>	<u>Soil Textural Classification Description</u>	<u>Loading Rate for Residential Septic Tank Effluent Using Gravity or Pressure Distribution gal./sq. ft./day</u>	<u>Loading Rate for Residential Effluent Meeting Treatment Level C &amp; BL3 or Higher Effluent Quality Using Pressure Distribution gal./sq. ft./day</u>
1	Gravelly and very gravelly coarse sands, all extremely gravelly soils excluding <u>those with soil types 5 &amp; 6 as the nongravel portion</u> , all soil types with greater than or equal to 90% rock fragments.	1.0	<u>1.2</u>
2	Coarse sands.	1.0	<u>1.2</u>
3	Medium sands, loamy coarse sands, loamy medium sands.	0.8	<u>1.0</u>
4	Fine sands, loamy fine sands, sandy loams, loams.	0.6	<u>0.8</u>
5	Very fine sands, loamy very fine sands; or silt loams, sandy clay loams, clay loams and silty clay loams with a moderate structure or strong structure (excluding a platy structure).	0.4	<u>0.56</u>
6	Other silt loams, sandy clay loams, clay loams, silty clay loams.	0.2	<u>0.2</u>
7	Sandy clay, clay, silty clay and strongly cemented firm soils, soil with a moderate or strong platy structure, any soil with a massive structure, any soil with appreciable amounts of expanding clays.	<del>((Not suitable))</del> <u>Unsuitable</u>	<u>Unsuitable</u>

(b) Calculation of the absorption area is based on:

(i) The design flow in WAC 246-272A-0230(2); and

(ii) Loading rates equal to or less than those in Table VIII of this section as applied to the infiltrative surface of the soil dis-

persal component or the finest textured soil within the vertical separation selected by the designer, whichever has the finest texture.

(c) Requirements for the method of distribution ~~((shall))~~ must correspond to those in WAC 246-272A-0230, Table VI.

(d) Soil dispersal components having daily design flow between ~~((one thousand and three thousand five hundred))~~ 1,000 and 3,500 gallons of sewage per day ~~((shall))~~ must:

(i) Only be located in soil types 1-5;

(ii) Only be located on slopes of less than ~~((thirty))~~ 30 percent, or ~~((seventeen))~~ 17 degrees; and

(iii) Have pressure distribution including time dosing.

(2) The local health officer may allow the maximum hydraulic loading rates in Table VIII of this section. Loading rates identified in Column B must not be combined with any dispersal component size reductions.

(3) All soil dispersal components using a subsurface dripline product must be designed to meet the following requirements:

(a) ~~((Calculation of))~~ The absorption area calculation is based on:

(i) The design flow in WAC 246-272A-0230(2); and

(ii) Loading rates ~~((that are))~~ dependent on the soil type, other soil and site characteristics, and the spacing of dripline and emitters as directed in Table VIII of this section;

(b) ~~((The dripline must be installed))~~ A minimum installation of six inches into original, undisturbed soil;

(c) Timed dosing; and

(d) ~~((Soil dispersal components having))~~ Daily design flows greater than ~~((one thousand))~~ 1,000 gallons of sewage per day ~~((may))~~:

(i) ~~((Only be))~~ Located only in soil types 1-5;

(ii) ~~((Only be))~~ Located only on slopes of less than ~~((thirty))~~ 30 percent, or ~~((seventeen))~~ 17 degrees.

~~((3))~~ (4) All SSAS ~~((shall))~~ must meet the following requirements:

(a) The infiltrative surface may not be deeper than three feet below the finished grade, except under special conditions approved by the local health officer. The depth of such system ~~((shall))~~ must not exceed ~~((ten))~~ 10 feet from the finished grade;

(b) A minimum of six inches of sidewall must be located in ~~((original undisturbed))~~ suitable soil;

(c) Beds are only designed in soil types 1, 2, 3 or in fine sands with a width not exceeding ~~((ten))~~ 10 feet. Gravity beds must have a minimum of one lateral for every three feet in width;

(d) Individual laterals greater than ~~((one hundred))~~ 100 feet in length must use pressure distribution;

(e) A layer of between six and ~~((twenty-four))~~ 24 inches of cover material; and

(f) Other features ~~((shall))~~ must conform with the "On-site Wastewater Treatment Systems Manual," United States Environmental Protection Agency EPA-625/R-00/008 February 2002 ~~((available upon request to the department))~~ except where modified by, or in conflict with this section or local ~~((regulations))~~ rules.

~~((4) For)~~ (5) SSAS with drainrock and distribution pipe must meet the following requirements:

(a) A minimum of two inches of drainrock ~~((is required))~~ above the distribution pipe;

(b) A minimum of six inches of drainrock below the distribution pipe; and

~~(c) Location of the sidewall below the invert of the distribution pipe ((is located)) in original undisturbed soil.~~

~~((5)) (6) The local health officer may allow the infiltrative surface area in a SSAS to include six inches of the SSAS sidewall height when meeting the required absorption area where total recharge by annual precipitation and irrigation is less than ((twelve)) 12 inches per year.~~

~~((6)) (7) The local health officer may permit ((systems)) OSS consisting ((solely)) of ((a)) septic tanks and a gravity SSAS in soil type 1 if all the following criteria are met:~~

~~(a) The ((system)) OSS serves a single-family residence;~~

~~(b) The lot size is ((greater than)) two and one-half acres or larger;~~

~~(c) Annual precipitation in the region is less than ((twenty-five)) 25 inches per year ((as described by "Washington Climate" published jointly by the Cooperative Extension Service, College of Agriculture, and Washington State University (available for inspection at Washington state libraries))) from a reputable source approved by the local health officer;~~

~~(d) The ((system)) OSS is located outside the ((twelve)) 12 counties bordering Puget Sound; and~~

~~(e) The geologic conditions beneath the dispersal component must satisfy the minimum unsaturated depth requirements to groundwater as determined by the local health officer. The method for determination is described by "Design Guideline for Gravity Systems in Soil Type 1," ((available upon request to the department)) 2017.~~

~~((7) The local health officer may increase the loading rate in Table VIII up to a factor of two for soil types 1-4 and up to a factor of 1.5 for soil types 5 and 6 if a product tested to meet treatment level D is used. This reduction may not be combined with any other SSAS size reductions.~~

~~((8-a)) (8) Both the primary and reserve areas must be sized ((to)) at least ((one hundred)) 100 percent of the approved loading rates ((listed in Table VIII).~~

~~(b) However, the local health officer may allow a legal lot of record created prior to the effective date of this chapter that cannot meet this primary and reserve area requirement to be developed if all the following conditions are met:~~

~~(i) The lot cannot meet the minimum primary and reserve area requirements due to the loading rates for medium sand, fine sand and very fine sand listed in Table VIII of this chapter;~~

~~(ii) The primary and reserve areas are sufficient to allow installation of a SSAS using maximum loading rates of 1.0 gallons/square foot per day for medium sand, 0.8 gallons/square foot/day for fine sand, and 0.6 gallons/square foot/day for very fine sand; and~~

~~(iii) A treatment product meeting at least Treatment Level D and pressure distribution with timed dosing is used)). The local health officer may require the sizing of the reserve area using the loading rate in Table VIII of this section. Column A must be used when sizing the primary area using Column B.~~

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0238 Design requirements—Facilitate operation, monitoring and maintenance.** (1) The OSS must be designed to facilitate routine operation, monitoring, and maintenance according to the following criteria:

(a) For gravity ~~((systems, septic))~~ OSS:

(i) Sewage tank access for maintenance and inspection at finished grade is required. ~~((If effluent filters are used, access to the filter at finished grade is required.))~~ The local health officer may allow access for maintenance and inspection of a ~~((system consisting of a septic))~~ sewage tank ~~((and gravity flow SSAS))~~ to be a maximum of six inches below finished grade provided a marker showing the location of the tank access is installed at finished grade.

(ii) Each SSAS lateral must include at least one observation port installed in a representative location in order to facilitate SSAS monitoring.

(b) For all other ~~((systems))~~ OSS, service access and monitoring ports at finished grade are required for all system components. Specific component requirements include:

(i) Septic tanks must have service access maintenance holes ~~(formerly manholes)~~ and monitoring ports for the inlet and outlet ~~((If effluent filters are used, access to the filter at finished grade is required))~~;

(ii) Surge, flow equalization or other sewage tanks must have service access ~~((manholes))~~ maintenance holes;

(iii) Other pretreatment units ~~((+))~~ such as aerobic treatment units and packed-bed filters ~~((+))~~ must have service access ~~((manholes))~~ maintenance holes and monitoring ports;

(iv) Pump chambers, tanks, and vaults must have service access ~~((manholes))~~ maintenance holes;

(v) Disinfection units must have service access and be installed to facilitate complete maintenance and cleaning, including an easy-access, freefall sampling port; and

(vi) Soil dispersal components ~~((shall))~~, excluding subsurface drip, must have monitoring ports for both distribution devices and the infiltrative surface.

(c) For systems using pumps, clearly accessible controls and warning devices are required including:

(i) Process controls such as floats ~~((and))~~, pressure activated pump on/off switches, and pump-run timers ~~((and process flow controls))~~;

(ii) Diagnostic tools including dose cycle counters and hour meters on the sewage stream, or flow meters on either the water supply or sewage stream; and

(iii) Audible and visual alarms designed to alert a resident of a malfunction. The alarm must be placed on a circuit independent of the pump circuit.

(2) All accesses must be designed to allow for monitoring and maintenance and shall be secured to minimize injury or unauthorized access in a manner approved by the local health officer.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0240 Holding tank sewage systems.** (1) A person may not install or use holding tank sewage systems for residential development or expansion of residences, whether seasonal or year-round, except as set forth under subsection (2) of this section.

(2) The local health officer may approve installation of holding tank sewage systems only:

(a) For permanent uses limited to controlled, part-time, commercial usage situations, such as recreational vehicle parks and trailer dump stations;

(b) For interim uses limited to handling of emergency situations; or

(c) For repairs as permitted under WAC 246-272A-0280 (1) (~~(e)~~) (d)(i).

(3) A person proposing to use a holding tank sewage system shall:

(a) Follow design criteria established by the department;

(b) Submit a management program to the local health officer assuring ongoing operation, monitoring, and maintenance before the local health officer issues the installation permit; and

(c) Use a holding tank reviewed and approved by the department.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0250 Installation.** (1) Only installers may construct OSS, except as noted under subsection (2) of this section.

(2) The local health officer may allow the resident owner of a single-family residence (~~(not adjacent to a marine shoreline)~~) to install the OSS for that single-family residence except when:

(a) The primary and reserve areas are within 200 feet of marine water;

(b) The primary and reserve areas are within 100 feet of surface water; or

(c) The installation permit meets Table X standards in WAC 246-272A-0280.

(3) The installer described by either subsection (1) or (2) of this section shall:

(a) Follow the approved design;

(b) Have the approved design in possession during installation;

(c) Make no changes to the approved design without the prior authorization of the designer and the local health officer;

(d) Only install (~~(septic tanks, pump chambers, and holding)~~) sewage tanks approved by the department consistent with chapter 246-272C WAC;

(e) Be on the site at all times during the excavation and construction of the OSS;

(f) Install the OSS to be watertight, except for the soil dispersal component;

(g) Cover the installation only after the local health officer has given approval to cover; and

(h) Back fill with six to (~~(twenty-four)~~) 24 inches of cover material and grade the site to prevent surface water from accumulating over any component of the OSS.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0260 Inspection.** (1) For all activities requiring a permit, the local health officer shall inspect the OSS. The local health officer shall:

(a) Visit the OSS site during the site evaluation, construction, or final construction inspection;

(b) Either inspect the OSS before cover or allow the designer of the OSS to perform the inspection before cover if the designer is not also named as installer of the system((-)); and

(c) Keep the record drawings on file, with the approved design documents.

(2) Prior to any inspection, the local health officer or inspector authorized by the local health officer shall coordinate with the OSS owner to obtain access. When the owner does not authorize access, the local health officer may follow the administrative search warrant procedures in RCW 70A.105.030 to gain access.

(3) For any OSS located on a single property serving one dwelling unit on the same property, the local health officer shall not require a property owner to grant inspection and maintenance easements as a condition of receiving a permit.

(4) During the final construction inspection, the local health officer or the designer of the OSS must confirm the OSS meets the approved design.

(5) To comply with the requirements of WAC 246-272A-0270 (1)(e) or (k), an inspection must include, at a minimum:

(a) Inspection and evaluation of:

(i) The status of all sewage tanks including baffles, effluent filters, tank contents such as water level, scum, sludge, solids, water tightness, and general structural conditions;

(ii) The status of all lids, accesses, and risers;

(iii) The OSS and reserve area for any indicators of OSS failure or conditions that may impact system function, operation, or repair; and

(iv) Any other components such as distribution boxes;

(b) A review of the record drawing and related documents, if they exist, including previous reports to confirm the system is operating as designed; and

(c) Any proprietary products following the procedures of the accepted operations and maintenance manual associated with those products.

(6) Evidence of an OSS property transfer inspection as required in WAC 246-272A-0270 (1)(k) must be provided to the local health jurisdiction on a form approved by the local health officer, including at a minimum:

(a) All applicable information from subsection (5) of this section;

(b) The address of the property served by the OSS;

(c) The date of the inspection;

(d) The permitted type and design flow for known OSS; and

(e) Verification that the record drawing is accurate, if it exists, or an OSS site plan showing the location of all system components relative to structures and prominent site features.

(7) A local health jurisdiction may require an additional inspection report, or additional information, for an inspection required un-

der WAC 246-272A-0270(1). The person responsible for the final construction inspection shall assure the OSS meets the approved design.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0265 Record drawings.** Upon completion of ~~((the))~~ new construction, alteration, or repair of the OSS, the OSS owner shall submit a complete and detailed record drawing ~~((shall be submitted to both))~~ to the local health officer ~~((and the OSS owner))~~ that includes at a minimum ~~((the following))~~:

- (1) Measurements and directions accurate to +/- 1/2 foot, unless otherwise determined by the local health officer, ~~((to assure))~~ so that the following parts of the OSS can be easily located:
  - (a) All sewage tank openings requiring access;
  - (b) The ends, and all changes in direction, of installed and found buried pipes and electrical cables that are part of the OSS; and
  - (c) Any other OSS component which, in the judgment of the local health officer or the designer, must be accessed for observation, maintenance, or operation;
- (2) Location and dimensions of the reserve area;
- (3) Record that materials and equipment meet the specifications contained in the design;
- (4) Initial settings of electrical or mechanical devices that must be known to operate the system in the manner intended by the designer or installer; and
- (5) For proprietary products, manufacturer's standard product literature, including performance specifications and maintenance recommendations needed for operation, monitoring, maintenance, or repair of the OSS.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0270 Operation, monitoring, and maintenance—Owner responsibilities.** (1) The OSS owner is responsible for operating, monitoring, and maintaining the OSS to minimize the risk of failure, and ~~((to accomplish this purpose,))~~ shall:

- (a) Request assistance from the local health officer upon occurrence of a system failure or suspected system failure;
- (b) Obtain approval from the local health officer before:
  - (i) Repairing, altering, or expanding an OSS ~~((or~~ ~~to~~ ~~as required by WAC 246-272A-0200; or~~ ~~to~~ ~~as required by WAC 246-272A-0200; or~~
  - (ii) Before beginning the use of any newly constructed OSS;
- (c) Secure and renew contracts for periodic maintenance ~~((where))~~ if required by the local health jurisdiction;
- ~~((or))~~ (d) Obtain and renew operation permits if required by the local health jurisdiction;
- ~~((or))~~ ~~((d))~~ ~~Assure a complete evaluation of the system components and/or~~ (e) Obtain an inspection, as required in WAC 246-272A-0260(5), by a maintenance service provider authorized by the local health officer of all OSS and property to determine functionali-

ty, maintenance needs and compliance with ~~((regulations))~~ this chapter and local rules, and any permits:

(i) At least once every three years, unless more frequent inspections are specified by the local health officer, for all ((systems)) OSS consisting solely of a ((septic)) sewage tank and gravity SSAS;

(ii) Annually for all other ((systems)) OSS unless more frequent inspections are specified by the local health officer;

~~((e))~~ (iii) Submit the results of the inspection to the local health jurisdiction, using a form approved by the local health officer and in compliance with WAC 246-272A-0260(5);

(f) Employ an approved pumper to remove the septage from the tank when the level of solids and scum indicates that removal is necessary;

~~((f))~~ (g) Provide ongoing maintenance and complete any needed repairs to promptly return the ((system)) OSS to a proper operating condition;

~~((g))~~ (h) Protect the OSS area and the reserve area from:

(i) Cover by structures or impervious material;

(ii) Surface drainage, and direct drains, such as footing or roof drains. The drainage must be directed away from the area where the OSS is located;

(iii) Soil compaction~~((r))~~. For example by vehicular traffic or livestock; and

(iv) Damage by soil removal and grade alteration~~((r-h))~~.

(i) Keep the flow of sewage to the OSS at or below the approved operating capacity and sewage quality;

~~((i))~~ (j) Operate and maintain ((systems)) OSS as directed by the local health officer~~((r-h))~~.

~~(j) Request assistance from the local health officer upon occurrence of a system failure or suspected system failure)); and~~

(k) At the time of property transfer~~((r))~~:

(i) Provide to the buyer, all available OSS maintenance and repair records~~((r-if available,r))~~ in addition to the completed seller disclosure statement in accordance with chapter 64.06 RCW for residential real property transfers;

(ii) Beginning February 1, 2027, obtain an inspection, as required in WAC 246-272A-0260(5), by a third-party inspector authorized by the local health officer. The local health officer may:

(A) Remove the requirement for an inspection at the time of property transfer if the local health jurisdiction has evidence that the OSS is in compliance with (e) of this subsection and the OSS was inspected by a third-party inspector authorized by the local health officer;

(B) Verify the results of the property inspection for compliance with WAC 246-272A-0260; and

(C) Require additional inspections and other requirements not listed in WAC 246-272A-0260;

(iii) Beginning February 1, 2027, obtain an inspection of proprietary treatment products per the product manufacturer recommendations, as required in WAC 246-272A-0260, by a third-party inspector authorized by the local health officer. The local health officer may:

(A) Remove the requirement for an inspection at the time of property transfer if the local health jurisdiction has evidence that the OSS is in compliance with (e) of this subsection and the OSS was inspected by a third-party inspector authorized by the local health officer;



(B) Verify the results of the property inspection for compliance with WAC 246-272A-0260; and

(C) Require additional inspections and other requirements not listed in WAC 246-272A-0260;

(iv) Submit the results of the inspection, and any additional information or reports required by the local health officer, to the local health jurisdiction, using an inspection report form approved by the local health officer. The local health officer may require a compliance schedule for repair of a failure discovered during the property transfer inspection.

(2) ~~((Persons shall))~~ A person may not:

(a) Use or introduce strong bases, acids, or chlorinated organic solvents into an OSS for the purpose of system cleaning;

(b) Use ~~((a sewage system))~~ an OSS additive unless it is specifically approved by the department; ~~((or))~~

(c) Use an OSS to dispose of waste components atypical of sewage from a residential source; or

(d) Use any remediation process or activity unless it is approved by the local health officer and is in compliance with WAC 246-272A-0278.

#### NEW SECTION

**WAC 246-272A-0278 Remediation.** (1) The local health officer may establish a program and requirements for reviewing and approving remediation activities.

(2) Remediation must not:

(a) Result in damage to the OSS;

(b) Result in insufficient soil treatment in the zone between the soil dispersal component and the highest seasonal water table, restrictive layer, or soil type 7; or

(c) Disturb the soil in or below the soil dispersal component if the vertical separation requirements of WAC 246-272A-0230 are not met.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0280 Repair of failures.** ~~((1) When an OSS failure occurs, the OSS owner shall:~~

~~(a) Repair or replace the OSS with a conforming system or component, or a system meeting the requirements of Table IX either on the:~~

~~(i) Property served; or~~

~~(ii) Nearby or adjacent property if easements are obtained; or~~

~~(b) Connect the residence or facility to a:~~

~~(i) Publicly owned LOSS;~~

~~(ii) Privately owned LOSS where it is deemed economically feasible; or~~

~~(iii) Public sewer; or~~

~~(c) Perform one of the following when requirements in (a) and (b) of this subsection are not feasible:~~

~~(i) Use a holding tank; or~~

~~(ii) Obtain a National Pollution Discharge Elimination System or state discharge permit from the Washington state department of ecology~~

issued to a public entity or jointly to a public entity and the system owner only when the local health officer determines:

- ~~(A) An OSS is not feasible; and~~
- ~~(B) The only realistic method of final dispersal of treated effluent is discharge to the surface of the land or into surface water; or~~
- ~~(iii) Abandon the property.~~
- ~~(2) Prior to repairing the soil dispersal component, the OSS owner shall develop and submit information required under WAC 246-272A-0200(1).~~
- ~~(3) The local health officer shall permit a system that meets the requirements of Table IX only if the following are not feasible:~~
  - ~~(a) Installation of a conforming system or component; and~~
  - ~~(b) Connection to either an approved LOSS or a public sewer.~~
- ~~(4) The person responsible for the design shall locate and design repairs to:~~
  - ~~(a) Meet the requirements of Table IX if the effluent treatment and soil dispersal component to be repaired or replaced is closer to any surface water, well, or spring than prescribed by the minimum separation required in Table IV of WAC 246-272A-0210(1). Pressure distribution with timed dosing in the soil dispersal component is required in all cases where a conforming system is not feasible.~~

~~TABLE IX  
Treatment Component Performance Levels for Repair of OSS Not Meeting  
Vertical and Horizontal Separations<sup>1</sup>~~

Vertical Separation (in inches)	Horizontal Separation <sup>2</sup>											
	<25 feet			25 < 50 feet			50 < 100 feet <sup>3</sup>			≥100 feet		
	Soil Type			Soil Type			Soil Type			Soil Type		
	1	2	3-6	1	2	3-6	1	2	3-6	1	2	3-6
<12	A	A	A	A	A	A	A	A	B	B	B	B
≥12 < 18	A	A	A	A	B	B	A	B	B	Conforming Systems		
≥18 < 24	A	A	A	A	B	B	A	B	C			
≥24 < 36	A	B	B	B	C	C	B	C	C			
≥36	A	B	B	B	C	C	B	C	E			

<sup>1</sup>The treatment component performance levels correspond with those established for treatment components under the product performance testing requirements in Table III of WAC 246-272A-0110.

<sup>2</sup>The horizontal separation indicated in Table IX is the distance between the soil dispersal component and the surface water, well, or spring. If the soil dispersal component is up-gradient of a surface water, well, or spring to be used as a potable water source, or beach where shellfish are harvested, the next higher treatment level shall apply unless treatment level A is already required.

<sup>3</sup>On a site where there is a horizontal setback of 75 - 100 feet between an OSS dispersal component and an individual water well, individual spring, nonmarine surface water or surface water that is not a public water source and a vertical separation of greater than twelve inches, a conforming system that complies with WAC 246-272A-0210(4) shall be installed if feasible.

- ~~(b) Protect drinking water sources and shellfish harvesting areas;~~
- ~~(c) Minimize nitrogen discharge in areas where nitrogen has been identified as a contaminant of concern in the local plan under WAC 246-272A-0015;~~
- ~~(d) Prevent the direct discharge of sewage to groundwater, surface water, or upon the surface of the ground;~~
- ~~(e) Meet the horizontal separations under WAC 246-272A-0210(1) to public drinking water sources;~~
- ~~(f) Meet other requirements of this chapter to the maximum extent permitted by the site; and~~
- ~~(g) Maximize the:~~
  - ~~(i) Vertical separation;~~

~~(ii) Distance from a well, spring, or suction line; and~~

~~(iii) Distance to surface water.~~

~~(5) Prior to designing the repair system, the designer shall consider the contributing factors of the failure to enable the repair to address identified causes.~~

~~(6) If the vertical separation is less than twelve inches, the local health officer may permit ASTM C-33 sand or coarser to be used as fill to prevent direct discharge of treated effluent to groundwater, surface water, or upon the surface of the ground.~~

~~(7) For a repair using the requirements of Table IX, disinfection may not be used to achieve the fecal coliform requirements to meet:~~

~~(a) Treatment levels A or B where there is less than eighteen inches of vertical separation;~~

~~(b) Treatment levels A or B in type 1 soils; or~~

~~(c) Treatment level C.~~

~~(8) The local health officer shall identify repair permits meeting the requirements of Table IX for the purpose of tracking future performance.~~

~~(9) An OSS owner receiving a repair permit for a system meeting the requirements of Table IX from the local health officer shall:~~

~~(a) Immediately report any failure to the local health officer;~~

~~(b) Comply with all local and state requirements stipulated on the permit.)~~

(1) When an OSS failure occurs the local health officer shall:

(a) Allow an OSS to be repaired using the least costly alternative that meets standards and is likely to provide comparable or better long-term sewage treatment and effluent dispersal outcomes;

(b) Permit an OSS meeting the requirements in Table X of this section only if the OSS has failed and the following are not feasible:

(i) Installation of a conforming OSS or component; or

(ii) Connection to either an approved LOSS or a public sewer.

(c) Identify repair permits meeting the requirements in Table X of this section for the purpose of tracking future performance;

(d) Give first priority to allowing repair and second priority to allowing replacement of an existing conventional OSS, consisting of a septic tank and drainfield, with a similar conventional OSS;

(e) Evaluate all unpermitted sewage discharges to determine if they pose a public health threat. If determined by the local health officer to be a public health threat, the local health officer shall require a compliance schedule;

(f) Report failures within 200 feet of shellfish growing areas to the department; and

(g) Not impose or allow the imposition of more stringent performance requirements of equivalent OSS on private entities than public entities.

(2) The local health officer may:

(a) Require a compliance schedule for failures discovered during property transfer inspections;

(b) Allow a repair of a failure using ASTM C-33 sand or coarser as fill to prevent direct discharge of treated effluent to groundwater, surface water, or upon the surface of the ground if the vertical separation is less than 12 inches.

(3) The OSS owner shall notify the local health officer when there is a failure and indicate which methods will be used to address the failure in accordance with Table IX of this section:

(a) The owner may use option D only if the local health officer determines options A through C are not feasible and may use option E or F only if options A through D are not feasible.

(b) For options A through F, the owner shall develop and submit information and obtain a permit as required under WAC 246-272A-0200 prior to any repair or replacement of an OSS on the property served or a nearby property if the owner obtains an appropriate documentation including, but not limited to, an easement, covenant, contract, or other legal document authorizing access for construction, operation, maintenance, and repair.

(c) If options A through F are not feasible, the owner shall discontinue use of the OSS, abandon the OSS according to the requirements in WAC 246-272A-0300, and cease all sewage generating activities on the property.

**Table IX  
Options and Methods to Address an OSS Failure**

<b>Options</b>	<b>Method</b>
<u>A</u>	Repair or replace the OSS, with a similar OSS, if the OSS provides comparable or better long-term sewage treatment and effluent dispersal outcomes where: <ol style="list-style-type: none"> <li><u>1. The effluent treatment and soil dispersal component to be repaired or replaced is not closer to any surface water, well, or spring than the minimum separation distance required in Table IV of WAC 246-272A-0210(1);</u></li> <li><u>2. The soil dispersal component to be repaired or replaced complies with the treatment level and distribution method requirements in Table VI of WAC 246-272A-0230;</u></li> <li><u>3. The local health officer has a permit or record of the OSS on file; and</u></li> <li><u>4. The repair or replacement will not result in an OSS that meets the definition of failure.</u></li> </ol>
<u>B</u>	<u>Repair or replace the OSS with an OSS in compliance with new construction requirements under this chapter.</u>
<u>C</u>	<u>Connect the residence or facility to a:</u> <ol style="list-style-type: none"> <li><u>1. Publicly owned LOSS;</u></li> <li><u>2. Privately owned LOSS where it is deemed economically feasible; or</u></li> <li><u>3. Public sewer.</u></li> </ol>
<u>D</u>	<u>Repair or replace the OSS in conformance with Table X of this section.</u>
<u>E</u>	<u>Use a holding tank.</u>
<u>F</u>	<u>Obtain a National Pollution Discharge Elimination System or state discharge permit from the Washington state department of ecology issued to a public entity or jointly to a public entity and the OSS owner only when the local health officer determines:</u> <ol style="list-style-type: none"> <li><u>1. An OSS is not feasible; and</u></li> <li><u>2. The only realistic method of final dispersal of treated effluent is discharge to the surface of the land or into surface water.</u></li> </ol>

(4) When there is an OSS failure, the OSS designer shall:

(a) Evaluate the causes of failure prior to designing the repair or replacement of the OSS;

(b) Prevent the direct discharge of sewage or treated effluent to groundwater, surface water, or upon the surface of the ground;

(c) Meet the horizontal separations under WAC 246-272A-0210(1) to public drinking water sources;

(d) Protect all drinking water sources, shellfish harvesting areas, and water recreation facilities designated for swimming in natural waters;

(e) Minimize nitrogen discharge in areas where nitrogen has been identified as a contaminant of concern in the local management plan under WAC 246-272A-0015;

(f) Not use disinfection to achieve fecal coliform or *E. coli* requirements in Table X of this section to meet:

(i) Treatment level BL1 or BL2 with less than 18 inches of vertical separation; or

(ii) Treatment level BL1 or BL2 in type 1 soils; or

(iii) Treatment level BL3.

(g) Minimize impact of phosphorus discharge in areas where the local health officer has identified phosphorus as a contaminant of concern in the local management plan under WAC 246-272A-0015;

(h) Locate and design repairs meeting the requirements in Table X of this section if the effluent treatment and soil dispersal component to be repaired or replaced is closer to any surface water, well, or spring than prescribed by the minimum separation required in Table IV of WAC 246-272A-0210(1);

(i) Design any nonconforming OSS using pressure distribution with timed dosing in the soil dispersal component; and

(j) Meet all other design requirements of this chapter to the maximum extent permitted by the site, to maximize the:

(i) Vertical separation;

(ii) Distance from a well or spring; and

(iii) Distance to surface water.

**Table X**

**Treatment Component Performance Levels for Repair of OSS Not Meeting Vertical and Horizontal Separations<sup>1</sup>**

Vertical Separation (in inches)	Horizontal Separation <sup>2</sup>											
	< 30 feet			≥ 30 < 50 feet			≥ 50 < 100 feet <sup>3</sup>			≥ 100 feet		
	Soil Type			Soil Type			Soil Type			Soil Type		
	1	2	3-6	1	2	3-6	1	2	3-6	1	2	3-6
< 12	A & BL1	A & BL1	A & BL1	A & BL1	A & BL1	A & BL1	A & BL1	A & BL1	A & BL1	B & BL2	B & BL2	B & BL2
≥ 12 < 18	A & BL1	A & BL1	A & BL1	A & BL1	B & BL2	B & BL2	A & BL1	B & BL2	B & BL2	Conforming  OSS		
≥ 18 < 24	A & BL1	A & BL1	A & BL1	A & BL1	B & BL2	B & BL2	A & BL1	B & BL2	B & BL2			
≥ 24 < 36	A & BL1	B & BL2	B & BL2	B & BL2	B & BL2	B & BL2	B & BL2	B & BL2	C & BL3			
≥ 36	A & BL1	B & BL2	B & BL2	B & BL2	C & BL3	C & BL3	B & BL2	C & BL3	C & BL3			

<sup>1</sup> The treatment component performance levels correspond with those established for treatment components under the product performance testing requirements in Table III in WAC 246-272A-0110.

<sup>2</sup> The horizontal separation indicated in Table X of this section is the distance between the soil dispersal component and the surface water, well, or spring. If the soil dispersal component is up-gradient of a surface water, well, or spring to be used as a potable water source, or beach where shellfish are harvested, the next higher treatment level shall apply unless treatment level A and BL1 is already required.

<sup>3</sup> On a site where there is a horizontal setback of 75-100 feet between an OSS dispersal component and an individual water well, individual spring, nonmarine surface water or surface water that is not a public water source and a vertical separation of greater than 12 inches, a conforming OSS that complies with WAC 246-272A-0210(4) shall be installed if feasible.

**NEW SECTION**

**WAC 246-272A-0282 Minor repair of malfunctions.** The local health officer:

(1) Shall require the minor repair of a malfunction to a functioning state;

(2) May require a permit for a minor repair of a malfunction; and

(3) May require the OSS owner to submit information regarding minor repairs of a malfunction.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0290 Expansions.** (1) The local health officer shall require an OSS and a reserve area in full compliance with the new ~~((system))~~ construction standards specified in this chapter for an OSS expansion ~~((of a residence or other facility))~~.

(2) A local health officer may allow expansion of an existing ~~((on-site sewage system adjacent to))~~ OSS within 200 feet of a marine shoreline that does not meet the minimum horizontal separation between the soil dispersal component and the ordinary high-water mark required by WAC 246-272A-0210, Table IV, provided that:

(a) The ~~((system))~~ OSS meets all requirements of WAC 246-272A-0230, 246-272A-0232, 246-272A-0234, and 246-272A-0238;

(b) The ~~((system))~~ OSS complies with all other requirements of WAC 246-272A-0210 and this section;

(c) Horizontal separation between the soil dispersal component and the ordinary high-water mark is ~~((fifty))~~ 50 feet or greater; and

(d) Vertical separation is two feet or greater.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0300 Abandonment.** Persons permanently abandoning a ~~((septic))~~ sewage tank, seepage pit, cesspool, or other sewage container shall:

(1) Have the septage removed by an approved pumper; and

(2) Perform one of the following:

(a) Remove and dispose of sewage tanks and other components in a manner approved by the local health officer; or

(b) Leave the sewage tanks and components in place. Remove or destroy the lid((+)) if possible and ((-3)) fill the void with soil or gravel; and

(3) Grade the site to the surroundings.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0310 Septage management.** ~~((1) The local health officer shall approve an individual before they may remove septage from an OSS.~~

~~(2) Persons)~~ A person removing septage from an OSS shall obtain approval from the local health officer before removal and:

~~((a))~~ (1) Transport septage or sewage only in vehicles clearly identified with the name of the business and approved by the local health officer;

~~((b))~~ (2) Record and report septage removal as required by the local health officer; and

~~((e))~~ (3) Dispose of septage, or apply septage biosolids to land only in a manner consistent with applicable laws.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0320 Developments, subdivisions, and minimum land area requirements.** ~~((1) A person proposing a subdivision where the use of OSS is planned shall obtain a recommendation for approval from the local health officer as required by RCW 58.17.150.~~

~~(2) The local health officer shall require the following prior to approving any development:~~

~~(a) Site evaluations as required under WAC 246-272A-0220, excluding subsections (3)(a)(i) and (4)(d);~~

~~(b) Where a subdivision with individual wells is proposed:~~

~~(i) Configuration of each lot to allow a one hundred foot radius water supply protection zone to fit within the lot lines; or~~

~~(ii) Establishment of a one hundred foot protection zone around each existing and proposed well site;~~

~~(c) Where preliminary approval of a subdivision is requested, provision of at least one soil log per proposed lot, unless the local health officer determines existing soils information allows fewer soil logs;~~

~~(d) Determination of the minimum lot size or minimum land area required for the development using Method I and/or Method II:~~

~~**METHOD I.** Table X, Single-Family Residence Minimum Lot Size or Minimum Land Area Required Per Unit Volume of Sewage, shows the minimum lot size required per single-family residence. For developments other than single-family residences, the minimum land areas shown are required for each unit volume of sewage. However, the local health officer may require larger lot sizes where the local health officer has identified nitrogen as a concern either through planning activities described in WAC 246-272A-0015 or another process.~~

**TABLE X  
Minimum Land Area Requirement  
Single-Family Residence or Unit Volume of Sewage**

Type of Water Supply	Soil Type (defined by WAC 246-272A-0220)					
	1	2	3	4	5	6
Public	0.5 acre	12,500 sq. ft.	15,000 sq. ft.	18,000 sq. ft.	20,000 sq. ft.	22,000 sq. ft.
	2.5 acre <sup>1</sup>					
Individual, on each lot	1.0 acre	1-acre	1-acre	1-acre	2-acres	2-acres
	2.5 acres <sup>1</sup>					

<sup>1</sup>See WAC 246-272A-0234(6).

~~**METHOD II.** A minimum land area proposal using Method II is acceptable only when the applicant:~~

~~(i) Justifies the proposal through a written analysis of the:~~

~~(A) Soil type and depth;~~

~~(B) Area drainage, and/or lot drainage;~~

~~(C) Public health impact on ground and surface water quality;~~

~~(D) Setbacks from property lines, water supplies, etc.;~~

~~(E) Source of domestic water;~~

~~(F) Topography, geology, and ground cover;~~

- ~~(G) Climatic conditions;~~
- ~~(H) Availability of public sewers;~~
- ~~(I) Activity or land use, present, and anticipated;~~
- ~~(J) Growth patterns;~~
- ~~(K) Reserve areas for additional subsurface treatment and dispersal;~~
- ~~(L) Anticipated sewage volume;~~
- ~~(M) Compliance with current planning and zoning requirements;~~
- ~~(N) Types of proposed systems or designs, including the use of systems designed for removal of nitrogen;~~
- ~~(O) Existing encumbrances, such as those listed in WAC 246-272A-0200 (1) (c) (v) and 246-272A-0220 (2) (a) (vii); and~~
- ~~(P) Estimated nitrogen loading from OSS effluent to existing ground and surface water;~~
- ~~(Q) Any other information required by the local health officer.~~
  - ~~(ii) Shows development with public water supplies having:
 
    - ~~(A) At least twelve thousand five hundred square feet lot sizes per single-family residence;~~
    - ~~(B) No more than 3.5 unit volumes of sewage per day per acre for developments other than single-family residences; and~~
    - ~~(iii) Shows development with individual water supplies having at least one acre per unit volume of sewage; and~~
    - ~~(iv) Shows land area under surface water is not included in the minimum land area calculation; and~~
    - ~~(e) Regardless of which method is used for determining required minimum lot sizes or minimum land area, submittal to the health officer of information consisting of field data, plans, and reports supporting a conclusion the land area provided is sufficient to:
 
      - ~~(i) Install conforming OSS;~~
      - ~~(ii) Assure preservation of reserve areas for proposed and existing OSS;~~
      - ~~(iii) Properly treat and dispose of the sewage; and~~
      - ~~(iv) Minimize public health effects from the accumulation of contaminants in surface and groundwater.~~~~~~
- ~~(3) The department shall develop guidelines for the application of Method II by (insert date one year from the effective date).~~
- ~~(4) The local health officer shall require lot areas of twelve thousand five hundred square feet or larger except when a person proposes:
 
  - ~~(a) OSS within the boundaries of a recognized sewer utility having a finalized assessment roll; or~~
  - ~~(b) A planned unit development with:
 
    - ~~(i) A signed, notarized, and recorded deed covenant restricting any development of lots or parcels above the approved density with the overall density meeting the minimum land area requirements of subsection (2) (d) of this section;~~
    - ~~(ii) A public entity responsible for operation and maintenance of the OSS, or a single individual owning the OSS;~~
    - ~~(iii) Management requirements under chapter 246-272B WAC when installing a LOSS; and~~
    - ~~(iv) Extinguishment of the deed covenant and higher density development allowed only when the development connects to public sewers.~~~~~~
- ~~(5) The local health officer may:
 
  - ~~(a) Allow inclusion of the area to the centerline of a road or street right of way in a Method II determination under subsection (2) (d) of this section to be included in the minimum land area calculation if:~~~~



- ~~(i) The dedicated road or street right of ways are along the perimeter of the development;~~
  - ~~(ii) The road or street right of ways are dedicated as part of the proposed development; and~~
  - ~~(iii) Lots are at least twelve thousand five hundred square feet in size.~~
  - ~~(b) Require detailed plot plans and OSS designs prior to final approval of subdivision proposals;~~
  - ~~(c) Require larger land areas or lot sizes to achieve public health protection;~~
  - ~~(d) Prohibit development on individual lots within the boundaries of an approved subdivision if the proposed OSS design does not protect public health by meeting requirements of these regulations; and~~
  - ~~(e) Permit the installation of an OSS, where the minimum land area requirements or lot sizes cannot be met, only when all of the following criteria are met:~~
    - ~~(i) The lot is registered as a legal lot of record created prior to the effective date of this chapter;~~
    - ~~(ii) The lot is outside an area identified by the local plan developed under WAC 246-272A-0015 where minimum land area has been listed as a design parameter necessary for public health protection; and~~
    - ~~(iii) The proposed system meets all requirements of these regulations other than minimum land area.~~
  - ~~(6) The use of a reduced-sized SSAS does not provide for a reduction in the minimum land area requirements established in this section. Site development incorporating reduced-sized SSAS must meet the minimum land area requirements established in state and local codes.)~~
- (1) Prior to approving any development, the local health officer shall:
- (a) Require site evaluations under WAC 246-272A-0220;
  - (b) Require information consisting of field data, plans, and reports supporting a conclusion that the proposed land area is sufficient to:
    - (i) Install conforming OSS;
    - (ii) Preserve reserve areas for proposed and existing OSS; and
    - (iii) Properly treat and dispose of the sewage;
  - (c) Require information demonstrating that the proposed development will minimize adverse public health effects from the accumulation of contaminants in groundwater and surface water;
  - (d) Determine the minimum land area required for the development using Table XI of this section, or the alternative methodology in Table XII of this section. The local health officer may require larger lot sizes than the minimum standards established in Table XI or Table XII of this section;

**Table XI**

**Minimum Land Area Requirement For Each Single-Family Residence or Unit  
Volume of Sewage and Minimum Usable Land Area**

		Soil Type (defined by WAC 246-272A-0220)					
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
<b>Minimum Land Area</b>	<b>Public Water Supply</b>	<u>21,780 sq. ft. (0.5 acre)</u> <u>2.5 acres<sup>1</sup></u>	<u>13,000 sq. ft.</u>	<u>16,000 sq. ft.</u>	<u>19,000 sq. ft.</u>	<u>21,000 sq. ft.</u>	<u>23,000 sq. ft.</u>
	<b>Nonpublic Water Supply</b>	<u>1.0 acre</u> <u>2.5 acres<sup>1</sup></u>	<u>1.0 acre</u>	<u>1.0 acre</u>	<u>1.0 acre</u>	<u>2.0 acres</u>	<u>2.0 acres</u>

	Soil Type (defined by WAC 246-272A-0220)					
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
<b>Minimum Usable Land Area</b>	2,000 sq. ft.	2,000 sq. ft.	2,500 sq. ft.	3,333 sq. ft.	5,000 sq. ft.	10,000 sq. ft.

<sup>1</sup> OSS consisting of only sewage tanks and gravity SSAS must have a minimum land area of 2.5 acres per WAC 246-272A-0234(7).

**Table XII**  
**Maximum Allowable Total Nitrogen (TN) Load Per Day by Type of Water Supply, Soil Type, and Land Area<sup>1</sup>**

Water Supply Type	Maximum Daily TN Load	Soil Type <sup>2</sup>					
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
<b>Public</b>	<b>mg per sq. ft.</b>	<u>3.8</u>	<u>6.3</u>	<u>5.1</u>	<u>4.3</u>	<u>3.9</u>	<u>3.6</u>
	<b>lb per acre</b>	<u>0.36</u>	<u>0.60</u>	<u>0.49</u>	<u>0.41</u>	<u>0.37</u>	<u>0.34</u>
<b>Nonpublic</b>	<b>mg per sq. ft.</b>	<u>1.9</u>	<u>1.9</u>	<u>1.9</u>	<u>1.9</u>	<u>0.9</u>	<u>0.9</u>
	<b>lb per acre</b>	<u>0.18</u>	<u>0.18</u>	<u>0.18</u>	<u>0.18</u>	<u>0.09</u>	<u>0.09</u>

<sup>1</sup> Based on 60 mg/L TN and 360 gal/day OSS effluent.

<sup>2</sup> As defined in Table V in WAC 246-272A-0220.

(e) Require all proposals not meeting the minimum land area requirements in Table XI of this section to demonstrate the proposed development:

(i) Minimizes adverse impacts to public health, surface water, or groundwater quality;

(ii) Considers:

(A) Topography, geology, and ground cover;

(B) Climactic conditions;

(C) Availability of public sewers; and

(D) Present and anticipated land use and growth patterns;

(iii) Complies with current planning and zoning requirements;

(iv) Does not exceed the nitrogen limit per land area as identified in Table XII of this section; and

(v) Does not allow new lots smaller than 13,000 square feet if served by nonpublic water supplies;

(f) Require minimum land area of 13,000 square feet or larger, except when a proposal includes:

(i) OSS within the boundaries of a recognized sewer utility having a finalized assessment roll; or

(ii) A planned unit development with a signed, notarized, and recorded deed covenant restricting any development of lots or parcels above the approved density with the overall density meeting the minimum land area requirements of (d) or (e) of this subsection in perpetuity or until the OSS is no longer needed as identified in WAC 246-272A-0200 (6);

(g) Require that developments other than single-family residences:

(i) Meet the minimum land areas required for each unit's volume of sewage;

(ii) Do not exceed 3.35 unit volumes of sewage per day per acre if served by public water supplies; and

(iii) Do not exceed 1.0 unit volume of sewage per day per acre for nonpublic water supplies; and

(h) Require that the use of a reduced-sized dispersal component does not result in a reduction of the minimum land area requirements established in this section.

(2) The local health officer shall require the following prior to approving any subdivision:

(a) A recommendation for approval as required by RCW 58.17.150;

(b) Where a subdivision with nonpublic wells are proposed:

(i) Configuration of each lot line to allow a supply protection zone to fit within the lot lines; or

(ii) Water supply protection zones on more than one lot when the person proposing the subdivision or development provides a copy of a recorded restrictive covenant to each property that is sited partially or completely within the water supply protection zone;

(iii) Water supply protection zone of at least 100 foot radius for each existing or proposed well site.

(3) The local health officer may:

(a) Require detailed site plans and OSS designs prior to final approval of subdivision proposals;

(b) Require larger land areas or lot sizes to achieve public health protection;

(c) Prohibit development on individual lots within the boundaries of an approved subdivision if the proposed OSS design does not meet the requirements of this chapter; and

(d) Permit the installation of an OSS, where the minimum land area requirements or lot sizes in Table XI of this section or maximum total nitrogen in Table XII of this section cannot be met, only when the following criteria are met:

(i) The lot is registered as a legal lot of record created prior to the effective date of the rule;

(ii) The lot is not within an area identified in the local management plan developed under WAC 246-272A-0015 where minimum land area is listed as a design parameter necessary for public health protection; and

(iii) The proposed OSS meets all requirements of this chapter without the use of a waiver under WAC 246-272A-0420.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 7/1/07)

**WAC 246-272A-0340 ((Certification)) Approval of installers, pumpers, and maintenance service providers.** (1) OSS installers ~~((and)), pumpers ((must)), and maintenance service providers shall~~ obtain approval from the local health officer prior to providing services including, but not limited to, conducting inspections in accordance with WAC 246-272A-0260 and 246-272A-0270, within a local health jurisdiction.

(2) The local health officer ((may)) shall establish ((programs and requirements)) procedures for approving OSS installers, pumpers, and maintenance service providers no later than February 1, 2025. These procedures must include, but are not limited to, conducting inspections in accordance with WAC 246-272A-0260 and 246-272A-0270. The local health officer may approve OSS installers, pumpers, and maintenance service providers through reciprocity by other Washington local health jurisdictions.

(3) The local health officer may establish a homeowner OSS inspection certification process.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0400 Technical advisory ((committee)) group (TAG).**

~~((1))~~ The department shall:

~~((a))~~ (1) Maintain a ~~((technical advisory committee))~~ TAG to advise the department regarding:

~~((i))~~ (a) OSS design and siting;

~~((ii))~~ (b) Public domain technologies ~~((and recommended standards and guidance))~~, DS&G for ~~((their))~~ product use; and

~~((iii))~~ (c) Testing and design standards used for proprietary product registration and ~~((recommended standards and guidance))~~ DS&G for use of proprietary products.

~~((b))~~ (2) Select members for the ~~((technical advisory committee with))~~ TAG for three-year terms that have technical or scientific knowledge applicable to OSS from agencies, professions, and organizations including:

~~((i))~~ (a) Local health ~~((departments))~~ jurisdictions;

~~((ii))~~ (b) Engineering firms;

~~((iii))~~ (c) The Washington department of ecology;

~~((iv))~~ (d) Land sales, development and building industries;

~~((v))~~ (e) Public sewer utilities;

~~((vi))~~ On-site sewage system design and installation firms;

~~((vii))~~ (f) OSS:

(i) Designers;

(ii) Installers;

(iii) Maintenance service providers;

(iv) Product manufacturers;

(g) Environmental organizations;

~~((viii))~~ (h) University~~((/))~~ and college academic communities;

~~((ix))~~ On-site sewage system or related product manufacturers)

(i) Certified professional soil scientists; and

~~((x))~~ (j) Other interested organizations or groups.

~~((c))~~ Convene meetings as needed.

~~(2)~~ The department may have a representative on the ~~technical advisory committee.~~)

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0410 Policy advisory ((committee)) group. ((1))**

The department shall:

~~((a))~~ (1) Maintain a policy advisory ~~((committee))~~ group to:

~~((i))~~ (a) Make recommendations concerning OSS departmental policy and ~~((regulations))~~ rules;

~~((ii))~~ (b) Review OSS program services; and

~~((iii))~~ (c) Provide input to the department regarding the ~~((on-site sewage))~~ OSS program;

~~((b))~~ (2) Select members for three-year terms from agencies, professions, organizations having knowledge and interest in OSS, and ~~((groups))~~ communities which are affected by ~~((the regulations; and~~

~~((c))~~ Convene meetings as needed.

~~(2)~~ The department may have a representative on the ~~policy advisory committee.)~~ this chapter.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0420 Waivers ~~((of state regulations))~~.** (1) The local health officer may grant a waiver from specific requirements of this chapter ~~((if))~~. A request for waiver must be:

(a) ~~((The waiver request is))~~ Evaluated by the local health officer on an individual, site-by-site basis;

(b) ~~((The local health officer determines that the waiver is))~~ Consistent with the ~~((standards in, and the intent of, these rules; (e-))~~ purposes of this chapter.

(2) (a) The local health officer must submit ~~((s))~~ quarterly reports to the department ~~((regarding any))~~ showing waivers approved or denied ~~((; and~~

~~((d) Based on review of the quarterly reports)).~~

(b) Upon review, if the department finds that the waivers previously granted ~~((have not been consistent))~~ are inconsistent, with the ~~((standards in, and the intent of these rules))~~ purposes of this chapter, and DS&G for granting waivers, the department shall provide technical assistance to the local health officer to correct the inconsistency, and may notify the local and state boards of health of the department's concerns.

(c) If upon further review ~~((of the quarterly reports))~~, the department finds ~~((that the inconsistency between the waivers granted and the state board of health standards has not been corrected))~~ waivers previously granted continue to be inconsistent with the purposes of this chapter and DS&G, the department may suspend the authority of the local health officer to grant waivers under this section until such inconsistencies have been corrected.

~~((2))~~ (3) The department shall ~~((develop))~~ maintain and update guidance to assist local health officers in the application of waivers.

(4) The department shall publish an annual report summarizing the waivers issued over the previous year.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0425 Required ~~((rule))~~ review of rules.** The department shall review this chapter to evaluate the effectiveness of the rules ~~((and determine areas where revisions may be necessary. The department will provide the results of their review along with their))~~, determine where revisions may be necessary, and make recommendations to the state board of health and all local health officers by September ~~((2009))~~ 2026 and every four years thereafter.

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0430 Enforcement.** (1) When an OSS is out of compliance with any law or rule regulating OSS and administered by the department or the local health officer, the department or the local health officer ~~((;~~

- ~~(a) Shall enforce the rules of chapter 246-272A WAC; or~~
- ~~(b) May refer cases within their jurisdiction to the local prosecutor's office or office of the attorney general, as appropriate.~~
- ~~(2) When a person violates the provisions under this chapter, the department, local health officer, local prosecutor's office, or office of the attorney general may initiate enforcement or disciplinary actions, or any other legal proceeding authorized by law including, but not limited to, any one or a combination of the following:~~
- ~~(a) Informal administrative conferences, convened at the request of the department or owner, to explore facts and resolve problems;~~
- ~~(b) Orders directed to the owner and/or operator of the OSS and/or person causing or responsible for the violation of the rules of chapter 246-272A WAC;~~
- ~~(c) Denial, suspension, modification, or revocation of permits, approvals, registrations, or certification;~~
- ~~(d) The penalties under chapter 70.05 RCW and RCW 43.70.190; and~~
- ~~(e) Civil or criminal action.~~
- ~~(3) Orders authorized under this section include the following:~~
- ~~(a) Orders requiring corrective measures necessary to effect compliance with chapter 246-272A WAC which may include a compliance schedule; and~~
- ~~(b) Orders to stop work and/or refrain from using any OSS or portion of the OSS or improvements to the OSS until all permits, certifications, and approvals required by rule or statute are obtained.~~
- ~~(4) Enforcement orders)) may initiate enforcement action. Enforcement action may include, but is not necessarily limited to:~~
- ~~(a) A notice of correction describing the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule, a statement of what is required to achieve compliance, and the date by which compliance is to be achieved;~~
- ~~(b) A notice of violation with or without a civil penalty;~~
- ~~(c) An order requiring specific actions or ceasing unacceptable activities within a designated time period;~~
- ~~(d) Suspension, revocation, or modification or denial of permits and licenses as authorized by RCW 43.70.115; and~~
- ~~(e) Civil or criminal penalties authorized under chapter 70.05 RCW and RCW 43.70.190.~~
- ~~(2) An informal conference may be held at the request of any party to resolve disputes arising from enforcement of this chapter.~~
- ~~(3) Notices and orders issued under this section ((shall)) must:~~
- ~~(a) Be in writing;~~
- ~~(b) Name the person or persons to whom the order is directed;~~
- ~~(c) Briefly describe each action or inaction constituting a violation of the rules of chapter 246-272A WAC, or applicable local ((code)) rules;~~
- ~~(d) Specify any required corrective action, if applicable;~~
- ~~(e) Specify the effective date of the order, with time or times of compliance;~~
- ~~(f) Provide notice of the consequences of failure to comply or repeated violation, as appropriate(. Such notices may include a statement that continued or repeated violation may subject the violator to:~~
- ~~(i) Denial, suspension, or revocation of a permit approval, or certification;~~
- ~~(ii) Referral to the office of the county prosecutor or attorney general; and/or~~

~~(iii) Other appropriate remedies.~~

~~(g) Provide the name, business address, and phone number of an appropriate staff person who may be contacted regarding an order).~~

~~((5)) (4) Enforcement orders (~~shall~~) must be personally served in the manner of service of a summons in a civil action or in (a) another manner showing proof of receipt.~~

~~((6)) (5) The department shall have cause to deny the application or reapplication for (~~an operational~~) a permit or to revoke, suspend, or modify a required (~~operational~~) permit of any person who has:~~

~~(a) Failed or refused to comply with the provisions of chapter 246-272A WAC, or any other statutory provision or rule regulating the operation of an OSS; or~~

~~(b) Obtained or attempted to obtain a permit or any other required certificate or approval by misrepresentation.~~

~~((7) For the purposes of subsection (6) of this section and WAC 246-272A-0440, a person is defined to include:~~

~~(a) Applicant;~~

~~(b) Reapplicant;~~

~~(c) Permit holder; or~~

~~(d) Any individual associated with (a), (b) or (c) of this subsection including, but not limited to:~~

~~(i) Board members;~~

~~(ii) Officers;~~

~~(iii) Managers;~~

~~(iv) Partners;~~

~~(v) Association members;~~

~~(vi) Agents; and~~

~~(vii) Third persons acting with the knowledge of such persons.)~~

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0440 Notice of decision—Adjudicative proceeding.**

(1) All local boards of health shall:

~~(a) Maintain an (~~administrative appeals~~) adjudicative process to (~~consider~~) resolve procedural and technical conflicts arising from the administration of local regulations; and~~

~~(b) Establish rules for conducting hearings requested to contest a local health officer's actions.~~

(2) The department shall provide notice of the department's denial, suspension, modification, or revocation of a permit, certification, or approval consistent with RCW 43.70.115, chapter 34.05 RCW, and chapter 246-10 WAC.

(3) A person contesting a departmental decision regarding a permit, certificate, or approval may file a written request for an adjudicative proceeding consistent with chapter 246-10 WAC.

(4) Department actions are governed (~~under the Administrative Procedure Act~~) by chapter 34.05 RCW, RCW 43.70.115, this chapter, and chapter 246-10 WAC.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-272A-0020 Applicability.
- WAC 246-272A-0125 Transition from the list of approved systems and products to the registered list—Treatment products.
- WAC 246-272A-0135 Transition from the list of approved systems and products to the registered list—Bacteriological reduction.
- WAC 246-272A-0150 Transition from the list of approved systems and products to the registered list—Distribution products.
- WAC 246-272A-0175 Transition from the experimental system program to application for product registration.



WSR 24-06-051

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed March 1, 2024, 2:43 p.m., effective April 1, 2024]

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

Purpose: The health care authority (agency) is amending WAC 182-508-0001 and 182-512-0920 to remove the maximum age restriction for apple health for workers with disabilities (HWD) categorically needy (CN) coverage. This change is consistent with amendments made to RCW 74.09.540 and WAC 182-511-1050 effective January 1, 2020. The agency is making additional amendments to WAC 182-512-0920 to remove outdated HWD income limitation language.

Citation of Rules Affected by this Order: Amending WAC 182-508-0001 and 182-512-0920.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: RCW 74.09.540.

Adopted under notice filed as WSR 24-03-022 on January 5, 2024.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/ Adopted	WAC Subsection	Reason
<b>WAC 182-512-0920 (5)(a)</b>		
Proposed	(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).	The agency is removing outdated information from this rule. The removed language is no longer relevant because the HWD program does not have an income limit.
Adopted	(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. <del>((For health care for workers with disabilities (HWD) applicants, compare to the one-person HWD standard described in WAC 182-505-0100 (1)(c).))</del>	
<b>WAC 182-512-0920 (5)(b)</b>		
Proposed	(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).	The agency is removing outdated information from this rule. The removed language is no longer relevant because the HWD program does not have an income limit.
Adopted	(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. <del>((For HWD applicants, compare to the two-person HWD standard described in WAC 182-505-0100 (1)(c).))</del>	
<b>WAC 182-512-0920(6)</b>		

Proposed/ Adopted	WAC Subsection	Reason
Proposed	(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.	The agency is removing outdated information from this rule. The removed language is no longer relevant because the HWD program does not have an income limit.
Adopted	(6) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(a) of this section( <del>(a)</del> ), allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's income( <del>(a)</del> and <del>(b)</del> ), and compare the net remaining income to the one-person SSI CNIL ( <del>or the one-person HWD standard</del> ).	
<b>WAC 182-512-0920 (7)(c)</b>		
Proposed	(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.	The agency is removing outdated information from this rule. The removed language is no longer relevant because the HWD program does not have an income limit.
Adopted	(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 ( <del>or the two-person HWD standard described in WAC 182-505-0100 (1)(c)</del> ). If the income is equal to or below the applicable two-person standard, the applicant is eligible for apple health CN health care coverage.	

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: March 1, 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-5084.4**

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)~~),

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

~~(b)~~), and 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 spend-down 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 24-06-062  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 24-30—Filed March 4, 2024, 1:57 p.m., effective April 4, 2024]

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

Purpose: Recreational clam and oyster seasons are adjusted based on recent clam and oyster population survey data, recreational harvest projections, and negotiations affecting intertidal treaty and nontreaty fisheries, along with public health considerations. Seasons will be opened or extended on some public beaches and closed or shortened on others. These amendments reflect openings and closures based on current data.

Citation of Rules Affected by this Order: Amending WAC 220-330-110 and 220-330-140.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.12.045, 77.12.047, and 77.04.055.

Adopted under notice filed as WSR 24-03-142 on January 23, 2024.

Preproposal filed as WSR 23-21-087 on October 17, 2023.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

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

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

Date Adopted: February 29, 2024.

Kelly Susewind  
Director

## 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, ex-

cept 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 Hoodsport Hatchery: Tidelands at Hoodsport 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 Glencairn 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.

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~~((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.  
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~~((100))~~ (102) Retsil: Closed year-round.  
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~~((112))~~ (114) Silverdale Waterfront Park: Closed year-round.  
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~~((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.  
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(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 24-06-065  
PERMANENT RULES  
DEPARTMENT OF

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 4, 2024, 4:15 p.m., effective April 4, 2024]

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

Purpose: The department is adopting amendments to WAC

388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for basic food?, 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?, and 388-478-0060 What are the income limits and maximum benefit amounts for basic food? These amendments comply with federal laws that pertain to cost-of-living adjustments and updated utility values for the basic food program for federal fiscal year 2024. Related emergency rules are currently in place (effective October 1, 2023) under WSR 24-03-150. When effective, this permanent adoption will supersede the emergency rules.

Citation of Rules Affected by this Order: Amending WAC

388-450-0185, 388-450-0190, 388-450-0195, and 388-478-0060.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Other Authority: Standards issued by United States Department of Agriculture, Food and Nutrition Service.

Adopted under notice filed as WSR 24-01-092 on December 18, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 4, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: March 4, 2024.

Katherine I. Vasquez  
Rules Coordinator

**SHS-5001.1**

AMENDATORY SECTION (Amending WSR 23-17-065, filed 8/14/23, effective 9/14/23)

**WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?** (1) We determine if your assistance unit (AU)

is eligible for basic food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

(2) Under these federal laws, we subtract the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(a) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
((4) <u>3</u> or fewer	(((\$193)) <u>\$198</u>
(( <del>5</del> ) <u>4</u>	(((\$225)) <u>\$208</u>
<u>5</u>	<u>\$244</u>
6 or more	(((\$258)) <u>\$279</u>

(b) 20% of your AU's gross earned income (earned income deduction);

(c) Your AU's expected monthly dependent care expense needed for an AU member to:

- (i) Keep work, look for work, or accept work;
- (ii) Attend training or education to prepare for employment; or
- (iii) Meet employment and training requirements under chapter

388-444 WAC;

(d) Medical expenses over \$35 a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200; and

(e) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food?** The department calculates your shelter cost income deduction for basic food as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or mortgage payments you make ahead of time as allowable shelter costs. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC

388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

- (i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(h) A homeless AU with shelter costs is eligible for a homeless shelter expense deduction of (~~(\$166)~~) \$179. If the homeless AU has shelter costs in excess of this amount, the AU has the option to claim either:

(i) The homeless shelter deduction; or

(ii) Actual shelter costs.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2) (a) through (2) (d) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of (~~(\$624)~~) \$672 if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over (~~(\$624)~~) \$672.

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?**

(1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the following amounts if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than \$20 in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of (~~(\$462)~~) \$483.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration status, you get a SUA of (~~(\$462)~~) \$483.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of (~~(\$365)~~) \$383.

(d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of (~~(\$59)~~) \$58.

(3) "Utility costs" include the following:

(a) Heating or cooling fuel;

(b) Electricity or gas;

(c) Water;

(d) Sewer;

(e) Well installation/maintenance;

(f) Septic tank installation/maintenance;

(g) Garbage/trash collection; and

(h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive low income energy assistance program (LIHEAP), you do not receive a utility allowance.

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-478-0060 What are the income limits and maximum benefit amounts for basic food?** (1) If your assistance unit (AU) meets all other eligibility requirements for basic food, your AU must have income at or below the limits in columns B and C of this subsection to get basic food, unless you meet one of the exceptions listed below in subsection (2) of this section.

The maximum monthly food assistance benefit your AU could receive is listed in column D of this subsection.

EFFECTIVE (~~(10/1/2021)~~) 10/1/2023

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net (Countable) Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	<del>(\$1,473)</del> <u>\$1,580</u>	<del>(\$1,133)</del> <u>\$1,215</u>	<del>(\$281)</del> <u>\$291</u>	<del>(\$1,869)</del> <u>\$2,005</u>
2	<del>(1,984)</del> <u>2,137</u>	<del>(1,526)</del> <u>1,644</u>	<del>(516)</del> <u>535</u>	<del>(2,518)</del> <u>2,712</u>
3	<del>(2,495)</del> <u>2,694</u>	<del>(1,920)</del> <u>2,072</u>	<del>(740)</del> <u>766</u>	<del>(3,167)</del> <u>3,419</u>
4	<del>(3,007)</del> <u>3,250</u>	<del>(2,313)</del> <u>2,500</u>	<del>(939)</del> <u>973</u>	<del>(3,816)</del> <u>4,125</u>
5	<del>(3,518)</del> <u>3,807</u>	<del>(2,706)</del> <u>2,929</u>	<del>(1,116)</del> <u>1,155</u>	<del>(4,465)</del> <u>4,832</u>
6	<del>(4,029)</del> <u>4,364</u>	<del>(3,100)</del> <u>3,357</u>	<del>(1,339)</del> <u>1,386</u>	<del>(5,114)</del> <u>5,539</u>
7	<del>(4,541)</del> <u>4,921</u>	<del>(3,493)</del> <u>3,785</u>	<del>(1,480)</del> <u>1,532</u>	<del>(5,763)</del> <u>6,246</u>
8	<del>(5,052)</del> <u>5,478</u>	<del>(3,886)</del> <u>4,214</u>	<del>(1,691)</del> <u>1,751</u>	<del>(6,412)</del> <u>6,952</u>
9	<del>(5,564)</del> <u>6,035</u>	<del>(4,280)</del> <u>4,643</u>	<del>(1,902)</del> <u>1,970</u>	<del>(7,061)</del> <u>7,659</u>
10	<del>(6,076)</del> <u>6,592</u>	<del>(4,674)</del> <u>5,072</u>	<del>(2,113)</del> <u>2,189</u>	<del>(7,710)</del> <u>8,366</u>
Each Additional Member	+ <del>(512)</del> <u>557</u>	+ <del>(394)</del> <u>429</u>	+ <del>(211)</del> <u>219</u>	+ <del>(649)</del> <u>707</u>

(2) Exceptions:

(a) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C of subsection (1) of this section. We budget your AU's income to decide the amount of basic food your AU will receive.

(b) If your AU includes a member who is 60 years of age or older or has a disability, your AU's income must be at or below the limit in column C of subsection (1) of this section.

(c) If you are 60 years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E of subsection (1) of this section to decide if you can be a separate AU.

(d) If your AU has zero income, your benefits are the maximum allotment in column D of subsection (1) of this section, based on the number of eligible members in your AU.

**WSR 24-06-068**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed March 5, 2024, 7:12 a.m., effective April 5, 2024]

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

Purpose: Land survey monument preservation procedures. Clarification of process and revision of existing requirements for creating a public record. Defining the role of the professional land surveyor being in charge of the process.

Citation of Rules Affected by this Order: Amending WAC 332-120-020, 332-120-050, 332-120-060, and 322-120-070.

Statutory Authority for Adoption: RCW 58.09.130, 58.24.030(2), and 58.24.040(8).

Adopted under notice filed as WSR 24-02-002 on December 20, 2023.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

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

Date Adopted: February 22, 2024.

Todd Welker  
Deputy Supervisor  
State Uplands

## OTS-5122.1

AMENDATORY SECTION (Amending WSR 20-10-003, filed 4/23/20, effective 5/24/20)

**WAC 332-120-020 Definitions.** The following definitions shall apply to this chapter:

**Covering:** The physical covering of a survey monument such that the physical structure is no longer visible or readily accessible.

**Department:** The department of natural resources.

**Engineer:** Any person authorized to practice the profession of engineering under the provisions of chapter 18.43 RCW (~~who also has authority to do land boundary surveying pursuant to RCW 36.75.110, 36.86.050, 47.36.010 or 58.09.090~~).

**Geodetic control point:** Points established to mark horizontal or vertical control positions that are part of the National Geodetic Survey Network.

**Land boundary survey corner:** A point on the boundary of any easement, right of way, lot, tract, or parcel of real property; a control-

ling point for a plat; or a point which is a General Land Office or Bureau of Land Management survey corner.

Land corner record: The record of corner information form as prescribed by the department of natural resources pursuant to chapter 58.09 RCW.

Land surveyor: Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW.

Local control point: Points established to mark horizontal or vertical control positions that are part of a permanent government control network other than the National Geodetic Survey network.

Parcel: A part or portion of real property including but not limited to GLO segregations, easements, rights of way, aliquot parts of sections or tracts.

Pavement preservation treatment: Asphalt light bituminous applications such as slurry, micro seal, cape and chip seal treatments that are typically less than 5/8 inch thick.

Removal or destruction: The physical disturbance of a monument such that the physical structure no longer marks the location of the land boundary position.

Survey monument: The physical structure, along with any references or accessories thereto, used to mark the location of a land boundary survey corner, geodetic control point, or local control point.

Survey Recording Act: The law as established and designated in chapter 58.09 RCW.

AMENDATORY SECTION (Amending WSR 94-06-034, filed 2/25/94, effective 3/28/94)

**WAC 332-120-050 Application process.** (1) Whenever a survey monument needs to be removed or destroyed the application required by this chapter shall be submitted to the department.

It shall be completed, signed and sealed by a land surveyor (~~or engineer~~) as defined in this chapter.

(2) Upon receipt of a properly completed application, the department shall promptly issue a permit authorizing the removal or destruction of the monument; provided that:

(a) In extraordinary circumstances, to prevent hardship or delay, a verbal authorization may be granted, pending the processing and issuance of a written permit. A properly completed application shall be submitted by the applicant within fifteen days of the verbal authorization.

(b) Applications received by the department concerning local or geodetic control points will be referred to the appropriate agency for action. The applicant will be notified when such action is taken.

(3) One application may be submitted for multiple monuments to be removed or destroyed as part of a single project; however, there shall be separate attachments to the application form detailing the required information for each monument removed or destroyed.

AMENDATORY SECTION (Amending WSR 20-10-003, filed 4/23/20, effective 5/24/20)

**WAC 332-120-060 Project completion—Perpetuation of the original position.** (1) After completion of the activity that caused the removal or destruction of the monument, a land surveyor (~~(or engineer shall)~~) must, unless specifically authorized otherwise:

(a) Reset a suitable monument at the original survey point or, if that is no longer feasible;

(b) Establish permanent witness monuments easily accessible from the original monument to perpetuate the position of the preexisting monument.

(2) Land boundary survey monumentation required by this chapter shall meet the requirements of the RCW 58.09.120 and 58.09.130.

(3) After completion of the remonumentation, the land surveyor (~~(or engineer shall)~~) must complete the report form required by this chapter and forward it to the department.

(4) A record of survey (~~(or land corner record shall)~~) may be (~~(completed as)~~) required by (~~(the Survey Recording Act to document the remonumentation in the public record)~~) RCW 58.09.040(1).

(5) When the remonumentation involves a general land office corner, and a record of survey is not required, a Land Corner Record must be completed as required by RCW 58.09.040(2).

AMENDATORY SECTION (Amending WSR 10-09-011, filed 4/9/10, effective 5/10/10)

**WAC 332-120-070 (~~(Application/permit form.)~~) Application and completion report forms.** All applications and completion reports must be (~~(completed)~~) on forms provided by the department and following instructions provided by the department. Completed (~~(applications)~~) forms shall be filed at the department.



## WSR 24-06-073

## PERMANENT RULES

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed March 5, 2024, 10:25 a.m., effective April 5, 2024]

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

Purpose: The purpose of amending WAC 388-112A-0800 What is residential care administrator training?, is to align current rules with the statute. The rules do not specify a time limit for validity of adult family home administrator training certificates for the purpose of new adult family home applicants. The amended rule assures [ensures] that training be reasonably current for new applicants and is in the best interests of adult family home residents. The rules on this subject are needed because the WAC and RCW 70.128.120 are conflicting due to the number of hours of training needed for required adult family home administrator training. This conflict is causing concerns during the adult family home application process.

Citation of Rules Affected by this Order: Amending WAC 388-112A-0800.

Statutory Authority for Adoption: RCW 70.128.120, 71A.12.040, 74.39A.009, 74.39A.070, and 74.39A.074.

Adopted under notice filed as WSR 23-23-143 on November 20, 2023.

A final cost-benefit analysis is available by contacting David Chappell, P.O. Box 45600, Lacey, WA 98504-5600, phone 360-725-2516, email David.chappell@dshs.wa.gov.

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

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

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

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

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

Date Adopted: March 5, 2024.

Lisa N.H. Yanagida  
Chief of Staff

**SHS-4997.1**

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

**WAC 388-112A-0800 What is residential care administrator training?** (1) Residential care administrator training is specific training on the administration of the care and services required to obtain a license or manage a facility. The training covers the facility specif-

ic Washington state statutes and administrative rules related to the operation of a long-term care facility.

(2) **Adult family home (AFH) administrator training.**

(a) AFH administrator training (~~(is)~~) must be a minimum of (~~(fif-ty-four)~~) 48 hours of (~~(training)~~) instructional time taken from an approved community college on topics related to the management and licensing requirements of adult family homes described in chapter 388-76 WAC.

(b) DSHS must approve AFH administrator training curricula, instructors, and training programs in a community college setting.

(3) **Assisted living facility (ALF) administrator training.**

(a) ALF administrator training curricula must be based on the requirements described in chapter 388-78A WAC.

(b) DSHS will work with stakeholders to develop, update, and approve ALF administrator training curricula, instructors, and training programs.

(4) **Enhanced services facility (ESF) administrator training.**

(a) An ESF administrator must complete:

(i) All training as required under this chapter and chapter 388-107 WAC; and

(ii) When available, ESF administrator training developed by the department.

(b) DSHS must approve ESF administrator training, instructors, and training programs.

## WSR 24-06-088

## PERMANENT RULES

## HEALTH CARE AUTHORITY

[Filed March 6, 2024, 10:43 a.m., effective April 6, 2024]

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

Purpose: The health care authority (agency) is amending WAC 182-513-1105 to comply with statutory program requirements in RCW 74.09.340. The legislature amended the personal needs allowance governing statute (RCW 74.09.340) so that the cost-of-living adjustment is no longer subject to the availability of appropriated funds. See chapter 201, Laws of 2023 (HB 1128). The agency is amending this rule to comply with the statute by removing language stating that the cost-of-living adjustment is subject to state legislative funding.

Citation of Rules Affected by this Order: Amending WAC 182-513-1105.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: RCW 74.09.340.

Adopted under notice filed as WSR 24-02-049 on December 28, 2023.

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

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

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

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

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

Date Adopted: March 6, 2024.

Wendy Barcus  
Rules Coordinator

## OTS-5119.2

AMENDATORY SECTION (Amending WSR 23-04-034, filed 1/25/23, effective 2/25/23)

**WAC 182-513-1105 Personal needs allowance (PNA) and room and board standards in a medical institution and alternate living facility (ALF).** (1) This section describes the personal needs allowance (PNA), which is an amount set aside from a client's income that is intended for personal needs, and the room and board standard.

(2) The PNA in a state veteran's nursing facility:

(a) Is indicated on the chart described in subsection (8) of this section as "All other PNA Med Inst.", for a veteran without a spouse or dependent children receiving a needs-based veteran's pension in excess of \$90;

(b) Is indicated on the chart described in subsection (8) of this section as "All other PNA Med Inst.", for a veteran's surviving spouse

with no dependent children receiving a needs-based veteran's pension in excess of \$90; or

(c) Is \$160 for a client who does not receive a needs-based veteran's pension.

(3) The PNA in a medical institution for clients receiving aged, blind, or disabled (ABD) cash assistance or temporary assistance for needy families (TANF) cash assistance is the client's personal and incidental (CPI) cash payment, as described in WAC 388-478-0006, based on residing in a medical institution, which is \$41.62.

(4) The PNA in an alternate living facility (ALF) for clients receiving ABD cash assistance or TANF cash assistance is the CPI, as described in WAC 388-478-0006, based on residing in an ALF that is not an adult family home, which is \$38.84.

(5) The PNA for clients not described in subsections (2), (3), and (4) of this section, who reside in a medical institution or in an ALF, is indicated on the chart described in subsection (8) of this section as "All other PNA Med Inst." and "HCS & DDA Waivers, CFC & MPC PNA in ALF."

(6) Effective January 1, (~~(2018)~~) 2024, and each year thereafter, the amount of the PNA in subsection (5) of this section (~~(may)~~) will be adjusted by the percentage of the cost-of-living adjustment (COLA) for old-age, survivors, and disability social security benefits as published by the federal Social Security Administration (~~(. This adjustment is subject to state legislative funding)~~), per RCW 74.09.340.

(7) The room and board standard in an ALF used by home and community services (HCS) and the developmental disabilities administration (DDA) is based on the federal benefit rate (FBR) minus the current PNA as described under subsection (5) of this section.

(8) The current PNA and room and board standards used in long-term services and supports are published under the institutional standards on the Washington apple health (medicaid) income and resource standards chart located at [www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources](http://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources).