

WSR 24-11-157
PROPOSED RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed May 22, 2024, 10:40 a.m.]

Original Notice.

Proposal is exempt under RCW 70A.15.2040(1).

Title of Rule and Other Identifying Information: Regulations of the Northwest Clean Air Agency (NWCAA).

Hearing Location(s): On July 25, 2024, at 10 a.m., at the NWCAA Office, 1600 South 2nd Street, Mount Vernon, WA; or via video and teleconference <https://us06web.zoom.us/j/2183891719?pwd=QjYxZzJjeGhZVGNSaHpmUTczVlRidz09&omn=87173063449>, Meeting ID 218 389 1719, Passcode 2E6SP4, Phone 253-215-8782.

Date of Intended Adoption: August 8, 2024.

Submit Written Comments to: Mark Buford, 1600 South 2nd Street, Mount Vernon, WA 98273, email info@nwcleanairwa.gov, fax 360-428-1620, by July 25, 2024, at 11 a.m.

Assistance for Persons with Disabilities: Contact Tanya Asmundson, phone 360-428-1617, fax 360-428-1620, email info@nwcleanairwa.gov, by July 18, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update the RCW citations for the Washington State Clean Air Act in the NWCAA Regulation to reflect the RCW renumbering by the state legislature under Washington state SHB 2246. No language was changed in the Clear [Clean] Air Act or the NWCAA Regulations as a part of this rule change. (NWCAA Sections 100, 103, 120, 121, 131, 132, 133, 200, 300, 305, 309, 320, 322, 324, 350, 502, 504, and 506).

Reasons Supporting Proposal: See list above.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Statute Being Implemented: RCW 70A.15.2040(1) and chapter 42.56 RCW.

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

Name of Proponent: NWCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mark Buford, 1600 South 2nd Street, Mount Vernon, WA, 360-428-1617.

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

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable under RCW 70A.15.2040.

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

Is exempt under RCW 70A.15.2040.

Explanation of exemptions: Not applicable under RCW 70A.15.2040.

Scope of exemption for rule proposal:

Is fully exempt.

May 14, 2024
 Mark Buford
 Executive Director

AMENDATORY SECTION

SECTION 100 - NAME OF AGENCY

100.1 The multi-county agency, consisting of Island, Skagit and Whatcom Counties, having been formed pursuant to the Washington State Clean Air Act RCW 70A.15 (~~(70.94)~~), shall be known and cited as the "Northwest Clean Air Agency", and hereinafter may be cited as the "NWCAA" or the "Authority."

100.2 Any reference to the Northwest Air Pollution Authority, the Authority or the NWAPA in any document previously issued by the agency, including without limitation orders, permits, judgments, letters and the like shall be deemed reference to the Northwest Clean Air Agency or the NWCAA.

AMENDED: July 14, 2005, August 8, 2024

AMENDATORY SECTION

SECTION 103 - DUTIES AND POWERS

103.1 Pursuant to the provisions of the Washington Clean Air Act RCW 70A.15 (~~(70.94)~~) and RCW 43.21A and 43.21B, the Board may take such reasonable action as may be necessary to prevent air pollution which may include control or measurement of emissions of air contaminants from a source.

The Board shall appoint a Control Officer competent in the field of air pollution control whose sole responsibility shall be to observe and enforce the provisions of all ordinances, orders, resolution, or rules and regulations of the NWCAA pertaining to the control and prevention of air pollution. The Board shall establish such procedures and take such action as may be required to implement Section 102 in a manner consistent with the State Act and other applicable laws.

103.2 The Board shall require that the Control Officer maintain appropriate records and prepare periodic reports.

103.3 The Board shall receive minutes of meetings of the Advisory Council as required. The decisions of the Advisory Council shall be forwarded to the Board in writing and shall include minority opinions in cases of serious disagreement.

103.4 The Control Officer is empowered by the board to sign official complaints and/or issue violations and/or apply to any court of competent jurisdiction for necessary orders and with Board approval or ratification, commence legal action. Nothing herein contained shall be construed to limit the Control Officer from using any other legal means to enforce the provisions of the Regulations of the NWCAA.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, April 14, 1993, August 8, 2024

AMENDATORY SECTION

SECTION 120 - HEARINGS

120.1 The Board shall retain authority to hold hearings, issue subpoenas for witnesses and evidence, and take testimony under oath and do all things not prohibited by or in a conflict with state law, in any hearing held under the Regulations of the NWCAA.

120.11 The Board shall admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. The Board shall give effect to the rules of privilege recognized by law. The Board shall exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

120.12 All evidence, including but not limited to records, and documents in the possession of the Board of which it desired to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in

the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

120.13 Every party shall have the right to cross examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

120.14 The Board may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Board may utilize their experience, technical competence, and their specialized knowledge in the evaluation of the evidence presented to them.

120.2 Any hearings held under this section, under the Washington Clean Air Act (RCW 70A.15 (~~(70.94)~~) and 43.21B) shall be pursuant to the provisions of RCW 34.05 as now or hereafter amended.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1977, April 14, 1993, November 8, 2007, August 8, 2024

AMENDATORY SECTION

SECTION 121 - ORDERS

121.1 The NWCAA may issue such orders as may be necessary to effectuate and enforce the purposes of chapter 70A.15 (~~(70.94)~~) RCW or the rules adopted thereunder.

121.2 If the NWCAA has reason to believe that any provision of chapter 70A.15 (~~(70.94)~~) RCW or the rules adopted thereunder has been violated, the NWCAA may, in addition to any other remedy of law, issue an order that requires corrective action be taken within a reasonable time. Such compliance orders may include dates by which the violation or violations shall cease and may set time schedules for necessary action in preventing, abating, or controlling the emissions.

121.3 Orders of approval related to the establishment of a source are addressed under NWCAA 300, in lieu of the requirements in this section.

121.4 General Orders of Approval are issued under WAC 173-400-560, as adopted in NWCAA 104.1, in lieu of the requirements in this section.

121.5 Any order issued under this section that includes an action listed in NWCAA 305.2(A) is subject to the public involvement provisions of NWCAA 305.

121.6 For regulatory orders related to a RACT determination, a fee shall be assessed in accordance with NWCAA 309.7. For all other orders issued under NWCAA 121, the NWCAA shall assess a fee as specified in NWCAA 324.7 to cover the costs of processing and issuing such order.

121.7 When an applicant requests a regulatory order to limit the potential to emit of any air contaminant or contaminants pursuant to WAC 173-400-091, as adopted in NWCAA 104.1, or requests a modification to such an order, the NWCAA shall issue such order consistent with the requirements of WAC 173-400-091 as adopted in NWCAA 104.1 in addition to the requirements of this Regulation.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, November 8, 2007, March 14, 2013, August 8, 2024

AMENDATORY SECTION

SECTION 131 - NOTICE TO VIOLATORS

131.1 At least 30 days prior to the commencement of any formal enforcement action under RCW 70A.15.3150 (~~(70.94.430)~~) or 70A.15.3160

((70.94.431)), or NWCAA 132 or 133, the NWCAA shall cause written notice of violation to be served upon the alleged violator. The notice shall specify the provisions of chapter 70A.15 ((70.94)) RCW or the orders, rules, or regulations adopted pursuant thereto alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order pursuant to NWCAA 121 directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Control Officer may require that the alleged violator appear before the Board for a hearing pursuant to NWCAA 120. Every notice of violation shall offer to the alleged violator an opportunity to meet with the NWCAA prior to the commencement of enforcement action.

131.2 The NWCAA, upon issuance of notice of violation, may require the alleged violator to respond in writing or in person within thirty (30) days of the notice and specify the corrective action being taken. Failure to respond shall constitute a prima facie violation of this Regulation and the NWCAA may initiate action pursuant to Sections 132, 133, 134, 135 of this Regulation.

PASSED: January 8, 1969 AMENDED: February 14, 1973, March 13, 1997, July 14, 2005, November 8, 2007, March 14, 2013, August 8, 2024

AMENDATORY SECTION

SECTION 132 - CRIMINAL PENALTY

132.1 Any person who knowingly violates any of the provisions of Chapter 70A.15 ((70.94)) RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA, is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$10,000, or by imprisonment in the county jail for up to 364 days, or by both for each separate violation.

132.2 Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for up to 364 days, or both.

132.3 Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and shall, upon conviction, be punished by a fine of not less than \$50,000, or by imprisonment for not more than five years, or both.

132.4 Any person who knowingly fails to disclose a potential conflict of interest under RCW 70A.15.2000 ((70.94.100)) as referenced in NWCAA 104.1 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$5,000.

132.5 Any person who knowingly renders inaccurate any required monitoring device or method required by chapter 70A.15 ((70.94)) RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA is guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$10,000 per day for each separate violation.

132.6 Any person who knowingly makes any false material statement, representation, or certification in any form, in any notice or

report required by chapter 70A.15 ((70.94)) RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation, in force pursuant thereto, including the Regulation of the NWCAA is guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$10,000 per day for each separate violation.

PASSED: January 6, 1969 AMENDED: April 14, 1993, October 13, 1994, March 13, 1997, November 8, 2007, August 13, 2015, August 8, 2024

AMENDATORY SECTION

SECTION 133 - CIVIL PENALTY

133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70A.15 ((70.94)) RCW, or any of the rules in force pursuant thereto, including the Regulation of the NWCAA may incur a civil penalty in an amount not to exceed \$19,000 per day for each violation. Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than \$19,000 for each day of continued noncompliance.

133.2 The penalty is due and payable 30 days after a notice is served unless an appeal is filed with the Pollution Control Hearings Board (PCHB).

(A) Within 30 days after the Notice is served, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty.

(B) If such penalty is not paid to the NWCAA within 30 days after such payment is due, the Board or Control Officer may direct the attorney for the NWCAA to bring an action to recover the penalty in Superior Court.

(C) Any judgment will bear interest as provided by statute until satisfied.

133.3 Penalties incurred but not paid shall accrue interest, beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020. If penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the State Office of the Economic and Revenue Forecast Council.

133.4 In addition to other penalties, persons knowingly under-reporting emissions or other information used to set fees, persons required to pay emission or permit fees who are more than 90 days late with such payments, or persons failing to file a relocation notice to relocate into NWCAA jurisdiction with required registration fee under NWCAA 514.3 may be assessed a penalty equal to 3 times the amount of the original fee owed.

133.5 The suspended portion of any civil penalty, issued under Section 133 of this Regulation, shall be due and payable in the event of future penalties against the same person within 5 years from the date of said suspension. After 5 years the suspended portion of the Penalty shall be considered void and of no force or effect.

PASSED: January 8, 1969 AMENDED: November 14, 1984, April 14, 1993, September 8, 1993, October 13, 1994, February 8, 1996, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, August 13, 2015, February 10, 2022, August 8, 2024

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

The terms used in the Regulation of the NWCAA are defined in this section as follows:

BEST AVAILABLE CONTROL TECHNOLOGY (BACT) - An emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70A.15 ((~~70.94~~)) RCW emitted from or which results from any new or modified stationary source, which the NWCAA, on a case-by-case basis, taking into account energy, environmental, and economic impacts, and other costs, determines is achievable for such stationary source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the Best Available Control Technology result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, and 63. Emissions from any stationary source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

BUBBLE - A set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, pursuant to RCW 70A.15.2240 ((~~70.94.155~~)) and WAC 173-400-120.

COMPLIANCE ORDER - An order issued by the NWCAA pursuant to the authority of RCW 70A.15.3010 ((~~70.94.332~~)) and 70A.15.2040(3) ((~~70.94.141(3)~~)) that addresses or resolves a compliance issue regarding any requirement of chapter 70A.15 ((~~70.94~~)) RCW or the rules adopted thereunder. Compliance orders may include, but are not limited to, time schedules and/or necessary actions for preventing, abating, or controlling emissions.

EMISSION STANDARD, EMISSION LIMITATION, or EMISSION LIMIT - A requirement established under the Federal Clean Air Act or chapter 70A.15 ((~~70.94~~)) RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a stationary source to assure continuous emission reduction and any design, equipment work practice, or operational standard adopted under the Federal Clean Air Act or chapter 70A.15 ((~~70.94~~)) RCW.

EMISSIONS UNIT - Any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the Federal Clean Air Act, chapter 70A.15 ((~~70.94~~)) RCW, chapter 70.98 RCW, or the Regulation of the NWCAA.

ORDER - Any order issued by the NWCAA pursuant to chapter 70A.15 ((~~70.94~~)) RCW, including, but not limited to RCW 70.15A.3010

((70.94.332)), 70A.15.2210 ((70.94.152)), 70A.15.2220 ((70.94.153)), 70A.15.2230 ((70.94.154)), and 70A.15.2040(3) ((70.94.141(3))), and includes, where used in the generic sense, the terms order, compliance order, order of approval, and regulatory order.

REGULATORY ORDER - An Order issued by the NWCAA to an air contaminant source or sources pursuant to chapter 70A.15 ((70.94)) RCW including, but not limited to, RCW 70A.15.2040(3) ((70.94.141(3))). A Regulatory Order includes an Order that requires compliance with any applicable provision of chapter 70A.15 ((70.94)) RCW, rules adopted thereunder, or the NWCAA Regulation.

STATE ACT - Washington Clean Air Act (chapter 70A.15 ((70.94)) RCW) and chapter 43.21B RCW.

PASSED: January 8, 1969 AMENDED: October 31, 1969, September 3, 1971, June 14, 1972, July 11, 1973, February 14, 1973, January 9, 1974, October 13, 1982, November 14, 1984, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, November 17, 2011, March 14, 2013, August 13, 2015, August 11, 2016, September 13, 2018, April 11, 2019, February 10, 2022, December 14, 2023, August 8, 2024

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

300.1(A) A Notice of Construction (NOC) application must be filed by the owner or operator and an Order of Approval must be issued by the NWCAA, prior to beginning actual construction of any new source or making any modification, except for any of the following:

(1) Emissions units that are categorically exempt under NWCAA 300.3.

(2) Emissions units that are exempt under NWCAA 300.4.

(3) Any emissions unit covered under a General Order of Approval and operating in accordance with NWCAA 300.16.

(B) New source review of a modification is limited to the emissions unit or units proposed to be added to or modified at an existing stationary source and the air contaminants whose emissions would increase above the emission thresholds in NWCAA 300.4 as a result of the modification.

(C) New source review is required for an increase in a plant-wide cap or an emissions-unit-specific emission limit.

(D) The Control Officer may require that a new source or modification, that would otherwise be exempt under this section, submit a Notice of Construction application and be issued an Order of Approval as specified in this section. The Control Officer may also require that individual pollutant emission increases that would otherwise be exempt under this section be included in the Order of Approval review. This discretionary determination will be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the proponent shall submit to the Control Officer appropriate information as necessary to make this determination.

300.2 In lieu of this section, any new major stationary source or major modification located in an attainment or unclassifiable area as defined in WAC 173-400-030 shall be processed in accordance with the requirements of WAC 173-400-113 and WAC 173-400-700 through 173-400-750, as applicable, for the pollutant for which the project is

major. Additionally, any new major stationary source or major modification located in a nonattainment area as defined in WAC 173-400-030 shall be processed in accordance with the requirements of WAC 173-400-112 and WAC 173-400-800 through 173-400-860, as applicable, for the pollutant and for precursors of the pollutant for which the area is in nonattainment.

300.3 Categorical Exemptions from New Source Review

Construction of a new emissions unit that falls within one of the categories listed in NWCAA 300.3 is exempt from new source review. Modification of any emissions unit listed in NWCAA 300.3 is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The owner or operator shall keep sufficient records to document the exemption under this subsection.

(A) Maintenance/construction:

- (1) Cleaning and sweeping of streets and paved surfaces
- (2) Concrete application, and installation
- (3) Dredging wet spoils handling and placement
- (4) Paving application and maintenance, excluding asphalt plants
- (5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, architectural or maintenance coatings to stationary structures, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.)

- (6) Plumbing installation, plumbing protective coating application and maintenance activities

- (7) Roofing application and maintenance

- (8) Insulation application and maintenance, excluding products for resale

- (9) Janitorial services and consumer use of janitorial products

(B) Storage tanks:

- (1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils

- (2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation

- (3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions

- (4) Process and white water storage tanks

- (5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity

- (6) Operation, loading, and unloading of storage tanks less than or equal to 1,100 gallon capacity, with lids or other appropriate closure, that store materials that do not contain Toxic Air Pollutants, as defined in chapter 173-460 WAC, or that have a maximum vapor pressure of 550 mm mercury at 21°C

- (7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons

- (8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids with no VOC content

- (C) New or modified fuel burning equipment with a heat input capacity (higher heating value) less than all of the following:

- (1) 500,000 Btu/hr coal or other solid fuels with less than or equal to 0.5% sulfur

(2) 500,000 Btu/hr used oil, per the requirements of RCW 70A.15.4510 (~~(70.94.610)~~)

(3) 400,000 Btu/hr wood

(4) 1,000,000 Btu/hr gasoline, kerosene, #1 or #2 fuel oil and with less than or equal to 0.05% sulfur

(5) 10,000,000 Btu/hr natural gas, propane, or LPG. This includes combustion units that have natural gas as a primary fuel source and ultra-low sulfur diesel (less than 15 ppm by weight sulfur) as a secondary fuel source that is combusted only during testing or periods of natural gas curtailment beyond the control of the source.

(D) Material handling:

(1) Continuous digester chip feeders

(2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture

(3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%

(4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon capacity with lids or other appropriate closure. The high boiling point organic material shall not have an atmospheric boiling point of less than 150°C or a vapor pressure more than 5 mm mercury at 21°C.

(E) Water treatment:

(1) Septic sewer systems, not including active wastewater treatment facilities

(2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease

(3) De-aeration (oxygen scavenging) of water where Toxic Air Pollutants as defined in chapter 173-460 WAC are not emitted

(4) Process water filtration system and demineralizer vents

(5) Sewer manholes, junction boxes, sumps, and lift stations associated with wastewater treatment systems

(6) Demineralizer tanks

(7) Alum tanks

(8) Clean water condensate tanks

(F) Laboratory testing and quality assurance/control testing equipment, including fume hoods, used exclusively for chemical and physical analysis, teaching, or experimentation, used specifically in achieving the purpose of the analysis, test, or teaching activity. Non-production bench scale research equipment is also included.

(G) Monitoring/quality assurance/testing:

(1) Equipment and instrumentation used for quality control/assurance or inspection purpose

(2) Hydraulic and hydrostatic testing equipment

(3) Sample gathering, preparation, and management

(4) Vents from continuous emission monitors and other analyzers

(H) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent

(I) Emergency Stationary Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance, and operates in these capacities for less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if

the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

(J) Miscellaneous:

- (1) Single-family residences and duplexes
- (2) Plastic pipe welding
- (3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting
- (4) Comfort air conditioning
- (5) Flares used to indicate danger to the public
- (6) Natural and forced air vents and stacks for bathroom/toilet activities
- (7) Personal care activities
- (8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires
- (9) Tobacco smoking rooms and areas
- (10) Noncommercial smokehouses
- (11) Blacksmith forges for single forges
- (12) Vehicle maintenance activities, not including vehicle surface coating
- (13) Vehicle or equipment washing
- (14) Wax application
- (15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment
- (16) Ozone generators and ozonation equipment
- (17) Solar simulators
- (18) Ultraviolet curing processes, to the extent that Toxic Air Pollutant gases as defined in chapter 173-460 WAC are not emitted
- (19) Electrical circuit breakers, transformers, or switching equipment installation or operation
- (20) Pulse capacitors
- (21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives, excluding pneumatic conveying
- (22) Fire suppression equipment
- (23) Recovery boiler blow-down tank
- (24) Screw press vents
- (25) Drop hammers or hydraulic presses for forging or metal working
- (26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight
- (27) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities
- (28) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm mercury at 21°C not emitting Toxic Air Pollutants as defined in chapter 173-460 WAC
- (29) Surface coating and dip coating operations using materials containing less than or equal to 1% by weight VOC and 1% by weight Toxic Air Pollutants as defined in chapter 173-460 WAC
- (30) Cleaning and stripping activities and equipment using solutions containing less than or equal to 1% by weight VOC and 1% by weight Toxic Air Pollutants as defined in chapter 173-460 WAC. Acid solutions used on metallic substances are not exempt

(31) Gasoline dispensing facilities subject to chapter 173-491 WAC are exempt from Toxic Air Pollutant analysis pursuant to chapter 173-460 WAC

(32) Crushing operations less than 4,500 tons per calendar day

(33) Relocation of a subject portable source operating in accordance with a NWCAA Order of Approval

300.4 Emissions Threshold Exemptions from New Source Review

(A) Construction of a new emissions unit that has an uncontrolled potential to emit emission rate below all of the threshold levels listed in the table contained in NWCAA 300.4(D) is exempt from new source review.

(B) A modification to an existing emissions unit that increases the unit's actual emissions by less than all of the threshold levels listed in the table contained in NWCAA 300.4(D) is exempt from new source review.

(C) Greenhouse gas emissions are exempt from new source review under this section except to the extent required under WAC 173-400-720, Prevention of Significant Deterioration. The owner or operator of a source or emissions unit may request that the NWCAA issue an Order to impose emission limits and/or operation limitations for greenhouse gas emissions.

(D) Exemption threshold levels:

POLLUTANT THRESHOLD LEVEL (ton per year)

(1) Total Suspended Particulates: 1.25

(2) PM₁₀: 0.75

(3) PM_{2.5}: 0.5

(4) Sulfur Dioxide: 2.0

(5) Nitrogen Oxides: 2.0

(6) Volatile Organic Compounds, total: 2.0

(7) Carbon Monoxide: 5.0

(8) Lead: 0.005

(9) Ozone Depleting Substances, total: 1.0

(10) Toxic Air Pollutants: The small quantity emission rate (SQER) specified for each TAP in WAC 173-460-150

300.7 Notice of Construction - Submittal Requirements

Each Notice of Construction application shall be submitted on forms provided by the NWCAA and be accompanied by the appropriate new source review fee specified in NWCAA 324.2.

300.8 Notice of Construction - Completeness Determination.

(A) Within 30 days after receiving a Notice of Construction application, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of the additional information necessary to complete the application.

(B) A complete application contains all the information necessary for processing the application. At a minimum, the application shall include information on the nature and amounts of emissions to be emitted by the proposed new source or increased as part of a modification, as well as the location, design, construction, and operation of the new source as needed to enable the NWCAA to determine that the construction or modification will meet the applicable requirements. Designating an application complete for purposes of permit processing does not preclude the NWCAA from requesting or accepting additional information.

(C) An application is not complete until the State Environmental Policy Act (SEPA) has been addressed under chapter 197-11 WAC and NWCAA Section 155.

(D) An application is not complete until the new source review fee specified in NWCAA 324.2 has been paid.

300.9 Notice of Construction - Final Determination

(A) Within 60 days after receipt of a complete Notice of Construction application, the NWCAA shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 as applicable on a preliminary decision, followed as promptly as practicable by a final decision.

(B) An Order of Approval cannot be issued for the Notice of Construction application until the following criteria are met for those proposed emissions units and pollutants that triggered new source review, as applicable:

(1) Comply with all applicable New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), National Emission Standards for Hazardous Air Pollutants for source categories (NESHAP), emission standards adopted under chapter 70A.15 ((70.94)) RCW and all applicable NWCAA emission standards.

(2) Employ Best Available Control Technology (BACT).

(3) Allowable emissions will not cause or contribute to a violation of any ambient air quality standard. In addition, if located in a nonattainment area, allowable emissions will not violate the requirements for reasonable further progress established by the State Implementation Plan (SIP). If NWCAA has reason to be concerned that the construction or modification would cause or contribute to a violation of a NAAQS, NWCAA may require modeling using the guideline models and procedures of Appendix W of 40 CFR Part 51 as referenced in NWCAA 104.2. Written approval from the EPA must be obtained for any modification to or substitution for a guideline model.

(4) Comply with the applicable requirements of NWCAA Section 305.

(5) Comply with the applicable requirements of WAC 173-400-200 and 173-400-205.

(6) All fees required under NWCAA 324.2 have been paid.

(C) In addition to the requirements of NWCAA 300.9(B), an Order of Approval cannot be issued until the new project meets the Toxic Air Pollutant requirements of WAC 173-400-110 (2)(d).

(D) A person seeking approval to construct a new source or modification that requires an operating permit may elect to integrate review of the operating permit application or amendment required under chapter 173-401 WAC and the Notice of Construction application required by this section. A Notice of Construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC and must comply with NWCAA Section 305.

(E) Every final determination on a Notice of Construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

300.10 Order of Approval - Appeals

(A) The issuance of an Order of Approval, any conditions contained in an Order of Approval, or the denial of a Notice of Construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW.

(B) The NWCAA shall promptly mail copies of each Order approving or denying a Notice of Construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

300.11 Order of Approval - Time Limitations

(A) An Order of Approval becomes invalid if the owner or operator has not begun actual construction within 18 months of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the approval period upon a satisfactory showing that an extension is justified. A written request for an extension shall include an updated BACT analysis submitted prior to the expiration of the current approval period. No single extension of time shall be longer than 18 months. The cumulative period between initial permit issuance and the end of any approved time extensions shall not exceed 54 months.

(B) This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must begin actual construction within 18 months of the approved commencement date.

300.12 Order of Approval - Revision

(A) The owner or operator may request a revision to an Order of Approval and the NWCAA may approve the request provided that the revision:

(1) Will not cause the source to exceed an emissions standard set by regulation or rule;

(2) Will not result in an exceedance of any ambient air quality standard;

(3) Will not adversely impact the ability to determine compliance with an emissions standard;

(4) Will continue to require Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER), and Toxic Air Pollutant Best Available Control Technology (T-BACT), as applicable, for each new source or modification approved by the original Order of Approval (BACT and T-BACT as defined at the time of original approval); and

(5) Will meet the requirements of NWCAA 300.7 through 300.13 and NWCAA Section 305, as applicable.

(B) A revision under NWCAA 300.12 only addresses projects where the emissions increase from each emissions unit qualifies as exempt under NWCAA 300.4.

(C) Each Order of Approval revision request shall be submitted and will be processed as a Notice of Construction application. The application shall be submitted with the appropriate new source review fee specified in NWCAA 324.2.

300.13 Order of Approval - Requirements to Comply

Owners and operators of a source or emissions unit shall:

(A) Comply with the conditions in the Order of Approval or General Order of Approval, as applicable.

(B) Install and operate in accordance with the information submitted in the Notice of Construction application or application for coverage under a General Order of Approval.

300.14 Notice of Construction Application Inapplicability Determination

An owner or operator may submit a written request to the NWCAA to obtain a written determination that a project is exempt from new source review under NWCAA 300.1 or from replacement or substantial alteration of control technology under NWCAA 300.25. The request shall include a summary of the project, a narrative describing why the project should be exempt from applicability, and the appropriate fee in accordance with NWCAA 324.2.

Within 30 days after receiving a request under this subsection, the NWCAA shall either provide the written determination of inapplicability, notify the applicant in writing that the project requires an Order of Approval, or notify the applicant in writing of the additional information necessary to complete the request.

300.16 General Order of Approval

In lieu of filing a Notice of Construction application under NWCAA 300.7, the owner or operator of a qualifying emissions unit may apply for coverage under a General Order of Approval issued under this section.

(A) The NWCAA may issue a General Order of Approval applicable to a specific source type or emissions unit. A General Order of Approval shall identify criteria by which a source or emissions unit may qualify for coverage under the General Order of Approval and shall include terms and conditions under which the owner or operator agrees to install and/or operate the covered source or emissions unit.

(1) These terms and conditions shall include as appropriate:

(a) Emissions limitations and/or control requirements based on Best Available Control Technology (BACT) and/or BACT for Toxic Air Pollutants (T-BACT);

(b) Operational restrictions, such as:

(i) Criteria related to the physical size of the source or emissions unit(s) covered;

(ii) Criteria related to raw materials and fuels used;

(iii) Criteria related to allowed or prohibited locations; and

(iv) Other similar criteria as determined by the NWCAA;

(c) Monitoring, reporting, and recordkeeping requirements to ensure compliance with the applicable emission limits and/or control requirements;

(d) Initial and periodic emission testing requirements;

(e) Compliance with WAC 173-400-112, NWCAA 300.9(B), and 300.9(C), as applicable;

(f) Compliance with 40 CFR Parts 60, 61, 62, and 63; emission standards adopted under chapter 70A.15 ((70.94)) RCW; and all applicable NWCAA emission standards; and

(g) The application and approval process to obtain coverage under the specific General Order of Approval.

(2) The original issuance and any revisions to a General Order of Approval must comply with NWCAA Section 305, as applicable.

(3) The NWCAA may review and revise a General Order of Approval at any time. Revisions to General Orders of Approval shall only take effect prospectively.

(B) Application for coverage under a General Order of Approval.

(1) In lieu of applying for an individual Order of Approval under NWCAA 300.7, an owner or operator of a source or emissions unit may apply for and receive coverage from the NWCAA under a General Order of Approval if:

(a) The owner or operator of the source or emissions unit applies for coverage under a General Order of Approval in accordance with NWCAA 300.16 and any conditions of the specific General Order of Approval related to application for and the granting of coverage;

(b) The source or emissions unit meets all the applicability qualifications listed in the requested General Order of Approval;

(c) The requested source or emissions unit is not part of a new major stationary source or major modification subject to the requirements of WAC 173-400-113 (3) and (4), WAC 173-400-700 through 173-400-750, or 173-400-800 through 173-400-860; and

(d) The requested source or emissions unit does not trigger applicability of the Air Operating Permit program under NWCAA Section 322, or trigger a required modification of an existing Air Operating Permit.

(2) Owners or operators of sources or emissions units applying for coverage under a General Order of Approval shall do so using the forms provided by the NWCAA and include the application fee as specified in NWCAA 324.2. The application must include all information necessary to determine qualification for, and to assure compliance with, a General Order of Approval.

(3) An application is incomplete until the NWCAA has received all required fees.

(4) The owner or operator of the proposed source or emissions unit that qualifies for coverage under a General Order of Approval shall not begin actual construction of the proposed source or emissions unit until written confirmation of coverage from the NWCAA has been received in accordance with the procedures established in NWCAA 300.16(C).

(C) Each General Order of Approval shall include a section on how an applicant is to request coverage and how the NWCAA will grant coverage.

(1) Within 30 days after receipt of an application for coverage under a General Order of Approval, the NWCAA shall either provide written confirmation of coverage under the General Order of Approval or notify the applicant in writing that the application is incomplete, inaccurate, or does not qualify for coverage under the General Order of Approval. If an application is incomplete, the NWCAA shall notify the applicant of the information needed to complete the application. If an application does not qualify for coverage under the General Order of Approval, the NWCAA shall notify the applicant of the reasons why the application does not qualify. Coverage under a General Order of Approval is effective as of the date of issuance of the written confirmation of coverage under the General Order.

(2) Failure of an owner or operator to obtain written confirmation of coverage under NWCAA 300.16 prior to beginning actual construction is considered failure to obtain an Order of Approval pursuant to NWCAA 300.1.

(D) An owner or operator who has received confirmation of coverage under a specific General Order of Approval may later request to be excluded from coverage under that General Order of Approval by applying to the NWCAA for an individual Order of Approval under NWCAA 300.7 or for coverage under another General Order of Approval. If the NWCAA issues an individual Order of Approval or confirms coverage under a different General Order of Approval, coverage under the original General Order of Approval is automatically terminated, effective on the effective date of the individual Order of Approval or confirmation of coverage under the new General Order of Approval.

(E) The Control Officer may require that a new source or modification, that would otherwise be covered under a General Order of Approval, submit a Notice of Construction application and be issued an individual Order of Approval under NWCAA 300.7 through 300.13. This discretionary determination shall be based on the nature of air pollution emissions from the source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the owner or operator shall submit to the Control Officer, appropriate information as necessary to make this determination.

300.25 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

(A) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emissions unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair, or similar parts replacement.

(B) For emissions units and associated pollutants not otherwise reviewable under NWCAA Section 300, the NWCAA may:

(1) Require that the owner or operator employ RACT for the affected emissions unit;

(2) Prescribe reasonable operation and maintenance conditions for the control equipment; and

(3) Prescribe other requirements as authorized by chapter 70A.15 (~~(70.94)~~) RCW.

(C) Within 30 days after receiving a Notice of Construction application under this subsection, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of the additional information necessary to complete the application. Within 30 days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

(D) An owner or operator shall not begin actual construction on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within 30 days of receipt of a complete Notice of Construction application.

(E) Approval to replace or substantially alter emission control technology shall become invalid if the owner or operator has not begun actual construction within 18 months of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the 18-month approval period upon a satisfactory showing that an extension is justified. No single extension of time shall be longer than 18 months. The cumulative period between initial permit issuance and the end of any approved time extensions shall not exceed 54 months. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must begin actual construction within 18 months of the approved commencement date.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, July 11, 1973, August 9, 1978, October 12, 1989, February 14, 1990, April 14, 1993, November 12, 1998, November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 13, 2015, April 11, 2019, February 10, 2022, August 8, 2024

AMENDATORY SECTION

SECTION 305 - PUBLIC INVOLVEMENT

305.1 Internet Notice

(A) A notice shall be published on the NWCAA website for each Notice of Construction (NOC) application received by the NWCAA under NWCAA 300.7 and each revision request to an Order of Approval received under NWCAA 300.12. The internet notice shall remain on the NWCAA web-

site for a minimum of 15 consecutive days and shall include the following information:

- (1) name and location of the affected facility,
- (2) brief description of the proposed action, and
- (3) a statement that a public comment period may be requested

within 15 days of the initial date of the internet posting.

(B) Requests for a public comment period must be submitted in writing via letter, fax, or email and received by the NWCAA during the 15-day internet notice period. A public comment period shall be provided in accordance with NWCAA 305.3 for any NOC application or proposed Order of Approval revision that receives such a request. Any NOC application or proposed Order of Approval revision for which a public comment period is not requested may be processed without further public involvement at the end of the 15-day request period except as provided in NWCAA 305.2.

305.2 Actions Subject to a Mandatory Public Comment Period

(A) The NWCAA shall provide public notice and a public comment period in accordance with NWCAA 305.3, before approving or denying any of the following types of applications or other actions:

- (1) Use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 as referenced in NWCAA 104.2 as part of review under NWCAA Section 300.
- (2) An Order to determine Reasonably Available Control Technology (RACT) pursuant to NWCAA 309.4 (B), (C), (D), or (E).
- (3) An Order to establish a compliance schedule or a variance.
- (4) An Order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and 65 meters, by means of a fluid model or a field study, for the purposes of establishing an emission limit.
- (5) An Order to authorize an emissions bubble pursuant to WAC 173-400-120.
- (6) A Regulatory Order to establish or debit emission reduction credits (ERC) issued under WAC 173-400-136.
- (7) An Order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit.
- (8) An extension of the deadline to begin actual construction of a major stationary source or major modification in a nonattainment area.
- (9) The original issuance and any revisions to a General Order of Approval issued under NWCAA 300.16.
- (10) An Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest.
- (11) A Notice of Construction application or proposed Order of Approval revision that receives a request for a public comment period under NWCAA 305.1.
- (12) A Notice of Construction application that would result in an emissions increase as follows:

Air Pollutant	Emission Rate in Tons per Year
Carbon Monoxide (CO)	100
Volatile Organic Compounds (VOC)	40
Sulfur Dioxide (SO ₂)	40
Nitrogen Oxides (NO _x)	40
Particulate Matter (PM)	25

Air Pollutant	Emission Rate in Tons per Year
Fine Particulate Matter (PM ₁₀)	15
Fine Particulate Matter (PM _{2.5})	10
Lead	0.6
Fluorides	3
Sulfuric Acid Mist (H ₂ SO ₄)	7
Hydrogen Sulfide (H ₂ S)	10
Total Reduced Sulfur (including H ₂ S)	10
Reduced Sulfur Compounds (including H ₂ S)	10

(13) An increase in emissions of a Toxic Air Pollutant with impacts greater than the Acceptable Source Impact Level (ASIL) for that Toxic Air Pollutant as regulated under chapter 173-460 WAC.

(14) A Notice of Construction Order of Approval with a second tier component as regulated under chapter 173-460 WAC.

(B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be processed in accordance with the Air Operating Permit program procedures and deadlines set forth in chapter 173-401 WAC.

305.3 Public Comment Period

(A) Public comment period notice for the actions listed under NWCAA 305.2 shall be posted on the NWCAA website for the duration of the public comment period. The NWCAA may supplement this method of notification by advertising in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community. The public comment period shall be initiated only after the NWCAA has made a preliminary determination. In the case of a permit action, the cost of providing all noticing shall be borne by the applicant.

(B) The public comment period shall extend at least 30 days following the date the public notice is first published. If a public hearing is held, the public comment period shall extend at least through the hearing date and thereafter for such period as specified in the notice of public hearing.

(C) The NOC application and any written preliminary determination by the NWCAA shall be available for the duration of the public comment period on the NWCAA website, excluding any confidential information as provided in NWCAA Section 114. In addition, the NOC application and any written determination may be made available for public inspection in at least one location near the proposed project. The NWCAA's written preliminary determination shall include the conclusions, determinations and pertinent supporting information from the NWCAA's analysis of the effect of the proposed project on air quality.

(D) The public comment period notice shall include:

- (1) Date the notice is posted;
- (2) Name, location, and a brief description of the project;
- (3) A description of the air contaminant emissions including the type of pollutants and quantity of emissions that would increase under the proposal;
- (4) Location of documents made available for public inspection;
- (5) Start date and end date of the public comment period;
- (6) A statement that a public hearing may be held if the NWCAA determines that significant public interest exists; and

(7) The name, telephone number, and email address of a person at the NWCAA whom interested persons may contact for additional information.

(E) The NWCAA shall distribute a copy of the notice for all actions subject to a mandatory public comment period under NWCAA 305.2, except for NWCAA 305.2 (13) and (14), to the US Environmental Protection Agency Region 10 Regional Administrator.

305.5 Public Hearings

(A) Any person, interested governmental entity, group or the applicant, may request a public hearing during the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The NWCAA may, in its discretion, hold a public hearing if it determines that significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the NWCAA deems reasonable.

(B) At least 30 days prior to the hearing, the NWCAA shall provide notice of the hearing as follows:

(1) Post the public hearing notice on the NWCAA website as directed by NWCAA 305.3(A). The NWCAA may supplement the web posting by advertising in a newspaper of general circulation in the area of the proposed source or action, or by other methods appropriate to notify the local community. In the case of a permit action, the cost of providing all noticing shall be borne by the applicant.

(2) The hearing legal notice shall include the date, time, and location of the hearing along with the information in NWCAA 305.3(D).

(3) Distribute via email or written letter the notice of public hearing to any person who submitted written comments on the application or requested a public hearing and, in the case of a permit action, to the applicant.

(C) The public hearing notice requirements may be addressed as part of the public comment period notice requirements under NWCAA 305.3.

305.6 Consideration of Public Comments

The NWCAA shall not issue a final decision until the public comment period has ended and any comments received during the public comment period have been considered.

305.7 Public Information

All information, except information protected from disclosure under any applicable law including, but not limited to, NWCAA Section 114 and RCW 70A.15.2510 (~~(70.94.205)~~), is available for public inspection at the NWCAA. This includes copies of Notice of Construction applications, Orders, and applications to modify Orders.

PASSED: July 14, 2005 AMENDED: November 8, 2007, June 9, 2011, November 17, 2011, April 11, 2019, August 8, 2024

AMENDATORY SECTION

SECTION 309 - REASONABLY AVAILABLE CONTROL TECHNOLOGY

309.1 Reasonably Available Control Technology (RACT) is required for all existing sources except as otherwise provided in RCW 70A.15.3000(9) (~~(70.94.331(9))~~).

309.2 Where current controls are determined by the NWCAA to be less than RACT, the NWCAA shall define RACT for that source or source category and issue a rule or an order under NWCAA 121 requiring the installation of RACT.

309.3 RACT for each source category containing three or more sources shall be determined by rule, except as provided in NWCAA 309.4.

309.4 Source-specific RACT determinations may be performed under any of the following circumstances:

(A) For replacement or substantial alteration of existing control equipment under NWCAA 300.25;

(B) When required by the federal Clean Air Act;

(C) For sources in source categories containing fewer than three sources;

(D) When an air quality problem, for which the source is a contributor, justifies a source-specific RACT determination prior to development of a categorical RACT rule; or

(E) When a source-specific RACT determination is needed to address either specific air quality problems, for which the source is a significant contributor, or source-specific economic concerns.

309.5 The Control Officer shall have the authority to perform a RACT determination, to hire a consultant to perform relevant RACT analyses in whole or in part, or to order the owner or operator to perform RACT analyses and submit the results to the NWCAA.

309.6 In determining RACT, the NWCAA shall utilize the factors set forth in the RACT definition in NWCAA 200 and shall consider RACT determinations and guidance made by the EPA, other states, and local authorities for similar sources, and other relevant factors. In establishing or revising RACT requirements, the NWCAA shall address, where practicable, all air contaminants deemed to be of concern for that source or source category.

309.7 The NWCAA shall assess a fee to be paid by any source included in a RACT determination to cover the direct and indirect costs of developing, establishing, or reviewing categorical or source-specific RACT determinations. The fee for RACT determinations shall be as established in NWCAA 324.6. The amount of the fee may not exceed the direct and indirect costs of establishing the requirement for the particular source or the pro rata portion of the direct and indirect costs of establishing the requirement for the relevant source category.

309.8 Emission standards and other requirements contained in rules or regulatory orders in effect at the time of operating permit issuance shall be considered RACT for purposes of operating permit issuance or renewal.

309.9 Replacement or substantial alteration of control equipment under NWCAA 300.13 shall be subject to the New Source Review fees under NWCAA 324.2, in lieu of RACT fees under this section.

PASSED: March 14, 2013 AMENDED: October 8, 2015, November 10, 2022, August 8, 2024

AMENDATORY SECTION

SECTION 320 - REGISTRATION PROGRAM

320.1 Program Authority, Applicability and Purpose. As authorized by RCW 70A.15.2200 (~~(70.94.151)~~), the Board, by the NWCAA Regulation, requires registration and reporting for specified classes of stationary air contaminant sources which may cause or contribute to air pollution. This classification is made according to levels and types of emissions and other characteristics that cause or contribute to air pollution with special reference to effects on health, economic and social factors, and physical effects on property. The purpose of the registration program is to develop and maintain a current and accurate

record of stationary air contaminant sources within the NWCAA jurisdiction. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

320.2 Registration and Reporting. The owner or operator of a stationary air contaminant source for which registration and reporting are required, shall register the source with the NWCAA. The owner or operator shall make reports to the NWCAA containing information as may be required by the NWCAA concerning location, size, and height of air contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled. All records and reports required by the NWCAA Regulation for registered sources shall be maintained for at least 3 years from the date of generation and be made available to NWCAA personnel upon request.

320.3 Annual Registration Fees. Registered sources shall pay an annual registration fee. The Board has determined the fee for registered sources as specified in Section 324.1. The amount of fees collected shall not exceed the costs of implementing this registration program. Implementing the registration program includes, but is not limited to:

(A) Review of registered source emission reports and other periodic reports and conducting related compilation and reporting activities;

(B) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a registered source is complying with permit, Order, or regulatory requirements, as applicable, including determination of registration applicability;

(C) The share attributable to registered sources of the development and maintenance of emissions inventories;

(D) The share attributable to registered sources for data storage and retrieval systems necessary for support of the registration program;

(E) Registered source fee determinations, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(F) The share attributable to registered sources for administration of the program including costs of clerical support, supervision, and management; tracking of time, revenues and expenditures; accounting activities; required fiscal audits and reporting activities; enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement.

320.4 Any registered source that does not pay the applicable annual registration fee by the deadline shall be considered in permanent shutdown unless notified in writing by the NWCAA.

320.5 Registration Required

(A) Source categories. Except as provided in NWCAA 320.6, the owner or operator of a source that falls into at least one of the following source categories shall register with the NWCAA:

Any source subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61 other than Subpart M (National Emission Standard for Asbestos).

Any source subject to 40 CFR Part 62.

Any affected source subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories (NESHAP) under 40 CFR Part 63.

Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability of EPA requirements under 40 CFR Part 63.

Any source that is subject to an Order of Approval or has been confirmed to be covered by a General Order of Approval by the NWCAA.

Any source with a facility-wide uncontrolled potential to emit emission rate of one or more pollutants equal to or greater than the emission rates listed in NWCAA 300.4(D).

(B) Source types. Except as provided in NWCAA 320.6, the owner or operator of a source that falls into at least one of the following source types shall register with the NWCAA:

Abrasive blasting operations.

Agricultural chemical facilities engaged in the manufacturing of liquid or dry fertilizers or pesticides including, but not limited to, ammonium sulfate.

Agricultural drying and dehydrating operations.

Asphalt and asphalt products production facilities, not including asphalt laying equipment.

Casting facilities and foundries, ferrous and nonferrous.

Coffee roasting facilities.

Commercial smoke houses.

Composite fabrication and repair facilities including fiberglass boat building and repair, and miscellaneous parts fabrication.

Composting operations (commercial, industrial, and municipal).

Concrete product manufacturers and ready mix and premix concrete plants.

Flexible vinyl and urethane coating and printing operations.

Gasoline dispensing facilities and bulk gasoline plants.

Glass manufacturing plants.

Grain, seed, animal feed, legume, and flour processing operations and handling facilities.

Graphic art systems including, but not limited to, lithographic and screen printing operations.

Material handling and transfer facilities that emit fine particulate to the atmosphere, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems.

Metal plating and anodizing operations.

Crushing operations.

Perchloroethylene dry cleaners.

Soil and groundwater remediation projects including soil vapor extraction (active), thermal soil desorption, or groundwater air stripping operations.

Surface coating operations, including coating of motor vehicles, mobile equipment, boats, ships, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates.

Wastewater treatment plants.

Welding and metal cutting operations.

Wood products mills, including lumber, plywood, shingle, wood-chip, veneer operations, dry kilns, pulpwood insulating board, cabinet works, casket works, furniture, wood by-products, or any combination thereof.

(C) Equipment classification list. Except as provided in NWCAA 320.6, the owner or operator of the following equipment shall register with the NWCAA:

Any affected source subject to a New Source Performance Standard (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters).

Chemical concentration evaporators.

Crematoria or animal carcass incinerators.

Degreasers of the cold or vapor type where the solvent for which contains more than 5 percent halogenated compounds or Toxic Air Pollutants.

Ethylene oxide (ETO) sterilizers.

Fuel burning equipment (except natural gas only) with a heat input of more than 1 million Btu per hour, except comfort heating, air conditioning systems, or ventilation systems not designed to remove contaminants generated by or released from equipment.

Fuel burning equipment that fires only natural gas with a heat input of more than 10 million Btu per hour.

Gas collection systems with flares or other combustion devices.

Gas or odor control equipment having a rated capacity greater than or equal to 200 cfm including, but not limited to:

- (1) Activated carbon adsorption
- (2) Barometric condenser
- (3) Biofilter
- (4) Catalytic oxidizer
- (5) Chemical oxidation
- (6) Dry sorbent injection
- (7) Non-selective catalytic reduction (NSCR)
- (8) Refrigerated condenser
- (9) Selective catalytic reduction (SCR)
- (10) Selective non-catalytic reduction (SNCR)
- (11) Wet scrubber

Incinerators;

Ovens, burn-out or heat-treat.

Particulate control equipment having a rated capacity greater than or equal to 2,000 cfm including, but not limited to:

- (1) Baghouse
- (2) Cyclone
- (3) Demister
- (4) Electrostatic precipitator (ESP), dry or wet
- (5) High efficiency particulate air (HEPA) filter
- (6) High velocity air filter
- (7) Mat or panel filter
- (8) Mist eliminator
- (9) Multiclones
- (10) Rotoclone
- (11) Screen
- (12) Venturi scrubber
- (13) Water curtain

Stationary internal combustion engines and turbines rated at 500 horsepower or more.

Storage tanks, reservoirs, or containers with:

(1) a rated capacity greater than 6,000 gallons storing volatile organic liquids, other than petroleum liquids, having a true vapor pressure equal to or greater than 1.5 psia or

(2) a rated capacity greater than 40,000 gallons storing petroleum liquids having a true vapor pressure equal to or greater than 1.5 psia.

Waste oil burners rated at greater than 0.5 million Btu per hour.

(D) The Control Officer may require that any source or equipment, that would otherwise be exempt, be registered as specified in this section. This discretionary determination will be based on the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

320.6 Exemptions from Registration

(A) Exclusion or exemption from registration does not absolve the owner or operator from complying with all other requirements of the NWCAA Regulation.

(B) The following sources are exempt from registration:

Chapter 401 sources, as defined in WAC 173-401-200. For Chapter 401 sources operating Sewage Sludge Incinerators (SSI), those emissions units not included in the Air Operating Permit shall be subject to registration as applicable with the NWCAA and incur associated fees.

Residential and agricultural composting activities.

(C) The Control Officer may exempt any source or equipment, including any listed in NWCAA Section 320.5, from registration. This discretionary determination will be based on the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

(D) An exemption from new source review under NWCAA Section 300 is not explicitly an exemption from registration under NWCAA Section 320.

PASSED: January 8, 1969 AMENDED: February 14, 1973, August 9, 1978, February 8, 1996, November 12, 1998, November 12, 1999, July 14, 2005, June 9, 2011, April 11, 2019, February 10, 2022, August 8, 2024

AMENDATORY SECTION

SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)

322.1 Purpose. The purpose of this section is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the Federal Clean Air Act (FCAA) Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70A.15.2260 (~~(70.94.161)~~) and its implementing regulation Chapter 173-401 of the Washington Administrative Code (WAC).

322.2 Applicability. The provisions of this section shall apply to all sources within the NWCAA jurisdiction excluding those regulated by the Washington State Department of Ecology Industrial Section subject to the requirements of Section 7661(a) of the FCAA or Chapter 173-401-300 WAC.

322.3 Compliance. It shall be unlawful for any person to cause or allow the operation of any source subject to the requirements of Chapter 173-401 WAC without complying with the provisions of Chapter 173-401 WAC and any permit issued under its authority.

322.4 Air Operating Permit Fees.

a) The NWCAA shall levy annual operating permit program fees as set forth in this section to cover the cost of administering its operating permit program.

b) Commencing with the effective date of the operating permit program, the NWCAA shall assess and collect annual air operating per-

mit fees in its jurisdiction for any source specified in Section 7661(a) of Title V of the FCAA or Chapter 173-401-300 WAC (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWCAA to administer the program shall be determined by a workload analysis conducted by the staff and approved annually by a resolution by the Board of Directors. Allocation of the fees to individual affected sources shall be based on the following:

1) Ten percent (10%) of the total fees shall be allocated equally among all affected sources.

2) Ninety percent (90%) of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory or potential emissions if actual data are unavailable. A regulated pollutant for fee calculation shall include:

Nitrogen oxides (NOX);

Volatile organic compounds (VOC's);

Particulate matter with an aerodynamic particle diameter less than or equal to 10 micrometers (PM₁₀);

Sulfur dioxide (SO₂);

Lead; and

Any pollutant subject to the requirements under Section 112(b) of the FCAA not included in any of the above categories.

c) Upon assessment by the NWCAA, fees are due and payable and shall be deemed delinquent if not fully paid within 90 days. Any source that fails to pay a fee imposed under this section within 90 days of the due date shall be assessed a late penalty in the amount of 50 percent of the fee. This late penalty shall be in addition to the fee assessed under this section.

d) The NWCAA shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology to cover the Department of Ecology's program development and oversight costs attributable to subject sources within the NWCAA jurisdiction. Fees for the Department of Ecology shall be allocated to affected sources in the same manner specified in this section.

e) An affected source subject to the operating permit program that is required to pay an annual operating permit program fee shall not be required to pay a registration fee as specified in Section 324.

PASSED: November 12, 1998 AMENDED: November 12, 1999, June 9, 2011, November 17, 2011, August 8, 2024

AMENDATORY SECTION

SECTION 324 - FEES

324.1 Annual Registration Fees

(A) All registered air pollution sources shall pay the appropriate fee(s), which shall be established to cover the cost of administering the program, adjusted periodically based on the three-year average change of the "December annual average - Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

(B) Upon assessment by the NWCAA, registration fees are due and payable. A source shall be assessed a late penalty in the amount of 25 percent of the registration fee for failure to pay the registration fee within 30 days after the due date. The late penalty shall be in addition to the registration fee.

324.2 New Source Review Fees

(A) New source review fees and fees for review of an application to replace or substantially alter the emission control technology installed on an existing stationary source emission unit shall be submitted with each Notice of Construction (NOC) application or request for a NOC applicability determination.

(B) The applicable fee(s) shall be established to cover the direct and indirect costs of processing an application, adjusted periodically based on the three-year average change of the "December annual average - Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution by the Board of Directors of the NWCAA.

324.3 Variance Fee. The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.4 Issuance of Emission Reduction Credits. The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.5 Plan and examination, filing, SEPA review, and emission reduction credit fees may be reduced at the discretion of the Control Officer by up to 75 percent for existing stationary sources implementing pollution prevention or undertaking voluntary and enforceable emission reduction projects.

324.6 RACT Fee. The applicable fee(s) shall be established to cover the costs of developing, establishing, or reviewing categorical or case-by-case RACT requirements, adjusted periodically based on the three-year average change of the "December annual average - Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA. Fees shall be due and payable upon receipt of invoice and shall be deemed delinquent if not fully paid within 30 days of invoice.

324.7 Order Fee. The applicable fee(s) shall be established to cover the direct and indirect costs of administering the program, adjusted periodically based on the three-year average change of the "December annual average - Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.8 Asbestos Program Fee. The applicable fee(s) shall be established to cover the direct and indirect costs of administering the program as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.9 Agricultural Burning Fee. The applicable fee(s) shall be established as described in RCW 70A.15.5090 (~~(70.94.6528)~~) and WAC 173-430-041 as referenced in NWCAA 104.1 as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.10 Outdoor Burning Fee. The applicable fee(s) shall be established to cover the cost of administering the program as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.20 Procedure for Adoption and Revision of Fee Schedules. A proposed resolution that adopts or changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of

the proposed fee schedule or proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedules or proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA; however, no person is required to request such notice. Each notice of a proposed fee schedule or proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule or proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

PASSED: November 12, 1998 AMENDED: November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, August 9, 2012, March 14, 2013, September 11, 2014, August 8, 2024

AMENDATORY SECTION

SECTION 350 - VARIANCES

350.1 Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who own or control like processes or like equipment may apply to the board for a variance from the rules or Regulation governing the quality, nature, duration or extent of discharge of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:

(A) The emissions occurring or proposed to occur do not endanger public health or safety; and

(B) Compliance with the rules or Regulation from which variance is sought would produce serious hardship without equal or greater benefits to the public.

350.2 No variance shall be granted pursuant to this Section until the Board has considered the relative interests of the applicant, other owners or property likely to be affected by the discharge, and the general public.

350.3 Any variance or renewal thereof shall be granted within the requirements of Section 350.1 and for time periods and under conditions consistent with reasons therefore, and with the following limitations:

(A) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the pollution involved, it shall be only until the necessary means for prevention, abatement, or control becomes known and available, and subject to the taking of any substitute or alternate measure that the Board may prescribe.

(B) If the variance is granted on the ground that compliance with the particulate requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time, as in view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(C) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided in subsection 350.3(A) and 350.3(B), it shall be for not more than one year.

350.4 Any variance granted pursuant to this Section may be renewed on terms and conditions and for periods which would be appropriate under all circumstances including the criteria considered on the initial granting of a variance and that acquired during the existence of the variance. If a complaint is made to the board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the board finds that renewal is justified. No renewal shall be granted except on application thereof. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with the rules and Regulation of the Board.

350.5 A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board, may obtain judicial review thereof under the provisions of Section 123 or Chapter 43.21B RCW as now or hereafter amended.

350.6 Nothing in this Section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70A.15.6010 (~~(70.94.715)~~) to any person or his property.

PASSED: January 8, 1969 AMENDED: October 1, 1969, February 14, 1973, January 9, 1974, September 8, 1993, March 14, 2013, August 8, 2024

AMENDATORY SECTION

SECTION 502 - OUTDOOR BURNING

502.1 PURPOSE. This section establishes a program to implement the limited burning policy authorized by sections of the Washington Clean Air Act (chapter 70A.15 (~~(70.94)~~) RCW as referenced in NWCAA 104.1) pertaining to outdoor burning.

502.2 APPLICABILITY.

(A) This section specifically applies to:

- (1) Residential burning.
- (2) Land clearing burning.
- (3) Recreational fires.
- (4) Indian ceremonial fires.
- (5) Weed abatement fires.
- (6) Firefighting instruction fires.
- (7) Rare and endangered plant regeneration fires.
- (8) Storm or flood debris burning.
- (9) Tumbleweed burning.
- (10) Other outdoor burning.

(B) This section does not apply to:

(1) Agricultural burning (which is governed by chapter 173-430 WAC as referenced in NWCAA 104.1);

(2) Any outdoor burning on lands within the exterior boundaries of Indian reservations (unless provided for by intergovernmental agreements); and

(3) Silvicultural burning (which is governed by chapter 332-24 WAC, the Washington state smoke management plan, and various laws including chapter 70A.15 (~~(70.94)~~) RCW as referenced in NWCAA 104.1).

502.3 DEFINITIONS. Unless a different meaning is clearly required by context, words and phrases used in this section shall have the following meanings:

AGRICULTURAL BURNING - Fires regulated under chapter 173-430 WAC as referenced in NWCAA 104.1, including, but not limited to, any incidental agricultural burning or agricultural burning for pest or disease control.

AIR POLLUTION EPISODE - A period when a forecast, alert, warning, or emergency air pollution stage is declared, as stated in chapter 173-435 WAC as referenced in NWCAA 104.1.

CONSTRUCTION/DEMOLITION DEBRIS - All material manufactured for or resulting from the construction, renovation, or demolition of buildings, roads, and other man-made structures.

FIREFIGHTING INSTRUCTION FIRES - Fires for instruction in methods of firefighting, including, but not limited to, training to fight structural fires, aircraft crash rescue fires, and forest fires.

FIREWOOD - Bare, untreated wood used as fuel in a solid fuel burning device, Indian ceremonial fire, or recreational fire.

IMPAIRED AIR QUALITY - A first or second stage impaired air quality condition declared by Ecology or the NWCAA in accordance with WAC 173-433-140 as referenced in NWCAA 104.1.

INDIAN CEREMONIAL FIRE - Fires necessary for Native American ceremonies (i.e., conducted by and for Native Americans) if part of a religious ritual.

LAND CLEARING BURNING - Outdoor burning of trees, stumps, shrubbery or other natural vegetation from land clearing projects (i.e., projects that clear the land surface so it can be developed, used for a different purpose, or left unused).

NATURAL VEGETATION - Unprocessed plant material from herbs, shrubbery, and trees, including grass, weeds, leaves, clippings, prunings, brush, branches, roots, stumps, and trunk wood.

NONATTAINMENT AREA - A clearly delineated geographic area designated by the Environmental Protection Agency at 40 CFR Part 81 as exceeding (or that contributes to ambient air quality in a nearby area that exceeds) a National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

NONURBAN AREAS - Unincorporated areas within a county that are not designated as an urban growth area.

NUISANCE - For purposes of outdoor burning, an emission of smoke or any other air contaminant from an outdoor fire that unreasonably interferes with the use and enjoyment of the property upon which it is deposited.

OTHER OUTDOOR BURNING - Outdoor burning other than residential burning, land clearing burning, storm or flood debris burning, tumbleweed burning, weed abatement fires, firefighting instruction fires, rare and endangered plant regeneration fire, Indian ceremonial fires, and recreational fires. It includes, but is not limited to, any outdoor burning necessary to protect public health and safety.

OUTDOOR BURNING - The combustion of any material in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. Outdoor burning means all types of outdoor burning except agricultural burning, burning on lands within the exterior boundaries of Indian reservations (unless provided for by intergovernmental agreements), and silvicultural burning.

PERMITTING AGENCY - The agency responsible for issuing permits for a particular type of outdoor burning (including adopting a general permit) and/or enforcing all requirements of this section unless another agency agrees to be responsible for certain enforcement activities in accordance with WAC 173-425-060 (1)(a) and (6) as referenced in NWCAA 104.1.

POLLUTANTS EMITTED BY OUTDOOR BURNING - Carbon monoxide, carbon dioxide, particulate matter, sulfur dioxide, nitrogen oxides, lead, and various volatile organic compounds and toxic substances.

RARE AND ENDANGERED PLANT REGENERATION FIRES - Fires necessary to promote the regeneration of rare and endangered plants found within natural area preserves as identified in chapter 79.70 RCW.

REASONABLE ALTERNATIVE - A method for disposing of organic refuse (such as natural vegetation) that is available, reasonably economical, and less harmful to the environment than burning, including, but not limited to, waste reduction, recycling, energy recovery or incineration, and landfill disposal.

RECREATIONAL FIRE - Cooking fires, campfires, and bonfires using charcoal or firewood that occur in designated areas or on private property for cooking, pleasure, or ceremonial purposes. Fires used for debris disposal purposes are not considered recreational fires.

RESIDENTIAL BURNING - The outdoor burning of leaves, clippings, prunings and other yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling and burned on such lands by a responsible person.

RESPONSIBLE PERSON - Any of the following:

- (1) Any person who has applied for and received a permit for outdoor burning, or
- (2) Any person allowing, igniting or attending to an outdoor fire, or
- (3) Any person who owns or controls property on which an outdoor fire occurs.

SILVICULTURAL BURNING - Fires relating to the following activities for the protection of life or property and/or the public health, safety, and welfare:

- (1) Abating a forest fire hazard;
- (2) Prevention of a forest fire hazard;
- (3) Instruction of public officials in methods of forest fire-fighting;
- (4) Any silvicultural operation to improve the forest lands of the state; and
- (5) Silvicultural burning used to improve or maintain fire-dependent ecosystems for rare plants or animals within the state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

STORM OR FLOOD DEBRIS BURNING - Fires consisting of natural vegetation deposited on lands by storms or floods that have occurred in the previous two years and resulted in an emergency being declared or proclaimed in the area by the city, county, or state government and burned on such lands by a responsible person.

TUMBLEWEED BURNING - Outdoor burning to dispose of dry plants (typically Russian Thistle and Tumbleweed Mustard plants) that have been broken off and rolled about by the wind.

URBAN GROWTH AREA - Land, generally including and associated with an incorporated city, designated by a county for urban growth under RCW 36.70A.030.

WEED ABATEMENT FIRES - Outdoor burning to dispose of weeds that is not regulated under chapter 173-430 WAC as referenced in NWCAA 104.1, the Agricultural Burning rule.

502.4 PROHIBITIONS AND RESTRICTIONS APPLYING TO ALL OUTDOOR BURNING. The following general requirements apply to all outdoor burning regulated by this section, including any outdoor burning allowed without a permit, unless a specific exception is stated in this section. A fire protection agency, county, or conservation district may enforce its own controls that are stricter than those set forth in this section.

(A) No person may cause or allow an outdoor fire in an area where the type of burning involved is prohibited under NWCAA 502.6, or where it requires a permit under NWCAA 502.5(B), unless a permit has been issued and is in effect.

(B) PROHIBITED MATERIALS. It shall be unlawful for any person to cause or allow any outdoor fire containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction/demolition debris, metal or any substance (other than natural vegetation) that normally releases toxic emissions, dense smoke, or obnoxious odors when burned except as follows:

(1) Aircraft crash rescue training fires approved and conducted in compliance with RCW 70A.15.5090 (~~(70.94.6528)~~) as referenced in NWCAA 104.1 may contain uncontaminated petroleum products.

(2) Ecology or the NWCAA may allow the limited burning of prohibited materials for other firefighting instruction fires, including those that are exempt from permits under NWCAA 502.5 (B)(6).

(3) Other outdoor burning necessary to protect public health and safety.

(C) HAULED MATERIAL.

(1) No outdoor fire may contain material (other than firewood) that has been hauled from an area where outdoor burning of the material is prohibited.

(2) Any outdoor burning of material hauled from areas where outdoor burning of the material is allowed requires an appropriate permit. Any property used for this purpose on an on-going basis must be:

(a) Limited to the types of burning listed in WAC 173-351-200

(5)(b) as referenced in NWCAA 104.1 (criteria for municipal solid waste landfills), and

(b) Approved in accordance with other laws, including chapter 173-304 WAC as referenced in NWCAA 104.1 (minimum functional standards for solid waste handling) and chapter 173-400 WAC as referenced in NWCAA 104.1 (general regulations for air pollution sources).

(D) CURTAILMENTS. During episodes or periods of impaired air quality, a responsible person for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions for each day.

(1) No outdoor fire shall be ignited in a geographical area where:

(a) Ecology has declared an air pollution episode;

(b) Ecology or the NWCAA has declared an impaired air quality condition for the county; or

(c) The appropriate fire protection authority has declared a fire danger burn ban, unless the NWCAA grants an exception.

(2) A responsible person for an outdoor fire shall extinguish the fire when an air pollution episode, an impaired air quality condition, or fire danger burn ban that applies to the burning is declared.

(a) Smoke visible from all types of outdoor burning, except land clearing burning, after a time period of three hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared shall constitute prima facie evidence of unlawful outdoor burning.

(b) Smoke visible from land clearing burning after a time period of eight hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared shall constitute prima facie evidence of unlawful outdoor burning.

(E) UNLAWFUL OUTDOOR BURNING/NUISANCE. It is unlawful for any person to cause or allow outdoor burning that causes an emission of smoke or any other air contaminant that is detrimental to the health, safety, or welfare of any person, that causes damage to property or business, or that causes a nuisance.

(F) BURNING IN OUTDOOR CONTAINERS. Outdoor containers (such as burn barrels and other wood waste incinerators not regulated under NWCAA Section 458, used for outdoor burning, must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than 0.5 inch, and they may only be used in compliance with this section.

(G) OTHER GENERAL REQUIREMENTS.

(1) A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

(2) No fires are to be within 50 feet of structures.

(3) Permission from a landowner or owner's designated representative must be obtained before starting an outdoor fire.

502.5 OUTDOOR BURNING PERMIT PROGRAM/REQUIREMENTS

(A) PERMIT PROGRAM.

(1) The NWCAA may consult with fire protection authorities, conservation districts, or counties to determine if any of these agencies are capable and willing to serve as the permitting agency and/or enforcing agency for particular types of burning.

(2) The NWCAA may enter into agreements with any capable agencies to identify the permitting agencies and enforcing agencies for each type of burning and determine the type of permit appropriate for each where a permit is required.

(3) Permitting agencies may use a verbal, electronic, written, or general permit established by rule for any type of outdoor burning that requires a permit.

(4) A written permit should be used, where feasible, for land clearing burning, storm or flood debris burning in areas where residential burning and land clearing burning are prohibited under NWCAA 502.6 (A), (B), or (C), and other outdoor burning (except any other outdoor burning necessary to protect public health and safety).

(5) Any person having an outstanding penalty obligation to the NWCAA as a result of a violation of Section 502, except under appeal to the Pollution Control Hearings Board (PCHB) or other judicial body, shall be denied additional outdoor burning permits until the remaining balance is paid.

(B) TYPES OF BURNING THAT REQUIRE A PERMIT. Except as otherwise stated, a permit is required for the following types of outdoor burning:

(1) Residential burning (except in nonurban areas of any county with an unincorporated population of less than 50,000);

(2) Land clearing burning;

(3) Storm or flood debris burning;

(4) Tumbleweed burning (except in counties with a population of less than 250,000;

(5) Weed abatement fires;

(6) Firefighting instruction fires for training to fight structural fires in urban growth areas and cities with a population over 10,000, and all other firefighting instruction fires, except:

(a) Firefighting instruction fires for training to fight structural fires as provided in RCW 52.12.150;

(b) Aircraft crash rescue fires as provided in RCW 70.94.650(5) as referenced in NWCAA 104.1; and

(c) Forest fires;

(7) Rare and endangered plant regeneration fires;

(8) Indian ceremonial fires (except on lands within the exterior boundaries of Indian reservations unless provided for by intergovernmental agreement);

(9) Recreational fires with a total fuel area greater than three feet in diameter and/or two feet in height (except in the nonurban areas of counties with an unincorporated population of less than 50,000); and

(10) Other outdoor burning if specifically authorized by the NWCAA.

(C) FEES.

The fee for outdoor burning permits shall be as established in NWCAA 324.10. The amount of the fee will not exceed the level necessary to recover the costs of administering and enforcing a permit program.

(D) REQUIREMENTS FOR RESIDENTIAL BURNING.

The following conditions apply to all residential burning allowed without a permit under NWCAA 502.5 (B)(1) or allowed under a general, verbal, written, or electronic permit. Persons unable to meet these requirements and the requirements in NWCAA 502.4 must apply for and receive a written permit before burning. Failure to comply with all applicable requirements voids any applicable permit.

(1) A responsible person for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions of each day.

(2) A fire may not be ignited, and must be extinguished, if an air pollution episode, impaired air quality condition, or fire danger burn ban that applies to the burning, is declared for the area.

(3) The fire must not include prohibited materials as listed in NWCAA 502.4(B).

(4) The fire must not include materials hauled from another property.

(5) If any emission from the fire is detrimental to the health, safety, or welfare of any person, if it causes damage to property or business, or if it causes a nuisance, the fire must be extinguished immediately.

(6) A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

(7) No fires are to be within 50 feet of structures.

(8) Permission from a landowner, or owner's designated representative, must be obtained before starting an outdoor fire.

(9) Any burn pile must not be larger than four feet in diameter and three feet high.

(10) Only one pile at a time may be burned, and each pile must be extinguished before lighting another.

(11) If an outdoor container is used for burning, it must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than 0.5 inch.

(12) No fire is allowed within 500 feet of forest slash.

(E) FIELD RESPONSE AND ENFORCEMENT

(1) Any agency that issues permits, or adopts a general permit for any type of burning in an area, is responsible for field response to outdoor burning complaints and enforcement of all permit conditions and requirements unless another agency has agreed to be responsible.

(2) Except for enforcing Section 502.4 (E)(1)(d), the NWCAA will be responsible for enforcing any requirements that apply to burning that are prohibited or exempt from permits in areas of its jurisdiction, unless another agency agrees to be responsible.

(3) Permitting agencies and enforcing agencies may require that corrective action be taken, and may assess penalties to the extent allowed if they discover noncompliance.

502.6 AREAS AND TYPES OF PROHIBITED OUTDOOR BURNING.

(A) NONATTAINMENT AREAS. Residential burning and land clearing burning shall not occur in any areas that exceed federal or state ambient air quality standards for pollutants emitted by outdoor burning. These areas are limited to all nonattainment areas and former nonattainment areas for carbon monoxide, particulate matter (PM₁₀ and PM_{2.5}), sulfur dioxide, nitrogen dioxide, and lead.

(B) URBAN GROWTH AREAS. No person shall cause or allow residential burning and land clearing burning in any urban growth areas.

(C) CITIES OVER 10,000 POPULATION. Residential burning and land clearing burning shall not occur in any cities having a population greater than 10,000 people. Cities having this population must be identified by using the most current population estimates available for each city.

(D) HIGH DENSITY AREAS. Land clearing burning shall not occur in any area having a general population density of 1,000 or more persons per square mile. All areas having this density must be identified by using the most current population data available for each census block group and dividing by the land area of the block group in square miles.

(E) AREAS WITH A REASONABLE ALTERNATIVE TO BURNING. Residential burning, land clearing burning, storm or flood debris burning, tumbleweed burning, weed abatement fires and other outdoor burning of organic refuse shall not occur in any area, including the areas identified in subsections 502.6(A) through 502.6(D), when a reasonable alternative for that type of burning is found to exist in the area for that type of burning. A reasonable alternative for a particular type of burning exists when the alternative is available and reasonably economical and less harmful to the environment as defined in WAC 173-425-040(5) as referenced in NWCAA 104.1.

(F) No person shall cause or allow outdoor burning at permanently-located business establishments excluding land clearing operations.

PASSED: January 8, 1969 AMENDED: June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, September 11, 2014, August 8, 2024

AMENDATORY SECTION

SECTION 504 - AGRICULTURAL BURNING

504.1 Purpose. This Section establishes fees and controls for agricultural burning in the NWCAA jurisdiction in order to minimize adverse health effects and environmental impacts, consistent with best management practices and the responsibilities of the NWCAA under chap-

ter 173-430 WAC as referenced in NWCAA 104.1, RCW 70A.15.5090 ((70.94.6528)) as referenced in NWCAA 104.1, 70A.15.5110 ((70.94.6532)) as referenced in NWCAA 104.1, and 70A.15.5070 ((70.94.6524)) as referenced in NWCAA 104.1. All agricultural burning as defined in chapter 173-430 WAC as referenced in NWCAA 104.1 shall be conducted in accordance with the provisions of that chapter.

504.2 Applicability. This Section applies to agricultural burning in all areas of the NWCAA jurisdiction unless specifically exempted. Nothing in Section 504 shall apply to silvicultural burning or other outdoor burning. Propane flaming for the purpose of vegetative debris removal is considered agricultural burning.

504.3 Conditions. All agricultural burning, except for agricultural burning that is incidental to commercial agricultural activities, requires a permit and payment of a fee issued by the NWCAA.

504.4 Fees. In accordance with RCW 70A.15.5090 ((70.94.6528)) as referenced in NWCAA 104.1, the NWCAA shall assess a fee for all agricultural burning permits as specified in NWCAA 324.9.

PASSED: February 14, 1973 AMENDED: August 9, 1978, June 7, 1990, May 9, 1996, May 14, 1998, November 12, 1998, November 8, 2007, September 11, 2014, August 8, 2024

AMENDATORY SECTION

SECTION 506 - SOLID FUEL BURNING DEVICES

506.1 PURPOSE

This Section establishes emission standards, certification standards and procedures, burn ban rules, and fuel restrictions for solid fuel burning devices in order to maintain compliance with the National Ambient Air Quality Standards (NAAQS) for PM_{2.5} and to further the policy of the NWCAA as stated in Section 102 of this Regulation.

506.2 DEFINITIONS

All terms not defined herein shall have the meaning given them in WAC 173-433-030 as referenced in NWCAA 104.1 and NWCAA Section 200.

CERTIFIED - Meeting at least one of the following:

(1) Has been determined by Ecology to meet Washington emission performance standards pursuant to RCW 70A.15.3530 ((70.94.457)) and WAC 173-433-100 as referenced in NWCAA 104.1;

(2) Meets EPA emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2; or

(3) Was manufactured prior to 1989 and meets the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.

506.3 EMISSION PERFORMANCE STANDARDS

(A) Solid Fuel Burning Devices. Except as provided in Sections 506.3 (B) and (C), a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away any solid fuel burning device unless it complies with WAC 173-433-100 as referenced in NWCAA 104.1 which includes meeting the following particulate air contaminant emission standards:

(1) 2.5 g/hr for catalytic woodstoves and

(2) 4.5 g/hr for all other solid fuel burning devices.

(B) Fireplaces. Except as provided in NWCAA 506.3(C), a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory-built fireplace unless it meets 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2 or equivalent standard that may be established by the state building code council by rule. Particulate emissions from factory-built fireplaces shall not exceed 7.3 g/kg.

(C) Solid fuel burning devices which have been rendered permanently inoperable are exempt from NWCAA 506.3 (A) and (B).

506.4 INSTALLATION OF SOLID FUEL BURNING DEVICES

(A) No new or used solid fuel burning device shall be installed in new or existing buildings unless such device meets Washington state emission performance standards in WAC 173-433-100 as referenced in NWCAA 104.1. Any solid fuel burning device not meeting the applicable standards at the time of installation must be removed or rendered permanently inoperable.

(B) An adequate source of heat other than a solid fuel burning device is required in all new and substantially remodeled residential and commercial construction. The rule shall apply to:

(1) Areas designated by a county to be an urban growth area under chapter 36.70A RCW and

(2) Areas designated by the EPA as being in nonattainment for particulate matter.

506.5 OPACITY STANDARDS

(A) Opacity level. Any person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of 20 percent opacity for 6 consecutive minutes in any 1-hour period. This limit does not apply during the starting of a new fire for a period not to exceed 20 minutes in any 4-hour period.

(B) Test methods and procedures. EPA Method 9 or EPA Alternative Method 082 will be used to determine compliance with this Section.

(C) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

506.6 FUEL TYPES

(A) A person shall cause or allow only the following materials to be burned in a solid fuel burning device:

(1) Seasoned wood,

(2) An amount of paper necessary for starting a fire, and

(3) Coal with sulfur content less than 1.0% by weight burned in a coal stove.

(B) All other materials are prohibited from being burned in a solid fuel burning device, including, but not limited to: garbage, treated pallets, treated lumber, fencing, treated wood, plastic and plastic products, rubber products, animal carcasses, asphaltic products, waste petroleum products, paints and chemicals, paper (other than an amount necessary to start a fire), or any substance that emits dense smoke or obnoxious odors when burned.

506.7 AIR QUALITY BURN BANS

(A) Stage 1 Burn Ban

No person shall operate a solid fuel burning device located in a geographic area for which NWCAA has called a Stage 1 Burn Ban unless the solid fuel burning device is certified or a non-affected pellet stove except as provided in NWCAA 506.8.

(1) A Stage 1 Burn Ban may be called when forecasted meteorological conditions are predicted to cause PM_{2.5} levels to reach or exceed 35 micrograms per cubic meter, measured on a 24-hour average, within 48 hours, except for areas of PM_{2.5} nonattainment or areas at risk for PM_{2.5} nonattainment.

(2) For a county containing PM_{2.5} nonattainment areas or areas at risk for PM_{2.5} nonattainment, and, when feasible, only for the necessary portions of the county, a Stage 1 Burn Ban may be called when forecasted meteorological conditions are predicted to cause PM_{2.5} levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 72 hours.

(B) Stage 2 Burn Ban

No person shall operate a solid fuel burning device located in a geographic area for which NWCAA has called a Stage 2 Burn Ban except as provided in NWCAA 506.8.

(1) A Stage 2 Burn Ban may be called when:

(a) A Stage 1 Burn Ban is already in effect and has not reduced the trend of rising PM_{2.5} levels adequately;

(b) The 24-hour average of PM_{2.5} levels have already reached or exceeded 25 micrograms per cubic meter; and

(c) Forecasted meteorological conditions are not expected to allow levels of PM_{2.5} to decline below 25 micrograms per cubic meter for a period of 24 hours or more from the time that PM_{2.5} is measured at the trigger level.

(2) A Stage 2 Burn Ban may be called without first calling a Stage 1 Burn Ban only when all of the following occur:

(a) PM_{2.5} levels have reached or exceeded 25 micrograms per cubic meter, measured on a 24-hour average;

(b) Meteorological conditions have caused PM_{2.5} levels to rise rapidly;

(c) Meteorological conditions are predicted to cause PM_{2.5} levels to exceed 35 micrograms per cubic meter, measured on a 24-hour average, within 24 hours; and

(d) Meteorological conditions are highly likely to prevent sufficient dispersion of PM_{2.5}.

(3) For a county containing PM_{2.5} nonattainment areas or areas at risk for PM_{2.5} nonattainment and, when feasible, only the necessary portions of the county, a Stage 2 Burn Ban may be called without first calling a Stage 1 Burn Ban only when NWCAA 506.7 (B) (2) (a), (b), and (d) have been met and meteorological conditions are predicted to cause PM_{2.5} levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 24 hours.

(C) Air Pollution Episode Declared by Ecology

No person shall operate a solid fuel burning device located in a geographic area for which Ecology has declared an alert, warning, or emergency air pollution episode pursuant to WAC 173-433-150(3), chapter 173-435 WAC, and RCW 70A.15.6010 (~~70.94.715~~) as referenced in NWCAA 104.1.

(D) Upon declaration and for the duration of a Stage 1 or Stage 2 Burn Ban or an air pollution episode, new solid fuel shall be withheld from any solid fuel burning device that is restricted from operating under NWCAA 506.7 (A), (B), and (C).

(E) Smoke visible from a chimney, flue, or exhaust duct after 3 hours has elapsed from the time of declaration of a Stage 1 or Stage 2

Burn Ban or an air pollution episode shall constitute prima facie evidence of unlawful operation of a solid fuel burning device if that solid fuel burning device is restricted from operating under NWCAA 506.7 (A), (B), and (C). This presumption may be refuted by demonstration that the smoke was not caused by a restricted solid fuel burning device.

506.8 EXEMPTIONS

(A) The provisions of NWCAA 506.7 do not apply to any person who possesses a valid exemption approved by NWCAA. NWCAA may issue exemptions to any person who demonstrates any of the following to the satisfaction of NWCAA:

(1) One-Time 10-Day Temporary Exemption

NWCAA may issue one-time 10-day temporary solid fuel burning device exemptions if persons making such requests indicate they qualify for an exemption under NWCAA 506.8 (A)(2), (3), or (4) and provide all of the information below. Unless required otherwise by NWCAA, such exemption requests may be taken via telephone.

- (a) Full name,
- (b) Mailing address,
- (c) Telephone number,
- (d) The exemption under NWCAA 506.8 (A)(2), (3), or (4) for which the applicant believes they qualify,
- (e) Physical address where the exemption applies,
- (f) Description of the habitable space for which the exemption is being requested,
- (g) A statement that the applicant has not previously requested such an exemption for the same physical address. Exceptions may be allowed for unrelated breakdowns of the primary heat source, and
- (h) A statement that all of the information provided is accurate.

(2) Low Income

NWCAA may issue written low income exemptions. The applicant must demonstrate an economic need to burn solid fuel for residential space heating purposes by qualifying under the low income energy assistance program (LIEAP) pursuant to economic guidelines established by the U.S. Office of Management and Budget.

(3) Temporary Breakdown of Primary Heat Source

NWCAA may issue written exemptions for a residence or commercial establishment if all of the following apply:

- (a) A person in a residence or commercial establishment does not have an adequate source of heat without using a solid fuel burning device.
- (b) The applicant demonstrates that the primary heating system, other than a solid fuel burning device, is temporarily inoperable for reasons other than the applicant's own actions. When applying for this exemption, the applicant must submit a compliance schedule for bringing the primary heating system, other than a solid fuel burning device, back into operation to be used as the primary heating source. Unless otherwise approved by NWCAA, exemptions will be limited to 30 calendar days.

A person's income level is not a determining factor in the approval or denial of an exemption under this provision. Exemptions based on income level are addressed in NWCAA 506.8 (A)(2).

(4) No Adequate Source of Heat

NWCAA may issue written exemptions for a residence if both of the following apply:

- (a) The residence was constructed prior to July 1, 1992 and

(b) A person in the residence does not have an adequate source of heat without using a solid fuel burning device.

A person's income level is not a determining factor in the approval or denial of an exemption under this provision. Exemptions based on income level are addressed in NWCAA 506.8 (A)(2).

(B) Exemption Duration and Renewals

Unless otherwise specified, written exemptions will expire June 30th of each year. Exemptions in NWCAA 506.8 (A)(2), (3), and (4) may be renewed by NWCAA, provided the applicant meets the applicable requirements at the time of exemption renewal. For renewals under NWCAA 506.8 (A)(2), the applicant must demonstrate the low income status is met each time application is made. Exemption requests may be denied by NWCAA, regardless of the applicant's exemption history.

(C) Residential and Commercial Exemption Limitations

Except for commercial establishments qualifying under NWCAA 506.8 (A)(3), exemptions are limited to residences. Exemptions are limited to normally inhabited areas of a residence, which includes areas used for living, sleeping, cooking, and eating. Exemptions will not be issued for attached and detached garages, shops, and outbuildings. For commercial establishments, exemptions will be limited to areas identified in the exemption.

PASSED: July 14, 2005 AMENDED: November 8, 2007, October 8, 2015, August 11, 2016, August 8, 2024

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 24-13-038
WITHDRAWAL OF PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed June 10, 2024, 1:08 p.m.]

The Washington state criminal justice training commission would like to withdraw the proposal notice filed as WSR 24-10-073 on April 29, 2024.

Lacey Ledford
Rules Coordinator

WSR 24-13-041

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed June 10, 2024, 3:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-10-017.

Title of Rule and Other Identifying Information: WAC 182-50-030

Period of appointment.

Hearing Location(s): On July 25, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_FRLlFL6qQX-1LcrASjQ3Lw. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than July 26, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning June 11, 2024, 8:00 a.m., by July 25, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunications relay service 711, email Johanna.Larson@hca.wa.gov, by July 12, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending WAC 182-50-030 to permit members of the pharmacy and therapeutics committee to serve for up to three consecutive three-year terms.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Leta Evaskus, P.O. Box 45502, Olympia, WA 98504-5502, 206-521-2029.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: This rule proposal amends the terms of service for members of the pharmacy and therapeutics committee. It is not subject to violation by nongovernment parties and does not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

June 10, 2024

Wendy Barcus

OTS-5421.1

AMENDATORY SECTION (Amending WSR 16-16-083, filed 7/29/16, effective 8/29/16)

WAC 182-50-030 Period of appointment. (1) Members are appointed to a term of three years and serve until a successor is appointed. A member may be reappointed for up to (~~one~~) two additional three-year terms for a total of (~~six~~) nine years. (~~One year after the end of a six-year term, a person is eligible for appointment to one additional three-year term.~~)

(2) Committee members serve staggered three-year terms. Of the initial appointees, in order to provide for staggered terms, some members may be appointed initially for less than three years. If the initial appointment is for less than (~~twenty-four~~) 24 months, that period of time is not counted toward the limitation of years of appointment described in subsection (1) of this section.

(3) Vacancies on the committee will be filled for the balance of the unexpired term from nominee lists for the appropriate committee category as provided under WAC 182-50-025.

(4) Members of the committee are compensated for participation in the work of the committee in accordance with a personal services contract executed after appointment and prior to commencement of activities related to the work of the committee.

WSR 24-13-044

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed June 11, 2024, 4:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-08-055.

Title of Rule and Other Identifying Information: WAC 182-507-0125 State-funded long-term care services.

Hearing Location(s): On July 25, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_FRLlFL6qQX-1LcrASjQ3Lw. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than July 26, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning June 12, 2024, 8:00 a.m., by July 25, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunications relay service 711, email Johanna.Larson@hca.wa.gov, by July 12, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending this rule to include state-funded long-term care services provided in an intermediate care facility for individuals with intellectual disabilities authorized by the Washington state department of social and health services, developmental disabilities administration.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

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

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

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

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule pertains to client program eligibility and does not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

June 11, 2024
Wendy Barcus
Rules Coordinator

OTS-5450.1

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

WAC 182-507-0125 State-funded long-term care services. (1)

Caseload limits.

(a) The state-funded long-term care services program is subject to caseload limits determined by legislative funding.

(b) The aging and long-term support administration (AL TSA) or the developmental disabilities administration (DDA) must preauthorize state-funded long-term care service before payments begin.

(c) AL TSA or DDA cannot authorize a service, under chapter 388-106 WAC or under chapter 388-825 WAC, if doing so would exceed statutory caseload limits.

(2) **Location of services.** State-funded long-term care services may be provided in:

(a) The person's own home, defined in WAC 388-106-0010;

(b) An adult family home, defined in WAC 182-513-1100;

(c) An assisted living facility, defined in WAC 182-513-1100;

(d) An enhanced adult residential care facility, defined in WAC 182-513-1100;

(e) An adult residential care facility, defined in WAC 182-513-1100; (~~(e)~~)

(f) A nursing facility, defined in WAC 182-500-0050, but only if nursing facility care is necessary to sustain life; or

(g) A residential habilitation center, defined in WAC 388-835-0010, that is an intermediate care facility for individuals with intellectual disabilities (ICF/IID), defined in WAC 182-500-0050.

(3) **Client eligibility.** To be eligible for the state-funded long-term care services program, a person must meet all of the following conditions:

(a) General eligibility requirements for medical programs under WAC 182-503-0505, except (c) and (d) of this subsection;

(b) Be age 19 or older;

(c) Reside in one of the locations under subsection (2) of this section;

(d) Attain institutional status under WAC 182-513-1320;

(e) Meet the functional eligibility requirements under WAC 388-106-0355 for nursing facility level of care or under WAC 388-845-0030 for ICF/IID level of care;

(f) Not have a penalty period due to a transfer of assets under WAC 182-513-1363;

(g) Not have equity interest in a primary residence more than the amount under WAC 182-513-1350; and

(h) Meet the requirements under chapter 182-516 WAC for annuities owned by the person or the person's spouse.

(4) **General limitations.**

(a) If a person entered Washington only to obtain medical care, the person is ineligible for state-funded long-term care services.

(b) The certification period for state-funded long-term care services may not exceed 12 months.

(c) People who qualify for state-funded long-term care services receive categorically needy (CN) medical coverage under WAC 182-501-0060.

(5) Supplemental security income (SSI)-related program limitations.

(a) A person who is related to the SSI program under WAC 182-512-0050 (1), (2), and (3) must meet the financial requirements under WAC 182-513-1315 to be eligible for state-funded long-term care services.

(b) An SSI-related person who is not eligible for the state-funded long-term care services program under CN rules may qualify under medically needy (MN) rules under WAC 182-513-1395.

(c) The agency determines how much an SSI-related person is required to pay toward the cost of care, using:

(i) WAC 182-513-1380, if the person resides in a nursing facility or residential habilitation center.

(ii) WAC 182-515-1505 or 182-515-1510, if the person resides in one of the locations listed in subsection (2)(a) through (e) of this section.

(6) Modified adjusted gross income (MAGI)-based program limitations.

(a) A person who is related to the MAGI-based program may be eligible for state-funded long-term care services under this section and chapter 182-514 WAC if the person resides in a nursing facility.

(b) A MAGI-related person is not eligible for residential or in-home care state-funded long-term care services unless the person also meets the SSI-related eligibility criteria under subsection (5)(a) of this section.

(c) A MAGI-based person does not pay toward the cost of care in a nursing facility.

(7) Current resource, income, PNA, and room and board standards 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.

WSR 24-13-051

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed June 13, 2024, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-20-127.

Hearing Location(s): On July 25, 2024, at 9:00 a.m., at Washington State Patrol, Helens Somers Building, 106 11th Street S.E., Room 1011, Olympia, WA 98507.

Date of Intended Adoption: July 25, 2025 [2024].

Submit Written Comments to: Kimberly Mathis, Rules Coordinator, 106 11th Street S.E., Olympia, WA 98507, email wsprules@wsp.wa.gov, beginning June 14, 2024, at 8:00 a.m., by July 25, 2024, at noon.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to WAC 204-21-130, 204-21-230, 204-36-050, and 204-91A-170 are needed to coincide with legislative changes to RCW 46.37.196 that permit rear-facing blue lights on emergency tow trucks, which became effective July 23, 2023.

Reasons Supporting Proposal: Updates are to ensure consistency and clarity with statutory changes.

Statutory Authority for Adoption: RCW 46.37.005, 46.37.320, and 46.37.194.

Statute Being Implemented: RCW 46.37.196.

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

Name of Proponent: Washington state patrol, governmental.

Name of Agency Personnel Responsible for Drafting: Kimberly Mathis, Olympia, Washington, 360-596-4017; Implementation and Enforcement: Washington State Patrol, Olympia, Washington, 360-596-3802.

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

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

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

June 13, 2024
John R. Batiste
Chief

OTS-5478.1

AMENDATORY SECTION (Amending WSR 22-21-031, filed 10/6/22, effective 11/6/22)

WAC 204-21-130 Emergency lamps. (1) All emergency lamps must meet the criteria established in RCW 46.37.320. In descending order of preference, these are:

(a) Conformance to Federal Motor Vehicle Safety Standards, or; if none

(b) Conformance to current standards and specifications of the Society of Automotive Engineers, or; if none

(c) Certified for compliance by any recognized organization or agency such as, but not limited to, the American National Standards Institute, the Society of Automotive Engineers, or the American Association of Motor Vehicle Administrators.

(2) Headlamp flashing systems may be used for authorized emergency vehicles owned and operated by law enforcement agencies, licensed ambulance companies, and fire departments. Headlamp flashing systems must:

(a) Have a circuit that alternately flashes only the high beams from the headlamps at a rate of 60 to 120 flashes per minute per side.

(b) Be so designated that any failure to flash the lamps will not result in failure of the headlamp system to operate normally.

(c) Incorporate an override feature which must stop the flashing and provide full illumination from both high beam headlamps when the dimmer switch is in the high-beam mode.

(d) Have an indicator lamp included in the circuit to give a visible and unmistakable indication to the driver that the system is turned on.

(3) The following table outlines the color of emergency lamps to be used for each type of vehicle.

Vehicle Type	Lighting Required	Other Lighting Allowed
Authorized Emergency Vehicles (except Law Enforcement and Fire Department Vehicles)	1 red lamp	Flashing amber or white lamps
Law Enforcement Vehicles	1 blue lamp	Flashing red, amber, or white lamps
Fire Department Vehicles (RCW 46.37.184)	1 red lamp	Rear facing blue lamp Flashing amber or white lamps
Volunteer Firefighter Vehicles and Firefighter Private Vehicles (RCW 46.37.185)		If approved by the chief of their respective service, green lamps may be installed on the vehicle provided that the requirements outlined in subsection (4) of this section are met.
Public utilities vehicles, other construction and maintenance vehicles, pilot cars, (tow trucks) animal control vehicles, hazardous materials response team vehicles, search and rescue team vehicles, and rural newspaper carrier vehicles, and vehicles towing a load that exceeds legal dimensions.		One or more flashing amber lamps provided that the requirements of subsection (5) of this section are met.
<u>Emergency tow trucks (WAC 204-21-020(8))</u>	<u>1 red lamp</u>	<u>One or more flashing amber and/or white lamps provided that the requirements of subsection (5) of this section are met.</u> <u>Rear facing blue lamps.</u>

(4) Green lamps for volunteer firefighter and firefighter private vehicles must:

(a) Meet the requirements of SAE J595 except that the color of the lamp must be green as the color described in SAE J578.

(b) Be visible for a distance of 200 feet under normal atmospheric conditions.

(c) Not have a maximum light projected in any one direction exceeding 300 candle power.

(d) Be mounted no less than 24 inches above the level surface upon which the vehicle stands, or may be placed on the forward portion of the top above the windshield.

(e) Be mounted anywhere from the center of the vehicle to the left side thereof.

(f) Be used only for the purpose of identification and the operator of a vehicle so equipped must not be entitled to any of the privileges provided in RCW 46.61.035 for the operators of authorized emergency vehicles.

(5) Amber lamps must:

(a) Be mounted and be of sufficient intensity so as to be clearly visible to approaching traffic for at least 500 feet in normal sunlight.

(b) Be mounted as outlined in WAC 204-21-020 and as follows:

(i) Must be mounted so that the entire projected area of the lens is visible from all eye heights of drivers of other vehicles at angles within 45 degrees left to 45 degrees right of the front of the vehicle. If the light within these required angles is blocked by the vehicle or any substantial object on it, an additional amber lamp must be displayed within the obstructed angle.

(ii) May be mounted at any height.

(c) Only be used on the vehicles described in subsection (3) of this section, when such vehicles are actually involved in construction, maintenance, or operations which require that warning be given to ensure the protection of the motoring public or the work crew. Lamps must not be illuminated while traveling to or from the site of operations. For the purposes of tow truck operations, the site of operations must be only that place where vehicles are attached to or detached from the tow truck. Lamps on pilot cars must be illuminated only while the vehicle is actually providing escort service. Lamps on rural newspaper delivery vehicles must only be illuminated when the vehicle is traveling on the delivery route. Lamps on oversize units may be illuminated when traveling on public roadways. The operator of these vehicles are not entitled to any other privileges provided in RCW 46.61.035 for the operators of authorized emergency vehicles.

(6) Three hundred sixty degree warning lamps must meet SAE Standard J845.

(7) Nothing in this section relieves the operator of any vehicle from displaying any other light or warning device required by statute or regulation.

AMENDATORY SECTION (Amending WSR 22-21-031, filed 10/6/22, effective 11/6/22)

WAC 204-21-230 Lighting equipment prohibited. (1) The addition of a lamp, reflective device or other motor vehicle equipment must not impair the effectiveness of lighting equipment required by 49 C.F.R. Part 571.108, as it exists on February 22, 2022, or chapter 46.37 RCW.

(a) If a vehicle is in motion on a public roadway, the vehicle must not:

(i) Display aftermarket neon lighting devices.

(ii) Combine any type of letter, number, sign, symbol or combination thereof with an eye level brake light meeting the standards of 49 C.F.R. Part 571.108 (FMVSS 108). No function other than red reflex reflectors will be combined in eye level brake lights.

(iii) Have a lighted or electrically/mechanically powered sign or message board enabling change or movement of any displayed message to be displayed or affixed to the vehicle. Except:

(A) Vehicles that are used in conjunction with officially sanctioned or sponsored motor vehicle traffic control or movement may display lighted or electrically powered signs to assist in the efficient control of traffic movement on public roadways. The signs must be designed, worded, and located to limit misinterpretation and confusion by the motoring public.

(B) Electric signs may be unitized to identify taxicabs and the destinations of mass transportation vehicles. These signs must not contain any commercial or personal message and must be designed, worded, and located so that it is clearly differentiated from other required motor vehicle lights.

(b) If a vehicle is not in motion and parked on private property, the vehicle may use aftermarket lighting except as outlined under RCW 46.37.180.

(c) This section is not intended to prohibit a scrolling sign provided that the scrolling sign must:

(i) Be powered by an external source or in a manner which does not cause the required equipment on the vehicle to be out of compliance with 49 C.F.R. Part 571, chapter 46.37 RCW or Title 204 WAC.

(ii) Not be lit.

(iii) Not have continual motion.

(2) Pursuant to Title 49 C.F.R. Part 571.108, the addition of an aftermarket style ornament or other feature such as tinted plastic glass covers, a grille or slotted covers must not be placed in front of the headlamp lens, or in front of any other lighting devices installed on motor vehicles which impair the effectiveness of lighting equipment required under 49 C.F.R. Part 571.108 (FMVSS 108) or chapter 46.37 RCW. Except:

(a) Clear aftermarket headlamp covers.

(b) Headlamp wipers may be used in front of the lens provided that the headlamp system is designed to conform to all applicable photometric requirements in 49 C.F.R. Part 571.108 (FMVSS 108) with the wiper stopped in any position in front of the lens.

(c) A bike rack may be installed on the front of a municipal transit vehicle (as defined under RCW 46.04.355) provided that even with the bike rack installed, loaded or unloaded with bicycles, the headlight system still conforms with all applicable photometric requirements in 49 C.F.R. Part 571.108 (FMVSS 108).

(3) Red emergency lights are prohibited on any vehicle other than an authorized emergency vehicle, a law enforcement vehicle, an emergency tow truck as defined in WAC 204-21-020(8), school buses, and private carrier buses.

(4) Blue lights are prohibited on any vehicle other than a law enforcement vehicle as defined in WAC 204-21-020 (~~and~~), a fire department vehicle as authorized in RCW 46.37.184, and an emergency tow truck as authorized in RCW 46.37.196.

(5) Flashing white lights are prohibited on any vehicle other than authorized emergency vehicles, law enforcement vehicles, school buses, and emergency tow trucks as defined in WAC 204-21-020.

OTS-5479.1

AMENDATORY SECTION (Amending WSR 22-21-031, filed 10/6/22, effective 11/6/22)

WAC 204-36-050 Equipment requirements. (1) Authorized emergency vehicles must be:

- (a) Conventional passenger cars, vans, pickups, or similar vehicles;
- (b) Conventionally painted; and
- (c) Legally equipped in conformance with RCW 46.37.190(1) with at least one lamp capable of displaying a red light visible from at least 500 feet in normal sunlight and a siren capable of giving an audible signal. Such equipment must not be installed prior to obtaining approval of the application and issuance of a temporary certificate of approval for the vehicle(s) by the patrol. To be considered approved equipment for use under the provisions of this section, all devices must meet the criteria established in RCW 46.37.320. In descending order of preference, these are:

- (i) Conformance to current standards and specifications of the Society of Automotive Engineers, or; if none

- (ii) Certified for compliance by any recognized organization or agency such as, but not limited to, the American National Standards Institute, the Society of Automotive Engineers, or the American Association of Motor Vehicle Administrators.

(2) Authorized emergency vehicles must not:

- (a) Be equipped with blue lamps except as provided in RCW 46.37.184, ~~46.37.196~~, and WAC 204-21-230(4).

- (b) Display commercial signs, posters, or pictures.

- (c) Carry or attach to the outside of the vehicle equipment, not related to the emergency nature of the vehicle.

- (d) Display or use any name that includes the word "police" or "law enforcement" or other word which portrays the individual or business as a public law enforcement agency.

(3) Authorized emergency vehicles may, in addition to the required equipment, have:

- (a) An amber or white lamp on their vehicle as outlined under WAC 204-21-130;

- (b) Signal preemptive device as outlined in RCW 46.37.670;

- (c) Flashing or strobing headlamps;

provided that such equipment is listed on the application and approved by each primary jurisdiction and the patrol.

OTS-5480.1

AMENDATORY SECTION (Amending WSR 14-17-104, filed 8/19/14, effective 9/19/14)

WAC 204-91A-170 Minimum tow truck equipment standards. (1) All tow/recovery trucks used by a registered tow truck operator for public or private impounds or in response to patrol requests must meet the minimum standards listed in this section. Classes "A," "B," "B-2," "C," "D" only if factory equipped with a boom or retractable boom, "E" only if factory equipped with a side recovery system, and "S-1" are considered recovery trucks for patrol requests and must be used by the

registered tow truck operator in response to these requests unless the operator requests and patrol accepts nonrecovery trucks or other equipment. The patrol will provide information concerning the general description of the type and condition of the vehicle and its type of load if applicable at the time of request for an initial tow if reasonably available.

(2) **Minimum standards:**

(a) All equipment used in conjunction with the tow truck winching system must be used in such a way as not to exceed the equipment working load limit. All equipment must comply with the Washington safety and health administration (WSHA) regulation if applicable.

Industry standards set the working load limit of wire rope or equivalent material at one-fifth of the manufacturer's rated nominal or breaking strength.

(b) Each wire rope or equivalent material must be capable of being fully extended from and fully wound onto its drum. Each wire rope or equivalent material must meet the industry standards for specified type of use with equipment.

OSHA (1410.179 (h) (2)(iii)) requires **no less** than two wraps of rope remain on drum when rope is "fully extended." This is to ensure the full load **never** bears on the rope to drum connection.

(c) The wire rope on each recovery class truck must be equivalent to a 6 x 19 or 6 x 37 "extra improved plowed steel" (XIP) independent wire rope center (IWRC), and must meet all industry standards for working load limit.

(i) The operator must retain a receipt of purchase from the manufacturer indicating the type and WLL of wire rope, and document the type and date the wire rope was installed on each vehicle.

(ii) Class "A," "D," and "E" trucks may utilize either IWRC or fiber core wire rope.

(d) All wire rope must be in good working order. The following industry standards for **out-of-service** criteria will apply:

(i) No more than six randomly distributed broken wires in one rope lay, or more than three broken wires in one strand in one rope lay.

(ii) Excessive abrasion causing the loss of more than one-third the original diameter of an outside individual wire.

(iii) Evidence of rope deterioration from corrosion.

(iv) Kinking, crushing, or other damage that results in detrimental distortion of the rope structure.

(v) Any evidence of heat damage.

(vi) Any marked reduction in diameter either along the entire main length or in one section.

(vii) Unlaying or opening up of a tucked splice.

(viii) Core protrusion along the entire length.

(ix) End attachments that are cracked, deformed, worn, or loosened.

(x) Any indication of strand or wire slippage in end attachments.

(xi) More than one broken wire in the vicinity of fittings.

(e) Wire rope end connections shall be swaged or, if clamped, must have a minimum of three forged clamps spaced a minimum of six rope diameters apart and attached with the base or saddle of the clamp against the longer or "live" end of the cable. The "U" bolt will be placed over the short or "dead" end of the rope and will be of the proper size for the cable being clamped.

(i) Recovery or tow hooks must be installed, maintained, and used in the manner in which the manufacturer prescribes.

(ii) Recovery or tow hooks must be replaced if the throat opening has increased beyond the manufacturer recommendations, the load bearing point has been worn by (~~ten~~) 10 percent, or the hook is twisted by more than (~~ten~~) 10 degrees.

(iii) Wire rope clamps must be installed and torqued per manufacturer specifications.

(f) All wire rope related equipment, sheaves, etc., must conform to the diameter of the wire rope being used or to the original tow truck equipment manufacturer specifications.

(g) All winching equipment, booms, snatch blocks, etc., must have permanently affixed durable factory identification, stating the working load limit. If this identification has been removed or is no longer readable, it is criteria for placing the item out-of-service. Equipment may be reinspected by a recognized recertification company. If the equipment is acceptable, it may be reidentified with a working load limit and a recertification company identifier. It will be deemed acceptable if the operator maintains a copy of the certification of winching equipment provided the serial number on the equipment corresponds with the certification provided by the manufacturer.

(h) Snatch block hooks that were manufactured with a retractable safety retention clip must have a functional clip installed.

(i) All block and tackle equipment used in the winching system which shows signs of permanent deformation, significant wear or damage is criteria for placing the item out-of-service.

(j) All "J" hook chain assemblies must be grade "7" chain or better.

(k) Safety chains must only be used for the securing of vehicles to the truck. Must be minimum grade "7" chain or meet the original manufacturer's recommendations. Safety chain hooks that were manufactured with retractable safety retention clips must have a functional clip installed.

(l) Comply with legal lighting, equipment, and license requirements.

(m) Portable tail, stop, and turn signal lights for vehicles being towed. When in use, the lights must be mounted on the same level and as widely spaced laterally as practicable.

(n) Have department of licensing registration and truck numbers painted or permanently affixed to both sides of the truck. Have firm's name, city of address, and phone number permanently affixed to both sides of the vehicle. Letters must be a minimum of three inches high with one-half inch strokes.

(o) Have a revolving, strobe, or intermittent red light with (~~three hundred sixty~~) 360 degrees visibility. Trucks may also be equipped with flashing amber and/or white lights which may be used in conjunction with the red lamps. Additionally, trucks must also be equipped with a warning light visible from the driver seat which is energized when the red revolving light or flashing amber lights are activated.

(p) May be equipped with rear facing blue lights, which may only be used as allowed in RCW 46.37.196.

(q) Have a broom, minimum (~~twelve~~) 12 inches wide, with a handle at least four feet long.

(~~(q)~~) (r) Have a scoop type shovel, minimum seven inches wide, overall length minimum three feet long and a minimum of a three-gallon hard or solid sided receptacle (trash bags of any type will not meet this requirement) able to contain debris typically found at collision scenes without breaking.

~~((r))~~ (s) Be maintained in a reasonably clean condition.

~~((s))~~ (t) Have at least one steel pinch bar four feet long, tapered on one end and flattened on the other with a minimum diameter of three-quarters of an inch.

~~((t))~~ (u) Have a two-way radio or mobile telephone capable of communicating with a base station. A citizen band radio does not suffice. The communication device must:

(i) Be in proper working order and function correctly throughout the assigned tow areas for all towing operations including on call drivers.

(ii) Be used in a lawful manner.

~~((u))~~ (v) Have one 20 BC rated or two 10 BC rated fire extinguishers accessible and secured on or in the tow truck.

~~((v))~~ (w) Axle weight must comply with the requirements of RCW 46.37.351.

~~((w))~~ (x) Carry two gallons of absorbent material designed to and capable of absorbing a one-gallon liquid spill from a motor vehicle. For the purposes of this chapter, vehicular liquids consist of motor oil, antifreeze, transmission fluid, and gear oil.

(3) **Class "A" tow trucks:** Trucks that are capable of towing and recovery of passenger cars, pickup trucks, small trailers, or equivalent vehicles. Class "A" tow trucks must meet the requirements of subsection (2)(a) through ~~((w))~~ (x) of this section, and in addition must have:

(a) A ~~((fourteen thousand five hundred))~~ 14,500 pound minimum manufacturer's gross vehicle weight rating (GVWR).

(b) Dual tires on the rear axle.

(c) A minimum of ~~((one hundred))~~ 100 feet of three-eighths inch continuous length XIP wire rope on each drum, measured from the point of attachment at the drum to the hook.

(d) A minimum eight-ton boom rating with a single hydraulic boom. Dual winches to control a minimum of two service drums.

(e) A minimum of two snatch blocks rated at 4.0 tons each.

(f) A wheel lift, tow sling, or other comparable device made of material and used in such manner so as to protect vehicles being towed or recovered.

(g) A portable dolly or its equivalent for hauling vehicles not otherwise towable. The transported vehicle must be attached to the dolly or its equivalent with an adjustable tie down, or as otherwise required by the equipment manufacturer.

(h) If equipped with a wheel lift system, it must have a fully extended working load rating of at least ~~((three thousand))~~ 3,000 pounds and a ~~((seven thousand))~~ 7,000 pound tow rated capacity. The transported vehicle must be attached to the wheel lift with an adjustable tie down, or as otherwise required by the equipment manufacturer.

(i) A minimum of one ~~((ten))~~ 10-foot or two five-foot recovery chains used in the winching system and must be minimum grade "7" chain with matching fittings.

(j) Permanently affixed safety chains.

(4) **Class "B" tow trucks:** Trucks that are capable of towing and/or recovery of medium size trucks, trailers, motor homes, or equivalent vehicles. Class "B" tow trucks must meet the requirements of subsection (2)(a) through ~~((w))~~ (x) of this section, and in addition must have:

(a) Eighteen thousand pounds minimum manufacturer's gross vehicle weight rating (GVWR).

(b) A minimum of one (~~twelve~~) 12-ton single hydraulic boom with two independent winches and drums.

(c) A minimum of (~~one hundred~~) 100 feet of seven-sixteenths inch continuous length XIP IWRC wire rope on each drum, measured from points of attachment at the drum to the hook.

(d) A minimum of four standard release tools (caging stud assemblies).

(e) A minimum of two snatch blocks rated at 4.0 tons each.

(f) A wheel lift, tow sling, or other comparable device made of material and used in such manner so as to protect vehicles being towed or recovered.

(g) A portable dolly or its equivalent for hauling vehicles not otherwise towable when the class "B" tow truck is being used for class "A" tows. The transported vehicle must be attached to the dolly or its equivalent with an adjustable tie down, or as otherwise required by the equipment manufacturer.

(h) If equipped with a wheel lift system, it must have a fully extended working load limit of at least (~~six thousand~~) 6,000 pounds and a (~~twenty thousand~~) 20,000 pound tow rated capacity. The transported vehicle must be attached to the wheel lift with an adjustable tie down, or as otherwise required by the equipment manufacturer.

(i) A minimum of one (~~ten~~) 10-foot or two five-foot one-half inch diameter recovery chains used in the winching system and must be grade "8" chain with matching fittings.

(j) Permanently affixed safety chains.

(5) **Class "B-2" tow trucks:** Trucks that are capable of towing or recovery of medium size trucks, trailers, motor homes, or equivalent vehicles and are rated at over 30,000 GVWR with air brakes. Class "B-2" tow trucks must meet the requirements of subsection (2)(a) through (~~(w)~~) (x) of this section, and in addition must have:

(a) A minimum of (~~one hundred fifty~~) 150 feet of seven-sixteenths inch continuous length XIP IWRC wire rope on each drum, measured from points of attachment at the drum to the hook.

(b) A minimum of one (~~fourteen~~) 14-ton single hydraulic boom with two independent winches and drums.

(c) A minimum of two snatch blocks rated at 6.0 tons each.

(d) Air brakes and a system capable of supplying air to towed vehicles.

(e) Permanently affixed safety chains.

(f) Class "B-2" tow trucks must also meet the requirements of subsection (4)(d), (f), (g), (h), and (i) of this section.

(6) **Class "C" tow trucks and class "C" rotator trucks:** Trucks that are capable of towing and/or recovery of large trucks, trailers, buses, motor homes, or similar vehicles. Class "C" trucks must meet the requirements of subsection (2)(a) through (~~(w)~~) (x) of this section, and in addition must have:

(a) A (~~forty six thousand~~) 46,000 pound manufacturer's gross vehicle weight rating (GVWR).

(b) Tandem rear axle truck chassis (both drive axles).

(c) A minimum of (~~thirty~~) 30-ton boom rating with a hydraulic boom. Dual winches to control a minimum of two service drums.

(d) A minimum of (~~two hundred~~) 200 feet of five-eighths inch continuous length XIP IWRC wire rope on each drum measured from the point of attachment at the drum to the hook.

(e) Air brakes and a system capable of supplying air to towed vehicles.

(f) A minimum of four standard release tools (caging stud assemblies).

(g) A wheel lift or under lift system, it must have a fully extended working load limit of at least (~~(twelve thousand)~~) 12,000 pounds. The transported vehicle must be attached to the wheel lift or under lift with an adjustable tie down, or as otherwise required by the equipment manufacturer.

(h) A minimum of one (~~(ten)~~) 10-foot or two five-foot five-eighths inch recovery chains used in the winching system and must be a minimum grade "8" chain with matching fittings.

(i) Permanently affixed safety chains.

(j) All chains must be a minimum of grade "7," except as otherwise specified in this section.

(k) A wheel lift, tow sling, or other comparable device used in such a manner as to protect the vehicle being towed or recovered.

(l) A minimum of two snatch blocks rated at 8.0 tons each.

(7) **Class "D" tow trucks:** Trucks that are equipped for and primarily used as "wheel lift" or nonrecovery trucks. Class "D" tow trucks, unless specifically factory equipped with a boom or a retractable boom, are not designed for vehicle recovery and therefore must not be used as a replacement for a class "A" truck unless specifically authorized by the patrol. Class "D" tow trucks must meet the requirements of subsection (2)(a) through (~~(w)~~) (x) of this section, and in addition must have:

(a) A 10,000 (~~(thousand)~~) pound manufacturer's gross vehicle weight rating (GVWR).

(b) A portable dolly or its equivalent for hauling vehicles not otherwise towable. The transported vehicle must be attached to the dolly or its equivalent with an adjustable tie down, or as otherwise required by the equipment manufacturer.

(c) A wheel lift assembly with a fully extended manufacturer's working load limit of (~~(three thousand)~~) 3,000 pounds and a (~~(seven thousand)~~) 7,000 pound tow rated capacity. The transported vehicle must be attached to the wheel lift with an adjustable tie down, or as otherwise required by the equipment manufacturer.

(d) One winch and drum with (~~(one hundred)~~) 100 feet of three-eighths inch XIP wire rope meeting class "A" requirements.

(e) One snatch block rated at 3.5 tons.

(f) A minimum of one five-foot recovery chain for use in the winching system and must be a minimum of grade "7" chain with matching fittings.

(g) Permanently affixed safety chains.

(8) **Class "E" tow trucks:** Trucks that are primarily designed and intended to transport other vehicles by loading and carrying the transported vehicle entirely on the truck. These vehicles may be a flatbed, slide back, tilt bed, or rail design truck. Class "E" trucks, unless specifically factory equipped with a side recovery system, are not designed for vehicle recovery and therefore must not be used as a replacement for a class "A" truck unless specifically authorized by the patrol.

(a) Class "E" trucks must meet the requirements of subsection (2)(a) through (~~(w)~~) (x) of this section, and in addition must have:

(i) Four tie downs with a minimum working load limit of (~~(three thousand three hundred)~~) 3,300 pounds. The tie downs must be grade "7" or stronger chain, wire rope, nylon strap, or steel strap.

All four tie downs must be used when securing a vehicle. The tie downs must be affixed to the axle, tires, or frame of the transported

vehicle both front and rear. All tie down ends must be affixed to the truck bed or rail in a manner that will prevent movement of the transported vehicle. Factory style "T" hook tie downs may be used for front and rear securement.

(ii) One snatch block rated at 4.0 tons.

(iii) Dual tires on the rear axle.

(iv) Fourteen thousand five hundred pound gross vehicle weight rating (GVWR).

(v) Current licensing and tonnage equal to the maximum combination GVWR.

(vi) Four-ton winch rating.

(vii) Fifty feet three-eighths inch XIP fiber core or IWRC wire rope.

(viii) One five-foot grade "7" chain with matching fittings for use in winching.

(ix) Nineteen feet of usable bed capable of carrying vehicles.

(x) Portable lights when the truck is used in towing mode. When in use, the lights must be mounted on the same level and as widely spaced laterally as practicable.

(b) Class "E" tow trucks may be equipped with a sling, tow bar, and/or a wheel lift system.

(i) If equipped with a towing system:

(A) The system must have a manufacturer's rating appropriate to the vehicle being towed. If used in a towing mode (as opposed to carrying), a sling, tow bar, and/or wheel lift assembly can be used and must have a manufacturer's rating appropriate to the vehicle being towed.

(B) The tow truck must have permanently affixed safety chains.

(ii) If using a wheel lift system, the transported vehicle must be attached to the wheel lift with an adjustable tie down, or as otherwise required by the equipment manufacturer.

(c) If factory equipped with a side vehicle recovery system, such system must meet all the winch and wire rope minimum requirements listed for a class "A" truck.

(9) **Class "S" tow/recovery trucks:** Tow/recovery trucks that cannot meet the requirements of class "A," "B," "C," "D," or "E" and are not eligible for appropriate waiver as outlined in WAC 204-91A-070(4), may be approved as class "S" (special).

(a) To be designated as a class "S" truck, the operator must submit a request for approval through the district commander to the section that must include:

(i) Why the truck is needed;

(ii) What the truck will be used for;

(iii) The vehicle size;

(iv) Purchased tonnage if required;

(v) Capability; and

(vi) The equipment carried or used with the truck.

(b) The gross vehicle weight rating of the class "S" truck will determine the appropriate equipment required.

(c) If the district commander approves the request, the request will be forwarded with recommendations for equipment and/or operation instructions or limitations to the section for review and final approval. If approval is granted, the equipment must be inspected as outlined in WAC 204-91A-040 with reports forwarded in the normal manner.

(10) **Class "S-1 rotator" trucks:** Trucks that are capable of recovery, towing, or both of large trucks, trailers, buses, motor homes, or similar vehicles. Class "S-1 rotator" trucks must meet the require-

ments of subsection (2)(a) through (~~(w)~~) (x) of this section, and in addition must have:

- (a) A (~~(fifty-two thousand)~~) 52,000 pound manufacturer's GVWR.
- (b) Tandem or triple rear axle truck chassis with at least two drive axles.
- (c) A minimum of (~~(forty)~~) 40 ton rotating boom rating with a single boom.
- (d) A minimum of (~~(two hundred)~~) 200 feet of five-eighths inch continuous length XIP IWRC wire rope on two drums measured from the point of attachment at the drum to the hook.
- (e) Air brakes and a system capable of supplying air to towed vehicles.
- (f) A minimum of four standard release tools (caging stud assemblies).
- (g) A wheel lift system that has a fully extended working load limit of at least (~~(twelve thousand)~~) 12,000 pounds. The transported vehicle must be attached to the wheel lift or under lift with an adjustable tie down, or as otherwise required by the equipment manufacturer.
- (h) A minimum of one (~~(ten)~~) 10-foot or two five-foot five-eighths inch recovery chains used in the winching system and must be a minimum grade "8" chain with matching fittings.
- (i) All chains must be a minimum of grade "7," except as otherwise specified in this section.
- (j) A tow sling or other comparable device used in such a manner as to protect the vehicle being towed or recovered.
- (k) A minimum of two snatch blocks rated at eight tons each.
- (l) Permanently affixed safety chains.
- (11) Tow trucks rated as class "A," "B," "B-2," "C," or "E" that are currently in-service with operators holding a current letter of appointment issued by the patrol, not meeting the criteria for classification listed in this section will be allowed to remain on the rotation with those companies.
- (12) This section shall be effective on March 1, 2011.

WSR 24-13-056
PROPOSED RULES
GAMBLING COMMISSION
[Filed June 13, 2024, 10:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-07-075.

Title of Rule and Other Identifying Information: WAC 230-15-050 Minimum cash on hand requirements; new WAC 230-15-190 Paying out odds-based and fixed based prizes and 230-15-195 Keeping funds to pay fixed-based prizes.

Hearing Location(s): On August 8, 2024, at 9:30 a.m., at the Washington State Liquor and Cannabis Board, 1025 Union Avenue S.E., Olympia, WA 98501. The meeting time and location are tentative. Visit our website at www.wsgc.wa.gov approximately seven days prior to the meeting and select "About Us," and then "Upcoming commission meetings" to confirm the hearing date, location, start time, and agenda items.

Date of Intended Adoption: August 8, 2024.

Submit Written Comments to: Adam Amorine, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, www.wsgc.wa.gov, beginning June 13, 2024, 12:00 p.m., by August 7, 2024, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, www.wsgc.wa.gov, by August 7, 2024, 4:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules require card game licensees to exchange chips for cash unless the player requests payment by check; changes the formula for determining the minimum amount of cash required to be in the cage, safe, and/or vault for house-banked card rooms; allows for specific prizes to be paid by check; and requires house-banked card room licensees to have sufficient funds to pay fixed-based prizes offered.

Reasons Supporting Proposal: Currently, our rules require house-banked card game licensees to have sufficient cash on hand to redeem all chips issued for play and pay out all prizes. Staff has found that this existing formula may not be adequate for all house-banked card game licensees. Additionally, the new rules would allow for checks to be issued to certain winning players, which aims to mitigate potential safety concerns associated with a patron physically possessing a large amount of cash after winning a large prize.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Adam Amorine, Rules Coordinator, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3473; Implementation: Tina Griffin, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546; and Enforcement: Gary Drumheller, Deputy Director, 4565 7th Avenue S.E., Lacey, WA 98503, 509-325-7904.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required as this agency is not listed un-

der RCW 34.05.328 (5) (a) (i). Further, the gambling commission does not voluntarily make that section applicable to the adoption of this rule pursuant to the subsection (5) (a) (ii) and to date the joint administrative rules review committee has not made the section applicable to the adoption of this rule.

Scope of exemption for rule proposal:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule changes the formula for determining how much cash a card game licensee must have on hand and allows for licensees to write checks to winning patrons for large prizes. Associated costs to small business would revolve around the issuance of a check to certain winning patrons, which is not expected to exceed three-tenths of one percent of the business's annual revenue or income.

A copy of the detailed cost calculations may be obtained by contacting Adam Amorine, 4565 7th Avenue S.E., Lacey, WA 98503, phone 360-486-3473, email rules.coordinator@wsgc.wa.gov.

June 13, 2024

Adam Amorine

Legal Manager and Rules Coordinator

OTS-5382.3

AMENDATORY SECTION (Amending WSR 22-01-182, filed 12/20/21, effective 1/20/22)

WAC 230-15-050 Minimum cash on hand requirements. (1) Card game licensees must have sufficient cash on hand to redeem all chips issued for play ~~((and pay out all prizes))~~. Licensees must exchange chips brought to the cashier's cage by players for cash; however, the licensee must write a check for the balance of chips redeemed at the request of the player. Licensees must issue the check within 24 hours.

(2) Within three hours of opening for the business day, at a time included in the internal controls, house-banked card game licensees must have at least the following minimum amount of cash on premises in their cage, safe, and/or vault combined:

(a) ~~((One))~~ Two thousand dollars for each house-banked table on the gambling floor; plus

(b) ~~((The amount of the largest single prize available excluding progressive jackpot, player-supported jackpot, and house jackpot prizes-))~~ One percent times card room gross gambling receipts from the previous calendar year according to quarterly license reports submitted to the commission; however, a new house-banked card room who has not yet submitted a full calendar year of quarterly license reports must have at least \$30,000 for the purpose of this subsection.

For example: If a house-banked card room has 15 house-banked tables and ~~((a largest single prize of \$23,000, before opening, the cage))~~ their gross receipts were \$4,000,000 in their previous calendar year, they must have at least ~~(((\$38,000))~~ \$70,000 cash on hand: 15 ta-

bles $\times ((\$1,000)) \underline{\$2,000} = ((\$15,000)) \underline{\$30,000} + ((\text{largest single prize of } \$23,000 = \$38,000)) \underline{1\% \times \$4,000,000 = \$40,000}$.

(3) ~~((Except for the restrictions on player-supported jackpot pay outs in WAC 230-15-405 and progressive jackpot pay outs in WAC 230-15-690,))~~ Licensees may pay specific prizes by check if sufficient funds are available on deposit and they meet the restrictions in the rules below:

(a) WAC 230-15-405 - Player-supported jackpot prizes.

(b) WAC 230-15-690 - Progressive jackpot prizes.

(c) WAC 230-15-673 - House jackpot prizes.

(d) WAC 230-15-190 - Odds-based and fixed-based prizes.

(4) Failure to keep funds to cash in chips, pay prizes, or redeem gambling related checks is prima facie evidence of fraud. Meeting the minimum cage cash amount does not relieve the licensee from the requirement to have sufficient funds available to redeem all chips and pay out all prizes.

NEW SECTION

WAC 230-15-186 Paying out odds-based and fixed-based prizes.

(1) House-banked card room licensees must immediately pay out all individual odds-based and fixed-based prizes of \$5,000 or less.

(2) For individual odds-based and fixed-based prizes over \$5,000, licensees must immediately pay out a minimum of \$5,000 and pay the remaining balance within 24 hours by check. The player may request that the licensee pay up to the entire prize balance by check. Licensees must then issue a check for the entire prize balance within 24 hours.

NEW SECTION

WAC 230-15-187 Keeping funds to pay fixed-based prizes. House-banked card room licensees must maintain at least the amount of the single largest fixed-based prize offered in a bank, mutual savings bank, or credit union location in Washington. Alternatively, licensees may maintain the amount of the single largest fixed-based prize in cash on the licensed premises.

WSR 24-13-064
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Division of Child Support)
[Filed June 13, 2024, 5:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-09-039; and proposal is exempt under RCW 19.85.025(4).

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is amending WAC 388-14A-3375 to remove a reference to public assistance standards as a basis for the calculation of a credit for payments made for shelter care by a paying parent. The public assistance standards referenced in WAC 388-14A-3375 were established by the community services division (CSD) in WAC 388-478-0010, which was repealed in 2020.

Hearing Location(s): On July 25, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. See the DSHS website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than July 26, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on June 20, 2024, by 5:00 p.m. on July 25, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email Shelley.Tencza@dshs.wa.gov, by 5:00 p.m. on July 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under WAC 388-14A-3375, the division of child support (DCS) is authorized to provide several different types of credit towards a noncustodial parent's support obligations. One of these is a credit for payments made for shelter care before services of the administrative support establishment notice. The calculation of the credit is based on one-half of the actual shelter payment or on public assistance standards. The public assistance standards referenced in WAC 388-14A-3375 were established by CSD in WAC 388-478-0010 and have since been repealed. Public assistance standards can no longer be a basis for the credit. Removal of the reference is appropriate. DCS also proposes other technical edits in line with the office of the code reviser's drafting guidelines.

Reasons Supporting Proposal: This rule making ensures DCS and CSD WAC chapters and policies align and provide correct and current information to the general public.

Statutory Authority for Adoption: RCW 26.23.110, 34.05.220, 74.08.090, 74.20A.055, and 74.20A.056.

Statute Being Implemented: RCW 74.20A.055 and 74.20A.056.

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

Name of Proponent: DSHS, economic services administration, DCS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Monica Turnbaugh, DCS Rules Coordinator, DCS Headquarters, P.O. Box 9162, Olympia, WA 98507-9162, 360-664-5339.

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

A cost-benefit analysis is not required under RCW 34.05.328. Although this rule may meet the definition of a significant legislative rule under RCW 34.05.328, the requirement for a cost-benefit analysis does not apply because it is a DSHS rule relating only to liability for care of dependents (RCW 34.05.328 (5)(b)(vii)).

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

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

Is exempt under RCW 19.85.025(4).

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

Explanation of exemptions: This proposal does not affect small businesses. This rule is exempt under RCW 34.05.328 (5)(b)(vii) - Rules of the department of social and health services ... concerning liability for care of dependents.

Scope of exemption for rule proposal:

Is fully exempt.

June 11, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5037.1

AMENDATORY SECTION (Amending WSR 03-20-072, filed 9/29/03, effective 10/30/03)

WAC 388-14A-3375 What kinds of credits does the division of child support give when establishing or enforcing an administrative support order? (1) After the noncustodial parent (NCP) has been advised of the requirement to make payments to the Washington state support registry (WSSR) by service of a support establishment notice, or by entry of a support order requiring payments to WSSR, the NCP may obtain credit against the support obligation only:

(a) By cash, check, electronic funds transfer, or money order payments through WSSR or payment of health insurance premiums; or

(b) As provided under subsections (3) and (6) of this section.

(2) The division of child support (DCS) allows credit against a NCP's support debt for family needs provided directly to a custodial parent (CP), a child, or provided through a vendor or third party only when the:

(a) Items are provided before service of the notice on the NCP;

(b) NCP proves the items provided were intended to satisfy the NCP's support obligation; and

(c) Items are food, clothing, shelter, or medical attendance directly related to the care, support, and maintenance of a child.

(3) After service of the notice, an NCP may obtain credit against the parent's current support obligation only when the NCP proves that the payments were made and:

(a) DCS determines there(÷

~~(i) Is~~) is no prejudice to:

~~((A))~~ (i) The CP, a child, or other person; or

~~((B))~~ (ii) An agency entitled to receive the support payments ~~(-)~~; and

~~((ii) Are special)~~ (b) Special circumstances of an equitable nature ~~((justifying))~~ justify credit for the parent's payments ~~(-)~~; or

~~((b))~~ (c) A court of competent jurisdiction determines credit should be granted after a hearing where all interested parties were given an opportunity to be heard.

(4) DCS does not allow credit for shelter payments made before service of the notice in an amount more than ~~((the greater of the:~~

~~(a) Shelter allocation in the public assistance standards for the period when payments were made; or~~

~~(b) One-half))~~ one-half of the actual shelter payment.

(5) DCS does not allow credit for shelter payments made after service of the notice.

(6) DCS applies credits for dependent benefits allowed under RCW 26.18.190 as required by WAC 388-14A-4200.

WSR 24-13-074

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed June 17, 2024, 6:27 a.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [24-14](#) issue of the Register.

WSR 24-13-077

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed June 17, 2024, 10:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-10-036.

Title of Rule and Other Identifying Information: WAC 182-513-1530
Maximum guardianship fee and related cost deductions allowed from a
client's participation or room and board on or after June 1, 2018.

Hearing Location(s): On July 25, 2024, at 10:00 a.m. The health
care authority (HCA) holds public hearings virtually without a physi-
cal meeting place. To attend the virtual public hearing, you must reg-
ister in advance [https://us02web.zoom.us/webinar/register/
WN_FRLlFL6qQX-1LcrASjQ3Lw](https://us02web.zoom.us/webinar/register/WN_FRLlFL6qQX-1LcrASjQ3Lw). If the link above opens with an error mes-
sage, please try using a different browser. After registering, you
will receive a confirmation email containing information about joining
the public hearing.

Date of Intended Adoption: Not sooner than July 26, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box
42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727,
beginning June 18, 2024, 8:00 a.m., by July 25, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson,
phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay serv-
ice 711, email Johanna.Larson@hca.wa.gov, by July 12, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including
Any Changes in Existing Rules: HCA is amending WAC 182-513-1530 to up-
date a statutory citation.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

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

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

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

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The rule proposal corrects a statutory
cross reference in the rule and imposes no costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

June 17, 2024
Wendy Barcus
Rules Coordinator

OTS-5237.1

AMENDATORY SECTION (Amending WSR 18-10-024, filed 4/24/18, effective 6/1/18)

WAC 182-513-1530 Maximum guardianship fee and related cost deductions allowed from a client's participation or room and board on or after June 1, 2018. (1) General information.

(a) This section sets the maximum guardianship fee and related cost deductions when:

(i) A court order was entered on or after June 1, 2018; or

(ii) The client under guardianship began receiving medicaid-funded long-term services and supports on or after June 1, 2018.

(b) This section only applies to a client who is:

(i) Eligible for and receives institutional services under this chapter (~~(182-513-WAC)~~) or home and community-based waiver services under chapter 182-515 WAC, and who is required to pay participation under WAC 182-513-1380, 182-515-1509, or 182-515-1514; or

(ii) Eligible for long-term services and supports under this chapter (~~(182-513)~~) or chapter 182-515 WAC, and who is required to pay only room and board.

(c) All requirements of this section remain in full force whether or not the agency appears at a guardianship proceeding.

(d) In this section, the agency does not delegate any authority in determining eligibility or post-eligibility for medicaid clients.

(i) Under the authority granted by chapter 11.130 RCW (~~(11.92.180)~~), the agency does not deduct more than the amounts allowed by this section from participation or room and board.

(ii) The eligibility rules under Title 182 WAC remain in full force and effect.

(e) The agency does not reduce a client's participation or room and board under this section for guardianship fees or related costs accumulated during any month that a client was not required to pay:

(i) Participation under WAC 182-513-1380, 182-515-1509, or 182-515-1514; or

(ii) Room and board under this chapter (~~(182-513)~~) or chapter 182-515 WAC.

(f) If the client has another fiduciary, payee, or other principal-agency relationship and the agent is allowed compensation, any monthly guardianship fee approved under this section is reduced by the agent's compensation.

(2) Maximum guardianship fee and related cost deductions.

(a) The maximum guardianship fee and related cost deductions under this section include all guardianship services provided to the client, regardless of the number of guardians appointed to a client during a period of time, or whether the client has multiple guardians appointed at the same time.

(b) Maximum guardianship fees and related cost deductions are as follows:

(i) The total deduction for costs directly related to establishing a guardianship for a client cannot exceed \$1,850;

(ii) The total deduction for guardianship-related costs cannot exceed \$1,200 during any three-year period; and

(iii) The amount of the monthly deduction for guardianship fees cannot exceed \$235 per month.

(3) For people under subsection (1)(b)(i) of this section - Participation deductions.

(a) After receiving the court order, the agency or its designee adjusts the client's current participation to reflect the deductions under WAC 182-513-1380, 182-515-1509, or 182-515-1514.

(b) The amounts of the participation deductions are the amounts under subsection (2) of this section, or the court order, whichever are less.

(c) For clients who pay room and board in addition to participation, if the client's amount of participation is insufficient to allow for the amounts under subsection (2) of this section, then, regardless of any provision of this chapter (~~182-513~~) or chapter 182-515 WAC, the client's room and board will be adjusted to allow the amounts under subsection (2) of this section.

(4) For people under subsection (1)(b)(ii) of this section - Room and board deductions.

(a) The agency adjusts the client's room and board after receiving the court order, regardless of any provision of this chapter (~~182-513~~) or chapter 182-515 WAC.

(b) The amounts of the room and board deductions are the amounts under subsection (2) of this section, or the court order, whichever are less.

WSR 24-13-080
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed June 17, 2024, 11:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-10-059.

Title of Rule and Other Identifying Information: Chapter 388-823 WAC, Developmental disabilities administration intake and eligibility determination.

Hearing Location(s): On August 6, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. See the department of social and health services (DSHS) website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than August 7, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on June 20, 2024, by 5:00 p.m. on August 6, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on July 23, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration (DDA) is amending these rules to implement 2SHB 2008, which directs DDA to remove intelligence quotient (IQ) criteria from DDA enrollment processes. Additional changes have been made to combine and repeal redundant sections in the chapter, clarify language, and update intake and eligibility processes.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 71A.10.020, 71A.16.020, and 74.08.090.

Statute Being Implemented: RCW 71A.10.020, 71A.16.020, and 74.08.090.

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

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: William Nichol, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1583.

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

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(vii), a cost-benefit analysis is not required for rules that relate only to client medical or financial eligibility. Chapter 388-823 WAC establishes medical criteria for determining DDA eligibility.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Rules of DSHS relating only to client medical or financial eligibility and rules concerning liability for care of dependents.

Scope of exemption for rule proposal:

Is fully exempt.

June 11, 2024
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [24-14](#) issue of the Register.

WSR 24-13-113

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed June 20, 2024, 8:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-04-021.

Title of Rule and Other Identifying Information: J-1 physician visa waiver rules. The department of health (department) is proposing a rewrite and reorganization of chapter 246-562 WAC to clarify and update rules about J-1 physician visa waivers. The proposed changes address applicant criteria, clarify deadlines to receive applications, describe the application review process, create a scoring methodology, and include criteria for letters of attestation.

Hearing Location(s): On August 1, 2024, at 9:00 a.m., at the Department of Health, Town Center 2, Room 166/167, 111 Israel Road S.E., Tumwater, WA 98501; or virtual. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_A3MecocaTj2nFkkv0y3fWA. After registering, you will receive a confirmation email containing information about joining the webinar. Participants can attend in person at the physical location or virtually by registering on Zoom.

Date of Intended Adoption: August 13, 2024.

Submit Written Comments to: Sarah Gambrill, P.O. Box 47853, Olympia, WA 98504-7853, email <https://fortress.wa.gov/doh/policyreview/>, beginning on the date and time of this filing, by August 1, 2024, at midnight.

Assistance for Persons with Disabilities: Contact Sarah Gambrill, phone 564-669-1697, TTY 711, email J1VisaWaiver@doh.wa.gov, by July 30, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing a reorganization of chapter 246-562 WAC to update language for general clean up and clarification. The proposed language and organization updates will better reflect the purpose and intent of the J-1 visa waiver program.

The proposed rule making addresses the need for more available specialist waiver slots earlier in the fiscal year; this allows for prioritization of waiver placement based on physician practices, employers, and communities that are in the most need across Washington state. The proposed rule making will also provide a list of requirements and expectations for requesting letters of attestation and letters of completion.

Reasons Supporting Proposal: Rules in chapter 246-562 WAC, Physician visa waiver, were last revised in 2016. The proposed rule making is necessary to bring this chapter up to date, reorganize the sections for structure and clarity, and clarify the changes in physician practice and the need for physicians across Washington state.

Due to the implementation of the United States Department of Health and Human Services waiver program, the number of primary care waiver applications received by the Washington state J-1 visa waiver program has drastically decreased in the last three years. The proposed rule making will address the need for more available specialist waiver slots earlier in the fiscal year.

Scoring applications based on an adaptable scoring criterion will allow the department to prioritize waiver placements for areas and employers in Washington state in most need of physicians and to prioritize specific physician practices in critical need. In the last year, the department has received approximately 35 requests for letters of

attestation. Including requirements for letters of attestation and letters of completion in chapter 246-562 WAC will ensure that the department writes letters for physicians committed to working in underserved areas of Washington state under the guidelines of each federal agency waiver program and for physicians that have complied with the J-1 visa waiver program guidelines while serving their three-year service obligation.

Statutory Authority for Adoption: RCW 70.185.040.

Statute Being Implemented: Chapter 70.185 RCW.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sarah Gambrill, 111 Israel Road S.E., Tumwater 98501, 564-669-1697.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt from analysis according to RCW 34.05.328 (5)(b)(iv) because it clarifies language of a rule without changing its effect and RCW 34.05.328 (5)(b)(ii) because it describes internal governmental operations.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: The proposed rule clarifies the language of the rule without changing its effect, and describes internal governmental operations.

Scope of exemption for rule proposal:

Is fully exempt.

June 10, 2024
 Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-5475.3

AMENDATORY SECTION (Amending WSR 16-17-060, filed 8/12/16, effective 10/1/16)

WAC 246-562-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Applicant" means an entity with an active Washington state business license, physically located in Washington state, that ((provides)) has provided health care services for a minimum of 12 months and seeks to employ a physician at a Washington state practice loca-

tion(s) and is requesting (~~(state sponsorship or concurrence of a)~~) the department to provide a favorable recommendation to accompany their J-1 visa waiver application.

(2) "Board eligible" means having satisfied the requirements necessary to sit for board examinations.

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

(4) "Direct patient care" means providing care to patients for the purpose of prevention, diagnosis, treatment, and monitoring of disease.

(5) "Employment contract" means a legally binding agreement between the applicant and the physician named in the visa waiver application that contains all terms and conditions of employment including, but not limited to, the salary, benefits, length of employment and any other consideration owing under the agreement.

~~((5))~~ (6) "Flex waiver" means a ((minimum forty)) waiver sponsorship for a physician who will practice medicine at a location outside a designated HPSA that serves significant numbers or percentages of patients who reside in designated HPSAs.

(7) "Full-time" means the equivalent of 40 hours of medical practice per week, or 160 hours per month, not including call coverage, consisting of at least ((thirty-two)) 32 hours ((seeing patients)) providing direct patient care on an ambulatory or in-patient basis and may include up to eight hours administrative work for at least ((forty-eight)) 48 weeks per year.

~~((6))~~ (8) "Health professional shortage area" or "HPSA" means an area federally designated as having a shortage of primary care physicians or mental health ~~((care))~~ providers.

~~((7))~~ (9) "Hospitalist" means a physician ~~((, usually an internist,))~~ who specializes in the care of hospitalized patients.

~~((8))~~ "Integrated health care system (system)" means an organized system in which more than one health care entity participates, and in which the participating entities:

~~(a) Hold themselves out to the public as participating in a joint arrangement; and~~

~~(b) Participate in joint payment activities, such as clinics where a physician group charges a professional fee and a hospital charges a facility fee.~~

~~((9))~~ (10) "J-1 visa waiver program" or "program" refers to the department program that coordinates and sponsors J-1 visa waivers.

(11) "Low income" means ~~((that a family's))~~ a total family household income that is less than ~~((two hundred))~~ 200 percent of the federal poverty level as defined by the ~~((U.S. Federal Poverty Guidelines published annually))~~ annual federal poverty guidelines.

~~((10))~~ (12) "Physician" means the foreign physician eligible to be licensed under chapter 18.71 or 18.57 RCW named in the visa waiver application, who requires a waiver to remain in the United States to practice medicine.

~~((11))~~ (13) "Practice location" means the physical location(s) where the visa waiver physician will work.

~~((12))~~ (14) "Primary care physician" means a physician board certified or board eligible in family practice, general internal medicine, pediatrics, obstetrics/gynecology, geriatric medicine, or psychiatry. Physicians who have completed ~~((any))~~ subspecialty or fellowship training, excluding ~~((OB))~~ obstetrics or geriatric training, are not considered primary care physicians for the purpose of this chapter.

~~((13))~~ (15) "Publicly funded employers" means organizations such as public hospital districts, community health centers, local, state, or federal governmental institutions or correctional facilities, who have an obligation to provide care to underserved populations.

~~((14))~~ (16) "Sliding fee discount schedule" means a written delineation documenting the value of charge discounts granted to patients based upon patients with family income up to ~~((two hundred))~~ 300 percent of the annual federal poverty guidelines.

~~((15))~~ (17) "Specialist" means a physician board certified or board eligible in a specialty other than family practice, general internal medicine, pediatrics, obstetrics/gynecology, geriatric medicine, or psychiatry ~~((+))~~ who do not meet the ~~((current))~~ definition of "primary care ~~((for the waiver program))~~ physician" as defined above.

~~((16))~~ (18) "Sponsorship" means a request by the department on behalf of an applicant to federal immigration authorities to grant a J-1 visa waiver for the purpose of recruiting and retaining physicians.

~~((17))~~ (19) "Telehealth" means a mode of delivering health care services using telecommunications technologies by a practitioner to a patient at a different physical location than the practitioner. Telehealth includes real-time interactive health care services and remote monitoring.

(20) "Vacancy" means a full-time physician practice opportunity that is based on a long-standing opening, a planned retirement, a loss of an existing physician, or an expansion of physician services in the service area.

~~((18))~~ (21) "Visa waiver" means a federal action that waives the requirement for a foreign physician, in the United States on a J-1 visa, to return to his/her home country for a two-year period following medical residency or fellowship training.

NEW SECTION

WAC 246-562-015 Intent of the visa waiver program. (1) The purpose of the J-1 visa waiver program is:

(a) To increase access to physicians for low income, medicaid-covered and otherwise medically underserved individuals;

(b) To increase the availability of physician services in existing federally designated HPSA for applicants that have long standing vacancies;

(c) To improve access to physician services for communities and specific underserved populations experiencing difficulties obtaining physician services; and

(d) To serve Washington communities that have identified a physician currently holding a J-1 visa as an ideal candidate to meet the community's need for health care services.

(2) The visa waiver program is intended as a secondary source for recruiting qualified physicians and is not intended as a substitute for recruiting graduates from U.S. medical schools.

(3) Sponsorship may be offered to applicants that can provide evidence of sustained active recruitment for the vacancy in the practice location for a physician who has specific needed skills, consistent with the rules established in this chapter.

(4) Sponsorship is intended to support introduction of physicians into practice settings that promote continuation of the practice beyond the initial contract period.

(5) The J-1 visa waiver program will be used to assist applicants that provide care to all residents of the federally designated HPSA. When a HPSA designation is for a population group as approved by the federal Health Research and Services Administration as defined by 42 C.F.R. Part 5, Appendices A or C, the applicant must provide care to the population group.

AMENDATORY SECTION (Amending WSR 16-17-060, filed 8/12/16, effective 10/1/16)

WAC 246-562-020 Authority to sponsor visa waivers. (1) The department may assist communities to recruit and retain physicians, or other health care professionals, as directed in chapter 70.185 RCW, ~~((by exercising an option provided in federal law. This option allows the department to sponsor a limited number of visa waivers)) and as provided in 22 C.F.R. Sec. 41.63 by sponsoring up to the number of allowable visa waivers as authorized by the federal government each federal fiscal year if certain conditions are met.~~

~~(2) ((The department may acknowledge and support as needed sponsorship proposed by federal agencies, including the United States Department of Health and Human Services.~~

~~(3) The department may carry out a visa waiver program, or, in the event of resource limitations or other considerations, may discontinue the program. Purposes of the program are:~~

~~(a) To increase the availability of physician services in existing federally designated health professional shortage areas (HPSA) for applicants that have long standing vacancies;~~

~~(b) To improve access to physician services for communities and specific underserved populations that are having difficulty finding physician services;~~

~~(c) To serve Washington communities that have identified a physician currently holding a J-1 visa as an ideal candidate to meet the community's need for health care services.~~

~~(4) The department may only sponsor a)) Federal law allows states to sponsor a limited number of Flex waivers.~~

~~(3) The department may provide letters of attestation for visa waiver applications sponsored by federal agencies, including the United States Department of Health and Human Services, and the Physician National Interest Waiver program.~~

~~(4) The department may exercise its discretion to sponsor a J-1 visa waiver request only when:~~

~~(a) The ((application contains)) applicant provides all of the required information and documentation on the department application and provides all supporting documents as required in this chapter; and~~

~~(b) ((The application)) When the applicant meets the criteria contained in this chapter((;~~

~~(c) For applicants that have benefited from department sponsorship previously,~~

~~(5) In the event an applicant has previously participated in the J-1 visa waiver program, the department may consider the applicant's history of compliance ((will be a consideration in future sponsorship decisions.~~

~~(5) Prior to submission of an application, the department may provide information on preparing a complete application) with program rules and regulations.~~

~~(6) In any single federal fiscal year, the department ((will)) may limit the number of sponsorships granted to each ((applicant. Applicants, including integrated health care systems, in a single HPSA:~~

~~(a) Will not be allotted more than two sponsorships per practice location;~~

~~(b) Will not be allotted more than one hospitalist sponsorship per hospital;~~

~~(c) Will not be allotted more than three sponsorships total across all practice locations in the HPSA between October 1st and May 31st of the federal fiscal year.~~

~~(7) Applicants located outside designated HPSAs will be allotted no more than three sponsorships across all practice locations in a single county.~~

~~(8) Between October 1st and March 31st of the federal fiscal year the department will grant not more than ten specialist waivers. Any waiver sponsorships that remain unfilled on April 1st of each federal fiscal year will be available to both primary care and specialist physicians consistent with the provisions of this chapter.~~

~~(9) Starting January 15th of each federal fiscal year, the department will consider applications for physicians intending to practice in areas without a HPSA designation for applicants that meet the criteria in WAC 246-562-075.~~

~~(10) Starting June 1st of each federal fiscal year, the department will consider applications for additional sponsorships from applicants who have already received their maximum three waivers in a single HPSA) location and applicant.~~

~~(7) In the event of resource limitations or other considerations, the department may choose to discontinue the program.~~

((Type of sponsorship	Application timeline and conditions
Primary care in HPSA	Available starting Oct. 1 until state reaches annual federal cap
Specialist in HPSA	Limited to 10 sponsorships from Oct. 1 - March 31, no restriction starting April 1 until state reaches annual federal cap
Nondesignated area (FLEX waiver)	Available starting Jan. 15, limited to 10 total in a federal fiscal year
More than 3 waivers for a single applicant in a single HPSA	Available starting June 1 until state reaches annual federal cap))

AMENDATORY SECTION (Amending WSR 16-17-060, filed 8/12/16, effective 10/1/16)

WAC 246-562-060 Criteria for applicants. (1) Applicants ((must:

~~(a) Be licensed to do business in Washington state; and~~

~~(b) Have provided medical care in Washington state for a minimum of twelve months prior to submitting the application.~~

~~(2) Applicants may be for-profit, nonprofit, or government organizations.~~

~~(3)) and physicians must meet all federal criteria for international medical graduates seeking a visa waiver including the criteria established in 8 U.S.C. Sec. 1182(e), 8 U.S.C. Sec. 1184(1), and 22 C.F.R. Sec. 41.63(e).~~

~~(2) Except for state psychiatric or correctional facilities, the applicant must:~~

- ~~(a) Currently serve:~~
 - ~~(i) Medicare clients;~~
 - ~~(ii) Medicaid clients;~~
 - ~~(iii) Low-income clients; and~~
 - ~~(iv) Uninsured clients(, and~~

~~(v) The population of the federal designation, if applicable).~~

~~(b) Accept all patients regardless of the ability to pay.~~

~~(c) Demonstrate that during the ((twelve)) 12 months prior to submitting the application, the practice location(s) where the physician will work provided a minimum of ((fifteen)) 15 percent of total patient visits to medicaid and other low-income clients. Clients dually ((eligible)) enrolled for medicare and medicaid may be included in this total.~~

~~((e) Have or agree to)) (d) Implement and maintain a sliding fee discount schedule for ((the)) each practice location(s) in which the J-1 visa waiver ((application)) physician will work. The schedule must be:~~

~~(i) Available in ((the client's principal)) any language ((and English)) spoken by more than 10 percent of the population in the practice location's service area;~~

~~(ii) Posted ((conspicuously)) or prominently displayed within public areas of the practice location(s);~~

~~(iii) Distributed in hard copy upon patient request; and~~

~~(iv) Updated annually to reflect the most recent federal poverty guidelines.~~

~~(3) If the applicant does not charge patients, then subsection (2)(d) of this section does not apply.~~

~~(4) Applicants must ((provide documentation demonstrating that the employer made a good faith effort to recruit a qualified graduate of a United States medical school for a physician vacancy in the same salary range.~~

~~(a)) demonstrate that they engaged in active recruitment, specific to the location and physician specialty, ((must be for a period of not less than)) a total or aggregate of at least six months in the ((twelve months)) 12-month period immediately prior to signing an employment contract with the J-1 visa waiver physician. ((Active recruitment documentation can include one or more of the following:~~

~~(i) Listings in national publications;~~

~~(ii) Web-based advertisements;~~

~~(iii) Contractual agreement with a recruiter or recruitment firm;~~

~~or~~

~~(iv) Listing the position with the department recruitment and retention program.~~

~~(b) In-house job postings and word-of-mouth recruitment are not considered active recruitment for the purpose of the J-1 physician visa waiver program.))~~

~~(5) Applicants must have a signed employment contract with the physician(. The employment contract must:~~

~~(a) Meet~~) that meets state and federal requirements throughout the period of obligation, regardless of physician's visa status (~~(+ (b))~~). The employment contract must:

(a) Identify the physician's name.

(b) Identify the name and address of the proposed practice location(s).

(c) Identify the nature of services to be provided by the physician.

(d) Describe duties to be provided by the physician.

(e) Specify the wages, working conditions, and benefits.

(f) Include a statement of the federal HPSA to be served.

(g) Specify a minimum three-year period of full-time employment.

(h) State that the physician agrees to begin employment within 90 days of visa waiver approval.

(i) Not prevent the physician from providing medical services in the designated HPSA after the term of employment including, but not limited to, noncompetition clauses (~~(; and~~

(c) Specify the three year period of employment.

~~(6) Any amendments made to the required elements of the employment contract under subsection (5) of this section during the first three years of contracted employment must be reported to the department for review and approval. The department will complete review and approval of such amendments within thirty calendar days of receipt).~~

(j) State that the physician:

(i) Will provide care to medicaid, medicare, and other low-income patients;

(ii) Must see all patients regardless of ability to pay based on sliding fee scale; and

(iii) Meets all requirements set forth in 8 C.F.R. Sec. 214.1 of the Immigration Nationality Act.

~~((7))~~ (6) Applicants must pay the physician at least the required wage rate as referenced by the federal Department of Labor at 20 C.F.R. Sec. 655.731(a) for the specialty in the area or as set by negotiated union contract.

~~((8))~~ (7) If the applicant has previously requested sponsorship of a physician, WAC 246-562-020 ((4)(e)) (5) will apply.

~~((9) Applicants must submit status reports to the department every twelve months, with required supporting documentation, during the initial term of employment.~~

~~(10) Physicians with a J-1 visa waiver must submit annual surveys to the department during their obligation period and a final survey one year after they complete their obligation so that the department can evaluate physician retention.~~

~~((11))~~ (8) Applicants must cooperate in providing the department with clarifying information, verifying information already provided, or in any investigation of the applicant's financial status.

(9) Applications for a specialist physician must include a letter from the applicant. The letter must:

(a) Be on the organization's letterhead;

(b) Identify the physician by name;

(c) Demonstrate a need for the nonprimary care specialty by using available data to show how the physician specialty is needed to address a major health problem in the practice location service area, address a population to provider ratio imbalance, or meet government requirements such as trauma designation regulations;

(d) Describe how this specialty will link patients to primary care physicians;

(e) Describe how the demand for the specialty has been handled in the past;

(f) Be signed and dated by the head of the organization; and

(g) Describe the practice location's referral system that includes:

(i) On-call sharing; and

(ii) How patients from other health care entities in the service area, specifically publicly funded employers, will be able to access the sponsored physician's services.

(10) Applicants applying for a specialist physician must provide written notice to the department and all publicly funded employers in the applicant's HPSA within 30 days of the sponsored physician's start-date of employment. The notice must include:

(a) The employer and physician's name, employment start date, and practice location;

(b) Specialty and services to be provided; and

(c) Identification of accepted patients, such as medicaid, medicare, and the availability of a sliding fee schedule.

AMENDATORY SECTION (Amending WSR 16-17-060, filed 8/12/16, effective 10/1/16)

WAC 246-562-070 Criteria for ~~((the proposed)) practice locations ((to be served by the physician))~~. (1) ((The)) All proposed practice location(s) must be an existing practice location in Washington state for at least 12 months prior to application submittal.

(2) All proposed practice location(s) provided in the application will be counted toward the maximum number of sponsorships allotted as described in WAC 246-562-095 (6) (a).

(3) Any proposed practice location(s) must be located in:

(a) A federally designated primary care HPSA(s) in Washington state; or

(b) A federally designated mental health HPSA(s) in Washington state for psychiatrists ~~((; or~~

~~(c) A state operated psychiatric or correctional facility.~~

~~(2) If the federal designation is based on a specific population, the applicant must serve the designated population)) applications.~~

~~((3)) (4) Local, state, or federal institutions that are federally designated with a facility designation may request state sponsorship. Physician services may be limited to the population of the institution. All other state and federal requirements must be met.~~

(5) If the practice location is not located in a federally designated HPSA or a state correctional or psychiatric institution, then the applicant must ~~((meet the criteria in WAC 246-562-075.~~

~~(4) The practice location named in the visa waiver application may be an existing practice location or a new practice location. If a new practice location is planned, the additional criteria in (a) through (c) of this subsection apply. New practice locations must:~~

~~(a) Have the legal, financial, and organizational structure necessary to provide a stable practice environment, and must provide a business plan that supports this information;~~

~~(b) Support a full-time physician practice;~~

~~(c) Have written referral plans that describe how patients using the new location will be connected to other care if needed)) apply for a Flex waiver.~~

(6) Successful Flex waiver applicants must be able to document:

- (a) Their practice location's service area and to what extent they provide services to residents of surrounding designated HPSAs;
- (b) The percentage of the sponsored physician's patient panel reasonably expected to be medicaid and medicare patients given current use of the service and practice location by those populations;
- (c) How the applicant will ensure access to this physician for low-income or uninsured patients;
- (d) If there is a unique practice area or substantial referral network making the physician a statewide resource for certain medical conditions; and
- (e) If the physician has language skills that will benefit patients at the practice location.

AMENDATORY SECTION (Amending WSR 16-17-060, filed 8/12/16, effective 10/1/16)

WAC 246-562-080 Criteria for ((the)) physician. (1) The physician seeking a recommendation for a J-1 visa waiver from Washington state must not have a J-1 visa waiver application pending for any other employment offer ~~((The physician))~~ and must provide a letter attesting that no other applications are pending.

(2) The physician must have the qualifications described in recruitment efforts for ~~((a))~~ the specific vacancy.

(3) The physician is considered eligible to apply for a waiver when:

(a) The physician has successfully completed a residency or fellowship program; or

(b) The physician is in the final year of a residency or fellowship program, and the physician provides a letter from their training program that:

(i) Is on the program's letterhead;

(ii) Identifies the date the physician will complete the residency or fellowship program; ((and

~~(ii))~~ (iii) Confirms the physician is in good standing with the program;

(iv) Is signed and dated by the head of the program; and

(v) Includes contact information for signee.

(4) The physician must provide full-time direct patient care.

(5) The physician must comply with all provisions of the employment contract set out in WAC 246-562-060.

(6) The physician must:

(a) Accept medicaid assignment; post and implement a sliding fee discount schedule; serve the low-income population; serve the uninsured population; and serve the HPSA designation population; or

(b) Serve the population of a local, state, or federal governmental psychiatric or corrections facility as an employee of the institution.

(7) The physician must have an active and unrestricted medical license under chapter 18.71 or 18.57 RCW without any pending enforcement action cases. The applicant may substitute a copy of the license application and request an exception if the application was submitted to the Washington ~~((state))~~ medical ~~((quality assurance))~~ commission or Washington state board of osteopathic medicine and surgery ~~((four or more weeks))~~ prior to submission of the visa waiver application.

- (8) The physician must be an active candidate for board certification on or before the start date of employment.
- (9) The physician must provide the following documentation:
- (a) A current Curriculum Vitae;
 - (b) U.S. Department of State Data Sheet, Form DS-3035;
 - (c) All U.S. Department of State DS-2019 Forms (Certificate of Exchange visitor status);
 - (d) A physician attestation statement described in subsection (1) of this section;
 - (e) A no objection statement or statement that the physician is not contractually obligated to return to their home country;
 - (f) A personal statement from the physician regarding the reason for requesting a waiver;
 - (g) All U.S. Citizenship and Immigration Services (USCIS) I-94 Entry and Departure cards; and
 - (h) USCIS Form G-28 Notice of Entry of Appearance from an attorney, when applicable.
- (10) The statements required in subsection (9)(e) and (f) of this ((subsection)) section may be on a form provided by the department or other format that provides ((substantially)) the same information as the department form.
- (11) Physicians who have completed additional subspecialty training are not eligible for a primary care waiver, except for geriatric medicine, obstetrics, and psychiatry. Continuing medical education (CME) will not be considered subspecialty training for the purposes of this rule.

NEW SECTION

- WAC 246-562-095 Application submittal.** (1) Notwithstanding any other provisions of this chapter, this rule governs the allocation of departmental J-1 visa waiver sponsorships of specialists and primary care physicians during the federal fiscal year, which begins on October 1st of each year.
- (2) The department will accept complete applications during an application review period of October 1st through October 15th of each year.
- (3) The department may open an additional application review period from November 15th through September 1st if waiver slots are available.
- (4) The application review period will be announced on the department's website at least 10 business days prior to the start date of the application review period.
- (5) Flex waiver applications will only be received beginning January 1st of each year if waiver slots are available.
- (6) From October 1st through October 15th of each year, applicants will not be allotted more than:
- (a) Two sponsorships per practice location(s); and
 - (b) Three waiver sponsorships, including integrated health care systems.
- (7) The primary application package must be submitted electronically to the department. Instructions on how to submit electronic applications will be available on the department's website.
- (8) A secondary application package must be mailed or sent by commercial carrier, as long as the U.S. Department of State requires a

paper application. The mailing address will be available on the department's website.

(9) Applications must be completed, meet all state and federal requirements, and must include all required documents as specified in the department application form. Application forms will be available on the department's website.

NEW SECTION

WAC 246-562-115 Application review process. (1) During the application review period of October 1st through October 15th, the following review process will apply.

(a) Applications that are ineligible or incomplete will be returned to the applicant and will not be considered for scoring. The applicant is solely responsible for ensuring that their application is complete to avoid the possibility of denial.

(b) Complete and eligible applications will undergo a full review and will be scored using the weighted scoring method posted on the department's website.

(2) Applications received during the potential review period of November 15th through September 1st will be reviewed on a first-come, first-served basis and will not undergo scoring.

(3) The department may request additional clarifying information or verify information presented in the application and may consider information outside of the submitted application during the review and scoring process.

(4) The department will use the following criteria to score and prioritize applications:

(a) Geographic location;

(b) Facility type;

(c) Specialty type;

(d) Percentage of medicaid and other low-income patients served;

and

(e) HPSA designation score.

(5) The department will publish a publicly available scoring rubric each year identifying how the criteria outlined in subsection (4) of this section will be weighted.

(6) In the event the department identifies a further need for specific physician services consistent with the intent of this chapter, the department may identify additional criteria or factors by which to score applications.

(7) In the event the department identifies any additional criteria, this criteria will be made publicly available at least 90 days prior to the applicable application review period.

(8) Sponsorships will be provided to applicants according to score.

(9) If applications receive the same score for the last available waiver slot, the applications will be reevaluated based on the scoring criteria described in subsection (4) of this section. If they still receive the same score, priority will be given in the following order:

(a) Highest percentage of medicaid and other low-income patients served;

(b) Highest HPSA designation score; and

(c) Physicians that trained or completed their residency or fellowship training in Washington state.

(10) If, after the reevaluation in subsection (9) of this section, there are applications that have equal scores for the last available waiver, the secretary of health, or the secretary's designee, will select the final applicant(s).

AMENDATORY SECTION (Amending WSR 16-17-060, filed 8/12/16, effective 10/1/16)

WAC 246-562-120 Department ((review and action)) decision. (1)
(~~The department will review applications for completeness in the date order received.~~

~~(2) Applications must be mailed, sent by commercial carrier, or delivered in person as long as the U.S. Department of State requires a paper application.~~

~~(3) The department may limit the time period during which applications may be submitted including cutting off applications after the state has sponsored all applications allowed in a given federal fiscal year.~~

~~(4) If the department receives more complete applications than the number of available waiver slots, priority will be given in the following order:~~

~~(a) Applications submitted by state psychiatric or correctional facilities;~~

~~(b) Applications for physicians working in outpatient primary care practice locations that:~~

~~(i) Are located in a HPSA;~~

~~(ii) Serve the highest percentage of medicaid and other low-income patients; and~~

~~(iii) Are not eligible for another visa waiver program.~~

~~(c) Applications for physicians working in outpatient specialty care practice locations that:~~

~~(i) Are located in a HPSA; and~~

~~(ii) Serve the highest percentage of medicaid and other low-income patients.~~

~~(5) The department will review applications within ten working days of receipt of the application to determine if the application is complete.~~

~~(6) The department will notify the applicant if the application is incomplete and will provide an explanation of what items are missing.~~

~~(7) Applicants with incomplete applications can submit additional documentation; however, the application will not be considered for approval until missing items are received and the application will not retain the date order.~~

~~(8) The department will return applications that are received after the maximum number of sponsorships have been approved. This does not apply to copies of other federal visa wavier applications.~~

~~(9) If an applicant who has already received three sponsorships submits additional applications before June 1st, the department will return the applications. Starting on June 1st these additional applications will be accepted for consideration if the department still has waiver sponsorships available.~~

~~(10) If the Washington state license under chapter 18.71 or 18.57 RCW is pending at the time the application is submitted to the department, the department may:~~

- ~~(a) Sponsor or concur;~~
- ~~(b) Hold the application in order received; or~~
- ~~(c) Return the application as incomplete.~~

~~(11) The department will review complete applications against the criteria specified in this chapter.~~

~~(12) The department may:~~

- ~~(a) Request additional clarifying information;~~
- ~~(b) Verify information presented;~~
- ~~(c) Investigate financial status of the applicant;~~

~~(d) Return the application as incomplete if the applicant does not supply requested clarifying information within thirty days of request. Incomplete applications must be resubmitted. Resubmitted applications will be considered new applications and will be reviewed in date order received.~~

~~(13) The department will notify the applicant in writing of action taken.)) Applicants will be notified of the department's decision within 30 business days of the review period's closing date. If the decision is to decline sponsorship, the department will provide an explanation of how the application scored or failed to meet the stated ~~((criterion or))~~ criteria.~~

~~((14))~~ (2) The department may deny a visa waiver request or, prior to U.S. Department of State approval, may withdraw a visa waiver recommendation for cause, when the department finds the applicant has engaged in conduct contrary to the intent of the J-1 visa waiver program identified in WAC ((246-562-020)) 246-562-015 including, but not limited to, the following:

- (a) Application is not consistent with state or federal criteria;
- (b) Dishonesty;

(c) Evasion or suppression of material facts in the visa waiver application or in any of its required documentation and supporting materials;

(d) Fraud;

(e) History of noncompliance for applicants who benefited from previous department sponsorship;

(f) Misrepresentation; ((or))

(g) Violation of Washington state laws and rules related to charity care((-

~~(15) Applications denied may be resubmitted with concerns addressed. Resubmitted applications will be considered new applications and will be reviewed in date order received)); or~~

(h) Status of medical license.

(3) Applicants may be denied future participation in the state visa waiver program for noncompliance with any of the provisions of this chapter or federal labor law requirements.

(4) Any decision by an applicant or physician to contest a department decision, including a decision to deny or withdraw a visa waiver sponsorship, shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), chapter 246-10 WAC, and this chapter. The burden shall be on the applicant or physician to establish that the department's decision or action was in error in all cases involving this chapter.

NEW SECTION

WAC 246-562-125 Reporting requirements. (1) The department may report to the U.S. Department of State and the United States Citizenship and Immigration Services if the applicant or physician is determined to be out of compliance with any of the provisions of this chapter.

(2) The following amendments made to the employment contract or changes to the employment conditions during the first three years of contracted employment must be reported to the department, which include:

- (a) Practice location(s);
- (b) Number of hours served by the physician;
- (c) Duties served by the physician; or
- (d) Any changes that would result in a decrease of the physician's wages.

(3) Any amendments to the employment contract or changes in employment conditions outlined in subsection (2) of this section must be submitted to the department for review within 30 calendar days after the effective date of the amendment.

(4) Applicants must submit status reports to the department every 12 months, with required supporting documentation, during the initial three-year term of employment.

(5) Physicians with a J-1 visa waiver must submit status reports to the department every 12 months, with required supporting documentation, during the initial three-year term of employment and one-year post-obligation period.

NEW SECTION

WAC 246-562-135 Requirements for letters of attestation. (1) The department may provide letters of attestation for visa waiver applications sponsored by federal agencies, including the Physician National Interest Waiver Program and the United States Department of Health and Human Services Waiver Program.

(2) Requests for a letter of attestation must be sent electronically to the department for consideration.

(3) The physician named in the request must have an active and unrestricted medical license under chapter 18.71 or 18.57 RCW without any pending enforcement action cases to receive a letter of attestation from the department.

(4) The practice location(s) provided in the request must be located in a primary care HPSA, or a mental health HPSA for psychiatrists.

(5) Requests for a letter of attestation must include a letter from the employer. The letter from the employer must:

- (a) Be on employer letterhead;
- (b) Identify the waiver program;
- (c) Describe how the physician's practice is in the public interest;

(d) State that the employer treats all patients regardless of their ability to pay, accepts medicare, medicaid, and S-CHIP assignment, uses a sliding fee discount, and may charge no more than the usual customary rate prevailing in the geographic area in which the services are provided; and

(e) Be signed and dated by the head of the organization.

(6) To receive a letter of attestation for a Physician National Interest Waiver application, the request must include an employment contract. The employment contract must:

(a) Include a total of five years of employment obligation;

(b) Identify the practice location(s) and HPSA identification number; and

(c) Not include a noncompete clause that prohibits the physician from providing services within the community at the end of their three-year period of obligation.

(7) If the physician received a J-1 visa waiver in Washington state, all currently due annual reports must be completed by the physician and employer prior to requesting a letter of attestation.

(8) The department may credit prior employment years served by the physician toward the five-year service obligation under the following conditions.

(a) The previous employment must not be served during fellowship or residency training.

(b) The previous employment must not be served while under J-1 visa status.

(c) The previous employment must be served in a health care facility in an area with a HPSA designation.

(9) To receive a letter of attestation for a U.S. Department of Health and Human Services waiver application, the request must be for a primary care physician and include an employment contract. The employment contract must:

(a) Include a minimum of three years employment obligation;

(b) Identify the practice location and HPSA identification number;

(c) State that the physician agrees to start employment within 90 days of receiving the waiver;

(d) Obligate the physician to work 40 hours per week providing primary care services;

(e) Include a clause that the contract can only be terminated for cause until the completion of the three-year commitment; and

(f) Not contain a noncompete clause or restrictive covenant.

(10) The physician must complete their training no more than 12 months prior to the start date of employment under a U.S. Department of Health and Human Services waiver.

NEW SECTION

WAC 246-562-145 Requirements for letters of completion. (1) The department may provide a letter of completion to confirm a physician's fulfillment of the three-year service obligation under the Washington state J-1 physician visa waiver program.

(2) Requests for a letter of completion must be sent electronically to the department for consideration.

(3) The department will consider providing a completion letter based on the following criteria:

(a) The status of an active medical license without any pending enforcement actions;

(b) If the physician and employer complied with the program rules and regulations;

(c) The completion of all annual reports under the three-year service obligation by both the employer and the physician. The submitted annual reports must verify that:

(i) The physician was not absent from the practice for more than four weeks per year;

(ii) The physician worked at least 32 hours per week providing patient care services; and

(iii) The employer had a current sliding fee discount schedule in place to reflect the most recent federal poverty guidelines.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-562-040	Principles that will be applied to the visa waiver program.
WAC 246-562-050	Review criteria.
WAC 246-562-075	Criteria for waiver sponsorships in nondesignated areas.
WAC 246-562-085	Eligibility for primary care and specialist waivers.
WAC 246-562-090	Application form.
WAC 246-562-100	Criteria applied to federally designated facilities.
WAC 246-562-130	Eligibility for future participation in the visa waiver program.
WAC 246-562-140	Department's responsibility to report to the U.S. Department of State and the United States Citizenship and Immigration Services.
WAC 246-562-150	Appeal process.
WAC 246-562-160	Implementation.

WSR 24-13-118

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed June 20, 2024, 8:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-17-077.

Title of Rule and Other Identifying Information: Allowing virtual training for point injection therapy for acupuncture and Eastern medicine. The department of health (department), in collaboration with the acupuncture and Eastern medicine advisory committee, is proposing to amend WAC 246-803-040 Education and training for point injection therapy, to allow a minimum of eight hours of didactic education to occur through live interactive webinar.

Hearing Location(s): On August 1, 2024, at 11:00 a.m., at the Washington Department of Health, Town Center 2 Room 166/167, 111 Israel Road S.E., Tumwater, WA 98501; or via Zoom link. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_pJnVktjsR-6MHvTBONjAWQ. After registering, you will receive a confirmation email containing information about joining the webinar. The department will be offering a hybrid hearing. You may attend virtually or in person. You may also submit comments in writing.

Date of Intended Adoption: August 8, 2024.

Submit Written Comments to: Adriana Barcena, P.O. Box 47852, Olympia, WA 98504-7852, <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, email adriana.barcena@doh.wa.gov, beginning on the date and time of this filing, by August 1, 2024, at midnight.

Assistance for Persons with Disabilities: Contact Adriana Barcena, phone 360-236-4865, fax 360-236-2901, TTY 711, email adriana.barcena@doh.wa.gov, by July 29, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department received a rule petition on June 2, 2023, asking for rule making for point injection therapy training flexibility from the Washington acupuncture and Eastern medicine association (WAEMA) and from an individual who provides point injection therapy education and training.

In consultation with the acupuncture and Eastern medicine advisory committee, the department is proposing to amend WAC 246-803-040. The proposal will require an acupuncturist or acupuncture and Eastern medicine practitioner performing point injection therapy to continue to complete 24 hours of training; however, not all training must be in-person. The department is proposing:

- Sixteen hours must be in-person, and eight of these hours must be hands-on clinical practical experience; and
- The remaining eight hours may be obtained through live interactive webinar or in-person.

While the proposal does not reflect the exact changes that the petitioner requested, a hybrid approach is being proposed which allows flexibility. The practitioner will be able to attend eight hours of online training, reducing the number of travel days which is intended to provide a cost savings while maintaining patient safety.

Reasons Supporting Proposal: Due to the coronavirus disease 2019 (COVID-19) pandemic, the education and training for point injection therapy was difficult to achieve. A hybrid course, with an online portion covering the lectures and safety topics up to eight hours and the remaining 16 hours to cover the required in-person hands-on training,

was implemented. This was intended to cut costs as well as travel time, limit close contact, and increase accessibility for licensees hoping to get trained to practice point injection therapy in this state.

The department and the acupuncture and Eastern medicine advisory committee took this experience into consideration, yet determined that online interactive webinar education should be limited to eight hours with the remaining 16 hours to be in person for the point injection therapy education and training.

The reduction of in-person hours may be a cost savings but this needs to be balanced with patient safety.

Statutory Authority for Adoption: RCW 18.06.160 and 18.06.230.

Statute Being Implemented: RCW 18.06.160 and 18.06.230.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Adriana Barcena, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4865.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Adriana Barcena, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4865, fax 360-236-2901, TTY 711, email adriana.barcena@doh.wa.gov.

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

Is exempt under RCW 19.85.025(3).

Is exempt under RCW 19.85.025(4).

Explanation of Exemption(s): The proposed rule does not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

June 20, 2024
 Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-5103.2

AMENDATORY SECTION (Amending WSR 22-12-018, filed 5/23/22, effective 7/1/22)

WAC 246-803-040 Education and training for point injection therapy. Acupuncturist or acupuncture and Eastern medicine practitioners employing point injection therapy shall use only those substances and techniques for which they have received training.

(1) The education and training for point injection therapy must:

(a) Consist of a minimum total of 24 (~~contact~~) hours (~~of training~~) in the topics required in this section(~~(+)~~);

(i) Sixteen hours must be in-person; eight hours of which must be hands-on clinical practical experience; and

(ii) The remaining eight hours may be obtained through live interactive webinar or in-person.

~~(b) ((Include at least eight hours of clinical practical experience; and~~

~~(c-))~~ Be administered by an instructor that meets the requirements of subsection ~~((4))~~ (3) of this section.

(2) A curriculum for a point injection therapy training program must include all of the following:

(a) Review of physical examination, contraindications and universal precautions, and differential diagnosis;

(b) Compounding and administration of the substances authorized for point injection therapy under WAC 246-803-030, including aseptic technique, recordkeeping and storage of substances authorized for use in point injection therapy;

(c) Use of local anesthetics, such as lidocaine and procaine, for reduction of pain during point injection therapy, consistent with the practice of acupuncture and Eastern medicine;

(d) Emergency procedures to include the use of oxygen and epinephrine for potential emergency purposes, such as an allergic or adverse reaction, for patient care and safety; and

(e) Point injection therapy techniques and contraindication within the acupuncture or Eastern medicine scope of practice relative to the authorized substances listed in WAC 246-803-030 (13)(a)(i) through (vi).

~~(3) ((All training must be delivered in person and not through webinar or other online or distance learning method.~~

~~(4-))~~ An instructor for point injection therapy must have:

(a) A health care credential in good standing with a scope of practice that includes point injection therapy; and

(b) At least five years of experience in a health care practice that includes point injection therapy.

~~((5))~~ (4) In addition to ~~((point injection therapy meeting))~~ the requirements of subsections (1) and (2) of this section, an acupuncturist~~((s))~~ or acupuncture and Eastern medicine practitioners using point injection therapy must complete a minimum of two hours of training specifically in the use of intramuscular epinephrine, local anesthetics and oxygen.

(a) The training may be taken separately from the training in point injection therapy.

(b) The minimum of two hours of training count towards meeting the requirement for 24 hours of ~~((contact))~~ training as required in subsection (1)(a) of this section.

(c) An acupuncturist or acupuncture and Eastern medicine practitioner who holds an active credential with a scope of practice that includes the authority to prescribe, dispense or administer epinephrine, local anesthetics, or oxygen does not need to meet the requirements of (a) of this subsection.

~~((6))~~ (5) To qualify under this section, the training program shall provide each successful student with a:

(a) Certificate of successful completion of the program; and

(b) Course syllabus outlining the schedule and curriculum of the program.

~~((7))~~ (6) The requirements of subsections (1) through ~~((6))~~ (5) of this section do not apply to an acupuncturist or acupuncture and Eastern medicine practitioner who has provided point injection

therapy prior to June 9, 2016. An acupuncturist(~~(s)~~) or acupuncture and Eastern medicine practitioners using point injection therapy prior to June 9, 2016, must have completed training and education in point injection therapy.

~~((+8))~~ (7) Prior to administering local anesthetic, epinephrine, or oxygen in providing point injection therapy services, an acupuncturist or acupuncture and Eastern medicine practitioner must satisfy the education and training requirements (~~(set out in)~~) under this section.

~~((+9))~~ (8) Any acupuncturist or acupuncture and Eastern medicine practitioner performing point injection therapy must be able to demonstrate, upon request of the department (~~(of health)~~), successful completion of education and training in point injection therapy.

WSR 24-13-121

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed June 20, 2024, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-08-073.

Title of Rule and Other Identifying Information: Chapter 468-17 WAC, Small and veteran-owned business enforceable goals program.

Hearing Location(s): July 29, 2024, at 2:30 p.m., virtual hearing in Microsoft Teams https://bit.ly/WAC_468-17_07-29-24. To join the hearing, please use the web address shown for the location. For further details about joining a Microsoft Teams meeting, you can visit this web page <https://aka.ms/JoinTeamsMeeting?omkt=en-US>.

Date of Intended Adoption: August 5, 2024.

Submit Written Comments to: Jackie Bayne, P.O. Box 47314, 310 Maple Park Avenue S.E., Olympia, WA 98504-7314, email jackie.bayne@wsdot.wa.gov, fax 360-705-6801, 360-705-7090, beginning July 1, 2024, by July 22, 2024.

Assistance for Persons with Disabilities: Contact Jackie Bayne, phone 360-705-7084, fax 360-705-6801, TTY 711, email jackie.bayne@wsdot.wa.gov, by July 22, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state department of transportation (WSDOT) needs to adopt these rules to comply with the rules adopted by the office of minority and women's business enterprises (OMWBE) under chapter 39.19 RCW. These rules are intended to adopt the OMWBE public works small business certifications. These rules apply to WSDOT's contracting process to reduce and discourage discrimination in its contracting. In addition, WSDOT is increasing its small business goal from five percent up to 20 percent.

Reasons Supporting Proposal: The proposed changes are necessary to comply with the rules the OMWBE adopted which created a new certification, the public works small business enterprise (PWSBE) certification, and the phasing out of the small business enterprise certification. In addition, WSDOT is increasing its small business enterprise goal from five percent up to 20 percent to increase opportunities for PWSBE to participate in public works contracts.

Statutory Authority for Adoption: Chapter 39.19 RCW and RCW 47.28.030(3).

Statute Being Implemented: RCW 47.01.101 and 47.01.260.

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

Name of Proponent: WSDOT, office of equity and civil rights, governmental.

Name of Agency Personnel Responsible for Drafting: Allison Spector, 310 Maple Park Avenue S.E., Olympia, WA 98501, 360-705-7091; Implementation and Enforcement: Jackie Bayne, 310 Maple Park Avenue S.E., Olympia, WA 98501, 360-705-7084.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule changes are exempt under RCW 34.05.328 (5)(b)(iii) as the proposed changes are being adopted to be in compliance with rules adopted by OMWBE under chapter 39.19 RCW. In addition, the proposed changes are exempt under RCW 34.05.328 (5)(b)(ii). The impact of these changes are limited to internal government operations as it only af-

fects goal setting and the certifications that are counted towards WSDOT's small business goals.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: The proposed rule changes are exempt as the proposed changes are being adopted to be in compliance with rules adopted by OMWBE under chapter 39.19 RCW. In addition, the impact of these changes are limited to internal government operations as it only affects goal setting and the certifications that are counted towards WSDOT's small business goals.

Scope of exemption for rule proposal:

Is fully exempt.

June 18, 2024
Sam Wilson, Director
Business Support Services

OTS-5512.2

AMENDATORY SECTION (Amending WSR 21-19-031, filed 9/10/21, effective 10/11/21)

WAC 468-17-030 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Award" means the formal decision by the department to accept a bid and the intent to enter into a contract with the bidder.

(2) "Commercially useful function" means the activity conducted by a firm responsible for the execution of the work of the contract and that is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. Additional requirements are discussed in WAC 468-17-060.

(3) "Condition of award (COA)" means that a prime contractor or consultant, on a design-bid-build or consultant agreement, commits to subcontracting with a public works small business enterprise (~~((SBE))~~) (PWSBE) or veteran-owned business (VOB). On design-build or general contractor/construction manager contracts, all (~~((SBEs))~~) (PWSBEs) and VOBs in the quarterly small and veteran business plans are considered COA firms.

(4) "Consultant agreement" means a contract entered into by a public body for architectural and engineering services (performed pursuant to chapter 39.80 RCW) with another party, i.e., an independent individual or firm, in which the other party agrees to perform a service, render an opinion, or recommendations according to the consul-

tant's methods and without being subject to the control of the public body except as to the result of the work.

(5) "Contract goal" means a percentage of the contract amount the prime contractor or prime consultant must meet with (~~small, mini, micro~~) PWSBE and veteran-owned businesses.

(6) "Department" means the Washington state department of transportation (WSDOT).

(7) "Design-bid-build (DBB) contract" means a contract between a public body and another party in which the public body contracts separately with a designer and a contractor for the design and construction of a facility, portion of the facility, or other item specified in the contract. Designers and contractors bear no contractual obligation to one another under a DBB contract.

(8) "Design-build (DB) contract" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract as defined in chapter 39.10 RCW.

(9) "General contractor/construction manager (GC/CM)" means a contract between a public body and another party in which the party agrees to both build and manage the construction of the facility, portion of the facility, or other item specified in the contract as defined in chapter 39.10 RCW.

(10) "Good faith efforts (GFE)" means efforts to achieve a goal or other requirement of this chapter which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. GFE is not necessary when a contract goal has been met.

(11) (~~"Mini-business" means any business that:~~

~~(a) Is owned and operated independently from all other businesses;~~

~~(b) Has a gross revenue of less than three million dollars annually as reported on its federal tax return or on its return filed with the department of revenue;~~

~~(c) Is self-certified as a "mini-business" through the Washington state department of enterprise services (DES); and~~

~~(d) Is listed as a "mini-business" on the Washington electronic business service (WEBS).~~

~~(12) "Micro-business" means any business that:~~

~~(a) Is owned and operated independently from all other businesses;~~

~~(b) Has a gross revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue;~~

~~(c) Is self-certified as a "micro-business" through the Washington state department of enterprise services (DES); and~~

~~(d) Is listed as a "micro-business" on the WEBS.~~

~~(13))~~ "Public works small business enterprise (PWSBE)" means a business certified by the office of minority and women's business enterprises, pursuant to WAC 326-20-087.

(12) "Quarterly small and veteran business plans" means documents design-builders are required to submit which outline the strategies the organization will be utilizing to meet the established contract goals.

~~((14) "Small business enterprise (SBE)" means an in-state business that:~~

~~(a) Is owned and operated independently from all other businesses and has either:~~

~~(i) Fifty or fewer employees; or
(ii) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or~~

~~(b) Is self-certified as a "small business enterprise (SBE)" through the Washington state department of enterprise services and is listed as a SBE on the WEBS.~~

~~(15))~~ (13) "Tiered participation" means the amount of additional contract goal credit the prime contractor or prime consultant may receive for using ((SBE)) PWSBE and VOBs of different designations, as detailed in WAC 468-17-080.

~~((16))~~ (14) "Veteran-owned businesses (VOB)" means a business certified by the Washington state department of veterans affairs, pursuant to RCW 43.60A.190.

AMENDATORY SECTION (Amending WSR 21-19-031, filed 9/10/21, effective 10/11/21)

WAC 468-17-050 Goals. On solely state-funded projects, the small and veteran business goals for participation of public works small and veteran-owned enterprises shall be as directed by the department or other state agencies conducting disparity studies. Presently these goals are set as follows:

- (1) Veteran business goal of five percent; and
- (2) Public works small business enterprise goal of ~~((five))~~ up to 20 percent.

AMENDATORY SECTION (Amending WSR 21-19-031, filed 9/10/21, effective 10/11/21)

WAC 468-17-060 Commercially useful function. Under the enforceable goals program, commercially useful function (CUF) restrictions apply to all ~~((SBEs, mini-businesses, micro-businesses))~~ PWSBEs and VOBs. These businesses must perform a CUF in order for their participation to be counted against any goal. A business performs a CUF when it is both responsible for the execution of the work of the contract and it meets its responsibility under the contract by actually performing, managing, and supervising the work involved. If any materials or supplies are needed to perform the contract, the business must negotiate price, determine quality and quantity, order the material, install (if applicable), and pay for those materials or supplies itself.

Additional considerations when making a determination on a CUF are as follows:

(1) A ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB does not perform a CUF if its role is limited to that of an extra participant in a transaction or contract or it is involved in a project for the purposes of creating a semblance of ~~((SBE, VOB, micro-business or mini-business participation))~~ PWSBE or VOB.

(2) Other relevant factors that may be considered when evaluating whether a ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB is performing a CUF include industry practices, the amount of work

subcontracted and whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing.

(3) In addition, a business that functions as a supplier shall:

(a) Be the manufacturer of the goods or materials or assume the actual and contractual responsibility for furnishing the goods or materials and executing material changes in the configuration of those goods or materials; or

(b) Secure a contract or distributor agreement with a manufacturer to act as an independent authorized representative capable of passing on product warranties to the purchaser.

(4) Factors which may indicate that a supplier is not performing a commercially useful function include, but are not limited to, the following:

(a) A minimum amount of inventory is not maintained;

(b) Billing and shipping arrangements are performed by nonowners or staff of nonowners;

(c) A significant amount of deliveries are shipped directly from the producer or manufacturer to the end user;

(d) The firm does not take ownership of the product.

AMENDATORY SECTION (Amending WSR 19-12-026, filed 5/29/19, effective 6/29/19)

WAC 468-17-070 Mandatory small and veterans' business program.

Public works small business enterprises and veteran-owned businesses intending to benefit from the small and veteran-owned business enforceable goals program must attain a ((SBE)) PWSBE certification from OMWBE, or a VOB certification from the Washington department of veteran's affairs (~~(, or be self-certified as a SBE, mini-business, or micro-business through the WEBS)~~).

AMENDATORY SECTION (Amending WSR 19-12-026, filed 5/29/19, effective 6/29/19)

WAC 468-17-080 Tiered participation in state goals.

(1) When WSDOT has determined tiered participation will be available on a contract, a prime contractor, design-builder, general contractor/construction manager or consultant may meet the small and veteran business goals by using any combination of qualified contractors or consultants (i.e., VOB or small business contractors including ~~((SBEs, mini-businesses and micro-businesses))~~ PWSBEs). Prime contractors may receive a multiplied credit for utilizing businesses that fall into certain categories. The categories and respective multipliers are as follows:

(a) Category A. ~~((SBEs, mini-businesses, micro-businesses))~~ PWSBEs and VOBs that have not worked with WSDOT in the past five years may be credited at four times the actual dollars paid.

~~(b) ((Category B. A micro-business not eligible for credit as defined in category A may be credited at three times the actual dollars paid.~~

~~(c) Category C. A mini-business not eligible for credit as defined in category A or B may be credited at two times the actual dollars paid.~~

~~(d))~~ Category ~~((D. SBEs))~~ B. PWSBEs and VOBs that are not eligible for a credit as defined in categories A, B or C will be credited at the actual dollars paid with no additional multiplier.

(2) Prime and subcontractors are responsible for verifying their eligibility for tiered credit participation. Eligible firms submitting multiple quotes as categories A, B, C, and D firms, on multiple projects with bids due on the same week, shall be regarded as such on all projects that receive awards from quotes entered on that week.

AMENDATORY SECTION (Amending WSR 21-19-031, filed 9/10/21, effective 10/11/21)

WAC 468-17-090 Small and veteran business plans. (1) Prime contractors, design-builders, general contractors/construction managers and consultants must submit a small and veterans' business plan that specifies how the contractor will meet ~~((SBE))~~ PWSBE and VOB participation goals, prior to the award of any contract. The small and veteran business plan for design-bid-build and consultant contracts must list all of the ~~((SBEs, VOBs, micro-businesses or mini-businesses))~~ PWSBEs or VOBs that will participate in the contract; a description of the work that each ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB will perform; the dollar amount of the participation of each ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB; the contractor's written commitment to use the ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB submitted; and written confirmation from each ~~((SBE))~~ PWSBE or VOB firm that it is participating in the contract in the kind and amount of work provided in the inclusion plan. The small and veteran business plan for design-build and general contractor/construction manager contracts must list in detail the contractor's means and methods that it will use to meet the goal and a commitment by the contractor to attempt to meet the goal. If the total ~~((SBE))~~ PWSBE and VOB participation in the small and veteran business plan does not meet the goal, then the contractor must also submit evidence of good faith efforts (GFEs). A contractor may be awarded a project only after WSDOT has approved its small and veteran business plan or confirmed its GFEs. Revisions of small and veteran business plans may be necessary prior to plan approvals.

(2) Quarterly small and veteran business plans are required for design-build and general contractor/construction manager projects. The first quarterly small and veteran business plan shall be submitted prior to contract award and must be approved by the department prior to contract execution. Subsequent small and veteran business plans must include information, as applicable, regarding:

- (a) Small and veteran business goal attainment;
- (b) A list all of the ~~((SBEs, VOBs, mini-businesses or micro-businesses))~~ PWSBEs or VOBs that have been contracted to date;
- (c) A description of the work that each ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB will perform;
- (d) The dollar amount of the participation of each ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB;
- (e) The contractor's written commitment to use the ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB submitted;
- (f) Written confirmation from each ~~((SBE, VOB, micro-business or mini-business))~~ PWSBE or VOB firm that it is participating in the con-

tract in the kind and amount of work provided in the small and veteran business plan;

- (g) Corrective actions necessary to meet the established goals;
- (h) Outreach strategies;
- (i) Innovative approaches to secure goal(s); and
- (j) Other evidence of GFES to meet the contract goal.

AMENDATORY SECTION (Amending WSR 19-12-026, filed 5/29/19, effective 6/29/19)

WAC 468-17-100 Good faith efforts. The efforts employed by the prime contractor, design-builder, or consultant should be commercially reasonable and should demonstrate that they are actively and aggressively trying to fulfill the established small and veteran business goals. Mere pro forma efforts are not commensurate with good faith efforts. Actions that may be considered as part of good faith efforts to achieve small and veteran business goals include, but are not limited to:

- (1) Identification of interested small and veteran-owned firms that have the capability to perform the work of the contract;
- (2) Providing reasonable time for (~~(SBE, VOB, mini-businesses and micro-businesses)~~) PWSBE or VOB to fully and meaningfully respond to bid solicitations, that includes providing adequate information about the plans, specifications, and requirements of the contract along with timely responses to subcontractor inquiries and proposals;
- (3) Apportioning contract work items into economically feasible units to facilitate (~~(SBE, VOB, micro-business or mini-business)~~) PWSBE or VOB participation and where possible, establishing flexible time frames for performance to encourage participation;
- (4) Effectively using the services of available veteran and small business community organizations, contractors' groups, local and state support offices, and other organizations in the recruitment and placement of targeted firms;
- (5) Adequately researching interested subcontractors and their capabilities before rejecting their proposals;
- (6) Not relying on price alone in the selection of subcontractors and considering reasonable quotes from (~~(SBE, VOB, micro-business or mini-business)~~) PWSBE or VOB, even if other quotes are less expensive.

AMENDATORY SECTION (Amending WSR 19-12-026, filed 5/29/19, effective 6/29/19)

WAC 468-17-110 Overhead reimbursement. WSDOT may reimburse each prime contractor or consultant five percent of the actual amount that the prime contractor or consultant paid to (~~(SBEs, VOBs, micro-businesses or mini-businesses)~~) PWSBEs or VOBs and that is counted toward the goal. This overhead reimbursement is available only on construction projects, is to be based on actual dollars paid, excludes multiplier credits, and may not exceed (~~(one hundred thousand dollars)~~) \$100,000 for any prime contractor or consultant in a single calendar year. Overhead reimbursement payments will be made only after a contractor has fulfilled its small and veteran business goals. Reimbursement payments will not be paid to contractors for partial completion

of aforementioned goals. No contractor may receive an overhead reimbursement if it meets the contract goal using work performed with its own forces.

WSR 24-13-123
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 20, 2024, 10:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-10-030.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants, 388-310-1450 Pregnancy to employment, and 388-484-0006 TANF/SFA time limit extensions.

Hearing Location(s): On July 25, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. See the DSHS website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than July 26, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on June 20, 2024, by 5:00 p.m. on July 25, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on July 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments support implementation of SHB 2007 (chapter 181, Laws of 2024), effective July 1, 2024, which creates a TANF time limit extension for households caring for a child under the age of two that qualify for an infant, toddler, or postpartum exemption from WorkFirst activities. As applicable, these amendments make additional changes required to improve clarity, update policy, or better align rule language with state and federal law or regulations.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.57 [74.04.057], 74.08.090.

Statute Being Implemented: SHB 2007 (chapter 181, Laws of 2024).

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sarah Mintzer, P.O. Box 45470, Olympia, WA 98504-5770, 360-764-0050.

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

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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

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

Is exempt under RCW 19.85.025(4).

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

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

Scope of exemption for rule proposal:

Is fully exempt.

June 18, 2024

Katherine I. Vasquez

Rules Coordinator

SHS-5039.3

AMENDATORY SECTION (Amending WSR 22-20-017, filed 9/22/22, effective 10/23/22)

WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) When may I be exempted from participating in WorkFirst activities if I am a mandatory participant?

Either you or the other parent, living in the household, may claim an infant exemption from participating in WorkFirst activities provided you:

(a) Have a child under two years of age;

(b) Choose to not fully participate in the WorkFirst program (see WAC 388-310-0400); and

(c) Have not used up your lifetime 24 month infant care exemption(~~(-)~~); or

(d) You have used your lifetime 24 month infant care exemption, but have a child under the age of 12 weeks.

(2) If I choose my infant exemption, may I still be required to participate in the WorkFirst program?

You are required to participate up to 20 hours per week in mental health treatment, (~~(chemical dependency)~~) substance use disorder treatment, or a combination of these, if:

(a) The comprehensive evaluation or assessment indicates a need; and

(b) Services are available in your community.

(3) May I volunteer to participate in WorkFirst while I have a child under two years of age?

You may choose to fully participate in WorkFirst (see WAC 388-310-0400) while you have a child under two years of age. If you decide later to stop participating and you still qualify for an exemption, you will return to exempt status with no financial penalty provided you meet the conditions of subsections (1) and (2) of this section.

(4) Does an infant exemption from participation affect my 60 month time limit for receiving temporary assistance for needy families (TANF) or state family assistance (SFA) benefits?

Even if you are exempt from participation, each month you receive a TANF/SFA grant counts toward your 60 month limit (see WAC 388-484-0005).

AMENDATORY SECTION (Amending WSR 22-20-017, filed 9/22/22, effective 10/23/22)

WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?

If you are on temporary assistance for needy families (TANF) or state family assistance (SFA) and are pregnant or have a child under the age of two years, you are a participant in the pregnancy to employment pathway.

(2) What services are provided to the pregnancy to employment pathway?

(a) The pregnancy to employment pathway provides you with services, when available in your community, to look and prepare for work while supporting your child's needs. You and your WorkFirst worker will decide which variety of services you need. Service may include one or more of the items listed in (i) through (vi) of this section:

- (i) Home visiting or other parent supports;
- (ii) Safe and appropriate child care;
- (iii) Mental health treatment;
- (iv) ~~((Chemical dependency))~~ Substance use disorder treatment;
- (v) Domestic violence services; or
- (vi) Employment services.

(b) The WorkFirst worker will contact you every three months to offer you services if you are not required to participate and choose to claim ~~((the))~~ an infant exemption under WAC 388-310-0300(1).

(c) You will be offered a voluntary referral to either home visiting or other parent supports at various times in the pregnancy to employment pathway.

(3) What am I required to do while I am in the pregnancy to employment pathway?

You must participate in an assessment with a DSHS social service specialist and based on the results you will:

(a) Work with your WorkFirst worker to decide which required activities best meet your needs (these activities will depend on where you are in the pregnancy or the age of your child and will be added to your individual responsibility plan (IRP)); and

(b) Be required to participate in those activities, as identified in your IRP.

(4) What am I required to do while I am pregnant?

Based upon the results of your assessment, your participation:

(a) During your first and second trimester of pregnancy will be full-time work, looking for work, or preparing for work unless you have a good reason to participate fewer hours as described under WAC 388-310-1600.

(b) During your third trimester of pregnancy will be up to 20 hours per week in either mental health treatment or ~~((chemical dependency))~~ substance use disorder treatment, if:

- (i) The comprehensive evaluation or assessment indicates a need; and
- (ii) Services are available in your community.

(5) What am I required to do after my child is born?

After the birth of your child, you may choose to take the infant exemption under WAC 388-310-0300 or volunteer to participate in WorkFirst activities to the fullest of your abilities under WAC 388-310-0400.

(6) What if I have used my 24 month lifetime infant exemption?

If you have another child after using all 24 months of the infant exemption, you will be:

(a) Eligible for a 12 week postpartum (~~(deferral)~~) exemption period to personally take care of an infant less than 12 weeks of age but will be required to participate up to 20 hours per week in mental health or (~~(chemical dependency)~~) substance use disorder treatment, or a combination of these, if the comprehensive evaluation or assessment indicates a need and services are available in your community.

(b) Required to participate full time, unless otherwise exempt or you have good reason to participate fewer hours, once your child turns 12 weeks old in one or more of the following activities:

(i) Work;

(ii) Looking for work;

(iii) Preparing for work by participating in a combination of activities based upon the results of your assessment.

(7) **Will I be sanctioned if I refuse to participate?**

(a) You are required to participate in the WorkFirst program under WAC 388-310-0200 subject to sanction under WAC 388-310-1600 unless you have good reason and you:

(i) Are in your third trimester of pregnancy;

(ii) Have not used up your 24 month lifetime infant exemption and have a child under the age of two years old; or

(iii) Have used up your 24 month lifetime infant exemption and have a child under 12 weeks.

(b) You may be sanctioned if you stop participating in required mental health or (~~(chemical dependency)~~) substance use disorder treatment when you are:

(i) In your third trimester of pregnancy;

(ii) Claiming the infant exemption; or

(iii) Using a 12 week postpartum (~~(deferral)~~) exemption period.

AMENDATORY SECTION (Amending WSR 23-24-036, filed 11/30/23, effective 12/31/23)

WAC 388-484-0006 TANF/SFA time limit extensions. (1) What happens after I receive 60 or more months of TANF/SFA cash assistance?

After you receive 60 or more months of TANF/SFA cash assistance according to WAC 388-484-0005, you may qualify for additional months of cash assistance. We call these additional months of TANF/SFA cash assistance a hardship TANF/SFA time limit extension.

(2) Who is eligible for a hardship TANF/SFA time limit extension?

You are eligible for a hardship TANF/SFA time limit extension if you are on TANF, are otherwise eligible for TANF, received 60 cumulative months of TANF and you:

(a) Are approved for one of the exemptions from mandatory participation according to WAC 388-310-0350 (1)(a) through (d); or

(b) Are a Social Security disability insurance recipient; or

(c) Are at least 65 years old, blind as defined by the Social Security Administration or disabled as determined under chapter 388-449 WAC; or

(d) Have an open child welfare case with a state or tribal government and this is the first time you have had a (~~(child)~~) dependent child under RCW 13.34.030 in (~~(this)~~) Washington or another state or had a child a ward of a tribal court; or

(e) Are working in unsubsidized employment for 32 hours or more per week; or

(f) Document that you meet the family violence option criteria in WAC 388-61-001 and are participating satisfactorily in specialized activities needed to address your family violence according to a service plan developed by a person trained in family violence or have a good reason, as described in WAC 388-310-1600(3) for failure to participate satisfactorily in specialized activities; or

(g) Are homeless by reason of hardship, including when your family includes a child or youth who is without a fixed regular, and adequate nighttime residence as described in the federal McKinney-Vento Homeless Assistance Act (Title 42, U.S.C. 11434a(2), chapter 119, subchapter VI, part B) as it existed on January 1, 2020; or

(h) Have a child under the age of two years old who lives in the same household and you qualify for any of the infant related exemptions from WorkFirst activities as defined in WAC 388-310-0300(1), or

(i) Were an active TANF recipient from July 1, 2021, through June 30, 2023; or

~~((i))~~ (j) Were an active TANF recipient, beginning July 1, 2022, when Washington state employment security department's most recently published unemployment rate is seven percent or above.

~~((j))~~ (k) Do not qualify for other time limit extension criteria in this section and received TANF during a month on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above. ~~((The extension provided for under this subsection (2)(b)(ix) is equal to the number of months that you received TANF on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above.))~~ The duration of this extension criteria is equal to the number of months that you received TANF on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above.

(3) Who reviews and approves a hardship time limit extension?

(a) Your case manager or social worker will review your case and determine whether a hardship time limit extension type will be approved.

(b) This review will not happen until after you have received at least 52 months of assistance but before you reach your time limit or lose cash assistance due to the time limit.

(c) Before you reach your time limit or lose cash assistance due to the time limit, the department will send you a notice that tells you whether a hardship time limit extension will be approved, when your time limit expires, and how to request an administrative hearing if you disagree with the decision.

(4) When I have an individual responsibility plan, do my WorkFirst participation requirements change when I receive a hardship TANF/SFA time limit extension?

(a) Even if you qualify for a hardship TANF/SFA time limit extension you will still be required to participate as required in your individual responsibility plan (WAC 388-310-0500). You must still meet all of the WorkFirst participation requirements listed in chapter 388-310 WAC while you receive a hardship TANF/SFA time limit extension.

(b) If you do not participate in the WorkFirst activities required by your individual responsibility plan, and you do not have a good reason under WAC 388-310-1600, the department will follow the sanction rules in WAC 388-310-1600.

(5) Do my benefits change if I receive a hardship TANF/SFA time limit extension?

(a) You are still a TANF/SFA recipient and your cash assistance, services, or supports will not change as long as you continue to meet all other TANF/SFA eligibility requirements.

(b) During the hardship TANF/SFA time limit extension, you must continue to meet all other TANF/SFA eligibility requirements. If you no longer meet TANF/SFA eligibility criteria during your hardship time limit extension, your benefits will end.

(6) How long will a hardship TANF/SFA time limit extension last?

(a) We will review your hardship TANF/SFA time limit extension and your case periodically for changes in family circumstances:

(i) If you are extended under WAC 388-484-0006 (2)(a) then we will review your extension at least every 12 months;

(ii) If you are extended under WAC 388-484-0006 (2)(b), (2)(c), (2)(d), or (2)(e) then we will review your extension at least every six months.

(b) Your hardship TANF/SFA time limit extension may be renewed for as long as you continue to meet the criteria to qualify for a hardship time limit extension.

(c) If during the extension period we get proof that your circumstances have changed, we may review your case and determine if you continue to qualify for a hardship TANF/SFA time limit extension. When you no longer qualify for a hardship TANF/SFA time limit extension we will stop your TANF/SFA cash assistance. You will be notified of your case closing and will be given the opportunity to request an administrative hearing before your benefits will stop.

WSR 24-13-128

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed June 20, 2024, 10:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-10-112.

Title of Rule and Other Identifying Information: Chapter 504-15 WAC, Campus parking and traffic regulations for Washington State University Pullman.

Hearing Location(s): On July 25, 2024, at 4:00 p.m. Join Zoom meeting from PC, Mac, Linux, iOS, or Android <https://wsu.zoom.us/j/93303465317?pwd=WHT7y7CaWFrqK8xsjRYpoJ20F1HcI6.1>, Meeting ID 933 0346 5317, Passcode 067111; or join by phone in the US +1 253-215-8782 or +1 669-900-9128 or +1 646-558-8656 (enter meeting ID and passcode when prompted); or US One-tap mobile call +12532158782,,93303465317# or +16699009128,,93303465317#. No in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: August 6, 2024.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, beginning July 5, 2024, 8:00 a.m., by July 25, 2024, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, email prf.forms@wsu.edu, by July 22, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Washington State University (WSU) is updating the campus parking and traffic regulations. The chapter 504-15 WAC title is updated to specify that the regulations are for the WSU Pullman campus.

Reasons Supporting Proposal: The proposed amendments modify, clarify, and update the university's rules regarding parking and traffic regulations for the WSU Pullman campus.

Statutory Authority for Adoption: RCW 28B.30.150.

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

Name of Proponent: Public.

Name of Agency Personnel Responsible for Drafting: Elizabeth Doyle, Principal Assistant, Transportation Services, Customer Service, Administration, The WSU Transportation Services Building, 1040 N.E. Colorado Street, Pullman, WA 99164-5500, 509-335-7275; Implementation: Leslie Brunelli, Executive Vice President, Finance and Administration, French Administration Building, Room 442, P.O. Box 1045, Pullman, WA 99164-1045, 509-335-5524; and Enforcement: Chris Boyan, Director, Transportation Services, The WSU Transportation Services Building, 1040 N.E. Colorado Street, Pullman, WA 99164-5500, 509-335-7275.

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

A cost-benefit analysis is not required under RCW 34.05.328. WSU does not consider this rule to be a significant legislative rule and is not making significant amendments to a policy or regulatory program.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify

language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The amendments to WSU Pullman parking regulations only apply to students, employees, and visitors at the WSU Pullman campus, and do not affect business or commerce in any way.

Scope of exemption for rule proposal:

Is fully exempt.

June 20, 2024

Deborah L. Bartlett

Director, Procedures, Records, and Forms
University Rules Coordinator

OTS-5493.1

Chapter 504-15 WAC

CAMPUS PARKING AND TRAFFIC REGULATIONS FOR WASHINGTON STATE UNIVERSITY PULLMAN

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-050 Emergencies. The president of the university (~~shall have~~) or designee has authority to suspend, modify, or repeal any or all provisions in this chapter in the event of an emergency, disaster, or other like contingency. Such action (~~shall~~) is to be limited in duration and scope based on the incident.

AMENDATORY SECTION (Amending WSR 22-18-025, filed 8/29/22, effective 9/29/22)

WAC 504-15-100 Definitions. The definitions in this section are applicable within the context of this chapter.

(1) **Campus.** Describes all property owned, leased, and/or controlled by the university Pullman campus which is or may hereafter be dedicated mainly to the educational, research, housing, recreational, parking, or other activities of the university.

(2) **Carpool.** An arrangement in which three or more patrons share a ride to campus in which one permit is used for more than one vehicle. Also referred to as rideshare or ride sharing.

(3) **Commuter student.** Any student who does not live in a university residence hall (~~(dormitory)~~). All students living in (~~fraternities, sororities,~~) university-owned housing (other than residence

halls) ~~((7))~~ and private housing are considered to be commuter students.

~~((3))~~ (4) Day. Unless otherwise specified, the term "day" refers to a calendar day.

~~((4))~~ (5) Disability authorization. A state-issued disability instrument, e.g., placard, license plate, tab. Disability authorization includes the state-issued registration documentation issued to the person utilizing the authorization.

(6) Disability zone. A parking zone designated for exclusive use by individuals with disability and identified with a sign bearing the associated international symbol.

~~((5))~~ (7) Electric-assisted bicycle. As defined under RCW 46.04.169.

~~((6))~~ (8) Fire zone. An area needed for emergency access to buildings, fire hydrants, or fire equipment. Such areas include, but are not limited to, areas with adjacent curbs or rails painted red.

~~((7))~~ Gate card. A plastic card that activates the gates controlling access to certain parking areas.

~~((8))~~ (9) Hearing officer. Any individual appointed to consider parking violations and the application of fees, fines, and sanctions. Said individual is appointed by the parking administrator whose responsibilities include supervision of the parking department or designee.

(10) Hourly parking space. A space in a parking lot, street side parking, or other designated hourly parking area. Hourly parking spaces only accept payment in minute/hourly increments.

(11) Illegal use of parking permit. A parking violation in which a parking ticket is issued under the following circumstances:

(a) Use of a parking permit ~~((or indicator))~~ on a vehicle other than the specified vehicle identified by a license plate number on the permit.

(b) Use of a parking permit or indicator obtained under false pretenses.

(c) Use of a modified parking permit or indicator.

(d) Use and/or retention of a parking permit or indicator by individual(s) ineligible, or no longer eligible, for such a parking permit as described and authorized in this chapter.

~~((9))~~ (12) Impound. To take and hold a vehicle in legal custody by use of a wheel lock and/or towing.

~~((10))~~ (13) Indicator. A decal or hanger displayed adjacent to a parking permit which defines additional parking areas available to a permit holder.

~~((11))~~ (14) Living unit. A space in which a person resides and/or sleeps.

(15) Loading zone. A loading dock, or an area signed "loading zone" adjacent to a facility, in a parking area, or near a residence hall. Such an area is intended for loading and unloading bulky or voluminous material. Loading zones are restricted at all times unless signed otherwise.

~~((12))~~ (16) Micromobility device. Bicycles, skateboards, scooters, roller skates/blades, and all other human-powered, motorized, or electrically assisted rolling conveyances.

~~((13))~~ (17) Moped. As defined under RCW 46.04.304.

~~((14))~~ (18) Motorcycle. As defined under RCW 46.04.330.

~~((15))~~ (19) Motorized foot scooter. As defined under RCW 46.04.336.

~~((16))~~ (20) Motor vehicle. As defined under RCW 46.04.320.

~~((17))~~ (21) No parking zone. Any area not specifically marked and/or signed for parking. Such areas include, but are not limited to, areas with adjacent curbs or rails painted yellow.

~~((18))~~ (22) Officer. Any parking or police official employed by the university who is designated by the parking administrator or chief of police to issue parking tickets, to place and remove wheel locks, or to cause vehicles to be towed under this chapter.

~~((19))~~ (23) Owner. The individual registered with any state as the present owner of a vehicle in the most current registration records available to the university, the owner's expressed representative, or any transferee not designated in such records, provided that the parking administrator or chief of police has received actual written notice of the transfer.

~~((20))~~ (24) Park/parking. This refers to the placement or standing of a vehicle, with or without a driver in attendance, and with or without the engine running.

~~((21))~~ (25) Parking administrator. The director in charge of the parking department or designee.

~~((22))~~ (26) Parking appeals committee. Any individual(s) ~~((or individuals))~~ appointed to consider parking violations and the application of fees, fines, and sanctions. Said individual(s) ~~((or individuals))~~ are appointed by the ~~((vice-president))~~ parking administrator whose responsibilities include supervision of the parking department or designee.

~~((23))~~ (27) Parking department. The university department which is charged with the responsibility of managing, operating, planning, and maintaining parking facilities; enforcing the parking regulations; and coordinating commute trip reduction efforts for the Pullman campus.

~~((24))~~ Parking meter. A single fixed device that typically requires payment and limits the amount of time a vehicle can park in a single space. Also referred to as "meter" in this chapter. A parking meter is not a parking payment device.

~~((25))~~ (28) Parking payment device. A machine that requires payment and vends a parking permit and/or a paid receipt. Parking payment devices may be located in various places on the campus. A parking payment device is not a parking meter.

~~((26))~~ (29) Parking permit. A vinyl, plastic, paper, or other instrument sanctioned by the parking department that is displayed from a vehicle, and authorizes parking in specified areas. Some parking permits may be purchased online and may be virtual in nature, and identified by other means such as by license plate. (See the definition of "virtual permit" in subsection ~~((47))~~ (50) of this section.) Also referred to as "permit" in this chapter.

~~((27))~~ (30) Parking ticket. The first notice of a parking violation which is usually placed in a visible location on a motor vehicle.

~~((28))~~ (31) Pay parking facility. A location where parking is provided, and payment is made on-site via a parking ~~((payment device, cashier))~~ application, website, or by other means ~~((other than a parking meter))~~ approved by the parking department.

~~((29))~~ (32) Pedestrian mall. A space that is designed primarily for pedestrian use, but with limited authorized use of motor vehicle and other motorized and nonmotorized conveyances. These restricted areas are depicted on the Pullman campus map and/or with signing at the entrances to the pedestrian mall areas.

~~((30))~~ (33) Individuals with disability. For the purpose of this chapter, individuals with disability refer to an individual or individuals with disability or disabilities who qualify for a state-issued individual with disabilities parking identification and ~~((per-~~mit)) authorization.

~~((31))~~ (34) Resident priority zone. A parking area ~~((close to a residence hall))~~ (i.e., crimson zone or gray zone) that is typically limited to use by residence hall students.

~~((32))~~ (35) Residence hall student. A student with a current, valid residence hall contract, who lives in a residence hall.

~~((33))~~ (36) Residence hall. Residence hall units ~~((dormitories))~~ that are owned by the university but are not included as university-owned housing apartments. Occupants of residence halls are considered residence hall students and are eligible for parking permits in resident priority zones.

~~((34))~~ (37) Service vehicle. A vehicle used to provide a service for the university or a tenant or contractor of the university (e.g., a university owned vehicle or a privately owned vehicle with a valid service vehicle authorization displayed).

~~((35))~~ (38) Service zone. Parking spaces or area designated for the use of service vehicles, other government-owned vehicles, and vehicles displaying a service indicator or commercial permit. Authorized vehicles may park in these zones on an occasional basis for a maximum of 15 minutes, except for vehicles that display a commercial permit, or a service indicator issued for an extended time. Service zones are restricted at all times unless signed otherwise.

~~((36))~~ (39) Staff. For the purposes of these regulations, "staff" includes all nonstudent employees of the university and the nonstudent employees of other entities located on, or regularly doing business on campus. Teaching assistants, research assistants, and other students employed by the university, or other entities located on, or regularly doing business on campus, are not "staff." They are considered to be students for the purpose of these regulations.

~~((37))~~ (40) Standing. "Standing" is the stopping of a vehicle with the driver remaining in it.

~~((38))~~ (41) Storage of a vehicle. Impounded vehicles are held in storage until released. During such time they are subject to storage fees.

~~((39))~~ (42) Student. The term "student" includes all individuals who are not staff who are taking courses at the university, enrolled full-time or part-time, pursuing undergraduate, graduate, professional studies, or auditing one or more classes.

~~((40))~~ (43) Summer session. The summer session includes all summer sessions beginning on the first day of the earliest session, and ending on the last day of the latest session.

~~((41))~~ (44) University. Refers to Washington State University.

~~((42))~~ (45) University holiday. A day regarded by the university as an official university holiday.

~~((43))~~ (46) University-owned housing. Housing units or apartments, and their respective parking areas, that are owned by the university, but are not included as residence halls. Occupants of university-owned housing are eligible for housing parking permits issued by the university.

~~((44))~~ (47) Unpaid. A full or partial outstanding balance due. This definition includes parking tickets which are pending appeal.

~~((45))~~ (48) Vacation. A period of time when classes or final exams are not in session. Except for holidays that fall within this

period, the business offices of the university are open during this time.

~~((46))~~ (49) Vehicle storage. Vehicle storage means the parking or leaving of any vehicle for a period of more than 24 consecutive hours.

~~((47))~~ (50) Virtual permit. A virtual permit is ~~((authorization))~~ an electronic permit given at the time of vehicle registration with the parking department, allowing the registered vehicle to park in a designated lot, zone, or space. The virtual permit is associated with the vehicle license plate number and is used to identify the parking authorization.

~~((48))~~ (51) Visitors. Individuals who are not staff or students and who only visit the campus on an occasional basis.

~~((49))~~ (52) Wheel lock. A device used to temporarily immobilize a motor vehicle. Wheel locked vehicles are considered to be impounded in place and subject to storage fees.

~~((50))~~ (53) Wheel lock-eligible list. The current list of wheel lock-eligible vehicles as maintained by the parking department. A vehicle remains on the wheel lock-eligible list until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((51))~~ (54) Wheel lock-eligible vehicle. Any vehicle on which three or more parking tickets more than 30 days old are unpaid and which parking tickets were issued during the time the vehicle was registered to or otherwise held by the owner. The vehicle remains wheel lock-eligible until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((52))~~ (55) WSU disability permit. ~~((WSU-issued zone permit displayed with))~~ A valid state-issued disability ((placard or disability license plate)) authorization along with a WSU orange, green, yellow, red, blue, crimson, gray, college hill, or golden cougar parking permit.

AMENDATORY SECTION (Amending WSR 14-11-024, filed 5/12/14, effective 6/12/14)

WAC 504-15-210 Times of enforcement. Parking regulations are subject to enforcement at all times.

(1) Parking permit areas. All parking permit zones are limited to authorized permit holders during specific hours. These hours are posted in each parking area at the entrance to parking areas, or along roadways where parking is marked.

(2) Restricted spaces. These spaces are restricted for their designated purpose at all times unless signed otherwise:

- (a) Disability zones.
- (b) Load/unload.
- (c) Service.
- (d) Reserved.
- (e) ~~((Reserved (bagged) parking meters.~~
- ~~((f))~~) Pedestrian mall.

~~((g))~~ (f) Areas which are specially signed or physically set apart by barricades, traffic cones, tape, or other traffic devices.

~~(3) ((Parking metered spaces. Parking meters are in effect during the times posted on each meter. During these times the meter must be paid the posted amount. Additional time cannot be purchased beyond the meter's posted maximum time limit (e.g., a two-hour meter allows a maximum of two hours to be purchased at one time). A motor vehicle which is parked at an expired meter is considered in violation initially, and after each period equal to the maximum time posted for the meter. In such case a parking ticket may be issued for each violation. For example, a vehicle parked at a meter with a two-hour maximum time limit for six hours and five minutes of continuous unpaid parking at the same meter would be eligible for up to three parking tickets.~~

~~(4)) Special conditions. The parking regulations are enforced every day, ((twenty-four)) 24 hours a day. During certain times the following special conditions exist, and the regulations are modified.~~

~~(a) Crimson permit zones. ((-i-)) Crimson permits are required at all times except during university holidays.~~

~~((-ii-) Crimson, orange, and green permits are valid in crimson zones during summer session and vacation periods.)~~

~~(b) Gray permit zones. ((-i-)) Gray permits are required at all times except during university holidays.~~

~~((-ii-) Gray, crimson, orange, green, yellow, and red permits are valid in gray zones during summer session and vacation periods.~~

~~(c) University-owned housing areas. Permits are not required in university-owned housing areas at the start of each semester from the Monday of the week prior to the first day of class through the third day of class.~~

~~(d)) (c) The parking department may select and designate portions of permit zones as temporary loading zones at the start of each semester to accommodate moving into and out of residence halls and during finals week.~~

~~((-5-)) (4) Pay parking facilities. Some parking areas provide parking on an hourly basis. Hours of operation and ((a schedule of fees)) restrictions are posted at the facility entrance. Both the hours of operation and schedule of fees are available at the point of payment. Parking tickets are issued to vehicles that are parked over the duration of time that was paid and for nonpayment. ((Parking areas with parking meters are not considered pay parking facilities.))~~

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-220 Signed and marked areas. (1) Parking on campus is allowed only in the marked and/or signed spaces in parking facilities and on streets. All other areas outside these designated areas are "no parking zones." Each parking facility has signs or markings to indicate the type of permit or payment required, and the times they are required.

(2) Individual parking spaces are marked, and no vehicle may be parked so as to occupy any portion of more than one parking space. The fact that other vehicles were parked in a manner requiring a vehicle to occupy a portion of more than one space must not constitute an excuse for a violation of this regulation.

(3) ~~((Standing (the stopping of a vehicle with the driver remaining in it) is allowed in marked parking spaces, except metered spaces~~

and restricted spaces, even though the vehicle does not have a valid parking permit. Double parking while "standing" is not allowed.

~~(4))~~ Should there be a conflict between these regulations, map designation, and on-site signs regarding parking instructions, the on-site sign takes precedence.

~~((5))~~ (4) Permit areas and restricted spaces are not always signed individually.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-250 Motorcycles and mopeds. (1) The general traffic regulations applicable to motor vehicles apply to motorcycles and mopeds. Motorcycles or mopeds may not be driven on sidewalks or in pedestrian mall areas. Owners of motorcycles and mopeds are responsible for all violations issued.

(2) The university classifies mopeds and motorcycles by engine displacement (also referred to as engine size). This definition applies only to university property and does not replace or supersede the definitions established by the state of Washington for licensing purposes.

(3) Motorcycles and mopeds. Motorcycles and mopeds may park (~~on-ly~~) in spaces which are marked by signs, or the letter "M" painted on the parking surface. Motorcycles and mopeds must display a valid university "M" permit during posted times. During all other times, these spaces are restricted to use by motorcycles and mopeds only. Motorcycles and mopeds may not park at bicycle racks or anywhere within designated pedestrian mall areas at any time.

(4) Motorcycles and mopeds may park in a zone parking space as long as the vehicle is associated with the correct zone permit.

AMENDATORY SECTION (Amending WSR 22-18-025, filed 8/29/22, effective 9/29/22)

WAC 504-15-370 Vehicle storage and abandonment. (1) The storage of vehicles, including motorcycles and mopeds, is prohibited on campus unless otherwise authorized by the parking department.

(2) No person may use any vehicle parked on campus as a living unit without specific approval from the parking department. Violators may be cited and the vehicle impounded.

(3) Vehicles are to be maintained in operating condition at all times on university property, except those in an automotive shop designated by the parking department for parking such vehicles. Vehicle repairs or maintenance is (~~not done~~) prohibited on campus unless authorized in advance by the parking department.

(4) A vehicle which appears to be abandoned, with or without a current parking permit or license plates, may be cited and impounded after an attempt is made to locate and notify the owner of the impending action.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-450 Replacement parking permits (~~(, indicators, and gate cards)~~). (1) Sold or traded vehicles. Failure to advise the parking department of a sale or trade for registration purposes may result in continued responsibility to the permit holder for parking tickets received on vehicles.

The permit holder has responsibility for removing parking permits prior to selling or trading a vehicle. The identifiable remnants of the original permit must be presented to the parking department to receive a free replacement. Individuals failing to comply with this requirement must pay the cost of a new permit.

(2) Lost/stolen permits. Permit holders are responsible for the security of their permits. The theft or loss of a parking permit should be reported to the parking department immediately upon discovery. A lost or stolen permit may be replaced upon payment to the parking department of the cost of replacing the permit, according to a schedule adopted by the parking department. Lost or stolen permits must be returned to the parking department immediately if recovered.

(3) Windshield replacements. When a permit-bearing windshield is replaced, the permit replacement fee is waived if proof of windshield replacement is presented.

~~((4) Gate card replacement. A lost, stolen, or damaged gate card is replaced upon payment to the parking department of the cost of replacing the gate card, according to a schedule adopted by the parking department.))~~

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-460 False information. No individual may obtain, attempt to obtain, or use in a manner contrary to these regulations, a modified parking permit or a permit issued upon false information. A violation of this section includes giving a false name, address, identification number, and/or other information known to be false. It also includes the use of a ~~((visitor, conference, and))~~ commercial permit by staff or students. Violation of this provision constitutes the illegal use of a parking permit, and is subject to issuance of a parking ticket.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-470 Recall of parking permits (~~(and gate cards)~~). Parking permits are the property of the university and may be recalled by the parking administrator when:

(1) The purpose for which the permit ~~((or gate card))~~ was issued changes or no longer exists (e.g., an individual who no longer lives in a residence hall would be required to return their gray permit for refund or credit toward an appropriate permit);

(2) A permit ~~((or gate card))~~ is used on an unauthorized vehicle or by an unauthorized individual;

- (3) A parking permit application is falsified;
- (4) A counterfeit, modified, or lost/stolen permit (~~(or gate eard)~~) is used; or
- (5) The parking permit fee is unpaid.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-520 Parking permits—Form and display. All parking permits issued must be entirely visible and displayed in the approved position on the vehicle with permit numbers and relevant dates visible. Vehicles with parking permits which are not displayed in accordance with the provisions of this section are subject to parking tickets for the violation of improperly displaying a parking permit.

(1) Autos and trucks:

(a) Daily parking permits must be displayed as instructed (~~(on the permit)~~).

(b) Annual parking permits must be displayed (~~(on the left side (driver's side) of the windshield. Permits must be mounted completely by means of their own design. No additional substances may be used to adhere the permit unless approved by the parking department)~~) as instructed.

(2) Motorcycles and mopeds. "M" permits must be (~~(prominently displayed on the left rear side of the vehicle or on top of the rear tail light. Permits must be mounted completely by means of their own design. No additional substances may be used to adhere the permit unless approved by the parking department)~~) displayed as instructed.

(3) Virtual parking permits (~~(: Certain parking permissions do not require that a permit be displayed. In those instances, the)~~). The virtual permit is associated with the license plate registered.

(a) Vehicles must be parked so that the license plate is visible from the driving aisle.

(b) No covers may be placed over the license plate that would inhibit the reflectivity of the plate.

(c) The alphanumeric characters of the license plate must be visible and unobstructed by license plate frames or other accessories.

(d) Individuals with virtual permits must ensure their current vehicle is registered and associated with their virtual permit. This process can be accomplished at the parking department.

(e) Multiple vehicles on the same virtual permit do not allow for more than one motor vehicle to be parked in a permit area on campus during the same period.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-540 Zone parking permits—Availability and use. The management and assignment of parking zones is designed to provide a parking space to each permit holder. However, uncontrolled access to parking areas and unexpected parking demand makes it impossible to guarantee a parking space in a permit holder's assigned zone. Every effort is made via surveys and limits on permit sales, to ensure that

permit holders are not displaced from their assigned zones. (~~The only exception to this is that the sale of blue permits is not limited.~~)

Staff and students are generally assigned to specific parking areas, referred to as zones. Parking zones are color-coded with respect to their price and numbered with respect to the specific parking zone assignment of each permit holder. Permit holders may park in their assigned zone as reflected by the combination of color and number on their permit and corresponding sign, or they may park in other zones as described below.

(1) Orange permits. Orange permit holders may park in their numerically assigned orange zone, or in any green, yellow, red, or blue zone. (~~These permits may be made available on a daily basis.~~)

(2) Green permits. Green permit holders may park in their numerically assigned green zone, or in any yellow, red, or blue zone. (~~These permits may be made available on a daily basis.~~)

(3) Yellow permits. Yellow permit holders may park in their numerically assigned yellow zone, or in any red or blue zone. (~~These permits may be made available on a daily basis.~~)

(4) Red permits. Red permit holders may park in their numerically assigned red zone or in any blue zone. (~~These permits may be made available on a daily basis.~~)

(5) Crimson permits. Crimson 1 permit holders may park in the crimson 1 zone, or in any gray 1 zone, or blue 1 zone. Crimson 2 permit holders may park in the crimson 2 zone, or in any gray 2 zone, or blue 1 zone. Crimson 3 permit holders may park in the crimson 3 zone, or in any gray 2 zone, or blue 1 zone. Crimson 4 permit holders may park in the crimson 4 zone, or in any gray 1 zone, or blue 1 zone. Crimson permit holders must turn in their crimson permit for a refund or credit toward another permit, if applicable, immediately upon moving out of the residence hall. Only residence hall students are eligible for crimson permits. Residence hall students are eligible for crimson, gray, or blue permits only.

(6) Gray permits. Gray permit holders may park in their numerically assigned gray zone, or in any blue zone. These permits may be made available on a daily basis. Gray permit holders must turn in their gray permit for refund or credit toward another permit, if applicable, immediately upon moving out of a residence hall. Only residence hall students are eligible for gray permits. Residence hall students are eligible for crimson, gray, or blue permits only.

(7) Blue permits. Blue permit holders may park in any blue zone. These permits may be made available on a daily basis.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-560 Other parking permits—Availability and use. (1) Visitor permits. For information about visitor parking, refer to the parking department's website.

(2) Golden cougar permits. Golden cougar permits are special permits that are issued to retired or emeritus staff for their sole use in recognition of their service (~~without additional cost~~). They are issued on an annual basis and are valid in designated areas that are approved by the parking department. Staff who are employed by the university or by other entities located on campus after formal retirement

are not eligible to use a golden cougar permit in lieu of a regular paid zone permit.

(3) Event permits. Event permits are available to patrons who participate in events held on the university campus. They are available on a daily basis only. Event permits are assigned to specific zones on a space-available basis. Event permits are not valid in restricted spaces.

(4) "M" permits. Motorcycle and moped permits are valid within boundaries of areas specifically posted and/or marked for "M" permits. "M" permits are available on an annual and daily basis.

(5) Commercial permits. Commercial permits are issued to vendors, suppliers, and service representatives of outside companies performing a service for the university. Commercial permits are available on an annual or daily basis. Annual commercial permits are valid in service zones, pay parking ((meters)) facilities, and orange, green, yellow, red, and blue zones. ((Daily)) Commercial permits may be assigned to specific zones on a space-available basis. ((Commercial permits are not valid in orange zones or pay parking facilities.))

(6) Housing permits. A housing permit is issued to eligible residents of university-owned housing. Housing permits are valid only in specific housing parking areas.

(7) Carpool. Upon application, a ((bona-fide)) carpool ((as-defined by the campus policies and procedures)) is given preference in the assignment of parking zones, and issued a permit that facilitates the carpool. Obtaining or using a carpool permit under false pretenses constitutes the illegal use of a permit.

(8) Departmental permits. Departmental parking permits are available for use by department visitors or employees who need to use their personal vehicles for university business. Departmental permits are ((available in different forms and are)) valid at ((parking meters)); service zones; orange, green, yellow, red, and blue ((, crimson, and gray permit)) zones; and pay parking facilities. Departmental permits are not valid in pedestrian malls or reserved spaces. The use of departmental permits for anything other than official departmental business is prohibited by the State Ethics Act.

(9) Premier guest permits. Premier guest permits are valid at orange, green, yellow, red, and blue zones, and pay parking facilities. Premier guest permits are not valid in pedestrian malls or reserved spaces.

(10) College hill permits. College hill permits are valid in designated numerically assigned parking areas that are approved by the parking department.

~~((10))~~ (11) Night parking permits. Night parking permits are permits issued to designated WSU employees approved by the parking department that allow the approved employees to park during specific hours in designated areas.

~~((11))~~ (12) Exempt permits. Exempt permits are issued to departments and entities located on campus for university owned vehicles and other publicly owned vehicles. All other publicly owned vehicles owned by entities not located on or regularly doing business on campus must display a valid permit to park on campus. Police, fire, and emergency vehicles are not required to display a permit on campus.

~~((12))~~ (13) Media permits. Media permits are issued to media organizations that need to cover news on the WSU Pullman campus. Media permits are valid in green, yellow, red, and blue zones ((, and meters for the maximum time listed on the meter)). Media employees who are also WSU students, faculty, or staff may use the media permit only to

cover news stories. Media permits may not be used for personal use, attending class, other day-to-day services that fall within normal job duties. Any attempt by WSU students, faculty, or staff to use a media permit in lieu of a WSU permit may result in a fine for illegal use of a parking permit and/or recall of the media permit by the parking department.

~~((13))~~ (14) WSU permits. WSU permits are issued at the discretion of the parking department. WSU permits are valid in orange, green, yellow, red, and blue zones, ~~((hourly))~~ and pay parking facilities ~~((, and parking meters))~~.

~~((14))~~ (15) Day permits. Day permits are sold on a daily basis and are valid in green, yellow, red, and blue zones.

~~((15))~~ (16) Reserved permits. Reserved permits are valid in a designated reserved lot or space.

(17) Service permits. Service permits are valid for a maximum of 15 minutes in a marked service zone. Service permits are issued upon the approval of the parking department.

(18) Mall service permits. Mall service permits are valid for a maximum of 15 minutes in select pedestrian malls. Mall service permits are issued upon the approval of the parking department.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-600 Parking for individuals with disability. (1) The provisions of this chapter cover disability parking and the payment of fees and fines associated with parking for individuals with disability.

(2) For the purpose of this chapter, individuals with disability refer to individuals with disability who qualify for a state-issued individual with disabilities parking ~~((identification))~~ authorization and permit as provided in chapter 308-96B WAC.

(3) The university uses the state individual with disabilities parking permit ~~((system))~~ authorization to determine eligibility for disability parking.

(4) Unless otherwise authorized, parking in spaces designated for individuals with disability requires a WSU disability permit to park on campus.

(5) Individuals with a WSU disability permit may park in an individual with disability parking space and any other, nonrestricted permit space within a parking permit zone.

(6) Individuals with a WSU disability permit may not park in restricted spaces with the exception of individuals with disability parking spaces.

(7) Unless otherwise posted, any university parking permit to include a WSU disability permit is not valid in lieu of payment of regular posted fees in pay parking facilities.

(8) A state-issued individual with disabilities license plate, placard, or ~~((permit))~~ tab, etc. is valid in lieu of a WSU disability permit in parking zones during times when a university permit is not required.

(9) The university intends to retain control of access to the pedestrian malls on campus. For that reason a WSU disability permit is required ~~((in lieu of a state-issued individual with disabilities license plate, placard, or permit))~~ as authorization to use a pedestrian

mall to access marked individuals with disability parking spaces within the confines of a pedestrian mall. Individuals with disabilities must use the closest entrance of the pedestrian mall to access the disability spaces. Shortcutting of the pedestrian malls is prohibited.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-650 Parking fees and fines. (1) Schedules for parking fees, parking administrative fees, late payment fees, parking fines and sanctions, (~~(parking meter rates,)~~) prorate and refund schedules, and the effective date thereof are submitted to the president or their designee and to the board of regents for approval by motion, provided, however, that increases in fees and fines do not exceed limits established by the board of regents. Increases in fees and fines that do not exceed limits established by the board of regents are not submitted to the board of regents so long as the board of regents has delegated authority to the president or their designee to approve all such fees and fines. The schedules described above for all parking fees and fines are thereafter posted in the public area of the parking department office and posted on the parking department's website.

(2) Before purchasing a permit, the balance of any fees and fines owed to the parking department must be paid in full.

(3) Payments. Parking fees and fines may be paid at the parking department by cash, check, approved payment card, or money order. A payroll deduction plan is available for eligible university employees and eligible graduate students.

(4) The annual fee for any shorter period relative to all permits is prorated according to the published schedule.

(5) The proper fee must be paid for all vehicles parked in (~~(parking meter)~~) hourly spaces unless otherwise authorized.

(6) Staff members whose work schedules qualify them for nighttime differential pay may purchase a permit for one-half the regular fee. Verification is required.

(7) Refunds. Annual physical permits being relinquished must be returned to the parking department in person for a pro rata refund in accordance with university policy. Identifiable remnants of physical permits must be returned. In the case of annual virtual permits, the permit purchaser must notify the parking department in person or in writing that they want to relinquish the permit permissions for a pro rata refund in accordance with university policy. The balance of any fees and fines owed the parking department is deducted from any refund due. Refunds for temporary permits are not granted. Refunds for pretax payroll deductions cannot be granted pursuant to federal tax laws.

(8) The parking department makes a wide array of options available in advance to university departments for use by their visitors, guests, and employees for the purpose of conducting departmental business. However, when necessary, university departments that can establish in writing that a parking ticket issued by the parking department was received as a result of parking any vehicle for the purpose of conducting official state business, or while conducting official business with the university or an entity located at the university are assessed a parking fee assessment (PFA) in lieu of the parking fine. Such requests for PFAs are signed by a department fiscal custodian. A

PFA consists of the maximum daily parking fee plus an additional administrative fee for failing to purchase and provide the necessary parking permit or fee in advance or at the time of parking. University departments are encouraged to avoid additional administrative fees associated with PFAs by purchasing (~~and storing prepaid~~) parking permits and by making them available as the department deems necessary. Nothing in this regulation allows a university employee to receive, or attempt to receive, any benefit associated with their personal expenses in violation of the State Ethics Act. All questionable employee conduct regarding the application of this section is reported to, and investigated by, the university internal auditor. This section applies only to parking tickets issued pursuant to this chapter.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-810 Violations, fines, and sanctions. (1) Violations and fines. Parking violations are processed by the university. Fines must be paid at the parking department or at other authorized locations, by mail, or from the parking department's website. Schedules for parking violations, fines, and sanctions are posted in the public area of the parking department office and on the parking department's website.

(2) Reduction of fines. Internal policies regarding disposition of parking tickets may be established on approval of the vice president or designee whose responsibilities include supervision of the parking department.

(3) Payment of parking fines.

(a) All parking fines and fees are due upon issuance. Thirty days after date of issuance, a late fee is added to all unpaid parking fines. For example, a parking ticket issued on May 1st is assessed a late fee on May 31st.

(b) Parking fines and fees assessed for any violation results in referral to the university controller's office for internal collection. Where internal collection efforts are unsuccessful, the controller or designee may place a hold on student transcripts, registration, or other university services until outstanding fines and fees are paid, and/or transfer the account to an external collection agency. The procedures discussed above are not exclusive, however, and failure by anyone to pay fines and fees may also lead to towing or use of the wheel lock device described in these regulations. Nor are the procedures discussed above a precondition to towing or use of the wheel lock.

(c) Account balances not paid to the university voluntarily may be forwarded to an external collections agency and are subject to additional collection fees of up to (~~fifty~~) 50 percent, attorney's fees, and court costs when necessary.

(4) Failure to pay fines. Failure to pay a fine or comply with other penalties assessed pursuant to these regulations, and exhausting or failing to exercise appeals provided for in these regulations, may result in the inability to renew a vehicle license through the state pursuant to RCW (~~46.16.216~~) 46.16A.120.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-860 Appeal procedures. The parking ticket represents a determination that a parking violation has been committed and the determination is final unless otherwise provided or appealed as provided in this chapter.

(1) Purpose. The parking appeals process serves three primary functions:

- (a) To hear parking ticket appeals;
- (b) To hear appeals of wheel lock eligibility determinations; and
- (c) To hear appeals of impoundments.

(2) Procedure. Any individual who has received a parking ticket may appeal the alleged parking violation. Appeal of wheel lock eligibility determinations and impoundments are described in WAC 504-15-865 and 504-15-870. Parking tickets may be processed by an appeals committee member or an assigned hearing officer.

(3) Written parking ticket appeals. The appeal must be in writing and received at the parking department within ~~((ten))~~ 10 calendar days of issuance of the parking ticket. ~~((Online forms for this purpose))~~ Forms are available ~~((from the parking department))~~ online. The parking appeals committee or hearing officer makes an initial decision regarding the appeal within ~~((twenty))~~ 20 calendar days during the academic year and within ~~((thirty))~~ 30 calendar days during the summer months after receipt of the appeal. The committee provides a brief statement of the reason(s) for its decision to the appellant within ~~((ten))~~ 10 calendar days of the decision.

(4) Review hearing of initial decision. If the appellant is dissatisfied with the initial decision, the appellant may request a hearing before a hearing officer or the parking appeals committee. Such request must be made within ~~((ten))~~ 10 calendar days of the date of the initial parking appeals committee decision. If no such request is received, the initial decision is final. During the hearing the appellant and representatives of the parking department may present and cross-examine witnesses. The hearing officer or appeals committee renders a decision in writing and provides the appellant with the decision within ~~((ten))~~ 10 calendar days after the hearing.

(5) Appeal to district court. RCW 28B.10.560 provides that an individual who is not satisfied with the final decision of the university may appeal to district court. The ~~((application for))~~ notification of appeal to district court must be in writing and must be ~~((filed))~~ received at the parking department ~~((office))~~ within ~~((ten))~~ 10 calendar days after the date of the review hearing. The parking department forwards the documents relating to the appeal to the district court.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-865 General. (1) Pursuant to the provisions of this chapter, an officer must cause a vehicle to be wheel locked, or towed, or both, if:

- (a) The vehicle is on the wheel lock-eligible list; or
- (b) The vehicle displays a lost, stolen, or counterfeit parking permit.

(2) Any vehicle may be towed away at owner's/operator's expense if the vehicle:

- (a) Has been immobilized by wheel lock for more than (~~twenty-four~~) 24 hours; or
- (b) Is illegally parked in a marked tow-away zone; or
- (c) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or
- (d) Cannot be immobilized with a wheel lock device; or
- (e) Is illegally parked in a disability space; or
- (f) Is parked in an area designated to be used for emergencies, maintenance, events, or construction; or
- (g) Is otherwise illegally parked based on the executive authority of the parking department or the university police department.

(3) The driver and/or owner of a towed vehicle must pay towing and storage expenses.

(4) Any vehicle immobilized by use of the wheel lock device in excess of (~~twenty-four~~) 24 hours is assessed a storage fee for each calendar day or portion thereof, beyond the first (~~twenty-four~~) 24 hours.

(5) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.

(6) No vehicle impounded by towing or wheel lock devices is released until the following fines are paid in cash or with an approved payment card:

- (a) All unpaid parking ticket fines and late fees against said vehicle and any other vehicle registered to the owner;
- (b) A wheel lock fee; and
- (c) All towing and storage fees.

(7) An individual wishing to challenge the validity of any fines or fees imposed under this chapter may appeal such fines or fees as provided in WAC 504-15-860. However, in order to secure release of the vehicle, such individual must pay the amount of such fines or fees as a bond which is refunded to the extent the appeal is successful.

(8) An accumulation of six unpaid violations during any (~~twelve~~) 12-month period, (~~exclusive of overtime at parking meter violations, and overtime in time zone violations,~~) subjects the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-870 Wheel lock-eligible list. (1) The parking administrator is responsible for creating and maintaining the wheel lock-eligible list. See definition of "wheel lock-eligible vehicle under WAC 504-15-100(50)."

(2) A wheel lock-eligible vehicle is placed on the wheel lock-eligible list after notice has been issued as provided in subsection (3) of this section and an appeal of the wheel lock eligibility determination, if requested, under subsection (4) of this section.

(3) At least (~~ten~~) 10 days prior to placing a vehicle on the wheel lock-eligible list, the parking administrator must mail a notice

to the owner. The parking administrator mails the notice to the address stated on the most current registration records available to the university from a state, or any more current address of which the parking administrator or chief of police has actual written notice. The notice is sent by first class United States mail, postage prepaid. The notice must set forth:

(a) The make and license plate number of the alleged wheel lock-eligible vehicle.

(b) A specified date on which the wheel lock-eligible vehicle is subject to placement on the wheel lock-eligible list.

(c) A list of the three or more alleged unpaid parking tickets, including the parking ticket number, date, time, place of the violation, and the nature of the violation. This list must include all unpaid parking tickets issued to a particular vehicle to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(d) That the owner may avoid the placement of the vehicle on the wheel lock-eligible list by making payment in full of fines and late fees on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees by the specified date on which the vehicle is subject to placement on the wheel lock-eligible list.

(e) The name, mailing address (and street address if different), and telephone number of the parking department office that may be contacted to appeal the wheel lock eligibility determination. Such an appeal only considers whether an individual vehicle was properly placed on the wheel lock-eligible list and not the merits of an individual parking ticket, which may be addressed pursuant to a separate appeals process described in WAC 504-15-860.

(f) That the vehicle is subject to wheel lock, towing, or both once it is placed on the wheel lock-eligible list.

(g) That all late fees, wheel lock fees, towing, and storage fees must be payable in full to obtain the release of a vehicle wheel locked or towed pursuant to this chapter in addition to payment of any and all unpaid parking tickets on this vehicle or other vehicles owned by the registered owner to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(4) If a request for an appeal of a wheel lock eligibility determination is received by the parking administrator before the specified date in the notice for placement of the vehicle on the wheel lock-eligible list, then the parking administrator must afford the owner an opportunity to appeal the wheel lock eligibility determination prior to the placing of a vehicle on the wheel lock-eligible list. Although the parking administrator does not have the authority to adjudicate the merits of any parking ticket, she or he must, however, receive evidence and other input from the owner appealing the wheel lock eligibility determination that the notice given under subsection (3) of this section was erroneous or based on erroneous information.

(5) If an owner timely participates in the appeal as scheduled by the parking administrator, they must furnish the owner written notice of their decision prior to placing the vehicle on the wheel lock-eligible list.

(6) After the specified date provided in the notice issued under subsection (3) of this section, the parking administrator must review the records to ensure that the alleged unpaid parking tickets have not been paid or otherwise resolved, and that no information has been received indicating that the notice was erroneous.

(7) Once a vehicle has been placed on the wheel lock-eligible list, it must not be removed from the list unless and until:

(a) The fines and fees on all unpaid parking tickets issued during the time it has been registered to or otherwise held by the owner are paid or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees;

(b) The parking administrator receives reliable information that title to the vehicle has been transferred; or

(c) The parking administrator determines that the placement of the vehicle on the wheel lock-eligible list was erroneous.

(8) If a vehicle is not properly registered in any state or no registration information is available to the university and the vehicle is wheel lock eligible, then notice must be provided by posting on the vehicle a conspicuous notice(~~(, which)~~) or mailed to the confirmed local operator. The notice must set forth:

(a) A description of the alleged wheel lock-eligible vehicle;

(b) A specified date on which the wheel lock-eligible vehicle is subject to placement on the wheel lock-eligible list;

(c) That the owner may avoid placement of the vehicle on the wheel lock-eligible list by making payment in full of fines and late fees on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees by the specified date certain on which the vehicle is subject to placement on the wheel lock-eligible list; and

(d) That the vehicle is subject to wheel lock, towing or both once it is placed on the wheel lock-eligible list.

(9) An officer must attempt to wheel lock any vehicle which appears on the wheel lock-eligible list when parked, lawfully or unlawfully, on campus.

(10) The parking administrator or the chief of police must ensure that officers are on duty to remove wheel locks from vehicles Monday through Friday between 8:00 a.m. and 5:00 p.m.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-920 Closed and restricted areas. In certain designated areas on campus, such as the pedestrian mall in the campus core, driving is restricted to mall service vehicles and vehicles bearing ~~((university))~~ state-issued individuals with disability ~~((permits))~~ authorizations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 504-15-580 Special indicator decals and hangers.