

WSR 25-02-001

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Hearing and Speech)

[Filed December 18, 2024, 12:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-08-058.

Title of Rule and Other Identifying Information: Hearing and speech; implementing legislation, reducing licensure barriers for hearing and speech professions, and clarifying requirements for speech-language pathology assistant certification in chapter 246-828 WAC.

The board of hearing and speech (board) is proposing amendments to implement section 8 of 2SHB 1724 (chapter 425, Laws of 2023), codified as RCW 18.130.077, to reduce barriers to entering and remaining in the hearing and speech workforce and to shorten the credentialing process. The board is proposing revisions to WAC 246-828-020, 246-929-510, and creating new WAC 246-828-035 Licensure by endorsement. Additionally, the board is proposing amendments to WAC 246-828-617 to clarify the requirements for speech-language pathology assistant certification.

Hearing Location(s): On February 7, 2025, at 9:10 a.m., at Washington State Department of Health, Town Center 2, Room 166, 111 Israel Road S.E., Tumwater, WA 98501; or virtual via Microsoft Teams meeting. Join on your computer, mobile app, or room device. Copy this URL into your browser to join the meeting [Date of Intended Adoption: February 7, 2025.](https://teams.microsoft.com/l/meetup-join/19%3ameeting_Yjc50TNhNjgtZjI4Mi00NmEyLWJjZTMtMjIhYjA4OWE3ZjU3%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22ae44b66e-af0e-436f-a863-213f33d92a5c%22%7d; or download Teams https://www.microsoft.com/en-us/microsoft-teams/download-app, Meeting ID 286 553 793 714, Passcode kwdtpH; or call in (audio only) +1 564-999-2000, United States, Olympia, Phone Conference ID 819 266 217#. You may also submit comments in writing.</p></div><div data-bbox=)

Submit Written Comments to: Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email kimboi.shadduck@doh.wa.gov, <https://fortress.wa.gov/doh/policyreview>, beginning the date and time of this filing, by January 29, 2025, 11:59 p.m.

Assistance for Persons with Disabilities: Contact Kim-Boi Shadduck, program manager, phone 360-236-2912, TTY 711, email kimboi.shadduck@doh.wa.gov, by January 22, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing revisions to existing rules and adding a new section of rule to waive education, training, experience, and examination requirements for applicants that qualify for licensure by endorsement to implement RCW 18.130.077. Specifically, the board is proposing to:

- Remove the jurisprudence examination requirement in WAC 246-828-020 for all hearing and speech professions licensed under chapter 246-828 WAC.

- Establish new WAC 246-828-035 to add an expedited pathway to Washington licensure for out-of-state speech and hearing professionals who have been credentialed in another state with substantially equivalent

lent standards and a pathway to Washington licensure for speech and hearing professionals who have a national certification that is in good standing. In both cases applicants must also meet all of the requirements in RCW 18.130.077(3).

- Amend the continuing education (CE) requirements in WAC 246-828-510 to add the jurisprudence examination as free CE hour that must be completed within the first year of licensure, then once every three years.

The board is also proposing revisions to WAC 246-828-617 to address confusion about the education and experience needed to be certified as a speech-language pathology assistant.

Reasons Supporting Proposal: Under RCW 18.130.077, all disciplining authorities shall waive education, training, experience, and exam requirements for applicants who have been credentialed in another state or states with substantially equivalent standards for at least two years immediately preceding their application with no interruption in licensure for longer than 90 days. The statute also allows disciplining authorities to choose to waive education, training, experience, and exam requirements for applicants who have achieved the national credential for their profession.

The intent of the statute is to make disciplining authorities review and adjust licensure requirements to remove barriers to entering and remaining in the health care workforce and shorten the credentialing process.

The board is proposing to move the jurisprudence requirement from an initial licensure requirement to a CE. The jurisprudence exam is training that is Washington state specific. The board believes it is important that all speech and hearing credential holders new to the state are aware of Washington's laws and rules pertaining to their profession. While it may not be necessary to have the education prior to being licensed in Washington state, by having all providers take the jurisprudence examination within the first year of licensure, all providers will have knowledge of where to find laws and rules regarding their professions.

Establishing expedited pathways to Washington licensure for out-of-state professionals meets the intent of RCW 18.130.077 by reducing barriers for out-of-state health care professionals seeking certification in Washington, to expand the availability of qualified providers, and streamline the credentialing process.

The hearing and speech profession provides national credentialing opportunities. The board has determined that the following national certifications are substantially equivalent to meeting the requirements for Washington state licensure: The certificate of clinical competence from the American Speech-Language Hearing Association, board certification in audiology by the American Board of Audiology, or certification from the National Board for Certification in Hearing Instrument Sciences.

To ensure clear understanding of the education and experience requirements for certification as a speech-language pathology assistant, the board is proposing amendments.

Statutory Authority for Adoption: RCW 18.35.161; and 2SHB 1724 (chapter 425, Laws of 2023), codified as RCW 18.130.077.

Statute Being Implemented: RCW 18.130.077.

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

Name of Proponent: Board of hearing and speech, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim-Boi Shadduck, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2912.

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 Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-2912, TTY 711, email kimboi.shadduck@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed amendments impact rules regulating individual professional licenses, not businesses.

Scope of exemption for rule proposal:

Is fully exempt.

December 18, 2024

Sonja Bradford, Speech-Language Pathologist
Chair, Board of Hearing and Speech

OTS-5705.5

AMENDATORY SECTION (Amending WSR 19-13-041, filed 6/12/19, effective 7/13/19)

WAC 246-828-020 Examinations. (1) A hearing aid specialist credential applicant is required to take the written International Licensing Exam developed by the International Hearing Society or other entity approved by the board. An applicant must obtain a passing score as recommended by the examination administrator and as approved by the board. An applicant may apply to take the written examination no more than ~~((ninety))~~ 90 days prior to the anticipated completion date of the educational program. The anticipated completion date must be verified by the educational program.

(2) ~~A~~ A hearing aid specialist credential applicant ~~((s))~~ who ~~((have))~~ has completed a board-approved nine-month certificate program ~~((are))~~ is required to take the practical examination approved by the board. The applicant ~~((s))~~ must obtain a passing score as recommended by the examination administrator and as approved by the board.

(3) ~~An~~ An audiology credential applicant ~~((s-are))~~ is required to take the Praxis audiology exam ~~((or other entity approved by the board))~~. The applicant ~~((s))~~ must obtain a passing score as recommended by the examination administrator ~~((and as approved by the board))~~.

(4) ~~A~~ A speech-language pathologist credential applicant ~~((s-are))~~ is required to take the Praxis speech-language pathology exam ~~((or other entity approved by the board))~~. The applicant ~~((s))~~ must obtain a passing score as recommended by the examination administrator ~~((and as approved by the board))~~.

~~(5) All credential applicants are required to take and pass a jurisprudence examination approved by the board. The passing score on the jurisprudence examination is one hundred percent).~~

NEW SECTION

WAC 246-828-035 Licensure by endorsement. (1) An applicant that is currently licensed, and has been licensed for at least the immediately preceding two years in a state or jurisdiction with substantially equivalent standards to Washington, and meets all requirements in RCW 18.130.077 (1) and (3), qualifies for licensure by endorsement. The applicant shall submit to the department:

- (a) An application on forms provided by the department;
- (b) Proof of licensure history that demonstrates compliance with RCW 18.130.077; and
- (c) The appropriate licensing fees required under WAC 246-825-990(2).

(2) An applicant qualifies for licensure by endorsement if they meet the requirements of RCW 18.130.077(3) and hold one of the following national certifications; the certificate of clinical competence (CCC) from the American Speech-Language Hearing Association (ASHA), board certification in audiology by the American Board of Audiology, or certification from the National Board for Certification in Hearing Instrument Sciences. The applicant shall submit to the department:

- (a) An application on forms provided by the department;
- (b) Proof of national certification;
- (c) Proof of compliance with RCW 18.130.077(3); and
- (d) The appropriate licensing fees required under WAC 246-825-990(2).

(3) An applicant licensed in a state with substantially equivalent standards for less than two years:

- (a) May obtain an initial license as provided in RCW 18.35.040.
- (b) May obtain a temporary practice permit in WAC 246-828-305 or 246-828-315.

(4) An applicant licensed in a nonsubstantially equivalent state may obtain an initial license as provided in RCW 18.35.040.

AMENDATORY SECTION (Amending WSR 24-01-120, filed 12/19/23, effective 1/19/24)

WAC 246-828-510 Continuing education. The purpose of continuing education is to ensure the highest quality professional care. The objectives are to improve and increase the ability of the hearing aid specialist, audiologist, speech-language pathologist, and speech-language pathology assistant to deliver the highest possible quality professional care and keep the professional abreast of current developments.

Continuing education consists of educational activities designed to review existing concepts and techniques and to convey information and knowledge about advances in hearing instrument fitting and dispensing, audiology, and speech-language pathology fields as applied to the work setting. Continuing education requirements include:

(1) ((Continuing education requirement.)) A credential holder must take and pass the jurisprudence examination approved by the board within the first year of licensure. The jurisprudence examination requirement counts as one hour of continuing education.

(2) A credential holder must complete a minimum of 30 hours of continuing education every three years.

(a) At least one hour of the continuing education must be on infection control.

(b) One hour of continuing education must be the successful completion of the jurisprudence examination approved by the board.

(c) Multicultural education aimed at removing barriers to access to care may count for up to five hours of continuing education.

~~((e))~~ (d) At least 25 hours of continuing education must be related to profession specific skills and competencies.

~~((i))~~ (e) At least two hours of continuing education must be on health equity training, as specified in WAC 246-12-800 through 246-12-830. ~~((ii))~~ This training must be completed by the end of the second full continuing education reporting period after January 1, 2024, or the second full continuing education reporting period after initial licensure, whichever is later.

~~((2))~~ (3) Continuing education is defined as any of the following activities:

(a) Courses, seminars, workshops and postgraduate programs offered by accredited educational institutions. These educational activities must be recorded on an official transcript or by documentation stating the number of continuing education hours completed.

(b) Courses, seminars and workshops offering continuing clock or continuing educational units offered by profession-related organizations or industries. These activities will be accepted with documentation of the number of continuing education hours completed.

(c) Attendance at a continuing education program having a featured speaker(s) or panel, which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. This activity will be accepted with documentation of the number of continuing education hours completed.

(d) Participation as a speaker or panel member in a continuing education program which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. A maximum of eight hours, including preparation time, may be applied to the total three-year requirement.

(e) Completion of a written, video, internet, or audio continuing education program which has been provided by, sponsored by, or endorsed by a profession-related organization or industry. Only programs in which proof of completion is provided or with tests that are not self-graded will be accepted.

~~((3))~~ (4) The board may grant an exception for continuing education requirements under certain circumstances including, but not limited to, severe illness. The credential holder must submit a written request for exception to the board for review. The board will approve or deny the request.

~~((4))~~ (5) A credential holder may be randomly audited for continuing education compliance as specified in ~~((chapter 246-12 WAC, Part 7))~~ WAC 246-12-170 through 246-12-240.

AMENDATORY SECTION (Amending WSR 15-14-092, filed 6/29/15, effective 7/1/15)

WAC 246-828-617 Requirements for speech-language pathology assistant certification. An applicant for certification as a speech-language pathology assistant must have one of the following minimum qualifications:

(1) An associate of arts or sciences degree, or a certificate of proficiency (~~(, with transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology course work and transcripts showing)~~).

(a) Transcripts must show:

(i) Coursework that culminates in a speech-language pathology assistant certification program; and

(ii) Forty-five quarter hours or ~~((thirty))~~ 30 semester hours of general education credit from a board-approved institution of higher education as defined in WAC 246-828-025 (1)(b).

(b) Transcripts must reflect, or applicant must demonstrate, ~~((one hundred))~~ 100 hours of supervised patient/client/student work experience completed within a one-year time frame, or clinical experience practicum, with at least ~~((fifty))~~ 50 of those hours under direct supervision; or

(2) A bachelor of arts or bachelor of sciences degree with transcripts from a speech, language, and hearing program from a board-approved institution of higher education as defined in WAC 246-828-025 (1)(b). Transcripts must reflect, or applicant must demonstrate, ~~((one hundred))~~ 100 hours of supervised patient/client/student work experience completed within a one-year time frame, or clinical experience practicum, with at least ~~((fifty))~~ 50 of those hours under direct supervision.

WSR 25-02-007

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed December 18, 2024, 2:40 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Sanitary control of shellfish, minimum performance standards, WAC 246-282-005. The department of health (department) is proposing to amend WAC 246-282-005 (1)(a) to adopt by reference the 2023 version of the National Shellfish Sanitation Program's (NSSP) Guide for the Control of Molluscan Shellfish (guide). This rule making is necessary to update the publication date of the NSSP guide adopted by reference from 2019 to the 2023 version.

Hearing Location(s): On February 5, 2025, at 2:00 p.m., virtual hearing using Zoom. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_j0cKdrAOSGi32iZN3RAv8Q.

After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: February 12, 2025.

Submit Written Comments to: Kseniya Efremova, P.O. Box 47824, Olympia, WA 98504-7824, email shellfishrule@doh.wa.gov, <https://fortress.wa.gov/doh/policyreview/>, beginning date and time of filing, by February 5, 2025, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Kseniya Efremova, phone 360-236-3449, TTY 711, email kseniya.efremova@doh.wa.gov, by January 22, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment will update the reference to the NSSP guide to ensure that the most current health and safety requirements are in rule as required by the statute. The United States Food and Drug Administration (FDA) requires all shellfish-producing states to follow the most current version of the NSSP guide in order to place molluscan shellfish into interstate commerce. The rule currently references an outdated 2019 version of the guide.

Reasons Supporting Proposal: The FDA oversees a cooperative program between the shellfish-producing states and the shellfish industry for the production and processing of shellfish consistent with the NSSP guide. The FDA evaluates each state's shellfish sanitation control program to ensure compliance with the NSSP guide. Therefore, an update of WAC 246-282-005 is needed so that Washington state remains compliant with the NSSP guide and the molluscan shellfish products from Washington can continue to be placed into interstate commerce.

Statutory Authority for Adoption: RCW 69.30.030.

Statute Being Implemented: RCW 69.30.030.

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

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

Name of Agency Personnel Responsible for Drafting: Kseniya Efremova, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3449; Implementation and Enforcement: Dani Toepelt, 111 Israel Road S.E., Tumwater, WA 98501, 360-890-6054.

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

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Scope of exemption for rule proposal:

Is fully exempt.

December 18, 2024
 Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary of Health

OTS-5985.1

AMENDATORY SECTION (Amending WSR 21-14-019, filed 6/28/21, effective 7/29/21)

WAC 246-282-005 Minimum performance standards. (1) Any person engaged in a shellfish operation or possessing a commercial quantity of shellfish or any quantity of shellfish for sale for human consumption must comply with and is subject to:

(a) The requirements of the U.S. Food and Drug Administration National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish ((2019)) 2023 (copies available through the U.S. Food and Drug Administration, Shellfish Sanitation Branch, and the Washington state department of health, office of shellfish and water protection);

(b) The provisions of 21 Code of Federal Regulations (C.F.R.), Part 123 - Fish and Fishery Products, adopted December 18, 1995, by the United States Food and Drug Administration, regarding Hazard Analysis Critical Control Point (HACCP) plans (copies available through the U.S. Food and Drug Administration, Office of Seafood, and the Washington state department of health, office of food safety and shellfish programs); and

(c) All other provisions of this chapter.

(2) If a requirement of the NSSP Model Ordinance or a provision of 21 C.F.R., Part 123, is inconsistent with a provision otherwise es-

established under this chapter or other state law or rule, then the more stringent provision, as determined by the department, will apply.

WSR 25-02-070

PROPOSED RULES

BELLEVUE COLLEGE

[Filed December 23, 2024, 11:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-20-047.

Title of Rule and Other Identifying Information: Chapter 132H-122 WAC, Student financial debt.

Hearing Location(s): On Monday, February 10, 2025, at 2:00-3:00p.m. Pacific, via Teams <https://teams.microsoft.com/l/meetup-join/>

19%3ameeting_MzZlNGY3OGYtNGQ5Mi00M2Q4LWFfjZmEtZTIwNDU1ODYxZmEx%40thread.v2/0?context=%7b%22Tid%22%3a%22f94c251c-1347-422e-b3ea-8ac56befd6cb%22%2c%22Oid%22%3a%22ccd85c6f-4577-4bad-a18a-6219e7070289%22%7d; or dial in by phone +1 206-899-2345,,563759671# United States, Bainbridge Island, Phone Conference ID 563 759 671#.

Date of Intended Adoption: March 19, 2025.

Submit Written Comments to: Loreen McRea Keller, 3000 Landerholm Circle S.E., Bellevue, WA 98007, email loreen.keller@bellevuecollege.edu, 425-564-6155, beginning December 20, 2024, by February 4, 2025.

Assistance for Persons with Disabilities: Contact disabilities resource center, TTY 425-564-6189, email drc@bellevuecollege.edu, by February 4, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revisions are needed for clarity and compliance with RCW 28B.10.293. Changes will strengthen appeal process, remove incorrect fees, and increase clarity around student contact efforts prior to account holds.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: 2SHB 2513.

Name of Proponent: Bellevue College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Loreen McRea Keller, 3000 Landerholm Circle S.E., Bellevue, WA 98007, 425-564-6155.

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

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

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

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

Scope of exemption for rule proposal:

Is fully exempt.

December 20, 2024

Loreen M. Keller

Associate Director

Policy and Government Relations

OTS-6081.1

AMENDATORY SECTION (Amending WSR 23-04-004, filed 1/19/23, effective 2/19/23)

WAC 132H-122-010 Statement of policy. (1) Bellevue College expects students who owe a debt for ~~((services,))~~ tuition and fees, housing, financial aid, fines, and other fees to pay the amount they owe, or set up a payment plan, and to contact the college for additional information, if needed.

(2) Students have the right to ask for details related to the debt, and to appeal a debt.

(3) The finance office is responsible for the implementation of this ~~((code))~~ policy.

AMENDATORY SECTION (Amending WSR 23-04-004, filed 1/19/23, effective 2/19/23)

WAC 132H-122-020 Student financial debt procedures. (1) The college may take the following actions for nonpayment of outstanding student debt:

(a) Place a hold, ~~((also called a negative service indicator,))~~ on a student's account if they owe a debt for housing, financial aid, or tuition ~~((, or other college fees))~~. A ~~((negative service indicator))~~ hold prevents enrollment for future quarters.

(b) Drop students for nonpayment of ~~((any debt))~~ tuition and fees in excess of \$300 at any time.

(c) Refer past due debts that exceed \$100 to a collection agency. Unpaid charges and balances become past due after the tuition payment deadline of 30 days from the start of the quarter. The college will make no less than three attempts (two balance due notices and a final notice) to notify the student of the outstanding debt. Past due debts may be sent to a collection agency after 30 days have elapsed from the time the final notice was attempted.

(2) Prior to referral, students will receive notice via their Bellevue College email. The notice will include at a minimum the following information:

~~((i))~~ (a) The amount of the debt owed;

~~((ii))~~ (b) The nature of the debt;

~~((iii))~~ (c) Information on how to pay the debt;

~~((iv))~~ (d) Contact information for the finance office and/or staff member who can provide more information, and/or set up a payment plan;

~~((v))~~ (e) The deadline for payment of the debt; and

~~((vi))~~ (f) Any consequences that may result from nonpayment of the debt.

~~((2))~~ (3) Reporting requirements: The college follows the state reporting rules related to the use of ~~((negative service indicators))~~ holds, debt levels, and collection practices.

AMENDATORY SECTION (Amending WSR 23-04-004, filed 1/19/23, effective 2/19/23)

WAC 132H-122-030 Debt dispute and appeal. (~~Students who believe that exigent circumstances exist, or an error occurred that may require reduction or removal of a debt, may submit an online appeal form, available on the enrollment services website, for review of the debt.~~) Students may submit an appeal through the enrollment services website if they believe that an error has been made in the assessment of the debt, if they face undue hardship, or if other extenuating circumstances warrant reconsideration. Directions for appeal can be found on the enrollment services website. Appeals must be submitted within 180 calendar days from the end of the quarter where charges were incurred.

WSR 25-02-085
PROPOSED RULES
ENVIRONMENTAL AND
LAND USE HEARINGS OFFICE
(Growth Management Hearings Board)
[Filed December 27, 2024, 3:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-08-015.

Title of Rule and Other Identifying Information: Chapter 242-03 WAC, GMHB rules of practice and procedure.

Hearing Location(s): On February 4, 2025, at 9:00 a.m. Zoom [https://eluhwa-wa-gov.zoom.us/j/6690698875?](https://eluhwa-wa-gov.zoom.us/j/6690698875?pwd=YVJDN0R4WmRPUDBQdjdvaeE82ZVF1UT09&omn=86401404695) [pwd=YVJDN0R4WmRPUDBQdjdvaeE82ZVF1UT09&omn=86401404695](https://eluhwa-wa-gov.zoom.us/j/6690698875?pwd=YVJDN0R4WmRPUDBQdjdvaeE82ZVF1UT09&omn=86401404695), Meeting ID 669 069 8875, Passcode 635907. Physical location 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501. The public hearing will be conducted online via Zoom; however, participants who wish to comment may phone in using the Zoom call-in information or they may participate in person.

Date of Intended Adoption: February 28, 2025.

Submit Written Comments to: Jamie Merly, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501, email Jamie.Merly@eluhwa-wa.gov, beginning December 30, 2024, by February 17, 2024 [2025].

Assistance for Persons with Disabilities: Contact Jamie Merly, phone 360-485-1282, email Jamie.Merly@eluhwa-wa.gov, by February 3, 2024 [2025].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule changes will clarify that the growth management hearings board (board) shall dismiss based upon a stipulated motion. The rule changes clarify terminology to reduce confusion about the board's statutory authority. Lastly, the rule changes add a rule that the board will determine whether the respondent has delayed or suspended the effective date of the action subject to petition.

Reasons Supporting Proposal: The rule changes align board procedure with existing statutory and case law (see *Spokane County v. Growth Management Hearings Board*, 534 P. 3d 1203, 2023). The court of appeals Division III held that RCW 36.70A.330 does not require the board to hold a compliance hearing after a finding of noncompliance when the parties settle their dispute and agree to dismiss.

Statutory Authority for Adoption: RCW 36.70A.270.

Statute Being Implemented: Chapter 36.70A RCW.

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

Name of Proponent: Washington state environmental and land use hearings office, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jamie Merly, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501, 360-485-1282.

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. Washington state environmental and land use hearings office is not specifically listed in RCW 34.05.328 (5) (b) (i) and does not intend to make this section voluntarily applicable to this rule update per subsection (5) (b) (ii). One of the primary purposes of the rule change is to clarify procedures for implementing existing statutes, consistent

with RCW 34.05.328 (5) (b) (v). Therefore, unless subsection (5) (b) (ii) is invoked by the joint administrative rules [review] committee after filing CR-102, no cost-benefit analysis is required.

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

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Scope of exemption for rule proposal:

Is fully exempt.

December 27, 2024
 Jamie Merly, Director
 Legal and Administrative Services

OTS-5887.1

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-020 Function. The function of the board is to make informed decisions on appeals within the scope of its ~~((jurisdiction))~~ statutory authority arising from implementation of the Growth Management Act, Shoreline Management Act, and State Environmental Policy Act, in a clear, consistent, timely, and impartial manner that recognizes regional diversity.

AMENDATORY SECTION (Amending WSR 12-05-110, filed 2/22/12, effective 3/24/12)

WAC 242-03-025 ~~((Jurisdiction-))~~ Statutory authority. ~~((Subject matter jurisdiction-))~~ The board ~~((shall))~~ has statutory authority to hear and determine:

(1) Petitions alleging that a state agency, county, or city is not in compliance with the requirements of:

(a) The Growth Management Act; or

(b) Chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, including the department of ecology's approval or denial of such adoption or amendment but excluding the department of ecology's adoption of a shoreline master program by rule pursuant to RCW 90.58.070(2); or

(c) Chapter 43.21C RCW as it relates to plans, development regulations, and amendments adopted under the act or chapter 90.58 RCW; or

(2) Petitions from cities or the governor relating to an adopted county-wide planning policy; or

(3) Petitions alleging that the ~~((twenty))~~ 20-year growth management planning projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

AMENDATORY SECTION (Amending WSR 23-11-077, filed 5/17/23, effective 6/16/23)

WAC 242-03-060 Board office. (1) The administration of the board is consolidated in one office - The environmental and land use hearings office:

Growth Management Hearings Board
c/o Environmental and Land Use Hearings Office
1111 Israel Road S.W., Suite 301
Tumwater, WA 98501
P.O. Box 40903
Olympia, WA 98504-0953
website: www.eluho.wa.gov
ELUHO Main Office: 360-664-9160
Fax: 360-586-2253
Regional Email Inboxes
email: eastern@eluho.wa.gov
email: western@eluho.wa.gov
email: central@eluho.wa.gov

(2) Unless a party does not have the technological capacity to do so, the filing of all petitions, briefs, exhibits, and other documents related to any proceeding before a regional panel shall be electronically through the CMS. Exhibits must be formatted and filed in accordance with the board's electronic exhibit requirements. Information about accessing the CMS and requirements for exhibits is available at the ELUHO website at www.eluho.wa.gov.

(3) Email or mail filings shall substitute for filing through the CMS in the event that the filing through the CMS is unavailable or impossible or if a party does not have the technological capacity, such as lack of access to an internet connection or a computer, to utilize the CMS.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-095 Case numbering. The board shall assign a case number to each petition for review which shall be the official reference number for purposes of identification. The first two digits of the case number shall correspond to the last two digits of the calendar year in which the petition was filed. The third digit shall designate which regional panel (~~(has jurisdiction)~~) shall preside over the matter. The Eastern Washington panel shall use the digit "1"; the Western Washington panel shall use the digit "2"; and the Central Puget Sound panel shall use the digit "3." The last four digits shall be numbered sequentially in order of receipt. Consolidated cases are generally assigned the number of the last filed petition followed by a "c."

AMENDATORY SECTION (Amending WSR 16-02-114, filed 1/6/16, effective 2/6/16)

WAC 242-03-510 Index of the record. (1) Within (~~(thirty)~~) 30 days of service of a petition for review, the respondent shall file with the board and serve a copy on the parties (~~(of)~~) an index listing all materials used in taking the action which is the subject of the petition for review, including materials submitted in public comment. The index shall contain sufficient identifying information to enable unique documents to be distinguished.

(2) Concurrent with the filing of the index, the respondent shall make all documents in the index reasonably available to the petitioners for inspection and copying without the necessity for a public records request. In addition, the written or electronic record of the legislative proceedings where action was taken shall be available to the parties for inspection or transcription. Respondents may charge for the cost of copies of documents requested by other parties in accordance with RCW 42.56.120, as amended.

(3) Within seven days after the filing of the index, any other party may file a list of proposed additions to the index. To the extent such documents were submitted to the jurisdiction or a part of the jurisdiction's proceedings prior to the challenged action, they are presumed admissible subject to relevance. If the respondent objects to any proposed addition, the petitioner may bring a motion to supplement the record as provided in WAC 242-03-565.

(4) Respondent may file a corrected index to add, delete, or correct the listing of documents it considered, without the necessity for a motion to supplement the record, by no later than a week before the date for filing the petitioner's prehearing brief.

AMENDATORY SECTION (Amending WSR 23-11-077, filed 5/17/23, effective 6/16/23)

WAC 242-03-530 Presiding officer—Powers and duties. It shall be the duty of the presiding officer to conduct conferences or hearings in an impartial and orderly manner. The presiding officer shall have the authority, subject to the other provisions of the act or these rules to:

(1) Inspect the petition for review to determine whether, on its face, compliance with requirements for (~~(subject matter jurisdiction)~~) the board's statutory authority over the matter, procedural filing and service requirements, and standing requirements of the act is shown, and if compliance is not shown, to recommend an action or to refer the issue to the board for resolution;

(2) Require that parties not represented by counsel designate a spokesperson(s);

(3) Conduct the prehearing conference, seek clarification or simplification of issues, establish the case schedule, and regulate the course of the case;

(4) Rule on all procedural matters, objections and routine motions; resolve procedural issues concerning service of documents by email or by mail in light of technical capabilities or other circumstances;

- (5) Rule on all evidentiary matters including supplementation of the record;
- (6) Decide motions for intervention, amicus, or compliance participant status;
- (7) Consolidate cases for hearing pursuant to RCW 36.70A.290(5) or coordinate cases pursuant to WAC 242-03-030(5) and 242-03-030(6) when such consolidation or coordination will expedite disposition and avoid duplication of evidence and argument;
- (8) Review cases for settlement or mediation opportunities and assist the parties in arranging such sessions;
- (9) Administer oaths and affirmations if witnesses are permitted to testify, authorize discovery, or issue subpoenas in exceptional circumstances as provided in RCW 34.05.446;
- (10) Encourage the parties to stipulate to the admissibility of documents in advance of a hearing and rule on issues concerning the content of the record;
- (11) Limit the length of a brief or impose format restrictions;
- (12) Rule on requests for settlement extensions;
- (13) Determine whether oral argument will be allowed on a motion and, if so, schedule the hearing; determine whether a conference or hearing shall be held by teleconference or in person;
- (14) Require a party to provide a complete copy of the comprehensive plan, county-wide planning policy, or other core document germane to determination of the case;
- (15) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver; and
- (16) Take any other action necessary and authorized by these rules, the act, or the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 23-11-077, filed 5/17/23, effective 6/16/23)

WAC 242-03-540 Prehearing conference—Purpose. The purpose of a prehearing conference is to:

- (1) Determine the feasibility of and encourage settlement of the matter or any portion thereof and provide information about mediation as set forth in WAC 242-03-575;
- (2) Obtain a stipulation of relevant facts including the board's (~~jurisdiction~~) statutory authority to consider the matter, the petitioner's standing in the matter, and the timeliness of the petition for review;
- (3) Obtain agreement as to the issues of law and fact presented and their clarification, simplification, limitation, or resolution, so as to frame the final issues to be decided by the board;
- (4) Rule on any pending matters of intervention, consolidation, or the qualification of individual board members or the composition of the panel;
- (5) Determine the witnesses, if any, that may be allowed to be called by the parties;
- (6) Set the final case schedule for filing motions, deadlines for briefing, and date and time of the hearing on the merits;
- (7) Determine the approximate time necessary for the presentation of evidence and/or argument of the respective parties;

- (8) Obtain all other information which may aid in the prompt disposition of the matter; and
- (9) Resolve procedural issues concerning service of documents by email or by mail in light of technical capabilities or other circumstances.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-545 Prehearing order. (1) Within seven days after the prehearing conference, the presiding officer shall issue a prehearing order memorializing rulings of the board at or prior to the prehearing conference, establishing the issues for resolution in the case, and setting the final case schedule for motions, briefing, and the hearing on the merits. The prehearing order may include:

(a) Admissions concerning (~~jurisdiction~~) the board's statutory authority to consider the matter, standing, or timeliness of the appeal;

(b) Provisions concerning the record, documents to be provided, witnesses allowed, if any, and authenticity and/or admissibility of exhibits;

(c) Limitations on length of briefs and the coordination of arguments from parties with related issues; or

(d) Any other matters that may expedite the resolution of the matter.

(2) Any objection to such order shall be made in writing within seven days after the date the order is dated. The prehearing order shall control ensuing proceedings unless modified for good cause by a subsequent order.

AMENDATORY SECTION (Amending WSR 21-17-069, filed 8/12/21, effective 9/12/21)

WAC 242-03-555 Dispositive motions. (1) Dispositive motions on a limited record to determine the board's (~~jurisdiction~~) statutory authority to consider the matter, the standing of a petitioner, or the timeliness of the petition are permitted. The board rarely entertains a motion for summary judgment except in a case of failure to act by a statutory deadline or a procedural challenge to the State Environmental Policy Act (SEPA) compliance.

(2) Dispositive motions and responses shall be filed by the dates established in the prehearing order. The board may refuse to hear a motion that is not timely filed, except where good cause is shown.

(3) The presiding officer, taking into consideration the complexity and finality of the issues raised, may, in the presiding officer's discretion, request a reply brief from the moving party, schedule a telephonic hearing for argument of the motion or may defer the board's consideration of the motion until the hearing on the merits.

(4) Unless the order on dispositive motions is a final order pursuant to WAC 242-03-030(9), no motion for reconsideration will be allowed.

AMENDATORY SECTION (Amending WSR 21-17-069, filed 8/12/21, effective 9/12/21)

WAC 242-03-590 Briefs. (1) A petitioner, or a moving party when a motion has been filed, shall submit a brief addressing each legal issue it expects the board to determine. Failure by such a party to brief an issue shall constitute abandonment of the unbriefed issue. Briefs shall enumerate and set forth the legal issue(s) as specified in the prehearing order.

(2) Briefs shall be filed according to the requirements and schedule in the prehearing order or any subsequent order amending the briefing schedule.

(3) Clarity and brevity are expected to assist the board in meeting its statutorily imposed time limits. A presiding officer may limit the length of a brief and impose format restrictions.

(4) A copy of any development regulation provision cited in the brief shall be included as an appendix, unless the provision is quoted verbatim in the brief.

(5) Where there is a map in the record that helps illustrate the material facts, petitioner shall include a copy of that map as an exhibit to the brief.

(6) The respondent shall indicate in its brief whether it has delayed the effective date of the action subject to the petition before the board until after the board issues its final decision and order.

AMENDATORY SECTION (Amending WSR 23-11-077, filed 5/17/23, effective 6/16/23)

WAC 242-03-720 Dismissal of action. (1) Any action shall be dismissed by the board:

(a) Upon petitioner's withdrawal of the petition for review before entry of a final decision and order; or

(b) Upon stipulation for dismissal by petitioner(s) and respondent(s) (~~((before entry of a final decision and order))~~).

(2) Any action may be dismissed by the board:

(a) Upon motion of the respondent alleging that the petitioner has failed to prosecute the case, failed to comply with these rules, or failed to follow any order of the board; or

(b) Upon the board's own motion for failure by the parties to comply with these rules or any order of the board.

(c) Upon the board's own motion for petitions that are frivolous, not within the board's (~~((subject matter jurisdiction))~~) statutory authority to consider the matter, not in compliance with procedural service and filing requirements, or the petitioner's lack of standing.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-820 Final decision and order. (1) In its final decision and order, the board shall either:

(a) Find that the state agency, county or city is in compliance with the requirements of chapter 36.70A RCW, chapter 90.58 RCW as it relates to the adoption, denial or amendment of shoreline master pro-

grams, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) Find that the state agency, county or city is not in compliance with the requirements of chapter 36.70A RCW, chapter 90.58 RCW as it relates to the adoption, denial or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW.

(2) If the board's final decision and order finds noncompliance:

(a) Conclusions of law in the final decision and order shall specify the nature, scope, and statutory basis for the finding of non-compliance.

(b) The board shall determine and set forth in the final order whether the county or city has delayed or suspended the effective date of the action subject to the petition before the board until after the board issues a final determination pursuant to RCW 36.70A.300 (4) (b).

(c) The board's final decision and order shall remand the matter to the state agency, county, and/or city and establish a compliance schedule as specified in RCW 36.70A.300 (3) (b).

~~((e))~~ (d) The board retains ~~((jurisdiction of))~~ authority over the matter until the board issues its final order on compliance.

(3) In its final decision and order, the board may determine that part or all of a comprehensive plan or development regulations, including shoreline master program provisions, are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand;

(b) Includes in its final decision and order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of the act; and

(c) Specifies the part or parts, if applicable, of the plan or regulation that are determined to be invalid and the reasons for invalidity.

(4) The effect of a determination of invalidity is as set forth in RCW 36.70A.302.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-960 Continued noncompliance—Recommendation to the governor. If the board finds that the county, city, or state agency continues to be in noncompliance with the act, the board shall transmit its findings to the governor. The board may recommend that sanctions authorized by the act be imposed or, in the alternative, refer the matter to the department of commerce to provide technical assistance to facilitate speedy resolution of the finding of noncompliance. A county or city's efforts to meet a compliance schedule shall be considered by the board in making a recommendation on sanctions to the governor or in recommending a referral to the department of commerce.

WSR 25-02-093

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed December 30, 2024, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-22-127.

Title of Rule and Other Identifying Information: Public records; the department of health (department) is proposing to relocate the public records requirements, currently located in chapter 246-08 WAC, to a new chapter in Title 246 WAC, chapter 246-02 WAC, and expand and clarify the requirements to reflect current state law and agency procedures. The department is also proposing to update the references to the public records rules in WAC 246-08-480 and repeal the outdated rules regarding public records in WAC 246-08-420, 246-08-440, 246-08-450, and 246-08-990.

Hearing Location(s): On February 5, 2025, at 1:00 p.m., virtual hearing using Zoom. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_lseowviESC-VtWp6wDgL1w.

After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: February 12, 2025.

Submit Written Comments to: Melanee Auldredge, Public Disclosure Manager, P.O. Box 47825, Olympia, WA 98504-7825, email publicdisclosure@doh.wa.gov, beginning the date and time of this filing, by February 5, 2025, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Melanee Auldredge, public disclosure manager, phone 360-819-6768, TTY 711, email publicdisclosure@doh.wa.gov, by January 22, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing amendments to its rules regarding public records. These rules explain the process by which individuals or organizations can request access to the department's public records and how department staff process those requests.

As provided in the Public Records Act, each state agency publishes its public records procedures in WAC. The department's current public records rules are located within chapter 246-08 WAC. The department proposes moving these public records rules to their own chapter in Title 246 WAC, chapter 246-02 WAC, to make them easier to locate and organize. Additionally, the department proposes expanding and clarifying these rules to reflect changes and developments in state law and agency procedures, as the department's public records rules have not been updated for over 15 years.

Proposed changes include:

WAC 246-02-010 Purpose. Proposing a new rule section that describes the purpose of this proposed new chapter, which is to implement the requirements of the Public Records Act, chapter 42.56 RCW.

WAC 246-02-020 Definitions. Proposing a new rule section that provides definitions for terms used throughout the proposed new chapter.

WAC 246-02-030 Agency description—Contact information—Public records officer—Index. Proposing a new rule section that describes the agency, provides contact information for the public disclosure officer, and provides information regarding the department's system of indexing.

WAC 246-02-040 Requests for public records. Proposing a new rule section that describes the procedure to request, inspect, or copy the department's public records, incorporating and expanding on WAC 246-08-420(3).

WAC 246-02-050 Responses to public records requests. Proposing a new rule section that provides the process and timeline by which the department will (1) acknowledge receipt of public record requests, (2) request clarification for public record requests that are unclear, (3) provide notice to individuals whose rights may be affected by disclosure of public records, (4) provide public records in response to public record requests, and (5) respond to requests for lists of individuals.

WAC 246-02-060 Costs of providing public records. Proposing a new rule section that sets forth procedures regarding deposits and payment of fees, waiver of fees, and the department's process for determining fees for producing copies of public records, use of external vendors, and customized electronic access services. The proposed rule incorporates and expands on WAC 246-08-420(4) and 246-08-990.

WAC 246-02-070 Notice of availability. Proposing a new rule section that provides the process by which the department notifies requestors that records are available for inspection or copying.

WAC 246-02-080 Denial of public records request—Claim of exemption. Proposing a new rule section that describes the process by which the department notifies requestors when records, or portions thereof, are exempt from disclosure. The proposed rule incorporates and expands on WAC 246-08-420 (5) and (6).

WAC 246-02-090 Review of denial of public records—Claim of exemption. Proposing a new rule section that describes the process by which requestors who object to the department's denial, or partial denial, of a request for public records may petition for internal administrative review of that decision. The proposed rule incorporates and expands on WAC 246-08-420(7).

WAC 246-02-100 Protection of public records. Proposing a new rule section that provides guidelines that requestors must follow when inspecting public records to adequately protect the department's records, incorporating and expanding on WAC 246-08-440.

WAC 246-08-420 Public records—Access and exemptions. Proposing to repeal this section, as it is no longer needed. The public records rules currently located in WAC 246-08-420 will be revised and relocated to WAC 246-02-040 through 246-02-090.

WAC 246-08-440 Protection of public records. Proposing to repeal this section, as it is no longer needed. Rules regarding protection of public records will be revised and relocated to WAC 246-02-100.

WAC 246-08-450 Final orders, declaratory orders, interpretive statements and policy statements—Indexes. Proposing to repeal this section, as it is no longer needed. Rules regarding the department's system of indexing will be revised and relocated to WAC 246-02-030.

WAC 246-08-480 Index of significant decisions. Proposing updates and corrections to the following rules regarding the department's index of significant decisions:

- WAC 246-08-480(1): Updating the reference to RCW 42.17.260 to RCW 42.56.070 (5) (b).

- WAC 246-08-480(1): Removing the following sentence: "Together with the indices maintained under WAC 246-08-450, "significant decisions" shall serve as the index required by RCW 42.17.260 (4) (b) and (c)."

- WAC 246-08-480(5): Removing the following sentence: "Under RCW 42.17.260(6), a public record may not be cited in a proceeding if it has not been indexed."

- WAC 246-08-480(6): Updating the reference to WAC 246-08-420 and 246-08-440 to chapter 246-02 WAC.

WAC 246-08-990 Copying fees. Proposing to repeal this section, as it is no longer needed. Rules regarding fees and costs for providing public records will be revised and relocated in WAC 246-02-060.

Reasons Supporting Proposal: The department's public records rules are out of date. The current rules have not been updated for over 15 years and do not reflect developments in state law and department procedures.

The department's proposal expands and updates the public records rules to align with state law and internal department procedures. Additionally, the department's proposal to move its public records rules to their own chapter in Title 246 WAC, chapter 246-02 WAC, will make the rules easier to locate and organize. The proposed rules will better inform the public about the department's public records process, providing more transparency and clearer procedures for accessing the department's public records.

Statutory Authority for Adoption: RCW 43.70.040, 42.56.040, 42.56.070, 42.56.100, and 42.56.120.

Statute Being Implemented: Chapter 42.56 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: Melanee Auldredge, 111 Israel Road S.E., Tumwater, WA 98501, 360-819-6768.

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 rules are exempt from significant analysis under RCW 34.05.328(5). The proposed rules are not "significant legislative rules" under RCW 34.05.328 (5)(c)(iii). Under RCW 34.05.328 (5)(c)(i) and (ii), the proposed rules are "procedural rules" that relate only to internal governmental operations related to public records request, which are not subject to violation by a nongovernment party, and "interpretive rules" that set forth the agency's interpretation and administration of the Public Records Act (chapter 42.56 RCW).

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

Explanation of exemptions: The proposed rules do not directly impact businesses or small businesses and are exempt under RCW 19.85.025(4). The proposed rules relate only to internal governmental operations, the administration of the Public Records Act, and are not subject to violation by a nongovernment party. To the extent there are costs assessed by the department when providing records in response to public record requests by small businesses, the authorized costs are

set out in statute and apply to all requestors in RCW 42.56.070 and 42.56.120. Additionally, much of the content of the proposed rules is expressly set forth by the Public Records Act in chapter 42.56 RCW.

Scope of exemption for rule proposal:

Is fully exempt.

December 27, 2024
Kristin Peterson, JD
Director of Policy
for Umair A. Shah MD, MPH
Secretary of Health

OTS-6055.1

**Chapter 246-02 WAC
PUBLIC RECORDS**

NEW SECTION

WAC 246-02-010 Purpose. The purpose of this chapter is to implement the requirements of the Public Records Act, chapter 42.56 RCW. These rules establish the procedures for any person wishing to request access to the department of health's (department) public records and the process the department will follow to provide full access to its public records. The department adopts these rules to provide the fullest assistance to requestors and full access to the department's public records while protecting those records from damage or disorganization; preventing excessive interference with other essential agency functions, including the agency's core mission to protect and improve the health of all people in Washington state; and preventing unreasonably disruption of agency operations.

NEW SECTION

WAC 246-02-020 Definitions. (1) "Department" means the department of health.
(2) "Disclosure" means inspection or copying of records.
(3) "Exempt" means not subject to disclosure under the Public Records Act or as authorized by any other statute that prohibits disclosure of specific information or records.
(4) "Inspection" means viewing public records in person at a department of health office.
(5) "Nonexempt" means subject to disclosure under the Public Records Act.
(6) "Public record" shall have the same meaning as stated in RCW 42.56.010.
(7) "Public Records Act" means chapter 42.56 RCW.

(8) "Public records officer" means the employee(s) who oversees the department's compliance with the Public Records Act and the department's rules regarding disclosure of public records.

(9) "Requestor" means any person who requests access to the department of health's public records under the Public Records Act, chapter 42.56 RCW.

(10) "Secretary" means the secretary of the department of health.

(11) "Writing" shall have the same meaning as in RCW 42.56.010.

NEW SECTION

WAC 246-02-030 Agency description—Contact information—Public records officer—Index. (1) Agency description. The department is an agency headed by a secretary appointed by the governor subject to confirmation by the senate. The powers and duties of the secretary are described in chapter 43.70 RCW. The department's mission is to protect and improve the health of all people in Washington state.

(2) Contact information. The department's public disclosure office is located at: 111 Israel Rd S.E., Tumwater, WA 98504-7808.

(3) Public records officer. The public records officer oversees the department's compliance with the Public Records Act and the department's rules regarding disclosure of public records.

(a) The department's public records officer may be contacted at the following mailing address, telephone number, or email address:

Public Records Officer
Department of Health
P.O. Box 47808
Olympia, WA 98504-7808
360-236-4220
publicdisclosure@doh.wa.gov

Information and records are also available at the department's website at doh.wa.gov.

(b) The name of the current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

(c) The department may designate other employees to process and respond to requests for public records in addition to the public records officer.

(4) Index. The department will implement a system of indexing as required in RCW 42.56.070.

NEW SECTION

WAC 246-02-040 Requests for public records. (1) To request, inspect, or copy public records of the department, a requestor shall make the request in writing through the agency's online portal, or via mail or email to the public records officer at the address set forth in WAC 246-02-030.

(2) A request for public records should include the following information:

- (a) The requestor's name, email or mailing address, and telephone number;
 - (b) The calendar date on which the request is made; and
 - (c) A request for identifiable records, in which the requestor has given a reasonable description and sufficient clarity to enable the department to locate the requested records.
- (3) A request received after normal business hours will be considered to have been received the following business day.

NEW SECTION

WAC 246-02-050 Responses to public records requests. (1) Receipt of request. The department will respond to a request for public records within five business days of receipt, by either:

- (a) Providing the record(s);
- (b) Providing an internet address and website link to the record(s);
- (c) Acknowledging receipt of the request and providing a reasonable estimate of when the record(s) or an installment of records will be available;
- (d) Acknowledging that the department has received the request, asking for clarification to the extent the request is unclear, and providing a reasonable estimate of the time the department will require to respond to the request if not clarified; or
- (e) Denying the public record request.

(2) Requests for clarification. When acknowledging receipt of a public record request that is unclear, the department may ask the requestor to clarify what records the requestor is seeking. If the requestor fails to clarify the request within 10 business days, the department need not respond and may close the request. The department will respond to any portions of a request that are sufficiently clear to enable the department to locate the requested record(s).

(3) Additional time. The public records officer or designee may revise the estimate of the time required to respond to a request. The need for additional time to fulfill the request may be based on the need to clarify the request, locate and assemble the requested records, notify third persons or agencies affected by the request, or determine whether any of the information in the records is exempt from disclosure and that a denial should be made as to all or part of the request.

(4) Installments. The department may provide records on an installment basis. The department need not locate and assemble records responsive to a subsequent installment until the requestor claims or inspects the previous installment. If the requestor does not claim or inspect an installment within 10 business days of the notice of availability, the department need not continue processing the request and may close the request.

(5) Electronic records. When electronic records are requested, the department will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or, at the department's discretion, in a format that is reasonably translatable from the format in which the agency keeps the records. The department is under no obligation to convert electronic records to a specific format identified by the requestor. When metadata is requested, the

department will provide the records in a native file format that preserves metadata where technically feasible.

(6) Completion of request. When the inspection or disclosure of the requested records is complete and all requested copies are provided to the requestor, the public records officer or designee will notify the requestor that the department has completed its search for the requested records and made any located nonexempt records available for inspection or disclosure.

(7) Protecting rights of others. If the requested records contain information that may affect the rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure.

(8) Requests for lists of individuals. Under RCW 42.56.070(9), the department may not disclose lists of individuals requested for commercial purposes. However, lists of applicants for professional licenses and of professional licensees may be made available to professional associations or educational organizations approved by the applicable licensing board. Professional associations and educational organizations may apply for approval as provided on the department's website at doh.wa.gov.

NEW SECTION

WAC 246-02-060 Costs of providing public records. (1) Inspection. The department does not charge a fee for the inspection of public records. If printed copies of public records are requested at the time of inspection, the department may charge fees for producing copies as provided in subsection (2) of this section.

(2) Fee schedule. The department may charge fees for producing copies of public records consistent with the fee schedule established in RCW 42.56.120 and as published in the department's fee schedule available on its website at doh.wa.gov. Pursuant to RCW 42.56.120(2), the department does not calculate the actual costs for copying its records because it would be unduly burdensome for the following reasons:

(a) The department does not have the funding or staff resources to conduct a study and calculate actual copying costs for its records;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) A study would interfere with and disrupt other essential agency functions.

(3) Costs of external vendors. If the department uses an external vendor to copy records, such as records in nonstandard sizes or formats, the department will charge the requestor the actual amount charged by the external vendor.

(4) Deposits. Before copying public records, the public records officer or designee may require the requestor to pay a deposit of up to 10 percent of the estimated cost of copying all the records requested. The public records officer or designee may also require payment of the remainder of the copying costs before providing all the records, or the payment of costs of copying an installment before providing the installment.

(5) Customized electronic access services. At the department's sole discretion, the department may provide customized electronic access to public records if the agency estimates that the request would

require the use of information technology expertise to prepare data compilations, or when such compilations and customized access services are not used by the department for other agency purposes. The department will charge the actual costs, including staff time, necessary to reimburse the agency for providing customized electronic access services. The department will notify the requestor of the customized service charge to be applied to the request, as provided under RCW 42.56.120 (3)(b), and will provide the requestor the opportunity to amend the request to avoid or reduce the cost of a customized service charge.

(6) Payment of fees. The department will not release any requested copies of public records unless and until the requestor has paid all copying and other charges as set forth in this section. If a requestor fails to pay the requested deposits or fees, the request will be closed.

(7) Waiver of fees. The department may waive any charges for providing public records at the discretion of the public records officer or designee. This determination will be made on a case-by-case basis.

NEW SECTION

WAC 246-02-070 Notice of availability. (1) Once records responsive to a request or any installment thereof have been located, assembled, reviewed, and prepared for release, and any affected third persons or entities notified, the department will notify the requestor that those records are available for inspection or copying.

(2) The notice of availability will state any costs for obtaining copies of the records and any other allowable costs under WAC 246-02-060 or the Public Records Act.

(3) Upon receipt of the notice of availability, the requestor may access the records electronically, request copies of the records, or inspect records by scheduling a viewing appointment with the public records officer or designee.

NEW SECTION

WAC 246-02-080 Denial of public records request—Claim of exemption. (1) Some records are exempt from disclosure, in whole or in part. If the department determines that a record is exempt from disclosure and will be withheld, the public records officer or designee will state the specific exemption and provide the requestor a brief written explanation of why the record, or a portion of the record, is being withheld.

(2) If only a portion of a record is exempt from disclosure, the public records officer or designee will redact the exempt portions, provide the nonexempt portions, and state the specific exemption and briefly explain why portions of the record are being withheld.

NEW SECTION

WAC 246-02-090 Review of denial of public records—Claim of exemption. (1) Any requestor who objects to the denial or partial denial of a request for a public record may petition in writing to the public records officer for a review of that decision within one year from the closure date of the request. The requestor may submit the request to the public records officer via mail or email to the address set forth in WAC 246-02-030. The written request shall include or specifically refer to the written statement by the public records officer or designee denying the request.

(2) Upon receipt of a written request for review, the public records officer will promptly consider the matter and either affirm or reverse the denial. Within two business days following receipt of the petition for review, the public records officer will notify the requestor of the decision or notify the requestor that more time is required to consider the petition.

(3) Any requestor who disagrees with the department's denial or partial denial of a request for a public record may also:

(a) Request that the office of the attorney general review the matter, as provided under RCW 42.56.530 and WAC 44-06-160; or

(b) Seek judicial review pursuant to RCW 42.56.550.

NEW SECTION

WAC 246-02-100 Protection of public records. To adequately protect the department's public records, a requestor shall comply with the following guidelines while inspecting public records:

(1) A requestor may not remove any public record from the department's premises.

(2) A requestor shall have a designated department employee present while inspecting a public record.

(3) A requestor may not mark or deface a public record in any manner during inspection.

(4) A requestor may not dismantle public records that are maintained in a file or jacket, or in chronological or other filing order, or those records which, if lost or destroyed, would constitute excessive interference with the department's essential functions.

(5) Access to file cabinets, shelves, vaults, or other storage areas is restricted to department personnel, unless other arrangements are made with the public records officer or designee.

OTS-6056.1

AMENDATORY SECTION (Amending WSR 06-11-056, filed 5/11/06, effective 6/11/06)

WAC 246-08-480 Index of significant decisions. (1) The department's index of significant decisions, prepared under RCW ((42.17.260)) 42.56.070 (5) (b), contains orders that are issued in ad-

judicative proceedings as defined in RCW 34.05.010(1) and include an analysis or decision of substantial importance to the department in carrying out its duties. (~~Together with the indices maintained under WAC 246-08-450, "significant decisions" shall serve as the index required by RCW 42.17.260 (4) (b) and (c).~~)

(2) The department selects the orders to be included in "significant decisions" based on recommendations from staff and the public. Generally, a decision or order is considered "significant" only if it provides a legal analysis or interpretation not found in existing case law, or applies settled law to unusual facts. The significant decision index shall include orders meeting the criteria in subsection (1) of this section, issued by the department and the disciplining authorities identified in RCW 18.130.040.

(3) The index shall, at a minimum, contain the case or document number; type of document; name of parties, if applicable, unless such names are exempt from public disclosure; brief description of subject, program; pertinent legal citation; and location of the document.

(4) Any person may nominate a final adjudicative order, other adjudicative order or declaratory order to be evaluated for indexing by completing an Order Index Nomination Request Form. The form can be obtained from and returned to the Adjudicative Service Unit, P.O. Box 47879, Olympia, WA 98504-7879, along with a copy of the nominated order. The department shall make a final decision as to whether to index the nominated order, and that decision is not appealable.

(5) The department shall periodically update and review the index to verify that the indexed documents continue to meet the criteria in subsection (1) of this section. The department may, at any time, delete a document from an index. (~~Under RCW 42.17.260(6), a public record may not be cited in a proceeding if it has not been indexed.~~)

(6) The index is a public record and is available for public inspection and copying in accordance with chapter 246-02 WAC (~~(246-08-420 and 246-08-440)~~). The index of significant adjudicative orders is located in the Adjudicative Service Unit, 310 Israel Road, Tumwater, WA 98501.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-08-420	Public records—Access and exemptions.
WAC 246-08-440	Protection of public records.
WAC 246-08-450	Final orders, declaratory orders, interpretive statements and policy statements—Indexes.
WAC 246-08-990	Copying fees.

WSR 25-02-094

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Naturopathy)

[Filed December 30, 2024, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-10-050.

Title of Rule and Other Identifying Information: Naturopathic license requirements in WAC 246-836-020 Requirements for licensure, and 246-836-040 Jurisprudence examinations. The board of naturopathy (board) is proposing amendments to licensure requirements relating to jurisprudence (JP) examinations as a condition for licensure for naturopathic physicians and to clarify, update, and simplify rules to comply with RCW 18.130.077.

Hearing Location(s): On February 7, 2025, at 9:00 a.m., at 111 Israel Road S.E., Tumwater, WA 98501; or virtual. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_KgsCCEdJRvGxjv6Yl5rOCg. After registering, you will receive a confirmation email containing information about joining the webinar. The public hearing will be hybrid. Participants can attend in person at the physical location or virtually by registering via Zoom.

Date of Intended Adoption: February 7, 2025.

Submit Written Comments to: Rachel Phipps, P.O. Box 47852, Olympia, WA 98504-7852, email naturopathy@doh.wa.gov, fax 360-236-2901, <https://fortress.wa.gov/doh/policyreview/>, beginning on the date and time of this filing, by January 31, 2025, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Rachel Phipps, phone 564-233-1277, fax 360-236-2901, TTY 711, email naturopathy@doh.wa.gov, by January 30, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing changes to WAC 246-836-020 Requirements for licensure, to remove the JP examination as a requirement for initial licensure to reduce barriers for naturopathic physicians entering the Washington workforce.

The board is also proposing amendments to WAC 246-836-040 Jurisprudence examinations, to require that a licensed naturopathic physician shall take and pass the board-approved JP exam within the first full continuing education cycle. The proposed amendments also clarify which category the JP exam will qualify for under the continuing competency program requirements in WAC 246-836-080, and that successful completion is 100 percent.

Reasons Supporting Proposal: 2SHB 1724 (section 8, chapter 425, Laws 2023), codified as RCW 18.130.077, directs the board to reduce barriers to obtaining licensure in Washington. The bill requires disciplining authorities to waive education, training, experience, and exam requirements for applicants who have been credentialed in another state or states with substantially equivalent standards for at least two years immediately preceding their application with no interruption in licensure lasting longer than 90 days.

Pursuant to RCW 18.130.077 and 18.36A.150, the requirement to waive education, training, experience, and exam requirements for out-of-state applicants applies to naturopathic physicians. Reducing barriers for licensure of naturopathic physicians for out-of-state professionals will increase access to health care for Washingtonians, achieving the goal of RCW 18.130.077.

The proposed amendments comply with RCW 18.130.077 by removing the JP exam as a requirement for an initial license and is intended to reduce barriers for out-of-state applicants. Additionally, the board is proposing amendments that will make the JP exam a requirement to maintain licensure. Because the JP exam is Washington state specific, the board believes it's important that all licensed naturopathic physicians are knowledgeable of the rules and regulations related to their scope of practice to ensure that they serve patients with the highest quality of care.

Statutory Authority for Adoption: RCW 18.36A.150 and 18.130.077.
Statute Being Implemented: RCW 18.130.077.

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

Name of Proponent: Board of naturopathy, governmental.

Name of Agency Personnel Responsible for Drafting: Rachel Phipps, 111 Israel Road S.W., Tumwater, WA 98501, 564-233-1277; Implementation and Enforcement: James Chaney, 111 Israel Road S.W., Tumwater, WA 98501, 360-236-2831.

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 Rachel Phipps, P.O. Box 47852, Olympia, WA 98504-7852, phone 564-233-1277, fax 360-236-2901, TTY 711, email naturopathic@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule only impacts the licensing of providers and does not impact small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

December 26, 2024
U. James Chaney
Executive Director
Board of Naturopathy

OTS-5929.3

AMENDATORY SECTION (Amending WSR 15-10-028, filed 4/27/15, effective 5/28/15)

WAC 246-836-020 Requirements for licensure. Individuals seeking a license to practice as a naturopathic physician (~~(must)~~) shall provide the following:

- (1) A completed application, with all required fees;
- (2) Official transcripts sent directly from a college of naturopathic medicine approved by the board, demonstrating that the applicant has graduated as a naturopathic physician;
- (3) Verification of successful passage of the national examination approved by the board under WAC 246-836-030 sent directly from the examination entity;

- (4) (~~Successful passage of the jurisprudence examination provided by the board;~~
~~(5)~~) A federal background check application, if required, including fingerprint cards and fee per RCW 18.130.064 (2) (b); and
~~((6))~~ (5) Any other documentation, materials, or information as determined by the board or its designee.

AMENDATORY SECTION (Amending WSR 15-10-028, filed 4/27/15, effective 5/28/15)

WAC 246-836-040 Jurisprudence examinations. (1) (~~Individuals taking the jurisprudence examination provided by the board must pay the appropriate fee when submitting it for scoring.~~

~~(2) The minimum passing score for the jurisprudence examination is seventy-five.~~

~~(3) Individuals who fail the jurisprudence examination may retake the examination provided they submit an additional fee.~~

~~(4) An individual's jurisprudence examination score is released only to the individual unless a written request is submitted that authorizes release to a specific third party.)~~ A licensed naturopath shall take and pass the board approved jurisprudence examination within the first full continuing education reporting period after initial licensure.

(2) The jurisprudence exam will be available as a category 3 continuing education credit as outlined in WAC 246-836-080.

(3) The passing score for the jurisprudence examination is 100 percent.

WSR 25-02-113

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed December 31, 2024, 3:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-15-085.

Title of Rule and Other Identifying Information: Creating new chapter 182-562 WAC, Community health worker services.

Hearing Location(s): On February 4, 2025, 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_9MWncpw8R8-6cKDvzWrvBA.

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 February 4, 2025.

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 January 3, 2025, 8:00 a.m., by February 4, 2025, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication relay service 711, email Johanna.Larson@hca.wa.gov, by January 24, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To establish a community health worker (CHW) benefit as required under section 211(43), chapter 376, Laws of 2024 (ESSB 5950). HCA is developing rules in new chapter 182-562 WAC.

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: Jason Crabbe, P.O. Box 42716, Olympia, WA 98504-2716, 360-752-9563; Implementation and Enforcement: Nikki Banks, P.O. Box 45506, Olympia, WA 98504-5506, 360-725-1002.

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.

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

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules are not only for small businesses as they apply to all businesses providing CHW services to apple health (medicaid) enrolled clients, nor are there disproportionate impacts to small businesses. HCA posits that this rule will create new employment opportunities for CHWs partnering with apple health providers, and by implementing by end of fiscal year 2025, there is a reduced risk for CHWs hired as part of the CHW grant being terminated due to lack of sustainable funding.

December 31, 2024
Wendy Barcus
Rules Coordinator

OTS-6024.3

**Chapter 182-562 WAC
COMMUNITY HEALTH WORKER SERVICES**

GENERAL

NEW SECTION

WAC 182-562-0050 Purpose. This chapter contains rules regarding community health worker (CHW) services.

(1) For the purpose of this chapter, CHWs are frontline public health workers who are trusted members, or have a close understanding, or both, of the community served. This trusting relationship enables CHWs to serve as liaisons, links, or intermediaries between health or social services and the community to facilitate access to services and improve the quality and cultural competence of service delivery.

(2) CHWs may provide preventive services at any of the following three levels:

(a) **Primary prevention.** This level focuses on preventing the onset of disease or injury before it occurs by reducing risk factors and promoting healthy behaviors;

(b) **Secondary prevention.** This level focuses on early detection and prompt intervention to halt the progress of a disease, injury, or event during its initial phase. This includes conducting appropriate screenings and assessments for conditions; or

(c) **Tertiary prevention.** This level focuses on reducing the impact of an ongoing disease or injury and on managing and improving the quality of life for individuals with established diseases or conditions.

NEW SECTION

WAC 182-562-0100 Definitions. The following definitions and those found in chapter 182-500 WAC apply to community health worker (CHW) services.

"Agency" - See WAC 182-500-0010.

"Care coordination and health system navigation" - Helping clients to:

- (a) Identify providers to receive services;
- (b) Make appointments for services, arrange transportation to health care appointments, and attend appointments with clients for health care services; and
- (c) Find other relevant community resources such as support groups.

"Client" - A person who is an applicant for, or recipient of, any Washington apple health program, including managed care and long-term care. See definitions for "applicant" and "recipient" in RCW 74.09.741.

"Community health representative (CHR)" - Community health representatives (CHRs) are well-trained, medically guided, tribal and Native community people, who provide a variety of health services within American Indian and Alaska Native communities. CHRs are recognized as CHWs for the purposes of CHW services.

"Community health worker" or "CHW" - A frontline public health worker who is a trusted member, or has a close understanding, or both, of the community served. This trusting relationship enables the CHW to provide direct services as well as serve as a liaison, link, or intermediary between health or social services and the community to facilitate access to services and improve the quality and cultural competence of service delivery.

"Community health worker services" - A type of preventive health services that:

- (a) Helps prevent disease, disability, and other health conditions or their progression; prolongs life; and promotes physical and mental health and efficiency;
- (b) Provides tailored support and system navigation to help address unmet health-related social needs that significantly limit a practitioner's ability to carry out a medically necessary treatment plan; and
- (c) Provides navigation in the treatment of a serious, high-risk condition or illness. These services help guide the client through their course of care including addressing any unmet social needs that significantly limit the client's ability to engage and follow their plan of care.

"General supervision" - The medicaid-enrolled, licensed practitioner supervising the CHW is responsible for providing guidance, support, and oversight to ensure that CHWs and CHRs are effectively performing their roles, monitoring the course of care, and delivering quality services to the community.

"Health education and promotion" - Helping clients to:

- (a) Contextualize health education provided by the client's treatment team with the client's individual needs, goals, and preferences, in the context of the principal illness and/or SDOH need(s) and educating the client on how to best participate in medical decision making; and
- (b) Build client self-advocacy skills, so that the client can interact with members of the health care team and related community-based services addressing the principal illness and SDOH need(s), in ways that are more likely to promote personalized and effective diagnosis or treatment.

"Health-related social needs (HRSN)" - Health-related social needs (HRSN) are an individual's unmet, adverse social conditions (e.g., housing instability, homelessness, nutrition insecurity) that

contribute to poor health and are a result of underlying social determinants of health (conditions in which people are born, grow, work, and age).

"Lived experience" - Having first-hand knowledge and insight gained from navigating challenges similar to those faced by the people in the community. This can include shared experiences like cultural backgrounds, socioeconomic status, health conditions, or barriers accessing the health and social service systems.

"Medicaid agency" - See WAC 182-500-0070.

"Person-centered assessment" - Conducting a person-centered assessment to understand the client's life story, strengths, needs, goals, preferences, and desired outcomes including understanding cultural and linguistic factors and including unmet SDOH needs to establish a plan of care.

"Preventive services" - Services that help prevent disease, disability, and other health conditions or their progression; prolong life; and promote physical and mental health efficiency.

"Supervision" - Key aspects of supervision include, but are not limited to:

- (a) Training and professional development;
- (b) Performance monitoring;
- (c) Support and mentorship; and
- (d) Problem-solving and conflict resolution.

"Washington apple health" - See WAC 182-500-0120.

NEW SECTION

WAC 182-562-0150 Appeal process. (1) The medicaid agency gives the client written notice of an action under chapter 182-518 WAC.

(2) The client has the right to appeal the agency's adverse action according to chapter 182-526 WAC.

NEW SECTION

WAC 182-562-0200 Client eligibility. To receive community health worker (CHW) services, a person must:

(1) Be eligible for one of the Washington apple health programs listed in the table in WAC 182-501-0060, except for the medical care services (MCS) programs; and

(2) Be referred by a physician or other licensed practitioner of the healing arts, as specified in 42 C.F.R. 440.130, following an initiating visit with one of the following criteria:

(a) An unmet health-related social need (HRSN) that limits the ability to engage in health care services;

(b) A positive adverse childhood experiences (ACEs) screening;

(c) One serious, high-risk condition that places the client at risk of any of the following:

(i) Hospitalization;

(ii) Institutionalization/out-of-home placement;

(iii) Acute exacerbation or decompensation; or

(iv) Functional health decline or death;

(d) Two or more missed medical appointments within the previous six months;

(e) The client, client's spouse, or client's family member expressed a need for support in health system navigation or resource coordination services;

(f) A need for recommended preventive services; or

(g) A condition that requires monitoring or revision of a disease-specific care plan and may require frequent adjustment of the medication or treatment regimen or substantial assistance from a caregiver.

NEW SECTION

WAC 182-562-0300 Initiation and referral. (1) Community health worker (CHW) services must be initiated and referred by a physician or other licensed practitioner of the healing arts, as specified in 42 C.F.R. 440.130.

(2) During the initiating visit, the health care professional:

(a) Identifies that the client exhibits one of the criteria found in WAC 182-562-0200(2);

(b) Establishes a care plan; and

(c) Refers the client to a CHW or community health representative (CHR).

(3) The initiating visit must be personally performed by the licensed practitioner of the healing arts, as specified in 42 C.F.R. 440.130.

COMMUNITY HEALTH WORKERS

NEW SECTION

WAC 182-562-0400 Community health workers—Provider requirements. (1) To be paid for providing community health worker (CHW) services to Washington apple health clients, a CHW must:

(a) Deliver the CHW services under the general supervision of a medicaid-enrolled, licensed practitioner within the scope of their licensure as described in state law;

(b) Have lived experience that aligns with and provides a connection between the CHW and the community being served;

(c) Have 2,000 supervised hours working as a CHW in paid or volunteer positions within the previous three years and demonstrated skills and practical training in the areas listed in this section;

(d) Possess the following skills or core competencies:

(i) Communication;

(ii) Interpersonal and relationship-building;

(iii) Service coordination and navigation;

(iv) Advocacy;

(v) Capacity building;

- (vi) Professional conduct;
- (vii) Outreach;
- (viii) Individual and community assessment;
- (ix) Knowledge base in public health principles and social determinants of health (SDOH);
- (x) Education and facilitation; and
- (xi) Evaluation and research; and
- (e) Demonstrate minimum qualifications through one of the following:

(i) **CHW/CHR certificate.** A certificate of completion including, but not limited to, any certificate issued by the Washington state department of health, or its designee, or Indian health services of a curricula that attests to demonstrated skills or competencies, or both, listed in (d) of this subsection; or

(ii) **Supervisor attestation.** Medicaid-enrolled, licensed supervisors may demonstrate the CHW's skills and competencies by conducting a CHW assessment and attesting to the CHW's skills and competencies. The supervising provider must maintain documentation of the CHW assessment. Trainings may also include health-specific topics including, but not limited to:

- (A) Health literacy;
- (B) Human development and preventive health across the lifespan;
- (C) Reproductive health and family planning;
- (D) Chronic health conditions and management (e.g., hypertension, heart disease, and diabetes);
- (E) Understanding disparities and social determinants; and
- (F) Behavioral health.

(2) CHWs that do not meet any of the identified skills or practical training areas listed in this section must obtain the necessary training within 18 months of employment during which CHW services may still be billed. Once the 18 months have been completed, if the CHW does not meet the necessary training requirements, the agency will no longer pay for services billed until the training requirements are met.

(3) CHWs must complete a minimum of six hours of additional training annually. The supervising provider must maintain documentation of the CHW's completion of continuing education requirements.

NEW SECTION

WAC 182-562-0500 Community health workers—Documentation requirements. Community health workers must fulfill the documentation requirements in the medicaid agency's community health worker (CHW) services billing guide including, but not limited to, documenting in the client's health record:

- (1) Advance client consent. Consent must be obtained by the licensed, qualified health care professional before initiating referral to CHWs or community health representatives (CHRs) for additional support. Consent may be verbal or in writing;
- (2) The date and time/duration spent with the client and the nature of the activities;
- (3) The location of services;
- (4) The services performed, specifying the following:
 - (a) Whether they were provided to an individual or a group; and

(b) If they were provided to a group, the number of clients in the group;

(5) All identified needs of the client served including, but not limited to, health-related social needs that services are addressing (e.g., the client's diagnosis as defined by the current revision of the International Statistical Classification of Diseases and Related Health Problems); and

(6) The name of the CHW or CHR rendering the services.

NEW SECTION

WAC 182-562-0600 Community health workers—Covered services.

The medicaid agency covers the following services when performed by a community health worker (CHW):

(1) Person-centered assessment within their scope of practice including the following:

(a) Identifying personal health goals;

(b) Assessing for physical, mental, behavioral, and social challenges; and

(c) Collaborating with the client to establish health goals;

(2) Care coordination and health system navigation including the following:

(a) Coordinating additional supports or specialty services;

(b) Managing the client's care plan; and

(c) Assisting the client in identifying and accessing resources;

(3) Facilitating behavior change and client self-advocacy including the following:

(a) Promoting client motivation to participate in care and reach person-centered diagnosis or treatment goals;

(b) Teaching techniques for self-monitoring and self-advocacy;

and

(4) Health education and promotion including the following:

(a) Helping clients to contextualize health education provided by the client's treatment team with the client's individual needs, goals, and preferences, in the context of the principal illness and/or SDOH need(s) and educating the client on how to best participate in medical decision making; and

(b) Building client self-advocacy skills, so that the client can interact with members of the health care team and related community-based services addressing the principal illness and SDOH need(s), in ways that are more likely to promote personalized and effective diagnosis or treatment.

NEW SECTION

WAC 182-562-0700 Noncovered services. Under this chapter, the medicaid agency does not cover the following services when provided by community health workers (CHW):

(1) Clinical care management services that require a state credential;

(2) Child care;

(3) Chore services, including shopping and cooking;

- (4) Companion services;
- (5) Employment services;
- (6) Enrollment assistance for government programs or insurance not related to improving health;
- (7) Delivery of medication, medical equipment, or medical supplies;
- (8) Respite care;
- (9) Services that duplicate another medicaid-covered service;
- (10) Socialization; and
- (11) Transportation.

SUPERVISING PROVIDERS

NEW SECTION

WAC 182-562-0800 Supervising providers—Provider requirements.

- (1) Under this chapter, a supervising provider must:
 - (a) Be enrolled as a provider with the medicaid agency;
 - (b) Be one of the following licensed practitioners:
 - (i) Health care professional;
 - (ii) Health care entity;
 - (iii) Supplier; or
 - (iv) Contractor of service; and
 - (c) Meet the requirements under chapter 182-502 WAC.
- (2) A supervising provider must also:
 - (a) Understand the specific roles, responsibilities, and scope of practice for CHWs;
 - (b) Provide or facilitate training and professional development for CHWs; and
 - (c) Maintain accurate and thorough records related to supervision, performance, and compliance.

NEW SECTION

WAC 182-562-0900 Supervising providers—Documentation requirements. In addition to the requirements in WAC 182-502-0020, supervising providers must document the following:

- (1) Required supervision records for community health workers;
- (2) Continued education verification and renewal of credentials for professional staff; and
- (3) Consent forms and documentation for screening, assessments, care plans, case conferences, case management, care coordination, and health system navigation for each client.

NEW SECTION**WAC 182-562-1000 Supervising providers—Payment and billing.**

(1) The medicaid agency pays for the covered community health worker (CHW) services described in this chapter when they are:

(a) Initiated and referred by a physician or other licensed practitioner of the healing arts, as specified in 42 C.F.R. 440.130 who is the billing provider;

(b) Provided and billed according to the agency's community health worker (CHW) services billing guide; and

(c) Documented in the client's record or chart per WAC 182-562-0900.

(2) The agency pays providers for covered services provided to eligible clients using the agency's published fee schedule.

(3) The agency uses the appropriate payment methodology found in WAC 182-531-1850 for community health worker services.

(4) For children age 20 and younger, providers must follow the rules for the early periodic screening, diagnostic, and treatment (EPSDT) program. See chapter 182-534 WAC. EPSDT is defined under WAC 182-500-0030.

WSR 25-02-117
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
(Board of Boiler Rules)
[Filed January 2, 2025, 8:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-21-134.

Title of Rule and Other Identifying Information: Boiler rules and fee increases. Chapter 296-104 WAC, Board of boiler rules—Substantive. Specifically, WAC 296-104-010 Administration—What are the definitions of terms used in this chapter?, and 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?

Hearing Location(s): On February 5, 2025, at 10:20 a.m. Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501; or join electronically (Zoom) <https://lni-wa-gov.zoom.us/j/83557234241?pwd=WF30qUpra114jE0bLWREc8zf8hSN0Q.1>, Passcode .9t\$jKaL; or by phone (audio only) 253-215-8782, Meeting ID 835 5723 4241, Passcode 13644385.

The in-person and virtual/telephonic hearing starts at 10:20 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: April 22, 2025.

Submit Written Comments to: Meagan Edwards, Department of Labor and Industries, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, email Meagan.Edwards@lni.wa.gov, fax 360-704-1980, beginning January 3, 2025, at 8 a.m., by January 27, 2025, at 5 p.m.

Assistance for Persons with Disabilities: Contact Meagan Edwards, phone 360-522-0125, fax 360-704-1980, email Meagan.Edwards@lni.wa.gov, by January 22, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to propose amendments to the boiler rules under chapter 296-104 WAC, Board of boiler rules—Substantive. The amendments would affect the fees and definitions for boilers and pressure vessels.

Proposed amendments to the chapter are as follows:

WAC 296-104-010 Administration—What are the definitions of terms used in this chapter?

- Modifies the definition of "pool heaters" to clarify that pool heaters without shut-off valves on the discharge side are considered open to the atmosphere and exempt from inspection requirements.
- Includes formatting updates by the office of the code reviser.

WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?

- Increases fees by the fiscal growth factor rate of 6.41 percent for boiler and pressure vessel inspections and other boiler program services.

Reasons Supporting Proposal: This rule making is needed to ensure the inspection requirements for pool heaters are clear to improve public safety, and that fees will support the boiler program's operating expenses. The fee increase of 6.41 percent is the office of financial management's maximum allowable fiscal growth factor for fiscal year 2026. According to RCW 70.79.330 and 70.79.350, a fee schedule for inspections is to be set by the board of boiler rules and the fees are to be used to administer the boiler program.

Statutory Authority for Adoption: Chapter 70.79 RCW, Boilers and unfired pressure vessels.

Statute Being Implemented: Chapter 70.79 RCW, Boilers and unfired pressure vessels.

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

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

Name of Agency Personnel Responsible for Drafting: Mike Carlson, Program Manager, Tumwater, Washington, 360-902-5270; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule proposal is exempt from the cost-benefit analysis requirement under the Administrative Procedure Act. Specifically, RCW 34.05.328 (5)(b)(iv) exempts rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:

Is fully exempt.

January 2, 2025

Tim Barker

Chair

OTS-6066.1

AMENDATORY SECTION (Amending WSR 21-03-067, filed 1/19/21, effective 2/19/21)

WAC 296-104-010 Administration—What are the definitions of terms used in this chapter? "Accident" shall mean a failure of the boiler or unfired pressure vessel resulting in personal injury or property loss or an event which renders a boiler or unfired pressure vessel unsafe to return to operation.

"Agriculture purposes" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

"Attendant" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

"Automatic operation of a boiler" shall mean automatic unattended control of feed water and fuel in order to maintain the pressure and temperature within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, power failure, high temperatures or pressures.

"Board of boiler rules" or **"board"** shall mean the board created by law and empowered under RCW 70.79.010.

"Boiler and unfired pressure vessel installation/reinstallation permit," shall mean a permit approved by the chief inspector before starting installation or reinstallation of any boiler and unfired pressure vessel within the jurisdiction of Washington.

"Boilers and/or unfired pressure vessels" - Below are definitions for types of boilers and unfired pressure vessels used in these regulations:

~~(• **"Boiler/unfired pressure vessel status"** shall mean:~~

- ~~* Active — Boilers or pressure vessels that are currently in service.~~
- ~~* Inactive — Boilers or pressure vessels still located at the facility but are physically disconnected from the energy input and system.~~
- ~~* Out-of-service — Boilers or pressure vessels that are no longer at the facility.~~
- ~~* Scrapped — Boilers or pressure vessels that have been condemned as defined below.~~
- ~~• **"Condemned boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified for further use by legal requirements. The following procedure shall be utilized:~~
 - ~~(a) The inspector will issue and follow the department's "red tag" procedure.~~
 - ~~(b) The object will be immediately removed from service.~~
 - ~~(c) The existing national board and state number shall be obliterated by the inspector.~~
 - ~~(d) The ASME nameplate and/or stamping shall be physically removed by the owner/user and verified by the inspector.~~
 - ~~(e) If required by the inspector, a portion of the pressure vessel shall be physically removed by the owner/user. This action will render the object incapable of holding pressure.~~
 - ~~(f) The inspector shall document this procedure on the boiler/pressure vessel inspection report and change the object status to "scrapped."~~
- ~~• **"Corrosion"** shall mean the destruction or deterioration of a material, that results from a reaction with its environment.~~
- ~~• **"Expansion tank"** shall mean a tank used to absorb excess water pressure. Expansion tanks installed in closed water heating systems and hot water supply systems shall meet the requirements of ASME Section IV, HG-709.~~

- ~~"Historical boilers and unfired pressure vessel"~~ shall mean nonstandard boilers and pressure vessels including steam tractors, traction engines, hobby steam boilers, portable steam boilers, and other such boilers or pressure vessels that are preserved, restored, and maintained only for demonstration, viewing, or educational purposes. They do not include miniature hobby boilers as described in RCW 70.79.080.
- ~~"Hot water heater"~~ shall mean a closed vessel designed to supply hot water for external use to the system.
- * All vessels must be listed by a nationally recognized testing agency.
- * Shall be protected with an approved temperature and pressure safety relief valve with the appropriate pressure and relieving capacity ratings.
- * The hot water heater shall not exceed any of the following limits:
 - * Pressure of 160 psi (1100 kpa);
 - * Temperature of 210 degrees F (99°C).
 - * 120 gallons in capacity.
 - * 200,000 Btu/hr (58.6 kW).
 Additional requirements:
 - * Hot water heaters exceeding 120 gallons (454 liters) must be ASME code stamped;
 - * Hot water heaters exceeding 200,000 Btu/hr (58.6 kW) input must be ASME code stamped.
- ~~"Indirect water heater"~~ shall mean a closed vessel appliance used to heat water for use external to itself, which includes a heat exchanger used to transfer heat to water from an external source. The requirements and limits described above shall apply.
- ~~"Installer"~~ shall mean any entity or individual who physically or mechanically installs a boiler, pressure vessel or water heater that meets the in-service inspection requirements of this chapter. The installer is defined as a registered contractor, owner, user or designee.
- ~~"Low pressure boiler"~~ shall mean a steam boiler operating at a pressure not exceeding 15 psig or a boiler in which water is heated and intended for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy. Low pressure boilers open to atmosphere and vacuum boilers are excluded.
- ~~"Nonstandard boiler or unfired pressure vessel"~~ shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.
- ~~"Pool heaters"~~ shall mean a gas, oil, or electric appliance that is used to heat water contained in swimming pools, spas, and hot tubs.
- (a) Pool heaters with energy input equivalent to 399,999 Btu/hr (117.2 kW) or less shall be manufactured and certified to ANSI Z21.56, UL1261, CSA 4.7 or equivalent manufacturing standards, as approved by the chief inspector, and are excluded from the limit and control devices requirements of WAC 296-104-300 through 296-104-303.

- (b) ~~Pool heaters with energy input of 400,000 Btu/hr and above shall be stamped with an ASME Section IV Code symbol, and the requirements of WAC 296-104-300 through 296-104-303 shall apply.~~
- (c) ~~Pool heaters open to the atmosphere are excluded.~~
- ~~"Power boiler" shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water is heated and intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.~~
 - ~~"Reinstalled boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.~~
 - ~~"Rental boiler" shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.~~
 - ~~"Second hand boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.~~
 - ~~"Standard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.~~
 - ~~"Unfired pressure vessel" shall mean a closed vessel under pressure excluding:~~
 - * ~~Fired process tubular heaters;~~
 - * ~~Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;~~
 - * ~~Piping whose primary function is to transport fluids from one location to another;~~
 - * ~~Those vessels defined as low pressure heating boilers or power boilers.~~
 - ~~"Unfired steam boiler" shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.)~~

(a) "Boiler/unfired pressure vessel status" shall mean:

- (i) Active - Boilers or pressure vessels that are currently in service.
- (ii) Inactive - Boilers or pressure vessels still located at the facility but are physically disconnected from the energy input and system.
- (iii) Out-of-service - Boilers or pressure vessels that are no longer at the facility.
- (iv) Scrapped - Boilers or pressure vessels that have been condemned as defined below.

(b) "Condemned boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified for further use by legal requirements. The following procedure shall be utilized:

(i) The inspector will issue and follow the department's "red tag" procedure.

(ii) The object will be immediately removed from service.

(iii) The existing national board and state number shall be obliterated by the inspector.

(iv) The ASME nameplate and/or stamping shall be physically removed by the owner/user and verified by the inspector.

(v) If required by the inspector, a portion of the pressure vessel shall be physically removed by the owner/user. This action will render the object incapable of holding pressure.

(vi) The inspector shall document this procedure on the boiler/pressure vessel inspection report and change the object status to "scrapped."

(c) "Corrosion" shall mean the destruction or deterioration of a material, that results from a reaction with its environment.

(d) "Expansion tank" shall mean a tank used to absorb excess water pressure. Expansion tanks installed in closed water heating systems and hot water supply systems shall meet the requirements of ASME Section IV, HG-709.

(e) "Historical boilers and unfired pressure vessel" shall mean nonstandard boilers and pressure vessels including steam tractors, traction engines, hobby steam boilers, portable steam boilers, and other such boilers or pressure vessels that are preserved, restored, and maintained only for demonstration, viewing, or educational purposes. They do not include miniature hobby boilers as described in RCW 70.79.080.

(f) "Hot water heater" shall mean a closed vessel designed to supply hot water for external use to the system.

(i) All vessels must be listed by a nationally recognized testing agency.

(ii) Shall be protected with an approved temperature and pressure safety relief valve with the appropriate pressure and relieving capacity ratings.

(iii) The hot water heater shall not exceed any of the following limits:

(A) Pressure of 160 psi (1100 kpa);

(B) Temperature of 210 degrees F (99°C);

(C) 120 gallons in capacity;

(D) 200,000 Btu/hr (58.6 kW).

(iv) Additional requirements:

(A) Hot water heaters exceeding 120 gallons (454 liters) must be ASME code stamped;

(B) Hot water heaters exceeding 200,000 Btu/hr (58.6 kW) input must be ASME code stamped.

(g) "Indirect water heater" shall mean a closed vessel appliance used to heat water for use external to itself, which includes a heat exchanger used to transfer heat to water from an external source. The requirements and limits described above shall apply.

(h) "Installer" shall mean any entity or individual who physically or mechanically installs a boiler, pressure vessel or water heater that meets the in-service inspection requirements of this chapter. The installer is defined as a registered contractor, owner, user or designee.

(i) "Low pressure boiler" shall mean a steam boiler operating at a pressure not exceeding 15 psig or a boiler in which water is heated and intended for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy. Low pressure boilers open to atmosphere and vacuum boilers are excluded.

(j) "Nonstandard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.

(k) "Pool heaters" shall mean a gas, oil, or electric appliance that is used to heat water contained in swimming pools, spas, and hot tubs.

(i) Pool heaters with energy input equivalent to 399,999 Btu/hr (117.2 kW) or less shall be manufactured and certified to ANSI Z21.56, UL1261, CSA 4.7 or equivalent manufacturing standards, as approved by the chief inspector, and are excluded from the limit and control devices requirements of WAC 296-104-300 through 296-104-303.

(ii) Pool heaters with energy input of 400,000 Btu/hr and above shall be stamped with an ASME Section IV Code symbol, and the requirements of WAC 296-104-300 through 296-104-303 shall apply.

(iii) Pool heaters without shut-off valves on the discharge side are considered open to the atmosphere, and therefore are exempt from inspection requirements.

(l) "Power boiler" shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water is heated and intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.

(m) "Reinstalled boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.

(n) "Rental boiler" shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.

(o) "Second hand boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.

(p) "Standard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.

(q) "Unfired pressure vessel" shall mean a closed vessel under pressure excluding:

(i) Fired process tubular heaters;

(ii) Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;

(iii) Piping whose primary function is to transport fluids from one location to another;

(iv) Those vessels defined as low pressure heating boilers or power boilers.

(r) "Unfired steam boiler" shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from

the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

"Certificate of competency" shall mean a certificate issued by the Washington state board of boiler rules to a person who has passed the tests as set forth in WAC 296-104-050.

"Certificate of inspection" shall mean a certificate issued by the chief boiler inspector to the owner/user of a boiler or unfired pressure vessel upon inspection by an inspector. The boiler or unfired pressure vessel must comply with rules, regulations, and appropriate fee payment shall be made directly to the chief boiler inspector.

"Code, API-510" shall mean the Pressure Vessel Inspection Code of the American Petroleum Institute with addenda and revisions, thereto made and approved by the institute which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Code, ASME" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with addenda thereto made and approved by the council of the society which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Code, NBIC" shall mean the National Board Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors with addenda and revisions, thereto made and approved by the National Board of Boiler and Pressure Vessel Inspectors and adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Commission" shall mean an annual commission card issued to a person in the employ of Washington state, an insurance company or a company owner/user inspection agency holding a Washington state certificate of competency which authorizes them to perform inspections of boilers and/or unfired pressure vessels.

"Department" as used herein shall mean the department of labor and industries of the state of Washington.

"Director" shall mean the director of the department of labor and industries.

"Domestic and/or residential purposes" shall mean serving a private residence or an apartment house of less than six families.

"Existing installations" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

"Inspection certificate" see "certificate of inspection."

"Inspection, external" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices required by these rules.

"Inspection, internal" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for examination of the interior. An external ultrasonic examination of unfired pressure vessels less than 36" inside diameter shall constitute an internal inspection.

"Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

~~(• "Chief inspector" shall mean the inspector appointed under RCW 70.79.100 who serves as the secretary to the board without a vote.~~

- ~~"Deputy inspector" shall mean an inspector appointed under RCW 70.79.120.~~
- ~~"Special inspector" shall mean an inspector holding a Washington commission identified under RCW 70.79.130.)~~

(a) "Chief inspector" shall mean the inspector appointed under RCW 70.79.100 who serves as the secretary to the board without a vote.

(b) "Deputy inspector" shall mean an inspector appointed under RCW 70.79.120.

(c) "Special inspector" shall mean an inspector holding a Washington commission identified under RCW 70.79.130.

"Jacketed steam kettle" shall mean a pressure vessel with inner and outer walls that is subject to steam pressure and is used to boil or heat liquids or to cook food. Jacketed steam kettles with a total volume greater than or equal to one and one-half cubic feet (11.25 gallons) shall be ASME code stamped.

(a) **"Unfired jacketed steam kettle"** is one where the steam within the jacket's walls is generated external to itself, such as from a boiler or other steam source.

(b) **"Direct fired jacketed steam kettle"** is a jacketed steam kettle having its own source of energy, such as gas or electricity for generating steam within the jacket's walls.

"Nationwide engineering standard" shall mean a nationally accepted design method, formulae and practice acceptable to the board.

"Operating permit" see "certificate of inspection."

"Owner" or **"user"** shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

"Owner/user inspection agency" shall mean an owner or user of boilers and/or pressure vessels that maintains an established inspection department, whose organization and inspection procedures meet the requirements of a nationally recognized standard acceptable to the department.

"Place of public assembly" or **"assembly hall"** shall mean a building or portion of a building used for the gathering together of fifty or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing homes, and assisted living facilities that provide housing and basic services for seven or more residents.

"Repair organization" shall mean an organization in possession of a valid "Certificate of Authorization" from the National Board of Boiler and Pressure Vessel Inspectors, to use the "R" symbol stamp for repair and/or alteration to pressure retaining items within their scope of authority.

"Special design" shall mean a design using nationally or internationally recognized engineering standards other than the codes adopted in WAC 296-104-200.

AMENDATORY SECTION (Amending WSR 24-12-068, filed 6/4/24, effective 7/5/24)

WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses? The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

The boiler and pressure vessel installation/reinstallation permit fee of (~~(\$74.00)~~) \$78.70 shall be paid by the installer, as defined in WAC 296-104-010.

Certificate of inspection fees: For objects inspected, the certificate of inspection fee per object is (~~(\$31.80)~~) \$33.80.

Hot water heaters per RCW 70.79.090, inspection fee: (~~(\$9.40)~~) \$10.00.

The department shall assess a (~~(\$7.70)~~) \$8.10 fee, per object, for processing of jurisdictional inspection reports to any authorized in-service inspection agency or inspector who does not file the report directly into the department's electronic inspection report system.

Heating boilers:	Internal	External
Cast iron—All sizes	((\$53.80)) <u>\$57.20</u>	((\$43.00)) <u>\$45.70</u>
All other boilers less than 500 sq. ft.	((\$53.80)) <u>\$57.20</u>	((\$43.00)) <u>\$45.70</u>
500 sq. ft. to 2500 sq. ft.	((\$107.70)) <u>\$114.60</u>	((\$53.80)) <u>\$57.20</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	((\$43.00)) <u>\$45.70</u>	((\$20.90)) <u>\$22.20</u>
Power boilers:	Internal	External
Less than 100 sq. ft.	((\$53.80)) <u>\$57.20</u>	((\$43.00)) <u>\$45.70</u>
100 sq. ft. to less than 500 sq. ft.	((\$65.20)) <u>\$69.30</u>	((\$43.00)) <u>\$45.70</u>
500 sq. ft. to 2500 sq. ft.	((\$107.70)) <u>\$114.60</u>	((\$53.80)) <u>\$57.20</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	((\$43.00)) <u>\$45.70</u>	((\$20.90)) <u>\$22.20</u>
Pressure vessels:		
Square feet shall be determined by multiplying the length of the shell by its diameter.	Internal	External
Less than 15 sq. ft.	((\$43.00)) <u>\$45.70</u>	((\$31.80)) <u>\$33.80</u>
15 sq. ft. to less than 50 sq. ft.	((\$63.90)) <u>\$68.00</u>	((\$31.80)) <u>\$33.80</u>
50 sq. ft. to 100 sq. ft.	((\$74.60)) <u>\$79.30</u>	((\$43.00)) <u>\$45.70</u>
For each additional 100 sq. ft. or any portion thereof	((\$74.50)) <u>\$79.20</u>	((\$20.90)) <u>\$22.20</u>
Nonnuclear shop inspections, field construction inspections, and special inspection services:		
For each hour or part of an hour up to 8 hours		((\$65.20)) <u>\$69.30</u>
For each hour or part of an hour in excess of 8 hours		((\$97.40)) <u>\$103.60</u>

Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:

For each hour or part of an hour up to 8 hours	(\$97.40) <u>\$103.60</u>
For each hour or part of an hour in excess of 8 hours	(\$152.60) <u>\$162.30</u>

Nonnuclear triennial shop survey and audit:

When state is authorized inspection agency:

For each hour or part of an hour up to 8 hours	(\$65.20) <u>\$69.30</u>
For each hour or part of an hour in excess of 8 hours	(\$97.40) <u>\$103.60</u>

When insurance company is authorized inspection agency:

For each hour or part of an hour up to 8 hours	(\$97.40) <u>\$103.60</u>
For each hour or part of an hour in excess of 8 hours	(\$152.60) <u>\$162.30</u>

Examination fee: A fee of (~~\$120.60~~) \$128.30 will be charged for each applicant sitting for an inspection examination(s).

Special inspector commission: A fee of (~~\$65.10~~) \$69.20 for initial work card. A fee of (~~\$40.40~~) \$42.90 for annual renewal.

If a special inspector changes companies: A work card fee of (~~\$65.10~~) \$69.20.

Expenses shall include:

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Requests for Washington state specials and extensions of inspection frequency: For each vessel to be considered by the board, a fee of (~~\$608.50~~) \$647.50 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.