

## WSR 23-24-002

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed November 27, 2023, 8:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-17-088.

Title of Rule and Other Identifying Information: WAC 182-531-0200 Physician-related and health care professional services requiring prior authorization and 182-531-0375 Audiology services.

Hearing Location(s): On January 9, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance [https://us02web.zoom.us/webinar/register/WN\\_lcj79gocS5G90rbyLRPI8g](https://us02web.zoom.us/webinar/register/WN_lcj79gocS5G90rbyLRPI8g). 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 earlier than January 10, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by January 9, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email [Johanna.larson@hca.wa.gov](mailto:Johanna.larson@hca.wa.gov), by December 29, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The legislature provided funding for adult cochlear implants in the 2023-2025 omnibus operating budget. HCA is revising these rules to include coverage for adult cochlear implants for apple health (medicaid) clients, update cochlear implant device coverage criteria, and revise the expedited prior authorization explanation.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Korrina Dalke, P.O. Box 45506, Olympia, WA 98504-5506, 360-725-2005.

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

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

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules concern client medical benefit coverage and do not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

November 27, 2023  
Wendy Barcus  
Rules Coordinator

OTS-4917.2

AMENDATORY SECTION (Amending WSR 15-16-084, filed 7/31/15, effective 8/31/15)

**WAC 182-531-0200 Physician-related and health care professional services requiring prior authorization.** (1) The medicaid agency requires **prior authorization** for certain services. Prior authorization includes **expedited prior authorization (EPA)** and **limitation extension (LE)**. See WAC 182-501-0165.

(2) ~~((The))~~ EPA ~~((process))~~ is designed to eliminate the need for ~~((telephone prior))~~ written authorization ~~((for selected admissions and procedures))~~. The agency establishes authorization criteria and identifies the criteria with specific codes, enabling providers to use that EPA number if a client meets the EPA criteria.

(a) The provider must create an authorization number using the process explained in the medicaid agency's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to the medicaid agency showing how the authorization number was created.

(c) Selected nonemergency admissions to contract hospitals require EPA. These are identified in the medicaid agency billing instructions.

(d) Procedures allowing expedited prior authorization include, but are not limited to, the following:

- (i) Reduction mammoplasties/mastectomy for gynecomastia;
- (ii) Strabismus surgery for clients ~~((eighteen))~~ 18 years of age and older;
- (iii) Meningococcal vaccine;
- (iv) Placement of drug eluting stent and device;
- (v) Cochlear implant ~~((s for clients twenty years of age and younger))~~ devices;
- (vi) Hyperbaric oxygen therapy;
- (vii) Visual exam/refraction for clients ~~((twenty-one))~~ 21 years of age and older;
- (viii) Blepharoplasties; and
- (ix) Neuropsychological testing for clients ~~((sixteen))~~ 16 years of age and older.

(3) The medicaid agency evaluates new technologies under the procedures in WAC 182-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

- (a) Abdominoplasty;
- (b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R)**;
- (c) ~~((Unilateral))~~ Cochlear implant ~~((s for clients twenty years of age and younger))~~ devices (refer to WAC 182-531-0375);
- (d) Diagnosis and treatment of eating disorders for clients ~~((twenty-one))~~ 21 years of age and older;
- (e) Osteopathic manipulative therapy in excess of the medicaid agency's published limits;
- (f) Panniculectomy;
- (g) Bariatric surgery (see WAC 182-531-1600);
- (h) Vagus nerve stimulator insertion, which also:
- (i) For coverage, must be performed in an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim.

(i) Osseointegrated/bone anchored hearing aids (BAHA) for clients (~~(twenty)~~) 20 years of age and younger;

(j) Removal or repair of previously implanted BAHA or cochlear implant devices for clients (~~(twenty-one)~~) 21 years of age and older when medically necessary; and

(k) Gender reassignment surgery (see WAC 182-531-1675).

(5) All hysterectomies performed for medical reasons may require prior authorization, as explained in subsection (2) of this section.

(a) Hysterectomies may be performed without prior authorization in either of the following circumstances:

(i) The client has been diagnosed with cancer(s) of the female reproductive organs; and/or

(ii) A hysterectomy is needed due to trauma.

(b) The agency reimburses all attending providers for a hysterectomy procedure only when the provider submits an accurately completed agency-approved consent form with the claim for reimbursement.

(6) The medicaid agency may require a second opinion and/or consultation before authorizing any elective surgical procedure.

(7) Children six years of age and younger do not require authorization for hospitalization.

AMENDATORY SECTION (Amending WSR 15-03-042, filed 1/12/15, effective 2/12/15)

**WAC 182-531-0375 Audiology services.** (1) The agency covers (~~(,)~~) medically necessary cochlear implant devices with prior authorization (~~(, cochlear devices for clients twenty years of age and younger with the following limitations:~~

~~(a) The client meets one of the following:~~

~~(i) Has a diagnosis of profound to severe bilateral, sensorineural hearing loss;~~

~~(ii) Has stimulable auditory nerves but has limited benefit from appropriately fitted hearing aids (e.g., fail to meet age-appropriate auditory milestones in the best-aided condition for young children, or score of less than ten or equal to forty percent correct in the best-aided condition on recorded open-set sentence recognition tests);~~

~~(iii) Has the cognitive ability to use auditory clues;~~

~~(iv) Is willing to undergo an extensive rehabilitation program;~~

~~(v) Has an accessible cochlear lumen that is structurally suitable for cochlear implantation;~~

~~(vi) Does not have lesions in the auditory nerve and/or acoustic areas of the central nervous system; or~~

~~(vii) Has no other contraindications to surgery; and~~

~~(b) The procedure is performed in an inpatient hospital setting or outpatient hospital setting) for eligible clients.~~

(2) The agency covers BAHAs for clients (~~(twenty)~~) 20 years of age and younger with prior authorization.

(3) The agency covers replacement parts and batteries for BAHAs and cochlear implant devices (~~(for clients twenty years of age and younger only)~~). See WAC 182-547-0800 and 182-547-0850.

(4) The agency considers requests for removal or repair of previously implanted BAHAs and cochlear implant devices (~~(for clients twen-~~

~~ty one years of age and older only)) when medically necessary. Prior authorization from the agency is required.~~

~~((5) For audiology, the agency limits:~~

~~(a) Caloric vestibular testing to four units for each ear; and~~

~~(b) Sinusoidal vertical axis rotational testing to three units for each direction.)~~

## WSR 23-24-003

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed November 27, 2023, 9:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-17-124.

Title of Rule and Other Identifying Information: WAC 182-509-0220 Washington apple health—How resources are considered and 182-519-0050 Monthly income and countable resource standards for medically needy (MN).

Hearing Location(s): On January 9, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance [https://us02web.zoom.us/webinar/register/WN\\_lcj79gocS5G90rbyLRPI8g](https://us02web.zoom.us/webinar/register/WN_lcj79gocS5G90rbyLRPI8g). 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 earlier than January 10, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by January 9, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email [Johanna.larson@hca.wa.gov](mailto:Johanna.larson@hca.wa.gov), by December 29, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending WAC 182-509-0220 to specify that medicare savings programs do not have a resource limit, which is consistent with section 211(40), chapter 475, Laws of 2023, and WAC 182-517-0100, as amended under WSR 22-21-043. HCA is amending WAC 182-519-0050 to correct a website address for the Washington apple health income and resource standards chart and update the medically needy income level and federal benefit rate.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Mark Westenhaver, P.O. Box 42722, Olympia, WA 98504-2722, 360-725-1324.

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

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

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

Is exempt under RCW 19.85.025(4).

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

Scope of exemption for rule proposal:

Is fully exempt.

November 27, 2023

Wendy Barcus  
Rules Coordinator

### OTS-5025.3

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

**WAC 182-509-0220 Washington apple health—How resources are considered.** (1) A resource is any cash, other personal property, or real property that a person:

- (a) Owns;
- (b) Has the right, authority, or power to convert to cash (if not already cash); and
- (c) Has the legal right to use for his or her support and maintenance.

(2) There is no resource limit for an applicant or recipient of the following Washington apple health (~~((WAH))~~) (medicaid) programs:

- (a) (~~(WAH))~~ Apple health for workers with disabilities (HWD) program, as described in chapter 182-511 WAC;
- (b) (~~(WAH))~~ Apple health foster care program (see WAC 182-505-0211);
- (c) Medicare savings programs (see WAC 182-517-0100);
- (d) All programs that are based on modified adjusted gross income (MAGI) methodologies, as described in WAC 182-503-0510. This includes the following:
  - (i) (~~(WAH))~~ Apple health for parents and caretaker relatives (see WAC 182-505-0240);
  - (ii) (~~(WAH for pregnant women))~~ Apple health pregnancy coverage (see WAC 182-505-0115);
  - (iii) (~~(WAH))~~ Apple health for kids (see WAC 182-505-0210);
  - (iv) Premium-based (~~(WAH))~~ apple health for kids (see WAC 182-505-0215);
  - (v) (~~(WAH))~~ Apple health long-term care for children and adults (see WAC 182-514-0230);
  - (vi) (~~(WAH))~~ Apple health for MAGI-based adult coverage (see WAC 182-505-0250); and
  - (vii) (~~(WAH))~~ Apple health MAGI-based adult alien emergency medical (see WAC 182-507-0110).

(3) For all other (~~(WAH))~~ apple health programs, the resource limits and exclusions can be found in the following chapters:

- (a) (~~(WAH))~~ Apple health SSI-related medical (see chapter 182-512 WAC) with the exception of programs listed in subsection (2) of this section;
- (b) (~~(WAH))~~ Apple health long-term care (see chapters 182-513 and 182-515 WAC);
- (c) SSI-related (~~(WAH))~~ apple health alien medical program (see chapter 182-507 WAC);
- (d) (~~Medicare savings program~~) (see WAC 182-517-0310);
- ~~(e) (WAH))~~ Apple health for refugees (see WAC 182-507-0130); and
- ~~((f))~~ (e) Medical care services (see WAC (~~182-509-0200~~) 182-508-0005).

(4) The agency or its designee determines how trusts, annuities and life estates affect eligibility for ((WAH)) apple health coverage for the programs listed in subsection((s)) (3) (a) through ((+f+)) (e) of this section by following the rules described in chapter 182-516 WAC.

(5) Receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of protected resources, such as fishing, shell-fishing, or selling timber, is considered conversion of an exempt resource during the month of receipt. Any amounts remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if the funds were used to purchase another exempt resource. Any amounts remaining in the form of countable resources (such as in checking or savings accounts) on the first of the month after receipt, will be added to other countable resources for eligibility determinations when a resource determination is required by the specific ((WAH)) apple health program. If no resource determination is required by the specific ((WAH)) apple health program, eligibility is not affected.

## OTS-5026.2

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

**WAC 182-519-0050 Monthly income and countable resource standards for medically needy (MN).** (1) Changes to the medically needy income level (MNIL) occur on January 1st of each calendar year when the Social Security Administration (SSA) issues a cost-of-living adjustment.

(2) Medically needy (MN) standards for people who meet institutional status requirements are in WAC 182-513-1395. The standard for a client who lives in an alternate living facility is in WAC 182-513-1205.

(3) The resource standards for institutional programs are in WAC 182-513-1350. The institutional standard chart is found at: ((<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>)) <http://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(4) Countable resource standards for the noninstitutional MN program are:

(a) One person	\$2,000
(b) A legally married couple	\$3,000
(c) For each additional family member add	\$50

(5) People who do not meet institutional status requirements use the "effective" MNIL income standard to determine eligibility for the MN program. The "effective" MNIL is the one-person federal benefit rate (FBR) established by SSA each year, or the MNIL listed in the chart below, whichever amount is higher. The FBR is the supplemental security income (SSI) payment standard. For example, in ((2012)) 2023, the FBR is ((~~\$698~~)) \$914.

1	2	3	4	5	6	7	8	9	10
<del>((467))</del> <u>914</u>	<del>((592))</del> <u>914</u>	<del>((667))</del> <u>914</u>	<del>((742))</del> <u>914</u>	<del>((858))</del> <u>914</u>	975	1125	1242	1358	1483

**WSR 23-24-006**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**ENTERPRISE SERVICES**

[Filed November 27, 2023, 9:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-169.

Title of Rule and Other Identifying Information: Public works contracting; addressing equity and efficiencies, including small works contracting requirements.

Hearing Location(s): On January 9, 2024, at 10:00 a.m., virtually via Zoom. To attend the hearing please use this link <https://des-wa.zoom.us/j/96728302186>; or One-tap mobile 8778535247,,96728302186# US Toll Free, 8887880099,,96728302186# US Toll Free; or phone. Dial (for higher quality, dial a number based on your current location) 877-853-5247 US Toll Free, 888-788-0099 US Toll Free, Webinar ID 967 2830 2186. International numbers available <https://des-wa.zoom.us/j/96728302186>.

Date of Intended Adoption: January 24, 2024.

Submit Written Comments to: <https://www.surveymonkey.com/r/HouseBill-ESSB5268>, by 5 p.m. PST, January 12, 2024.

Assistance for Persons with Disabilities: Contact Chris Ferguson, email [chris.ferguson@des.wa.gov](mailto:chris.ferguson@des.wa.gov), by December 31, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To enhance administrative efficiency, promote the utilization and growth of small businesses, and maintain protections to the labor work force.

Reasons Supporting Proposal: The 2023 efficiency and equity in public works contracting bill (SSSB [2SSB] 5268) modified the existing small works roster requirements, put in place a statewide roster and a small business enterprise certification program, aligned financial thresholds throughout the state, added a direct contracting option, and made changes to public works small works roster. Current rules need to be updated to align with changes made by SSSB [2SSB] 5268.

Statutory Authority for Adoption: SSSB [2SSB] 5268.

Statute Being Implemented: SSSB [2SSB] 5268.

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

Name of Proponent: Washington state department of enterprise services (DES), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Bill Frare, 1500 Jefferson [Street S.E.], Olympia, WA, 360-280-6083.

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. DES is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, DES does not voluntarily make section 201 applicable to this rule adoption, nor to date, has the joint administrative rules review committee made section 201 applicable to this rule adoption.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify

language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.  
Scope of exemption for rule proposal:  
Is fully exempt.

November 27, 2023  
Jack Zeigler  
Policy and Rules Manager

## OTS-5070.1

AMENDATORY SECTION (Amending WSR 15-23-062, filed 11/13/15, effective 12/14/15)

**WAC 200-330-010 Purpose and authority.** The purpose of this chapter is to establish a common procedure that state agencies and local governments may use to award contracts under the small works roster process established in RCW 39.04.151. This chapter of the Washington Administrative Code is adopted pursuant to (~~chapter 98, Laws of 1982~~) RCW 39.04.151, which (~~requires~~) authorizes the director of the department of enterprise services to adopt by rule a procedure to prequalify contractors for inclusion on a small works roster established by the state agencies enumerated in section 2, chapter 98, Laws of 1982. The procedure set forth in this chapter shall be utilized by those agencies in establishing a small works roster.

## NEW SECTION

**WAC 200-330-025 Definitions.** As used in this chapter the terms:

- (1) "Contracting agency" means all agencies and political subdivisions of the state with public works contracting authority.
- (2) "Independent roster" means a small works roster established by a contracting agency either by itself or with another contracting agency.
- (3) "MRSC" means the municipal research and services center.
- (4) "OMWBE" means the office of minority and women's business enterprises.
- (5) "Publicly available" means published on a contracting agency's public website. If an agency does not support a public website, the agency must make printed copies of the material available at the reception area of its headquarters by having printed copies available at the office's reception desk or posted on a bulletin board available to the public at the office.
- (6) "Public work" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the contracting agency, or which is by law a lien or charge on any property therein. "Public work" does not include work, construction, alteration, repair, or improvement performed under contracts entered into under RCW 36.102.060(4) or under development agreements entered into under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

(7) "Statewide roster" means the statewide small works roster developed by the department of commerce through MRSC.

NEW SECTION

**WAC 200-330-035 General roster rules and procedures.** (1) Small works rosters. Contracting agencies may use the statewide roster or an independent roster when contracting for small works. Contracting agencies are encouraged to use the statewide roster to promote administrative efficiency for both contracting agencies and contractors.

(2) Requirements. The statewide roster and independent rosters must meet the requirements of RCW 39.04.151, 39.04.152, and this chapter including, but not limited to, the following:

(a) Roster inclusion. All qualified responsible, licensed contractors must be included on the roster at their request. MRSC and contracting agencies with independent rosters may implement an application process for contractors to be placed on the roster.

(b) Contact information. Contractors included on the roster must designate an official email to receive bids notifications from the contracting agency.

(c) Contractor recordkeeping. Contractors included on the roster must keep records of applicable licenses, certifications, registrations, bonding, and insurance as required by RCW 39.04.350. This information must be made available at the request of the contracting agency.

(d) Small and diverse business certification.

(i) At the time of a contractor's application to be included on a roster, the contractor must indicate its certification status with OMWBE and the department of veterans affairs.

(ii) MRSC and contracting agencies with independent rosters must be able to download data from OMWBE and the department of veterans affairs to obtain current information on contractor certifications at the time of solicitation.

NEW SECTION

**WAC 200-330-040 Small works competitive contracting.** (1) Small works bid process. In lieu of a formal public works bidding process, contracting agencies may use the following small works competitive contracting process to invite contractors from the small works roster to submit bids for small works contracts. To use the competitive contracting process, the contracting agency's estimate of the work must be equal to or less than the competitive contracting cost limit established in RCW 39.04.152 (4) (a), excluding sales tax.

(2) Requirements. Contracting agencies must meet the requirements of RCW 39.04.151, 39.04.152, and this chapter, when implementing a small works competitive contracting process, inclusive of, but not limited to, the following:

(a) Invitations to bid.

(i) Invitations to bid must include:

(A) Plans, specifications, and an estimate of the work sufficient to define the work and for the contractor to generate a bid; and

(B) A date and time for receipt of bids through the designated bidding system.

(ii) Contracting agencies must provide an invitation to bid to all contractors on the appropriate roster category associated with the work to be performed.

(b) Estimated cost. The contracting agency's estimate of the work must be equal to or under the cost limit specified in RCW 39.04.152 to solicit bids under competitive contracting process. The contracting agency may award contracts for more than this amount if the contract cost is not excessive or does not constitute a cardinal change. A general guideline is that 10 percent or less of the statutory bid limit will not constitute a cardinal change.

(c) Change orders. Change orders may be added to the contract amount at the discretion of the contracting agency if the change orders are necessary to complete the work described in the plans, specifications, and estimate, or do not constitute a cardinal change. Contracting agencies shall not use change orders to avoid the statutory bid limit for this type of solicitation.

(d) Retainage. Retainage may be waived or reduced by the contracting agency. If the contracting agency waives or reduces retainage, the waiver or reduction must be indicated in the invitation to bid at the time of solicitation, and the contracting agency assumes liability for any unpaid wages and taxes.

(e) Bid acceptance. Contracting agencies:

(i) Must accept bids through electronic methods such as electronic mail or an electronic bid system;

(ii) Shall not establish a formal bid opening; and

(iii) Must make bid tabs publicly available.

#### NEW SECTION

**WAC 200-330-050 Small works direct contracting.** (1) Direct contracting process. In lieu of a formal public works bidding process and the small works competitive contracting process provided in WAC 200-330-040, contracting agencies may enter into direct contracts with a contractor by soliciting a quote from a single selected contractor on the statewide roster or independent roster and negotiate a final price. Pursuant to the limits set forth in RCW 39.04.151 and 39.04.152, the direct contracting process may be used when the contracting agency's estimate for the work is equal to or less than the cost limit specified in RCW 39.04.152 (4) (b), excluding sales tax.

(2) Requirements. Contracting agencies must meet the requirements of RCW 39.04.151, 39.04.152, and this chapter, when implementing a small works direct contracting process, inclusive of, but not limited to, the following:

(a) Administrative efficiency. Direct contracting is intended to be a quick and administratively efficient process with a focus on promoting the use of small and diverse businesses. This is not a competitive solicitation.

(b) Diverse business utilization plan. Contracting agencies must establish a small, minority, women, and veteran-owned business utilization plan prior to using the direct contracting process.

(c) Contractor rotation.

(i) Contracting agencies must rotate direct contracting opportunities among the available contractors on the appropriate roster.

(ii) Contracting agencies must not favor certain contractors by repeatedly awarding contracts to contractors without documented attempts to directly contract with other contractors.

(iii) Contracting agencies must adopt a policy regarding how contract opportunities will be rotated to avoid favoritism in direct contracting. Contracting agencies must make this policy publicly available.

(iv) A contracting agency's rotation policy must, at a minimum, provide the following:

(A) Contractors that have been issued a contract under the direct contracting process must not be offered a future contract until all other contractors on the roster have received a solicitation for a quote through the direct contracting process; and

(B) Contracting agencies must consider nonresponsive solicitations and the inability to negotiate an agreed price in their rotation policy.

(d) Soliciting quotes.

(i) Solicitations for a quote under the direct contracting process must include the following:

(A) A description of the work to be performed sufficient for the contractor to develop a price;

(B) The date the contracting agency must receive the contractor's quote; and

(C) Any timeline requirements for mobilization.

(ii) When six or more contractors certified as public works small business enterprises by OMWBE are listed on the appropriate roster, the contracting agency must solicit a quote from a certified public works small business enterprise contractor on the roster in accordance with the agency's rotation policy.

(iii) When five or fewer contractors certified as public works small business enterprises by OMWBE are listed on the appropriate small works roster for this type of work, the contracting agency may solicit a quote from any contractor on the roster in accordance with the agency's rotation policy.

(e) Negotiated price.

(i) A contract price must be negotiated with a single selected contractor from the statewide or independent roster. The negotiated price should be based on the quote from the contractor and available project funds identified by the contracting agency.

(ii) If the contractor and the contracting agency cannot agree on a price, the agency may elect to end negotiations and move to the next contractor on the rotation in accordance with the agency's rotation policy.

(iii) Once a price is established and all other requirements are met, the contracting agency may proceed with award and execution of the contract.

(iv) Contracting agencies are prohibited from bid shopping using the direct contracting process. If the contracting agency and the next contractor on the rotation cannot agree on a contract price, the contracting agency must competitively bid the work under WAC 200-300-040, if the agency intends to proceed with the work.

(f) Notice of award. Contracting agencies must provide notice of a small works contract award to all other contractors on the appropriate roster of award.

(g) LNI portal. Contracting agencies are required to initiate the small works project using labor and industries' awarding agency portal when awarding a contract under the direct contracting process.

(h) Recordkeeping. Contracting agencies must keep documented records of their efforts under the direct contracting process, including records of the following:

- (i) The contractors that the contracting agency solicited for the contract;
- (ii) Whether the contractor responded to the solicitation;
- (iii) Records of price negotiations;
- (iv) The contracts that were awarded and to whom; and
- (v) Records documenting the reasons a negotiated price could not be reached.

#### NEW SECTION

**WAC 200-330-060 Small works roster contracting templates.** The department of enterprise services will develop and make publicly available templates for bid invitations, bidding, and contracting using the direct contracting process for the use of all contracting agencies.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                 |   |
|-----------------|---|
| WAC 200-330-020 | Notice required by agency establishing small works roster.        |
| WAC 200-330-030 | Contractors application form—<br>Information required.            |
| WAC 200-330-070 | Denial or removal of contractors from small works roster—Reasons. |
| WAC 200-330-080 | Denial or removal from roster—Notice and hearing.                 |

**WSR 23-24-082**  
**PROPOSED RULES**  
**SECRETARY OF STATE**

[Filed December 5, 2023, 11:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-16-090.

Title of Rule and Other Identifying Information: General elections rule updates to align with legislative updates.

Hearing Location(s): On January 9, 2024, at 1:00 p.m., at the Washington Secretary of State, Washington State Library, 6880 Capitol Boulevard S.E., Tumwater, WA 98501. When attending the hearing in person, walk into the front lobby of the Washington State Library. You will be escorted to the conference room at 12:59 p.m. to be present when the hearing begins at 1:00 p.m. If you arrive after that time, there will be a staff member available in the lobby to escort you to the conference room.

Date of Intended Adoption: January 10, 2024.

Submit Written Comments to: Dave Piersma, P.O. Box 40229, Olympia, WA 98504, email dave.piersma@sos.wa.gov, fax 360-664-4619, by January 8, 2024.

Assistance for Persons with Disabilities: Contact Dave Piersma, phone 360-902-4172, fax 360-664-4619, email dave.piersma@sos.wa.gov, by January 8, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these proposals is to update the election administration processes in accordance with legislative amendments.

Reasons Supporting Proposal: Consistency in operations in all county elections offices when conducting election administration processes in accordance with state law.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: RCW 29A.08.725, 29A.24.040, 29A.24.050, 29A.24.070, 29A.32.125, 29A.40.110, 29A.40.160, 29A.72.040, 29A.72.250, 29A.72.283, 29A.72.290.

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

Name of Proponent: Office of the secretary of the state, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Stuart Holmes, Olympia, 360-902-4151.

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

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

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

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

Scope of exemption for rule proposal:

Is fully exempt.

December 1, 2023  
Amanda Doyle  
Chief of Staff

## OTS-4856.2

AMENDATORY SECTION (Amending WSR 19-05-041, filed 2/14/19, effective 3/17/19)

**WAC 434-208-060 Electronic filings.** (1) In addition to those documents specified by RCW 29A.04.255, the secretary of state or the county auditor shall accept and file in his or her office electronic transmissions of the following documents:

- (a) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;
- (b) Any minor party or independent candidate filing material for president and vice president, except nominating petitions;
- (c) Lists of presidential electors selected by political parties or independent candidates;
- (d) Voted ballots and signed ballot declarations from service and overseas voters received no later than 8:00 p.m. on election day;
- (e) Resolutions from cities, towns, and other districts calling for a special election;
- (f) Voter registration and cancellation forms, unless the form is illegible or the signature image is poor quality, requiring the county auditor to reject the form;
- (g) Signed ballot declarations, and any accompanying materials, submitted pursuant to RCW 29A.60.165 and WAC 434-261-050; and
- (h) Requests to withdraw.

(2) If payment of a fee is required, the electronic filing is not complete until the fee is received.

(3) No initiative, referendum, recall, or other signature petitions may be filed electronically.

(4) County auditors must use best practices provided by the secretary of state for securely handling documents received by fax and email.

## OTS-4855.4

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-215-040 ((Filing notification.)) Online filing—Contingency plan.** ((Declarations of candidacy for legislative, court of appeals, and superior court districts located within one county must be filed with the county auditor.)) In the event of an internet outage or disruption to the office of the secretary of state's online candidate filing system, declarations of candidacy and filing fees for offices that file with the secretary of state may be received in person by any county auditor during the last two hours of the filing period. All information listed on the declaration of candidacy for these offices must be ((sent electronically)) transmitted to the secretary of state ((the same day)) as soon as practicable after the filing was accepted.

## OTS-4849.1

AMENDATORY SECTION (Amending WSR 17-12-090, filed 6/6/17, effective 7/7/17)

**WAC 434-215-065 Withdrawal of candidacy.** Consistent with RCW 29A.24.131, a candidate may withdraw (~~((his or her))~~) their declaration of candidacy at any time before (~~((the close of business))~~) 5:00 p.m. on the Monday following the last day for candidates to file. The candidate must file a signed request that (~~((his or her))~~) their name not be printed on the ballot. This request to withdraw must be filed with the officer who accepted the declaration of candidacy. A request to withdraw may be filed electronically. Once filed, the withdrawal cannot be revoked. There shall be no withdrawal period for declarations of candidacy filed during special filing periods.

## OTS-4850.1

AMENDATORY SECTION (Amending WSR 17-12-090, filed 6/6/17, effective 7/7/17)

**WAC 434-230-025 Order of offices.** Measures and offices must be listed in the following order, to the extent that they appear on a primary or election ballot:

- (1) Initiatives to the people;
- (2) Referendum measures;
- (3) Referendum bills;
- (4) Initiatives to the legislature and any alternate proposals;
- (5) (~~Advisory votes;~~
- ~~(6))~~ Proposed constitutional amendments (senate joint resolutions, then house joint resolutions);
- ~~((7))~~ (6) Countywide ballot measures;
- ~~((8))~~ (7) President and vice president of the United States;
- ~~((9))~~ (8) United States senator;
- ~~((10))~~ (9) United States representative;
- ~~((11))~~ (10) Governor;
- ~~((12))~~ (11) Lieutenant governor;
- ~~((13))~~ (12) Secretary of state;
- ~~((14))~~ (13) State treasurer;
- ~~((15))~~ (14) State auditor;
- ~~((16))~~ (15) Attorney general;
- ~~((17))~~ (16) Commissioner of public lands;
- ~~((18))~~ (17) Superintendent of public instruction;
- ~~((19))~~ (18) Insurance commissioner;
- ~~((20))~~ (19) State senator;
- ~~((21))~~ (20) State representative;
- ~~((22))~~ (21) County officers;
- ~~((23))~~ (22) Justices of the supreme court;
- ~~((24))~~ (23) Judges of the court of appeals;
- ~~((25))~~ (24) Judges of the superior court; and
- ~~((26))~~ (25) Judges of the district court.

For all other jurisdictions, the offices in each jurisdiction shall be grouped together and listed by position number according to county auditor procedures.

### OTS-4851.3

AMENDATORY SECTION (Amending WSR 22-10-041, filed 4/27/22, effective 5/28/22)

**WAC 434-232-040 Information pertaining to primary-only voters, when disclosable.** (1) Pursuant to RCW 29A.08.720, personally identifiable information from the voter registration record is exempt from public inspection and copying until the voter is 18 years of age, ~~((except for the purpose of processing and delivering ballots))~~ or until the person is eligible to participate in the next presidential primary, primary, or election.

(2) Pursuant to RCW 29A.40.130, ballot issuance and return information for a primary-only voter, excluding the date of birth, gender, and address, is subject to public disclosure at the time of ballot issuance by the county auditor for a presidential primary or primary that the voter is eligible to participate in.

(3) Pursuant to RCW 29A.08.170, a person who signs up to register to vote must remain as a "future voter" as defined by RCW 29A.04.070 until such time as they will be eligible to vote in the next election. The voter registration information is exempt from public inspection and copying until they are 18 years of age or until the person is eligible to participate in the next presidential primary, primary, or election. ~~((The ballot issuance and return information is exempt until they are eligible to participate in an election. When a person is eligible to participate in an election, the date of birth, gender, and address of the person is exempt from disclosure when providing ballot issuance and return information in accordance with RCW 29A.40.130 until they are 18 years of age.))~~

### OTS-4847.1

AMENDATORY SECTION (Amending WSR 21-21-001, filed 10/6/21, effective 11/6/21)

**WAC 434-261-005 Definitions.** (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed as part of the initial processing;

(2) "Ballot duplication" is the process of making a true copy of valid votes from a physically damaged ballot or a ballot that is unreadable or uncountable by the tabulation system onto a paper or electronic blank ballot to ensure the ballot may be correctly tabulated by the tabulation system. The original ballot may not be altered. Teams of two or more people working together must duplicate ballots according to voter intent as per WAC 434-261-086. A log of duplicated bal-

lots must be signed by the two or more people who duplicated the ballots;

(3) "Ballot resolution" is the process of making changes on a voted electronic ballot image to ensure the ballot is tabulated according to the voter's intent. The changes must reflect the voter intent as per WAC 434-261-086 and the original ballot may not be altered. Changes must be made by teams of two or more people working together. A log of resolved ballots must be signed by the two or more people resolving the ballots;

(4) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;

(5) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(6) "Valid signature" on a ballot declaration for a registered voter eligible to vote in the election is:

(a) A signature verified against the voter's signature in the voter registration file attesting to the voter registration oath;

((~~or~~))

(b) A mark witnessed by two people; or

(c) A signature verified against the voter's signature in the voter registration file attesting to the ballot declaration.

(7) "Overvote" is votes cast for more than the permissible number of selections allowed in a race or measure. An overvoted race or measure does not count in the final tally of that race or measure. Example of an overvote would be voting for two candidates in a single race with the instruction, "vote for one";

(8) "Undervote" is no selections made for a race or measure;

(9) "Election observers" means those persons designated by the county political party central committee chairperson to observe the counting of ballots and related elections procedures;

(10) "Seal log" is a log documenting each time a numbered seal is attached or removed from a ballot container. The log must include the seal number, date, and identifying information of persons attaching or removing the seal. Following certification of the election, the seal log must include documentation as to why the seal was removed from a ballot container.

#### OTS-4857.1

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

**WAC 434-324-090 Cancellation due to death—Process.** (1) An auditor must cancel the voter registration records of a deceased voter as authorized by RCW 29A.08.510.

(2) In addition to comparing a list of deceased persons prepared by the registrar of vital statistics with voter registration records pursuant to RCW 29A.08.510, the secretary may also compare voter reg-

istration records with deceased persons' information from the Social Security Administration. Comparisons must be conducted on a monthly basis. For any potential matches identified through the registrar of vital statistics or Social Security Administration, the secretary must confirm that the dates of birth are identical. The secretary must generate a county list of matching names, identified as potentially deceased voters, and provide the names to each auditor electronically. The auditor must review the list and approve or reject the proposed cancellations. The secretary may assist the auditor with this review.

(3) The county auditor must remove a participant from the future voter program established under RCW 29A.08.170 upon receipt of documentation from Vital Statistics, Social Security Administration, official death certificate, or written confirmation from another registered voter that the participant is deceased.

## OTS-4854.2

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

**WAC 434-381-120 Deadlines.** (1) Candidate statements and photographs shall be submitted to the secretary of state no later than ~~((the Friday))~~ 11 days following the last day of the filing period.

(a) A declared primary election write-in candidate may submit a statement and photograph to the secretary of state no later than the Tuesday following the primary election.

(b) An unopposed candidate on the primary ballot may submit a revised statement only when a write-in candidate for the same position files a declaration of candidacy. The revised statement must be received no later than the Tuesday following the primary election.

(2) For ballot measures, including initiatives, referenda, alternatives to initiatives to the legislature, and constitutional amendments, the following documents shall be filed with the secretary of state on or before the following deadlines:

(a) Appointments of the initial two members of committees to prepare arguments for and against measures:

(i) For an initiative to the people or referendum measure: No later than seven business days after the submission of signed petitions to the secretary of state;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, no later than seven business days after the adjournment of the regular or special session at which the legislature approved or referred the measure to the ballot;

(b) Appointment of additional members of committees to prepare arguments for and against ballot measures, no later than the date the committee submits its initial argument to the secretary of state;

(c) For arguments for or against a ballot measure:

(i) For an initiative to the people or referendum measure: No later than ~~((ten))~~ 10 business days following appointment of the initial committee members;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, no later than

((fourteen)) 14 business days following appointment of the initial committee members;

(d) Rebuttals of arguments for or against a ballot measure, no later than five business days following the transmittal of the final statement to the committees by the secretary. The secretary shall not transmit arguments to opposing committees for the purpose of rebuttals until both arguments are complete.

(3) If a ballot measure is the product of a special session of the legislature and the secretary of state determines that the deadlines set forth in subsection (2) of this section are impractical due to the timing of that special session, then the secretary of state may establish a schedule of deadlines unique to that measure.

(4) The deadlines stated in this rule are intended to promote the timely publication of the voters' pamphlet. Nothing in this rule shall preclude the secretary of state from accepting a late filing when, in the secretary's judgment, it is reasonable to do so. Once statements or arguments are submitted to the secretary, changes by the candidate or committee will not be accepted unless requested by the secretary.

**WSR 23-24-084**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed December 5, 2023, 11:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-08-066.

Title of Rule and Other Identifying Information: Electrical rules—Code adoption. Chapter 296-46B WAC, Electrical safety standards, administration, and installation, excluding WAC 296-46B-945 Qualifying for master, journey level, specialty electrician examinations.

Hearing Location(s): On January 9, 2024, at 9:00 a.m., at the Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Tumwater, WA 98501; or join electronically <https://lni-wa-gov.zoom.us/j/81522232436?pwd=dStmUVdoU0o4WGtsbUsvT2I5RDk2UT09>, Passcode xZ+m4AFj; or join by phone (audio only) 253-215-8782, Meeting ID 815 2223 2436, Passcode 50041258. The in-person and virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: February 20, 2024.

Submit Written Comments to: Meagan Edwards, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, email [Meagan.Edwards@Lni.wa.gov](mailto:Meagan.Edwards@Lni.wa.gov), fax 360-902-6134, by 5 p.m. on January 9, 2024.

Assistance for Persons with Disabilities: Contact Meagan Edwards, phone 360-522-0125, fax 360-902-6134, email [Meagan.Edwards@Lni.wa.gov](mailto:Meagan.Edwards@Lni.wa.gov), by December 20, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making proposes amendments to adopt the 2023 edition of the National Fire Protection Agency (NFPA) 70, the National Electrical Code (NEC), and other related codes for electrical. The 2023 NEC (NFPA 70-2023) would replace the current 2020 NEC (NFPA 70-2020) adopted standards.

The electrical program reviewed the existing rules and 2023 NEC (NFPA 70-2023) to update rules for consistency with the latest national safety standards and industry practice. The 2023 edition of the code presents the latest comprehensive regulations for electrical wiring, overcurrent protection, grounding and installation of equipment.

Washington's electrical stakeholders and other interested parties were invited to participate in the review process, submit proposals and provide recommendations to L&I for possible rule amendments. A technical advisory committee of industry experts and the electrical board reviewed the proposals and provided recommendations on adoption of the rules. This rule making is necessary to adopt the latest safety codes, and other amendments to the rules identified during the formal review process and recommended by stakeholders to improve public safety.

Proposed rules to this chapter are as follows:

**New Sections:**

**WAC 296-46B-235 Branch circuits, feeders, and services over 1,000 volts ac, 1,500 volts dc nominal.**

- Creates a new section for an exception to not restrict wiring methods when proper overcurrent protection is provided.

**WAC 296-46B-692 Fuel cell systems.**

- Creates a new section requiring installers to provide a system design review defined under WAC 296-46B-100 that will likely improve conformance to code requirements intended to protect life and property.

**WAC 296-46B-710 Standalone systems.**

- Creates a new section to implement a design review requirement for standalone systems.

**Amended Sections:****WAC 296-46B-010 General.**

- Amends references to adopt the 2023 NEC (NFPA 70-2023), which is the latest version of the code published in September 2022.
- Amends language to automatically adopt the latest published versions of the American National Standards Institute and Telecommunications Industry Association (ANSI/TIA) codes and National Electrical Safety Codes (NESC).
- Removes references to the Electronic Industries Alliance (EIA), as this organization no longer exists.
- Amends language for general housekeeping, such as updating references, clarifying language, removing obsolete language, renumbering subsections, etc.

**WAC 296-46B-100 General definitions.**

- Adds a new definition to define the meaning of "equivalent apprenticeship program," due to the passage of SSB 6126, chapter 249, Laws of 2018.
- Amends the definitions of "WAC" and "RCW" to clarify that only electronic copies of the electrical laws and rules are available from L&I and the office of the code reviser.

**WAC 296-46B-110 General—Requirements for electrical installations.**

- Amends language for general housekeeping, such as punctuation and updating the section title.

**WAC 296-46B-210 Wiring and protection—Branch circuits.**

- Adds language that does not require future provisions for receptacle outlets installed on islands or peninsular countertops or work surfaces.
- Adds language that clarifies "accessible" locations for equipment that requires servicing outdoors, as the code is unclear.
- Amends the section title for consistency with the 2023 NEC and to narrow content.

**WAC 296-46B-215 Wiring and protection—Feeders.**

- Amends the section title to narrow focus of content.

**WAC 296-46B-220 Wiring and protection—Branch circuit, feeder, and service calculations.**

- Amends the section title, header and references for consistency with the 2023 NEC.

**WAC 296-46B-225 Wiring and protection—Outside branch circuits and feeders.**

- Amends references related to feeder disconnecting means for uniformity with the 2023 NEC.

- Amends language for general housekeeping, such as updating the section title and headers, clarifying language, and relocating and restructuring existing language.

**WAC 296-46B-230 Wiring and protection—Services.**

- Adds exceptions to wiring methods for service conductors within a building or structure when protected by customer owned supply side overcurrent protection.
- Adds language that clarifies when an emergency disconnecting means must be installed if replacing existing equipment.
- Amends language for general housekeeping, such as the section title, renumbering subsections, relocating language, and removing obsolete language.

**WAC 296-46B-240 Overcurrent protection.**

- Includes roofs in the requirement that overcurrent protection equipment enclosures be installed 24 inches above the surface.
- Creates new subsections requiring documentation to assure [ensure] that testing required by the NEC 240.67 and NEC 240.87 is performed.

**WAC 296-46B-250 Wiring and protection—Grounding and bonding.**

- Adds new language to clarify when concrete electrode requirements apply where additions are made to existing foundations.
- Amends the section title to narrow focus of content.

**WAC 296-46B-300 Wiring methods and materials—Wiring methods.**

- Amends language for general housekeeping, such as updating section title and header and reference.

**WAC 296-46B-314 Wiring methods and materials—Outlet, device, pull, and junction boxes.**

- Adds a new subsection to clarify the locations acceptable for installing ceiling-suspended (paddle) fans for consistency with L&I's existing practice.
- Adds clarifying language to include device accessibility for consistency with the 2023 NEC.
- Amends the section title and header for consistency with the 2023 NEC and to narrow content.

**WAC 296-46B-334 Wiring methods and materials—Nonmetallic-sheathed cable.**

- Adds new language that clarifies wet or damp locations and conditions for installing non-metallic sheath (NM) cables for consistency with L&I's existing practice.
- Amends the title for consistency with the 2023 NEC.

**WAC 296-46B-358 Wiring methods and materials—Electrical metallic tubing.**

- Amends the title to narrow focus of content.

**WAC 296-46B-394 Wiring methods and materials—Concealed knob-and-tube wiring.**

- Updates table references for consistency with the 2023 NEC table.
- Amends the title to narrow focus of content.

**WAC 296-46B-408 Equipment for general use—Switchboards, switchgear, and panelboards.**

- Amends the title to narrow focus of content.

**WAC 296-46B-410 Equipment for general use—Luminaires.**

- Amends language for general housekeeping, such as updating section title and header, and term for use in the 2023 NEC.

**WAC 296-46B-422 Equipment for general use—Appliances.**

- Amends the title to narrow focus of content.

**WAC 296-46B-450 Equipment for general use—Transformers and transformer vaults.**

- Amends the title and header for consistency with the 2023 NEC and to narrow focus of content.

**WAC 296-46B-501 Special occupancies NEC Class I locations.**

- Amends the title to narrow focus of content.

**WAC 296-46B-505 Class I, Zone 0, 1, and 2 locations.**

- Amends the title for consistency with the 2023 NEC.

**WAC 296-46B-513 Special occupancies—Aircraft hangars.**

- Amends the title to narrow focus of content.

**WAC 296-46B-514 Special occupancies—Motor fuel dispensing facilities.**

- Updated reference to align with the 2023 NEC.
- Amends the title to narrow focus of content.

**WAC 296-46B-517 Special occupancies—Health care facilities.**

- Amends the title and header for consistency with the [2023] NEC and to narrow focus of content.

**WAC 296-46B-547 Special occupancies—Agricultural buildings.**

- Amends the title to narrow focus of content.

**WAC 296-46B-550 Special occupancies—Mobile homes, manufactured homes and mobile home parks.**

- Adds new language to allow for mounting of service equipment on mobile/manufactured homes if approved by the manufacturer.
- Amends the title to narrow focus of content.

**WAC 296-46B-555 Special occupancies—Marinas, boatyards, floating buildings, and commercial and noncommercial docking facilities.**

- Amends language to clarify the meaning of corrosion resistant and provide information for what is acceptable.
- Amends the title to narrow focus of content.

**WAC 296-46B-590 Special occupancies—Temporary installations.**

- Amends the title to narrow focus of content.

**WAC 296-46B-600 Special equipment—Electric signs and outline lighting.**

- Amends the title to narrow focus of content.

**WAC 296-46B-620 Special equipment—Elevators.**

- Amends the title for consistency with the 2023 NEC and to narrow focus of content.

**WAC 296-46B-680 Special equipment—Swimming pools, fountains, and similar installations.**

- Amends language for general housekeeping, such as updating the title, removing a header, and renumbering subsections.

**WAC 296-46B-690 Solar photovoltaic systems.**

- Adds new language to clarify availability of the design review defined under WAC 296-46B-100.

**WAC 296-46B-694 Wind electric systems.**

- Adds new language that clarifies the availability of the design review defined under WAC 296-46B-100.

**WAC 296-46B-700 Emergency systems.**

- Adds new requirements for selective coordination when overcurrent devices are replaced for consistency with the 2023 NEC.
- Amends header for consistency with the 2023 NEC.

**WAC 296-46B-701 Legally required standby systems.**

- Adds new requirements for selective coordination when overcurrent devices are replaced for consistency with the 2023 NEC.
- Amends header for consistency with the 2023 NEC.

**WAC 296-46B-702 Optional standby systems.**

- Amends the requirements pertaining to placing signs for consistency with the 2023 NEC.

**WAC 296-46B-705 Interconnected electric power production sources.**

- Adds new subsection requiring installers to provide a system design review for interconnected electric power production sources.

**WAC 296-46B-800 Communications systems—Communications circuits.**

- Amends the title and header for consistency with the 2023 NEC and to narrow focus of content.

**WAC 296-46B-908 Class B permits. Class B electrical work permit—Use.**

- Amends language to extend the validity of Class B permits to 120 days to allow more time for installations.

**WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work.**

- Updates the (06A) scope of work to allow these electricians to perform certain work when it is directly related to the mini-split HVAC refrigeration systems, install lower rated overcurrent devices that are compatible with replacement gas or oil furnaces, and install devices to protect sensitive electronics in HVAC/refrigeration equipment.
- Amends language for general housekeeping, such as relocating and restructuring requirements for the (06A) and (06B) scopes of work, clarifying language, updating references, renumbering subsections, etc.

**WAC 296-46B-925 Electrical/telecommunications contractor's license. General.**

- Amends subsection numbers for consistency with SB 6170, chapter 153, Laws of 2020.

**WAC 296-46B-942 Training certificate required. General.**

- Amends language to clarify the submittal requirements for affidavits to streamline the process.
- Removes obsolete language.

**WAC 296-46B-960 Administrator and electrician certificate of competency examinations. General.**

- Amends language that allows special accommodations for candidates with language barriers when taking the electrician certificate of competency examination. This also includes:
  - Removing the requirement for a notarized release to discuss matters, written opinion from a physician or other appropriate specialist is adequate.
  - Amending the order of actions necessary for approval of a special accommodations request.
  - Streamlines requirements an applicant with limit English proficiency to request an accommodation.

**Repealed Section:****WAC 296-46B-406R Equipment for general use—Receptacles.**

- Repeals the rule as these requirements are obsolete and now addressed in 2023 NEC 406.12.

**WAC 296-46B-440 Air conditioning and refrigerating equipment.**

- Repeals the rule to align with NEC 440.8 that may consider split systems a "single machine" under certain conditions.

Reasons Supporting Proposal: NEC sets the standard for safe electrical design, installation and inspection in homes, businesses, industry, and institutions to protect people and property from electrical hazards. These rules are necessary to ensure the new safety codes that affect electrical work align with existing rules and Washington state is consistent with other states that regulate the industry.

Statutory Authority for Adoption: Chapter 19.28 RCW, Electricians and electrical installations, including RCW 19.28.031 and 19.28.251.

Statute Being Implemented: Chapter 19.28 RCW, Electricians and electrical installations, including RCW 19.28.031 and 19.28.251.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Wayne Molesworth, Program Manager, Tumwater, Washington, 360-902-6234; 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 required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Meagan Edwards, L&I, Field Services and Public Safety, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-522-0125, fax 360-902-6134, email Meagan.Edwards@Lni.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is not exempt - Analysis is required</b>	<b>This proposed rule section is exempt. Provide RCW to support this exemption.</b>
1.	WAC 296-46B-010 General.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
2.	WAC 296-46B-100 General definitions.	X	
3.	WAC 296-46B-110 General—Requirements for electrical installations.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
4.	WAC 296-46B-210 Wiring and protection—Branch circuits.	X	
5.	WAC 296-46B-215 Wiring and protection—Feeders.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
6.	WAC 296-46B-220 Wiring and protection—Branch circuit, feeder, and service calculations.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
7.	WAC 296-46B-225 Wiring and protection—Outside branch circuits and feeders.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
8.	WAC 296-46B-230 Wiring and protection—Services.	X	
9.	WAC 296-46B-235 Branch circuits, feeders, and services over 1,000 volts ac [ac], 1,500 volts dc nominal.	X	
10.	WAC 296-46B-240 Overcurrent protection.	X	

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is <i>not exempt</i> - Analysis is required</b>	<b>This proposed rule section is <i>exempt</i>. Provide RCW to support this exemption.</b>
11.	WAC 296-46B-250 Wiring and protection—Grounding and bonding.	X	
12.	WAC 296-46B-300 Wiring methods and materials—Wiring methods.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
13.	WAC 296-46B-314 Wiring methods and materials—Outlet, device, pull, and junction boxes.	X	
14.	WAC 296-46B-334 Wiring methods and materials—Nonmetallic-sheathed cable.	X	
15.	WAC 296-46B-358 Wiring methods and materials—Electrical metallic tubing.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
16.	WAC 296-46B-394 Wiring methods and materials—Concealed knob-and-tube wiring.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
17.	WAC 296-46B-406R Equipment for general use—Receptacles.	<input type="checkbox"/>	As this is being repealed.
18.	WAC 296-46B-408 Equipment for general use—Switchboards, switchgear, and panelboards.	X	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
19.	WAC 296-46B-410 Equipment for general use—Luminaires.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
20.	WAC 296-46B-422 Equipment for general use—Appliances.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
21.	WAC 296-46B-440 Air conditioning and refrigerating equipment.	<input type="checkbox"/>	As this is being repealed.
22.	WAC 296-46B-450 Equipment for general use—Transformers and transformer vaults.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
23.	WAC 296-46B-501 Special occupancies NEC Class I locations.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
24.	WAC 296-46B-505 Class I, Zone 0, 1, and 2 locations.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
25.	WAC 296-46B-513 Special occupancies—Aircraft hangars.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is <i>not exempt</i> - Analysis is required</b>	<b>This proposed rule section is <i>exempt</i>. Provide RCW to support this exemption.</b>
26.	WAC 296-46B-514 Special occupancies—Motor fuel dispensing facilities.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
27.	WAC 296-46B-517 Special occupancies—Health care facilities.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
28.	WAC 296-46B-547 Special occupancies—Agricultural buildings.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
29.	WAC 296-46B-550 Special occupancies—Mobile homes, manufactured homes and mobile home parks.	X	
30.	WAC 296-46B-555 Special occupancies—Marinas, boatyards, floating buildings, and commercial and noncommercial docking facilities.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
31.	WAC 296-46B-590 Special occupancies—Temporary installations.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
32.	WAC 296-46B-600 Special equipment—Electric signs and outline lighting.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
33.	WAC 296-46B-620 Special equipment—Elevators.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
34.	WAC 296-46B-680 Special equipment—Swimming pools, fountains, and similar installations.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
35.	WAC 296-46B-690 Solar photovoltaic systems.	X	
36.	WAC 296-46B-692 Fuel cell systems.	X	
37.	WAC 296-46B-694 Wind electric systems.	X	
38.	WAC 296-46B-700 Emergency systems.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
39.	WAC 296-46B-701 Legally required standby systems.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements.
40.	WAC 296-46B-702 Optional standby systems.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards.

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is <i>not exempt</i> - Analysis is required</b>	<b>This proposed rule section <i>is exempt</i>. Provide RCW to support this exemption.</b>
41.	WAC 296-46B-705 Interconnected electric power production sources.	X	
42.	WAC 296-46B-710 Standalone systems.	X	
43.	WAC 296-46B-800 Communications systems— Communications circuits.	□	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
44.	WAC 296-46B-908 Class B permits. Class B electrical work permit—Use.	X	
45.	WAC 296-46B-920 Electrical/ telecommunications license/ certificate types and scope of work.	X	
46.	WAC 296-46B-925 Electrical/ telecommunications contractor's license. General.	□	This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements.
47.	WAC 296-46B-942 Training certificate required. General.	X	
48.	WAC 296-46B-960 Administrator and electrician certificate of competency examinations. General.	X	

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. As documented in the cost-benefit analysis, the changes that are not exempt under the Regulatory Fairness Act under RCW 19.85.030 do not have any new compliance costs for businesses. Most changes increase flexibility by adding options for compliance. Other changes include expanding the scope [of] work for 06A electricians may choose to perform and changes to ensure that existing required documentation be available to inspectors.

December 5, 2023  
Joel Sacks  
Director

#### **OTS-4900.10**

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

#### **WAC 296-46B-010 General.**

**Adopted standards.**

(1) The ((2020)) 2023 edition of the National Electrical Code (NFPA 70 - ((2020)) 2023) published ((August, 2019)) September, 2023 including Annex A, B, C, and subsequent Errata and Tentative Interim Amendments issued by the National Fire Protection Association; the latest published versions of Commercial Building Telecommunications Cabling Standard ((~~ANSI/TIA-568-C series, February 2009~~)) (ANSI/TIA-568); Commercial Building Standard for Telecommunications Pathway and Spaces ((~~TIA-569-B, October 2004~~)) (ANSI/TIA-569); Commercial Building Grounding and Bonding Requirements for Telecommunications ((~~ANSI-TIA-607-B, August 2011~~)) (ANSI/TIA-607); Residential Telecommunications Cable Standard ((~~ANSI/TIA/EIA 570-B-2004~~)) (ANSI/TIA-570); and the latest published version of the National Electrical Safety Code (NEC ((~~2017~~)) excluding Appendixes A and B) are hereby adopted by reference as part of this chapter.

This chapter will be followed where there is any conflict between this chapter and the above adopted standards.

The National Electrical Code will be followed where there is any conflict between the National Electrical Code and, ((~~ANSI/TIA/EIA 568-C, ANSI/TIA/EIA 569-B, ANSI/TIA/EIA 607-B, ANSI/TIA/EIA 570-B~~)) ANSI/TIA 568, ANSI/TIA 569, ANSI/TIA 607, ANSI/TIA/570, or the NEC ((2)).

Adopted standards apply to installations when issue dates of electrical permits are on and after adoption dates of standards except for:

(a) New one- and two-family dwellings, or multifamily dwellings where the issue date of building permits for the premises is before the adoption date of standards; or

(b) New installations where plan review is required by WAC 296-46B-900 when plans are received and accepted for review before the adoption date of standards.

**Inspections - General.**

(2) Electrical inspectors will give information as to the interpretation or application of the standards in this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

(3) A variance from the electrical installation requirements of chapter 19.28 RCW or this chapter may be granted by the department or the city that has electrical inspection jurisdiction when it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(a) Any electrical permit holder may request a variance.

(b) The permit holder must make the request in writing, using a form provided by the department, to the chief electrical inspector or to the city that has electrical inspection jurisdiction. The request must include:

(i) A description of the installation as installed or proposed;

(ii) A detailed list of the applicable code violations;

(iii) A detailed list of safety violations;

(iv) A description of the proposal for meeting equivalent objectives for code and/or safety violations; and

(v) Appropriate variance application fee as listed in chapter 296-46B WAC, Part C.

(4) Electrical wiring or equipment subject to this chapter must be sufficiently accessible, at the time of inspection, to allow the inspector to visually inspect the installation to verify conformance

with the NEC and any other electrical requirements of this chapter with the exception of not more than ((8)) eight feet of electrical conduit in a foundation of a one- or two-family dwelling or residential outbuilding for use as service entrance raceway.

(5) All required equipment grounding conductors installed in concealed cable or flexible conduit systems must be completely installed and made up at the time of the rough-in cover inspection.

(6) The installation of all structural elements and mechanical systems (e.g., framing, plumbing, ducting, etc.) must be complete in the area(s) where electrical inspection is requested. Prior to completion of an exterior wall cover inspection, either:

(a) The exterior shear panel/sheathing nail inspection must be completed by the building code inspector and, where siding nails or fasteners which penetrate into the wall cavity are to be used, all siding must be installed; or

(b) All wiring and device boxes must be a minimum of 2 1/2 inches from the exterior surface of the framing member; or

(c) All wiring and device boxes must be protected by a steel plate a minimum of 1/16 inch thick and of appropriate width and height installed to cover the area of the wiring or box.

(7) In order to meet the minimum electrical safety standards for installations, all materials, devices, appliances, and equipment, not exempted in chapter 19.28 RCW, must conform to applicable electrical product standards recognized by the department, be listed, or field evaluated. For any equipment that requires an amusement operating permit under chapter 67.42 RCW, the operating permit is prima facie evidence of an appropriate standard. Other than as authorized by the chief electrical inspector or a city authorized to do electrical inspection, equipment must not be energized until such standards are met.

(8) The state department of transportation is recognized as the inspection authority for telecommunications systems installations within the rights of way of state highways provided the department of transportation maintains and enforces an equal, higher or better standard of construction, and of materials, devices, appliances, and equipment than is required for telecommunications systems installations by chapter 19.28 RCW and this chapter.

**Inspection move on buildings and structures.**

(9) All buildings or structures relocated into or within the state:

(a) Other than residential, wired inside the United States (U.S.) must be inspected to ensure compliance with current requirements of chapter 19.28 RCW and the rules developed by the department.

(b) Wired outside the U.S. or Canada must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department.

(10) Residential buildings or structures wired in the U.S., to NEC requirements, and moved into or within a county, city, or town must be inspected to ensure compliance with the NEC requirements in effect at the time and place the original wiring was made. The building or structure must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department if:

(a) The original occupancy classification of the building or structure is changed as a result of the move; or

(b) The building or structure has been substantially remodeled or rehabilitated as a result of the move.

(11) Residential buildings or structures wired in Canada to Canadian Electrical Code (CEC) standards and moved into or within a county, city, or town, must be inspected to ensure compliance with the following minimum safety requirements:

(a) Service, service grounding, and service bonding must comply with the current chapter 19.28 RCW and rules adopted by the department.

(b) Canadian Standards Association (CSA) listed Type NMD cable is allowed with the following qualifications:

(i) CSA listed Type NMD cable, American Wire Gauge #10 and smaller installed after 1964 utilizing an equipment grounding conductor smaller than the phase conductors, must be:

(A) Replaced with a cable utilizing a full-size equipment grounding conductor; or

(B) Protected by a ground fault circuit interrupter protection device.

(ii) CSA listed Type NMD cable, #8 AWG and larger, must:

(A) Utilize an equipment grounding conductor sized according to the requirements of the NEC in effect at the time of the installation;

(B) Be protected by a ground fault circuit interrupter protection device; or

(C) Be replaced.

(c) Other types of wiring and cable must be:

(i) Replaced with wiring listed or field evaluated in accordance with U.S. standards by a laboratory approved by the department; or

(ii) Protected by a ground fault circuit interrupter protection device and arc fault circuit protection device.

(d) Equipment, other than wiring or panelboards, manufactured and installed prior to 1997 must be listed and identified by laboratory labels approved by the department or CSA labels.

(e) All panelboards must be listed and identified by testing laboratory labels approved by the department with the following qualifications:

(i) CSA listed panelboards labeled "suitable for use as service equipment" will be considered to be approved as "suitable for use only as service equipment."

(ii) CSA listed panelboards used as panelboards as described in the NEC, must meet all current requirements of the NEC and this chapter.

(f) Any wiring or panelboards replaced or changed as a result of the move must meet current requirements of chapter 19.28 RCW and this chapter.

(g) The location, type, and ground fault circuit interrupter protection of receptacles and equipment in a bathroom, kitchen, basement, garage, or outdoor area must meet the Washington requirements in effect at the time the wiring was installed.

(h) 4, 15-ampere, kitchen small appliance circuits will be accepted in lieu of ((2)) two, 20-ampere, kitchen small appliance circuits. Receptacles will not be required to be added on kitchen peninsular or island counters.

(i) Spacing requirements for all other receptacles must meet the Washington requirements in effect at the time the wiring was installed.

(j) Receptacles installed above baseboard or fixed wall space heaters must be removed and the outlet box covered with a blank cover. The receptacle is required to be relocated as closely as possible to the existing location.

(k) Lighting outlet and switch locations must meet the Washington requirements in effect at the time the wiring was installed.

(l) Dedicated 20-ampere small appliance circuits are not required in dining rooms.

(m) Electric water heater branch circuits must be adequate for the load.

(n) The location, type, and circuit protection of feeders must meet the Washington requirements in effect at the time the wiring was installed.

**Wiring methods for designated building occupancies.**

(12) Wiring methods in educational or institutional facilities as defined in this chapter must be metallic or nonmetallic raceways, MI, MC, or AC cable. Places of assembly located within these facilities must comply with NEC 518.4(A) and (B).

(13) Assisted living facility generator systems may be wired and installed per NEC 517.

(14) Lawfully installed existing electrical installations that do not comply with the provisions of this chapter and remain in compliance with the code at the time of the installation, will be permitted to be continued without change (i.e., without circuitry or occupancy change). Additions, alterations, modifications, or repairs to the electrical system must conform to the current requirements of this chapter.

~~((15) See WAC 296-46B-406R for tamper-resistant receptacle requirements in psychiatric patient care facilities.))~~

**Traffic management systems.**

~~((16))~~ (15) The department or city authorized to do electrical inspections will perform the electrical inspection and acceptance of traffic management systems within its jurisdiction. A traffic management system includes:

- (a) Traffic illumination systems;
- (b) Traffic signal systems;
- (c) Traffic monitoring systems;

(d) The electrical service cabinet and all related components and equipment installed on the load side of the service cabinet supplying electrical power to the traffic management system; and

(e) Signalization system(s) necessary for the operation of a light rail system.

A traffic management system can provide signalization for controlling vehicular traffic, pedestrian traffic, or rolling stock.

~~((17))~~ (16) The department or city authorized to do electrical inspections recognizes that traffic signal conductors, pole and bracket cables, signal displays, traffic signal controllers/cabinets and associated components used in traffic management systems are acceptable for the purpose of meeting the requirements of chapter 19.28 RCW provided they conform with the following standards or are listed on the Washington state department of transportation (WSDOT) qualified products list.

- (a) WSDOT/APWA standard specifications and plans;
- (b) WSDOT *Design Manual*;
- (c) International Municipal Signal Association (IMSA);
- (d) National Electrical Manufacturer's Association (NEMA);
- (e) Federal Standards 170/Controller Cabinets;
- (f) Manual for *Uniform Road, Bridge, and Municipal Construction*;
- (g) Institute of Transportation Engineers (ITE); or
- (h) Manual of *Uniform Traffic Control Devices (MUTCD)*.

~~((18))~~ (17) Associated induction detection loop or similar circuits will be accepted by the department or city authorized to do electrical inspections without inspection.

~~((19))~~ (18) For the licensing requirements of chapter 19.28 RCW, jurisdictions will be considered owners of traffic management systems when doing electrical work for another jurisdiction(s) under a valid interlocal agreement, as permitted by chapter 39.34 RCW. Interlocal agreements for traffic management systems must be filed with the department or city authorized to do electrical inspections prior to work being performed for this provision to apply.

~~((20))~~ (19) Jurisdictions, with an established electrical inspection authority, and WSDOT may perform electrical inspection on their rights of way for each other by interlocal agreement. They may not perform electrical inspection on other rights of way except as allowed in chapter 19.28 or 39.34 RCW.

~~((21))~~ (20) Underground installations.

(a) In other than open trenching, raceways will be considered "fished" according to the NEC and do not require visual inspection.

(b) The department or city authorized to do electrical inspections will conduct inspections in open trenching within its jurisdiction. The electrical work permit purchaser must coordinate the electrical inspection. A written request (e.g., letter, email, fax, etc.) for inspection, made to the department or city authorized to do electrical inspections office having the responsibility to perform the inspection, must be made a minimum of two working days prior to the day inspection is needed (e.g., two working days 10:00 a.m. Tuesday request for a 10:00 a.m. Thursday inspection, excluding holidays and weekends).

If, after proper written request, the department or city authorized to do electrical inspections fails to make an electrical inspection at the time requested, underground conduit may be covered after inspection by the local government jurisdiction's project inspector/designee. Written documentation of a local government jurisdiction inspection must be provided to the department or city authorized to do electrical inspections when requested. Written documentation will include:

- (i) Date and time of inspection;
- (ii) Location;
- (iii) Installing firm;
- (iv) Owner;
- (v) Type of conduit;
- (vi) Size of conduit;
- (vii) Depth of conduit; and
- (viii) Project inspector/designee name and contact information.

~~((22))~~ (21) Identification of traffic management system components. Local government jurisdictions or WSDOT may act as the certifying authority for the safety evaluation of all components.

(a) An electrical service cabinet must contain only listed components. The electrical service cabinet enclosure is not required to be listed but will conform to the standards in subsection ~~((17))~~ (16) of this section.

(b) The local government jurisdiction must identify, as acceptable, the controller cabinet or system component(s) with an identification plate. The identification plate must be located inside the cabinet and may be attached with adhesive.

~~((23))~~ (22) Conductors of different circuits in same cable, enclosure, or raceway. All traffic management system circuits will be

permitted to occupy the same cable, enclosure, or raceway without regard to voltage characteristics, provided all conductors are insulated for the maximum voltage of any conductor in the cable, enclosure, or raceway.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-100 General definitions.** All definitions listed in the National Electrical Code and chapter 19.28 RCW are recognized in this chapter unless other specific definitions are given in this chapter and chapter 19.28 RCW. The definitions in this section apply to all parts of this chapter. Some sections may have definitions specific to that section.

"Accreditation" is a determination by the department that a laboratory meets the requirements of this chapter and is therefore authorized to evaluate electrical products that are for sale in the state of Washington.

"Administrative law judge" means an administrative law judge (ALJ) appointed pursuant to chapter 34.12 RCW and serving in board proceedings pursuant to chapter 19.28 RCW and this chapter.

"ANSI" means American National Standards Institute. Copies of ANSI standards are available from the National Conference of States on Building Codes and Standards, Inc.

"Appeal" is a request for review of a department action by the board as authorized by chapter 19.28 RCW.

"Appellant" means any person, firm, partnership, corporation, or other entity that has filed an appeal or request for board review.

"Appliance" means household appliance.

"ASTM" means the American Society for Testing and Materials. Copies of ASTM documents are available from ASTM International.

"AWG" means American Wire Gauge.

"Basement" means that portion of a building that is partly or completely below grade plane. A basement will be considered as a story above grade plane and not a basement where the finished surface of the floor above the basement is:

(a) More than ((6)) six feet above grade plane;

(b) More than ((6)) six feet above the finished ground level for more than 50((%)) percent of the total building perimeter; or

(c) More than 12 feet above the finished ground level at any point. Also see "mezzanine" and "story."

"Board" means the electrical board established and authorized under chapter 19.28 RCW.

"Category list" is a list of manufacturing safety standards or product types determined by the department.

A "certified electrical product" is an electrical product to which a laboratory, accredited by the state of Washington, has the laboratory's certification mark attached.

A "certification mark" is a specified laboratory label, symbol, or other identifying mark that indicates the manufacturer produced the product in compliance with appropriate standards or that the product has been tested for specific end uses.

"Certificate of competency" includes the certificates of competency for master journey level electrician, master specialty electrician, journey level, and specialty electrician.

A laboratory "certification program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority, regulating the evaluation of electrical products for certification marking by an electrical products certification laboratory.

A "complete application" includes the submission of all appropriate fees, documentation, and forms.

"Chapter" means chapter 296-46B WAC unless expressly used for separate reference.

"Construction," for the purposes of chapter 19.28 RCW, means electrical construction.

"Coordination (selective)" as defined in NEC 100 must be determined and documented by a professional engineer registered under chapter 18.43 RCW.

"Department" means the department of labor and industries of the state of Washington.

"Director" means the director of the department, or the director's designee.

"Egress - Unobstructed (as applied to NEC 110.26 (C) (2) (a))" means an egress path that allows a worker to travel to the exit from any other area in the room containing the equipment described in NEC 110.26 (C) (2) without having to pass through that equipment's required working space.

"Electrical equipment" includes electrical conductors, conduit, raceway, apparatus, materials, components, and other electrical equipment not exempted by RCW 19.28.006(9). Any conduit/raceway of a type listed for electrical use is considered to be electrical equipment even if no wiring is installed in the conduit/raceway at the time of the conduit/raceway installation.

An "electrical products certification laboratory" is a laboratory or firm accredited by the state of Washington to perform certification of electrical products.

An "electrical products evaluation laboratory" is a laboratory or firm accredited by the state of Washington to perform on-site field evaluation of electrical products for safety.

An "equivalent apprenticeship program" for the purposes of RCW 19.28.161 (2) (a) (i), means one that is party to a reciprocal agreement recognized by the Washington state apprenticeship and training council (WSATC) under WAC 296-05-011(3).

"Field evaluated" means an electrical product to which a field evaluation mark is attached. Field evaluation must include job site inspection unless waived by the department, and may include component sampling and/or laboratory testing.

"Field evaluation mark" is a specified laboratory label, symbol, or other identifying mark indicating the manufacturer produced the product in essential compliance with appropriate standards or that the product has been evaluated for specific end uses.

A "field evaluation program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority regulating the testing and evaluation of electrical products for field evaluation marking.

The "filing" is the date the document is actually received in the office of the chief electrical inspector.

"Final judgment" means any money that is owed to the department under this chapter, including fees and penalties, or any money that is owed to the department as a result of an individual's or contractor's unsuccessful appeal of a citation.

"Fished wiring" is when cable or conduit is installed within the finished surfaces of an existing building or building structure (e.g., wall, floor or ceiling cavity).

"Household appliance" means utilization equipment installed in a dwelling unit that is built in standardized sizes or types and is installed or connected as a unit to perform one or more household functions such as food preparation, cooking, and cleaning. Includes appliances typically installed in a dwelling unit kitchen, clothes washing, drying, and water heating appliances, portable room air conditioning units and portable heaters, etc. Fixed electric space-heating equipment covered in NEC 424 (furnaces, baseboard and wall heaters, electric heat cable, etc.) and fixed air-conditioning/heat pump equipment (NEC 440) are not household appliances. Household appliance does not mean any utilization equipment that:

(a) Supplies electrical power, other than Class 2, to other utilization equipment; or

(b) Receives electrical power, other than Class 2, through other utilization equipment.

HVAC/refrigeration specific definitions:

(a) "HVAC/refrigeration" means heating, ventilation, air conditioning, and refrigeration.

(b) "HVAC/refrigeration component" means electrical power and limited energy components within the "HVAC/refrigeration system," including, but not limited to: Pumps, compressors, motors, heating coils, controls, switches, thermostats, humidistats, low-voltage damper controls, outdoor sensing controls, outside air dampers, stand-alone duct smoke detectors, air monitoring devices, zone control valves and equipment for monitoring of HVAC/refrigeration control panels and low-voltage connections. This definition excludes equipment and components of non-"HVAC/refrigeration control systems."

(c) "HVAC/refrigeration control panel" means an enclosed, manufactured assembly of electrical components designed specifically for the control of a HVAC/refrigeration system. Line voltage equipment that has low voltage, NEC Class 2 control or monitoring components incidental to the designed purpose of the equipment is not an HVAC/refrigeration control panel (e.g., combination starters).

(d) "HVAC/refrigeration control system" means a network system regulating and/or monitoring a HVAC/refrigeration system. Equipment of a HVAC/refrigeration control system includes, but is not limited to: Control panels, data centers, relays, contactors, sensors, and cables related to the monitoring and control of a HVAC/refrigeration system(s).

(e) "HVAC/refrigeration equipment" means the central unit primary to the function of the "HVAC/refrigeration system." HVAC/refrigeration includes, but is not limited to: Heat pumps, swamp coolers, furnaces, compressor packages, and boilers.

(f) "HVAC/refrigeration system" means a system of HVAC/refrigeration: Wiring, equipment, and components integrated to generate, deliver, or control heated, cooled, filtered, refrigerated, or conditioned air. This definition excludes non-HVAC/refrigeration control systems (e.g., fire alarm systems, intercom systems, building energy management systems, and similar non-HVAC/refrigeration systems).

"IBC" means the International Building Code. Copies of the IBC are available from the International Code Council.

An "individual" or "party" or "person" means an individual, firm, partnership, corporation, association, government subdivision or unit thereof, or other entity.

An "installation" includes the act of installing, connecting, repairing, modifying, or otherwise performing work on an electrical system, component, equipment, or wire except as exempted by WAC 296-46B-925. An installation is not the passive testing or operational programming of an electrical system, component, equipment, or wire. See "passive testing."

An "identification plate" is suitable for the environment and is a printed or etched adhesive label approved by the department or a phenolic or metallic plate or other similar material engraved in block letters at least 1/4 inch high unless specifically required to be larger by this chapter, suitable for the environment and application. The letters and the background must be in contrasting colors. Screws, rivets, permanent adhesive, or methods specifically described in this chapter must be used to affix an identification plate to the equipment or enclosure.

"Job site" means a specific worksite having a single address or specific physical location (e.g., a single-family residence, a building, a structure, a marina, an individual apartment building with a specific address, etc.).

"Journey level electrician" means a person who has been issued a journey level electrician certificate of competency by the department. The terms "journey level" and "journey person" in chapter 19.28 RCW are synonymous.

"Labeled" means an electrical product that bears a certification mark issued by a laboratory accredited by the state of Washington.

A "laboratory" may be either an electrical product(s) certification laboratory or an electrical product(s) evaluation laboratory.

A "laboratory operations control manual" is a document to establish laboratory operation procedures and may include a laboratory quality control manual.

"License" means a license required under chapter 19.28 RCW.

"Like-in-kind" means having the same overcurrent protection requirements and similar characteristics such as voltage requirement, current draw, short circuit characteristics, and function within the system and being in the same location. Like-in-kind also includes any equipment component authorized by the manufacturer as a suitable component replacement part.

For the purpose of WAC 296-46B-940, a "lineworker" is a person employed by a serving electrical utility or employed by a licensed general electrical contractor who carries, on their person, evidence that they:

(a) Have graduated from a department-approved lineworker's apprenticeship course; or

(b) Are currently registered in a department-approved lineworker's apprenticeship course and are working under the direct (~~one hundred~~) 100 percent supervision of a journey level electrician or a graduate of a lineworker's apprenticeship course approved by the department. The training received in the lineworker's apprenticeship program must include training in applicable articles of the currently adopted National Electrical Code.

"Listed" means equipment has been listed and identified by a laboratory approved by the state of Washington for the appropriate equipment standard per this chapter.

"Low voltage" means:

(a) NEC, Class 1 power limited circuits at 30 volts maximum.

(b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.121(A).

(c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.121(A).

(d) Circuits of telecommunications systems as defined in chapter 19.28 RCW.

"Member of the firm" means the member(s) on file with the department of licensing for sole proprietorships/partnerships or with the secretary of state for corporations.

"Mezzanine" is the intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located. Also see "basement" and "story."

"NEC" means National Electrical Code. Copies of the NEC are available from the National Fire Protection Association.

"NEMA" means National Electrical Manufacturer's Association. Copies of NEMA standards are available from the National Electrical Manufacturer's Association.

"NESC" means National Electrical Safety Code. Copies of the NESC are available from the Institute of Electrical and Electronics Engineers, Inc.

"NETA" means International Electrical Testing Association, Inc. Copies of the NETA standards and information are available from the International Electrical Testing Association, Inc.

"NFPA" means the National Fire Protection Association. Copies of NFPA documents are available from the National Fire Protection Association.

"NRTL" means Nationally Recognized Testing Laboratory accredited by the federal Occupational Safety and Health Administration (OSHA) after meeting the requirements of 29 C.F.R. 1910.7.

A "new building" for the purposes of RCW 19.28.261 includes the setting of a manufactured, mobile, or modular building.

"Passive testing" (e.g., pressing of test buttons, use of testing equipment like voltage testers, clamp-on meters, removal of a device head where the wiring is terminated on a separate base plate, etc.) means testing that does not require any:

(a) Physical modification to the electrical system wiring; or

(b) Wiring to be disconnected or terminated, except as necessary for an approved electrical testing laboratory or approved engineer performing an equipment evaluation.

"Point of contact" or "point of connection" means the service point.

"Proceeding" means any matter regarding an appeal before the board including hearings before an administrative law judge.

"Public area or square" is an area where the public has general, clear, and unrestricted access.

A "quality control manual" is a document to maintain the quality control of the laboratory's method of operation. It consists of specified procedures and information for each test method responding to the requirements of the product standard. Specific information must be provided for portions of individual test methods when needed to comply with the standard's criteria or otherwise support the laboratory's operation.

"RCW" means the Revised Code of Washington. Electronic copies of electrical RCW are available from the department and the office of the code reviser (<https://leg.wa.gov/codereviser>).

"Readily accessible" means the definition as defined in NEC 100. In addition, it means that, except for keys, no tools or other devices are necessary to gain access (e.g., covers secured with screws, etc.).

"Service" or "served" means that as defined in RCW 34.05.010(19) when used in relation to department actions or proceedings.

A "sign," when required by the NEC, for use as an identification method (e.g., legibly marked, legible warning notice, marked, field marked, permanent plaque/directory, etc.) means "identification plate."

A "stand-alone amplified sound or public address system" is a system that has distinct wiring and equipment for audio signal generation, recording, processing, amplification, and reproduction. This definition does not apply to telecommunications installations.

"Story" is that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Next above means vertically and not necessarily directly above. Also see "basement" and "mezzanine."

"Structure," for the purposes of this chapter and in addition to the definition in the NEC, means something constructed either in the field or factory that is used or intended for supporting or sheltering any use or occupancy as defined by the IBC.

"Supervision" for the purpose of supervising electrical trainees, means that the appropriately certified supervising electrician is on the same job site as the trainee being supervised. The trainee is not considered to be on the same job site if the supervising electrician and the trainee are working:

(a) In separate buildings at a single address (e.g., a campus, multibuilding industrial complex, multibuilding apartment complex, etc.) except for a single-family residence; or

(b) On an outdoor project (e.g., irrigation system, farm, street lighting, traffic signalization, etc.) where the trainee is more than 1,000 feet from the supervising electrician or where the trainee is more than 200 feet from the supervising electrician and out of sight.

"System design review" means a set of design documents that include the manufacturer's installation information, a legible one-line diagram of the system design, and calculations used to determine voltage and current within the system. The one-line diagram must show the system equipment, devices, overcurrent protection, conductor sizing, grounding, ground fault protection if required, and any system interconnection points. The review must be available to the inspector during all inspections.

A "telecommunications local service provider" is a regulated or unregulated (e.g., by the Federal Communications Commission or the utilities and transportation commission as a telephone or telecommunications provider) firm providing telecommunications service ahead of the telecommunications network demarcation point to an end-user's facilities.

"TIA/EIA" means the Telecommunications Industries Association/Electronic Industries Association which publishes the TIA/EIA Telecommunications Building Wiring Standards. Standards and publications are adopted by TIA/EIA in accordance with the American National Standards Institute (ANSI) patent policy.

A "training school" is a Washington public community or technical college or not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

"Under the control of a utility" for the purposes of RCW 19.28.091 and 19.28.101 is when electrical equipment is not owned by a utility and:

(a) Is located in a vault, room, closet, or similar enclosure that is secured by a lock or seal so that access is restricted to the utility's personnel; or

(b) The utility is obligated by contract to maintain the equipment and the contract provides that access to the equipment is restricted to the utility's personnel or other qualified personnel.

"UL" means Underwriters Laboratory.

"Utility" means an electrical utility.

"Utility system" means electrical equipment owned by or under the control of a serving utility that is used for the transmission or distribution of electricity from the source of supply to the point of contact and is defined in section 90.2 (b) (5) of the National Electrical Code, 1981 edition (see RCW 19.28.010(1)).

"Utilization voltage" means the voltage level employed by the utility's customer for connection to lighting fixtures, motors, heaters, or other electrically operated equipment other than power transformers.

"Variance" is a modification of the electrical requirements as adopted in chapter 19.28 RCW or any other requirements of this chapter that may be approved by the chief electrical inspector if assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

"WAC" means the Washington Administrative Code. Electronic copies of this chapter of the WAC are available from the department and the office of the code reviser (<https://leg.wa.gov/codereviser>).

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-110 General((—)) requirements for electrical installations.**

**003 Examination, identification, installation, ((and)) use, and listing (product certification) of equipment.**

(1) Listed electrical conduit can only be installed and used in accordance with its listing (i.e., as an electrical raceway for electrical conductors). If used as a sleeve for electrical conductors or other listed electrical conduits, the installation of a listed electrical conduit will be assumed to be for use as an electrical raceway and must be installed as allowed by chapter 19.28 RCW and this chapter (e.g., owner exemption, electrical contractor, etc.).

EXCEPTION: Electrical nonmetallic elbow fittings may be connected to piping other than electrical conduit for the purposes of enclosing mechanical piping systems provided the elbows are distinctively marked to indicate their use as nonelectrical fittings prior to installation. For underground installations outside of buildings, elbows used for purposes other than electrical must be substantially painted to match the color of piping to which they are connected.

**011 Deteriorating agents.**

(2) Electrical equipment and wiring that has been submerged or exposed to water must comply with the following:

(a) All breakers, fuses, controllers, receptacles, lighting switches/dimmers, electric heaters, and any sealed device/equipment (e.g., relays, contactors, etc.) must be replaced.

(b) All other electrical equipment (e.g., wiring, breaker panels, disconnect switches, switchgear, motor control centers, boiler controls, HVAC/R equipment, electric motors, transformers, appliances, water heaters, and similar appliances) must be replaced or reconditioned by the original manufacturer or by its approved representative.

**022 Identification of disconnecting means.**

(3) For the purposes of legibly marking a disconnecting means, as required in NEC 110.22, an identification plate is required unless the disconnect is a circuit breaker/fused switch installed within a panelboard and the circuit breaker/fused switch is identified by a panelboard schedule. In other than dwelling units, the identification plate must include the identification designation of the circuit source panelboard that supplies the disconnecting means.

**030 Over 1,000 volts - General.**

(4) Each cable operating at over 1,000 volts and installed on customer-owned systems must be legibly marked in a permanent manner at each termination point and at each point the cable is accessible. The required marking must use phase designation, operating voltage, and circuit number if applicable.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-210 ((Wiring and protection—)) Branch circuits not over 1,000 volts ac, 1,500 volts dc nominal.****008(A) Dwelling units GFCI requirements.**

(1) In a garage or unfinished basement, a red receptacle, with a red cover plate, supplying a fire alarm system is not required to have ground-fault circuit-interrupter protection. The receptacle must be identified for use only with the fire alarm system by an identification plate or engraved cover with letters at least 1/4 inch high.

(2) All fixed electrical equipment with exposed grounded metal parts within an enclosed shower area or within ((5)) five feet of the top inside edge of a bathtub must have ground fault circuit interrupter protection.

**008(B) Other than dwelling units - GFCI requirements.**

(3) GFCI requirements. GFCI protection for personnel will not be required for:

(a) Three-phase receptacles unless specifically required elsewhere in the NEC; or

(b) Receptacles other than 125-volt, single phase, 15- or 20-ampere used for: Recreational vehicle supply equipment or for attachment of a mobile home supply cord.

For the purposes of NEC 210.8(B), kitchen means any area where utensils, dishes, etc., are cleaned or where food or beverages are prepared or cooked.

**011 Branch circuits.**

(4) A raceway system or one dedicated 15-ampere minimum, 120 volt circuit must be taken to all unfinished space areas adaptable to future dwelling unit living areas that are not readily accessible to the service or branch circuit panelboard. One circuit or raceway is required for each 480 square feet or less of unfinished space area. If the total adjacent unfinished space area is less than 480 square feet, the circuit can be an extension of an existing circuit. The circuits must terminate in a suitable box(es). The box must contain an identification of the intended purpose of the circuit(s). The branch circuit panelboard must have adequate space and capacity for the intended load(s).

**013 Ground fault protection of equipment.**

(5) Equipment ground fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be available at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

**025 Common area branch circuits.**

(6) For the purpose of NEC 210.25, loads for septic or water well systems that are shared by no more than two dwelling units may be supplied from either of the two dwelling units if approved by the local building official and local health department.

**052 (A) (2) Dwelling unit receptacle outlets.**

(7) For the purpose of NEC 210.52 (A) (2) (1), "similar openings" include the following configurations that are a permanent part of the dwelling configuration or finish:

(a) Window seating; and

(b) Bookcases or cabinets that extend from the floor to a level at least ((5)) five feet ((6)) six inches above the floor.

Any outlets eliminated by such window seating, bookcases, or cabinets must be installed elsewhere within the room.

**052 (C) (2) Island and peninsular countertop and work surfaces.**

(8) If receptacle outlets are not installed to serve an island or peninsular countertop or work surface, no future provisions to do so are required.

**063 Equipment requiring servicing.**

(9) For the purposes of NEC 210.63, when equipment requiring servicing is located outdoors, accessible locations for receptacle outlets do not include locations accessed through doors or windows.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-215 (~~(Wiring and protection)~~) Feeders.**

**002 Minimum rating and size.**

(1) For other than one- or two-family dwelling feeders rated up to 400 amperes, if the feeder conductors have a lesser ampacity than the equipment rating that they terminate in or on, an identification plate showing conductor ampacity stating: "Feeder conductor ampacity: \_\_\_\_\_" must be installed on the equipment at the load end of the feeder conductors.

**005 Diagrams of feeders.**

(2) Other than plan review projects, the installer must provide a one-line diagram showing the service and feeder details for the project before the initial inspection can be approved for all nondwelling services or feeders:

(a) Larger than 400 amperes; or

(b) Over 600 volts.

The diagram must be signed and dated by the project owner if the owner is doing the work, the assigned administrator or master electrician if an electrical contractor is doing the work, or stamped with an

engineer's mark and signature who is registered under chapter 18.43 RCW. The diagram must show:

(c) All services including: Wire size(s), wire type(s), service size(s) (e.g., voltage, phase, ampacity), overcurrent protection, available symmetrical fault current at the service point, equipment short-circuit rating, total load before and after demand factors have been applied including any demand factors used, and a panel schedule where multiple disconnecting devices are present; and

(d) All feeders including: Wire size(s), wire type(s), feeder size(s) (e.g., voltage, phase, ampacity), overcurrent protection, total calculated load before and after demand factors have been applied including any demand factors used, and a panel schedule(s) where multiple disconnecting devices are present.

If the installer deviates, in any way, from the service/feeder design shown on the diagram, a supplemental diagram must be supplied to the inspector showing the most recent design before inspection can proceed. Load reductions and moving branch circuit locations within a panelboard do not require a supplemental diagram. Written documentation must also be provided to the inspector that the supplemental diagram was provided to the project owner at the time of submission to the inspector.

The diagram must be available on the job site during the inspection process.

**010 Ground fault protection testing.**

(3) Equipment ground fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all system feeders unless the installer can demonstrate, in a manner acceptable to the inspector, that there are no grounded conductor connections to the feeder(s). A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be available at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-220 (~~(Wiring and protection)~~) Branch circuit, feeder, and service calculations.**

**((012)) 042 Lighting load calculations.**

In determining feeder and service entrance conductor sizes and equipment ratings, a building that is designed and constructed to comply with the currently adopted Washington state energy code unit lighting power allowance table and footnotes may be used in lieu of NEC ((220.12)) 220.42. The requirements of NEC ((220.12(B))) 220.42(B), items 1, 2, and 3 do not apply.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-225 (~~(Wiring and protection)~~) Outside branch circuits and feeders.**

**019 Clearances from buildings for conductors of not over 1,000 volts, nominal.**

(1) Add the following exception to NEC 225.19(A): Where the voltage between conductors does not exceed 300 and the roof area is guarded or isolated, a reduction in clearance to (~~(3)~~) three feet shall be permitted.

**~~(032)~~ 031(B) Location of outside feeder disconnecting means.**

(2) The disconnecting means required by NEC (~~(225.32)~~) 225.31(B) must be provided to disconnect all ungrounded conductors that supply or pass through a building/structure in accordance with the requirements of NEC (~~(225.32)~~) 225.31(B) with the following exceptions.

(a) Outside location: A feeder disconnecting means, including that required by NEC 700, 701, or 702 for a generator, is considered in the building if installed on the outside of the building/structure or within sight and within (~~(fifteen)~~) 15 feet of the building/structure. The building disconnecting means may supply only one building/structure unless the secondary building(s)/structure(s) has a separate building disconnecting means meeting the requirements of the NEC and this subsection. The disconnecting means must have an identification plate with at least one-half-inch high letters identifying:

(i) The building/structure served; and

(ii) Its function as the building/structure main disconnect(s).

(b) Inside location: The feeder disconnecting means (~~(may be installed anywhere inside a building or structure when there is a feeder disconnecting means, located elsewhere on the premises, with overcurrent protection sized for the feeder conductors)~~) must comply with NEC 225.31(B).

**036 Suitable for use as service equipment.**

(3) A generator disconnecting means installed per subsection (2)(a) (~~(or (b))~~) of this section, is not required to be suitable for use as service equipment.

(4) A generator disconnecting means installed per subsection (2)(b) of this section, is not required to be suitable for use as service equipment when there is a feeder disconnecting means, located elsewhere on the premises, with overcurrent protection sized for feeder conductors.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-230 (~~(Wiring and protection)~~) Services.**

**001 General service requirements.**

(1) The owner, the owner's agent, or the electrical contractor making the installation must consult the serving utility regarding the utility's service entrance requirements for equipment location and meter equipment requirements before installing the service and equipment. Provisions for a meter and related equipment, an attachment of a service drop, or an underground service lateral must be made at a lo-

cation acceptable to the serving utility. The point of contact for a service drop must permit the clearances required by the NEC.

(2) A firewall must have a minimum two-hour rating as defined by the local building official to be considered a building separation in accordance with Article 100 NEC.

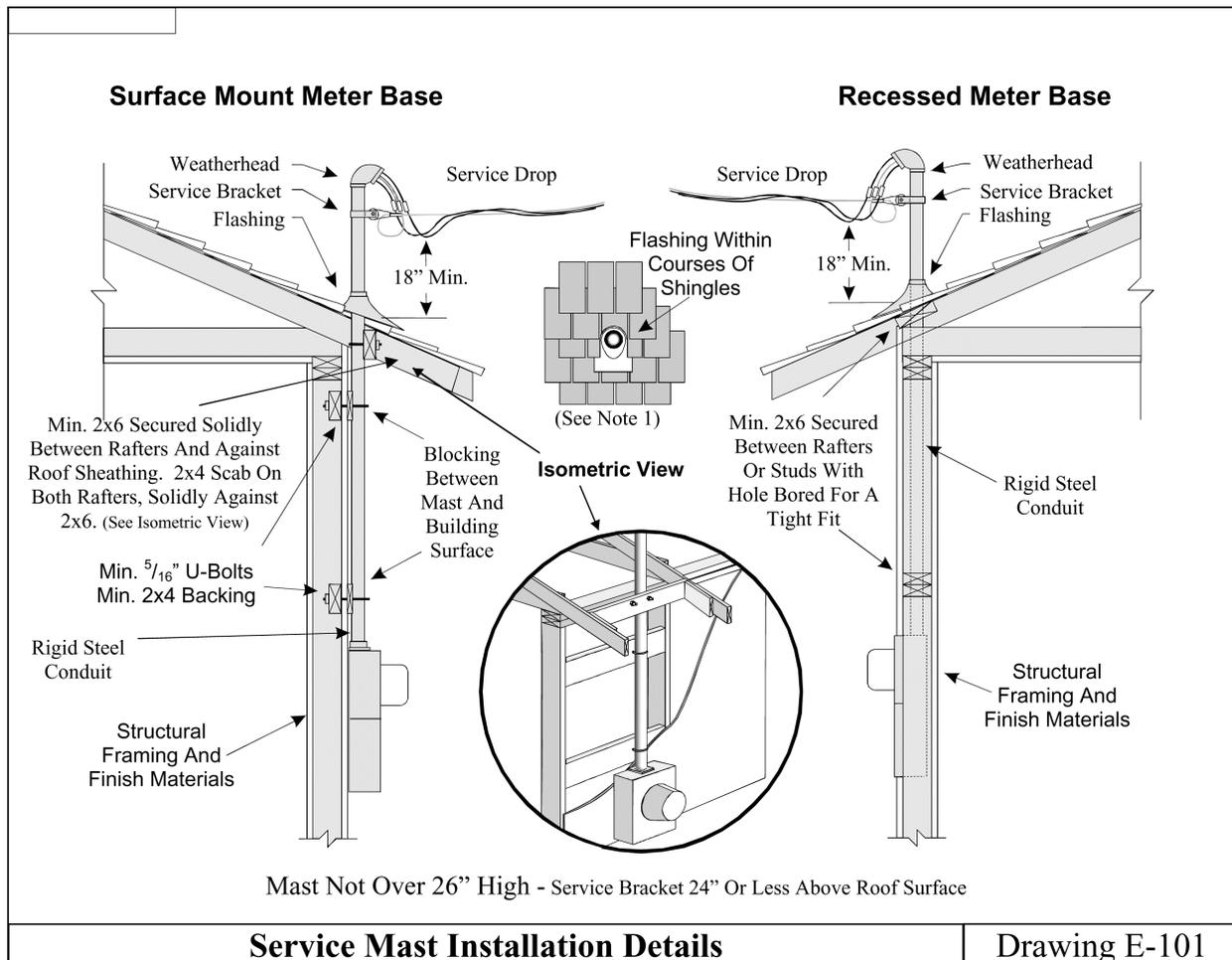
(3) The height of the center of the service meter must be as required by the serving utility. Secondary instrument transformer metering conductor(s) are not permitted in the service raceway.

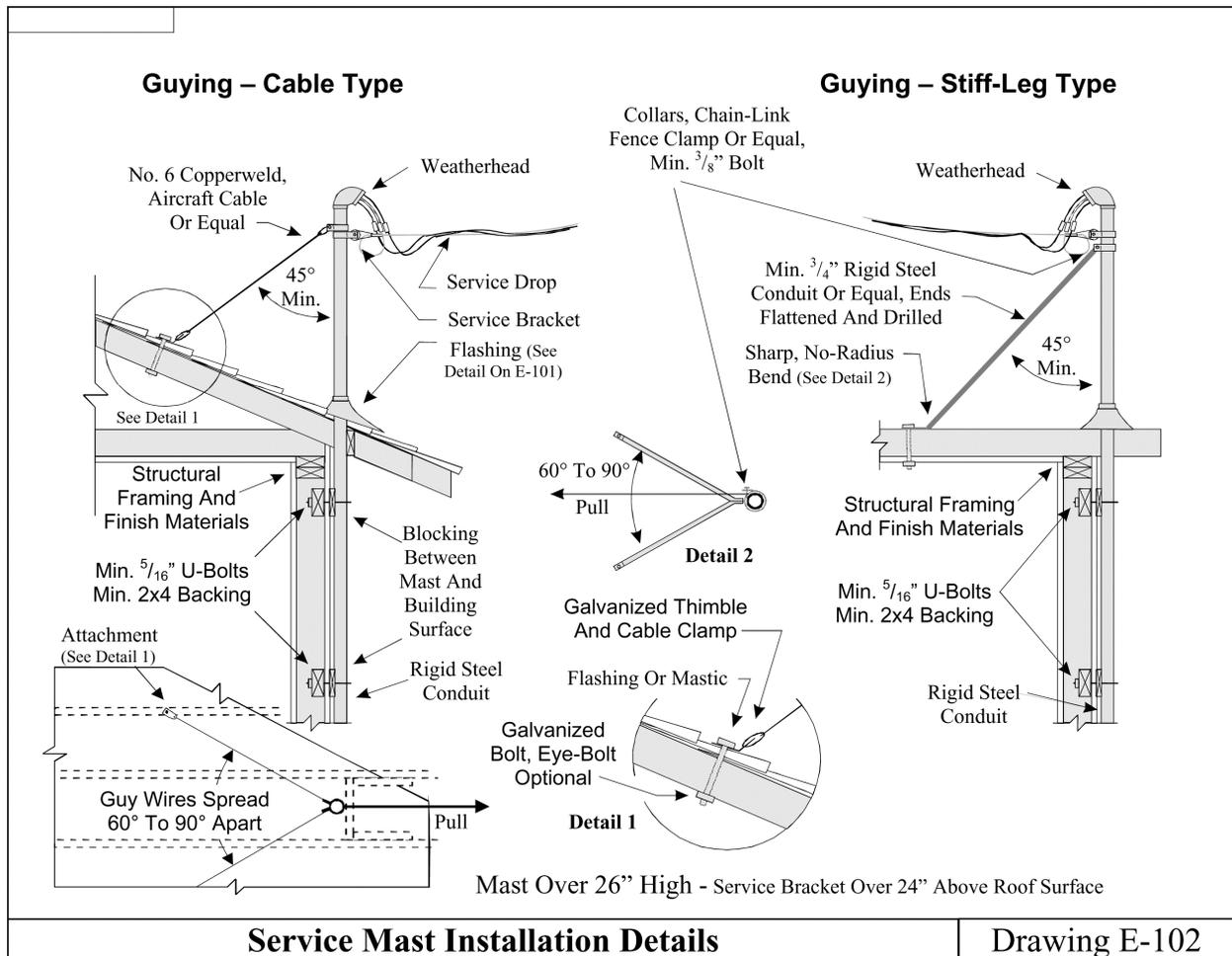
**028 Service or other masts.**

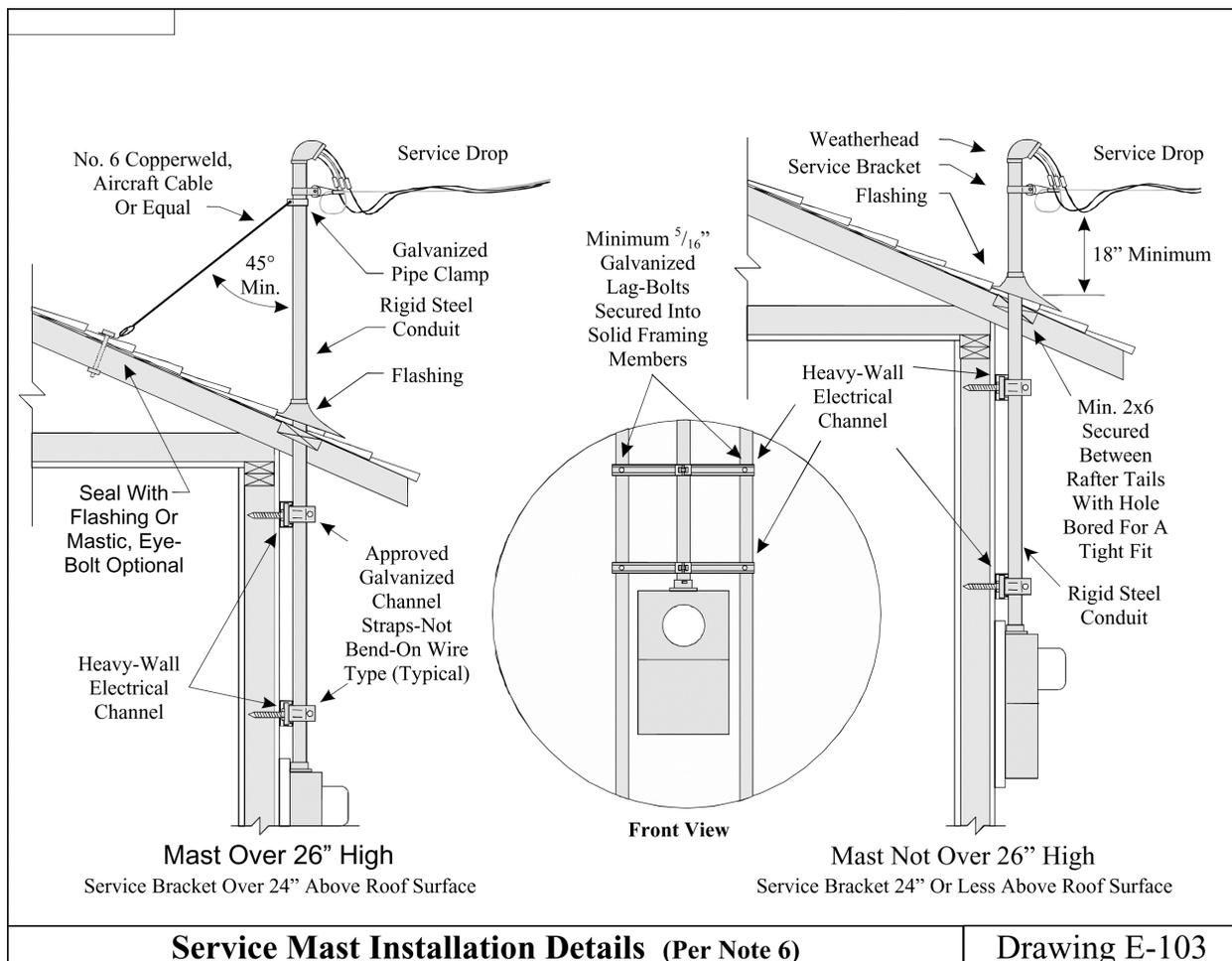
(4) Conduit extended through the roof to provide means of attaching:

(a) All overhead drops for service, feeder, or branch circuits exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than ((2)) two inches.

(b) All overhead drops for service, feeder or branch circuits not exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than 1 1/4 inches. The installation must comply with drawings E-101 and/or E-102, or must provide equivalent strength by other approved means. Masts for altered or relocated installations will be permitted to comply with drawing E-103.







### Notes to drawings E-101, E-102, and E-103

- (1) An approved roof flashing must be installed on each mast where it passes through a roof. Plastic, nonhardening mastic must be placed between lead-type flashings and the conduit. Neoprene type flashings will also be permitted to be used.
- (2) Masts must be braced, secured, and supported in such a manner that no pressure from the attached conductors will be exerted on a roof flashing, meter base, or other enclosures.
- (3) Utilization of couplings for a mast is permitted only below the point the mast is braced, secured, or supported. There must be a minimum of two means of support above any couplings used. A properly installed cable or stiff leg type support qualifies as one of the two required means of support.
- (4) Except as otherwise required by the serving utility, service mast support guys must be installed if the service drop attaches to the mast more than 24 inches above the roof line or if the service drop is greater than 100 feet in length from the pole or support. Masts for support of other than service drops must comply with this requirement as well.
- (5) Intermediate support masts must be installed in an approved manner with methods identical or equal to those required for service masts.
- (6) For altered services, where it is impractical to install U bolt mast supports due to interior walls remaining closed, it will be permissible to use other alternate mast support methods such as

heavy gauge, galvanized, electrical channel material that is secured to two or more wooden studs with 5/16 inch diameter or larger galvanized lag bolts.

- (7) Conductors must extend at least 18 inches from all mastheads to permit connection to the connecting overhead wiring.

**040 Service conductors - Two-family and multiple-occupancy buildings.**

(5) Two-family and multiple-occupancy buildings. A second or additional service drop or lateral to a building having more than one occupancy will be permitted to be installed at a location separate from other service drops or laterals to the building provided that all the following conditions are complied with:

(a) Each service drop or lateral must be sized in accordance with the NEC for the calculated load to be served by the conductors;

(b) Each service drop or lateral must terminate in listed metering/service equipment;

(c) Each occupant must have access to the occupant's service disconnecting means;

(d) No more than six service disconnects may be supplied from a single transformer;

(e) All service drops or laterals supplying a building must originate at the same transformer or power supply;

(f) A permanent identification plate must be placed at each service disconnect location that identifies all other service disconnect locations in or on the building, the area or units served by each, the total number of service disconnecting means on the building/structure and the area or units served. If a structure consists of multiple buildings (i.e., by virtue of fire separation), all service disconnects in or on the entire structure must be labeled to identify all service disconnects in or on the structure; and

(g) A permanent identification plate must be placed at each feeder disconnecting means identifying the area or units served if the feeder disconnecting means is remote from the area or unit served.

**042 Service conductor - Size and rating.**

(6) For other than one- or two-family dwelling services rated up to 400 amperes, if the service conductors have a lesser ampacity than the overcurrent protection, permitted by NEC 230.90 or NEC 310.15, or the equipment rating that they terminate in or on, an identification plate showing the ampacity of the conductors stating: "Service conductor ampacity: \_\_\_\_\_" must be installed on the service equipment.

**043 Wiring methods for 1,000 volts, nominal or less.**

(7) The installation of service conductors not exceeding 1,000 volts, nominal, within a building or structure is limited to the following methods: Galvanized or aluminum rigid metal conduit; galvanized intermediate metal conduit; wireways; busways; auxiliary gutters; minimum schedule 40 rigid polyvinyl chloride conduit; cablebus; or mineral-insulated, metal-sheathed cable (type MI). Exception: Wiring methods per NEC 230.43 shall be permitted for service conductors within a building or structure when those conductors are protected by customer owned supply side overcurrent protection sized per NEC 240.4.

(8) (~~Electrical metallic tubing must not be installed as the wiring method for service entrance conductors inside a building.~~) Existing electrical metallic tubing, installed prior to October 1984, which is properly grounded and used for service entrance conductors may be permitted to remain if the conduit is installed in a nonaccessible location and is the proper size for the installed conductors.

(9) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

**070 Service equipment - Disconnecting means.**

(10) The service disconnecting means must be installed at a readily accessible location in accordance with (a) or (b) of this subsection.

(a) Outside location: Service disconnecting means will be permitted on the building or structure or within sight and within (~~(fifteen)~~) 15 feet of the building or structure served. The building disconnecting means may supply only one building/structure. The service disconnecting means must have an identification plate with one-half-inch high letters identifying:

(i) The building/structure served; and

(ii) Its function as the building/structure main service disconnect(s).

(b) Inside location: When the service disconnecting means is installed inside the building or structure, it must be located so that the service raceway extends no more than (~~(fifteen)~~) 15 feet inside the building/structure. Exception: There is no limit to the length of service raceway when conductors are protected by customer owned supply side overcurrent protection sized per NEC 240.4.

**085(C) Replacements.**

(11) This subsection replaces NEC 230.85(C). When service equipment supplying one- and two-family dwellings is replaced, an emergency disconnecting means must be installed whenever the service ampacity is increased or decreased, or when any of the following are relocated: Service disconnects, meter bases, overhead service masts, or underground service risers.

**095 Ground-fault protection of equipment.**

~~((11))~~ (12) Equipment ground-fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all service voltage feeders unless the installer can demonstrate, in a manner acceptable to the department, that there are no grounded conductor connections to the feeder(s). A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be available for the inspector at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

~~(200 Wiring methods exceeding 1000 volts.~~

~~(12) The installation of service conductors exceeding 1000 volts, nominal, within a building or structure must be limited to the following methods: Galvanized rigid metal conduit, galvanized intermediate metal conduit, schedule 80 polyvinyl chloride conduit, metal-clad cable that is exposed for its entire length, cablebus, or busways.~~

~~(13) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.)~~

NEW SECTION**WAC 296-46B-235 Branch circuits, feeders, and services over 1,000 volts ac, 1,500 volts dc nominal.****402(B) Wiring methods.**

The installation of service entrance conductors exceeding 1,000 volts ac, 1,500 volts dc, nominal, within a building or structure must be limited to the following methods: Galvanized rigid metal conduit, galvanized intermediate metal conduit, schedule 80 polyvinyl chloride conduit, metal-clad cable that is exposed for its entire length, cablebus, or busways. Exception: Wiring methods per NEC 235.402(B) shall be permitted for service conductors within a building or structure when customer owned overcurrent protection in accordance with NEC requirements is provided outside the building.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

**WAC 296-46B-240 Overcurrent protection.****024(C) Not exposed to physical damage.**

(1) Where the NEC or manufacturer's instructions do not specify minimum height requirements for equipment enclosures, enclosures installed outdoors containing an overcurrent device(s) shall be installed so the bottom of the enclosure containing the overcurrent device(s) is not less than 24 inches above finished grade unless:

(a) The equipment enclosure or listed equipment on which the enclosure is mounted is approved for pad-, floor-, ground-, dock-, or pier-mounting; or

(b) The equipment enclosure is located over(~~+~~  
~~+~~) concrete or asphalt paving that extends ((3)) three or more feet horizontally from the surface of the enclosure(~~+~~  
~~+~~ ~~Roofs~~)).

**024(F) Not located over steps.**

(2) If the overcurrent device is a part of a panelboard that is being repaired or replaced in an existing location, the installation is allowed to be made above the steps.

**067(C) Performance testing.**

(3) Where fuses rated 1,200 amperes and higher are installed, the following shall be available to the inspector at the installation site at the time of inspection prior to placing the equipment into service:

(a) Documentation of all calculations used to determine available arcing current at each set of fuses rated 1,200 amperes and higher and documentation proving a clearing time of 0.07 seconds or less at the available arcing current;

(b) A copy of the written performance test report for the arc energy reduction protection system detailing results for tests for each set of fuses supplying known loads. The report shall include all of the following:

(i) The date when tests were performed.

(ii) Address of the property where tests were performed.

(iii) The business name and contact information for the employer of persons performing tests.

(iv) Names and dated signatures of all persons performing the tests.

(v) Documentation of all calculations used to determine available arcing current at each set of fuses rated 1,200 amperes and higher.

(vi) Documentation required by 240.67(A) and documentation of all equipment settings made or verified during testing.

(vii) A copy of the equipment manufacturer's instructions used to perform the test.

(viii) Documentation of all testing equipment including dates of calibration.

**087(C) Performance testing.**

(4) Where the highest continuous current trip setting for the actual overcurrent device installed in a circuit breaker is rated or can be adjusted is 1,200 amperes or higher, a copy of the written performance test report for the arc energy reduction protection system de-tailing results for tests for each device with a known load. The report shall be available to the inspector at the installation site at the time of inspection prior to placing the equipment into service. The report shall include all of the following:

(a) The date when tests were performed.

(b) Address of the property where tests were performed.

(c) The business name and contact information for the employer of persons performing tests.

(d) Names and dated signatures of all persons performing the tests.

(e) Documentation of all calculations used to determine available arcing current at each circuit breaker described in subsection (4) of this section.

(f) Documentation required by 240.87(A) and documentation of all equipment settings made or verified during testing.

(g) A copy of the equipment manufacturer's instructions used to perform the test.

(h) Documentation of all testing equipment including dates of calibration.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-250 (~~(Wiring and protection—)~~) Grounding and bonding.**

**028 (D) (3) Separately derived system with more than one enclosure.**

(1) NEC 250.28 (D) (3) is amended to read: Where a separately derived system supplies more than a single enclosure, the system bonding jumper for each enclosure shall be sized in accordance with 250.28

(D) (1) based on the largest ungrounded feeder/tap conductor serving that enclosure, or a single system bonding jumper shall be installed at the source and sized in accordance with 250.28 (D) (1) based on the equivalent size of the largest supply conductor determined by the largest sum of the areas of the corresponding conductors of each set.

**052 Grounding electrodes.**

(2) Except for mobile/manufactured homes, a concrete encased grounding electrode must be installed and used at each new building or structure that is built upon a permanent concrete foundation. The electrode must comply, with NEC 250.52 (A) (3). Inspection of the electrode may be accomplished by the following methods:

(a) At the time of inspection of other work on the project, providing the concrete encased electrode is accessible for a visual inspection;

(b) At the time of the service inspection providing the installer has provided a method so the inspector can verify the continuity of the electrode conductor along its entire length, with a minimum 20 foot linear span between testing points (e.g., attaching a length of copper wire to one end of the electrode that reaches the location of the grounding electrode conductor that will enable the inspector to measure the resistance with a standard resistance tester). The concrete encased electrode does not have to be accessible for a visual inspection; or

(c) Other method when prior approval, on a job site basis, is given by the inspector.

If a special inspection trip is required to inspect a grounding electrode conductor, a trip fee will be charged for that inspection in addition to the normal permit fee.

**Exceptions:**

(1) If the concrete encased grounding electrode is not available for connection, a ground ring must be installed per NEC 250 or other grounding electrode installed per NEC 250 verified to measure 25 ohms or less to ground. Resistance verification testing must be performed by an independent firm having qualified personnel and proper equipment. A copy of the testing procedures used and a written resistance test record signed by the person performing the test must be available at the time of inspection. The resistance test record must include test details including, but not limited to, the type of test equipment used, the last calibration date of the test equipment, and all measurements taken during the test.

(2) Where a concrete encased electrode is not part of the grounding electrode system of an existing building or structure, a concrete encased electrode that may be available as a result of a new addition to the foundation is not required to be connected to service equipment that existed before the addition.

**053 (A) (2) Resistance of rod, pipe, and plate electrodes.**

(3) For rod, pipe, and plate electrodes other than those installed in accordance with the exception in subsection (2) of this section, if a ground resistance test is not performed to ensure a resistance to ground of 25 ohms or less, two or more electrodes as specified in NEC 250.52 must be installed a minimum of ((6)) six feet apart. A temporary construction service is not required to have more than one made electrode.

(4) For services only, when multiple buildings or structures are located adjacent, but structurally separate from each other, any installed rod, pipe, or plate electrodes used for those services must be installed so that each building's or structure's electrodes are not less than ((6)) six feet apart from the adjacent building's or structure's electrodes.

**064 Grounding electrode conductor installation - Physical protection.**

(5) Grounding electrode conductors will be considered to be not exposed to physical damage when the conductor(s) are:

(a) Buried more than 12 inches deep in the earth outside the building's footprint;

(b) Encased or covered by ((2)) two inches of concrete or asphalt;

(c) Located inside the building footprint and protected by the building's structural elements or when inside and determined, by the inspector, to not be subject to physical damage; or

(d) Enclosed by a metal or nonmetallic raceway or enclosure. The raceway or enclosure must be approved to protect from severe physical damage if it is not protected by appropriate physical barriers from contact with vehicles, lawn mowers, and other equipment that might damage the conductor or enclosure.

**068 Accessibility.**

(6) The termination point of a grounding electrode conductor tap to the grounding electrode conductor must be accessible unless the connection is made using an exothermic or irreversible compression connection.

**090 Bonding.**

(7) Metallic stubs or valves used in nonmetallic plumbing systems are not required to be bonded to the electrical system unless required by an electrical equipment manufacturer's instructions.

(8) Hot and cold water plumbing lines are not required to be bonded together if, at the time of inspection, the inspector can determine the lines are mechanically and electrically joined by one or more metallic mixing valves.

**104(B) Bonding - Other metal piping.**

(9) For flexible metal gas piping, installed new or extended from an existing rigid metal piping system, either:

(a) Provide a copy of the manufacturer's bonding instructions to the inspector at the time of inspection and follow those instructions; or

(b) The bonding conductor for the gas system must:

(i) Be a minimum 6 AWG copper; and

(ii) Terminate at:

(A) An accessible location at the gas meter end of the gas piping system on either a solid iron gas pipe or a cast flexible gas piping fitting using a listed grounding connector; and

(B) Either the service equipment enclosure, service grounding electrode conductor or electrode, or neutral conductor bus in the service enclosure.

**184 Solidly grounded neutral systems over 1,000 volts.**

(10) In addition to the requirements of NEC 250.184(A), the following applies for:

(a) Existing installations.

(i) The use of a concentric shield will be allowed for use as a neutral conductor for extension, replacement, or repair, if all of the following are complied with:

(A) The existing system uses the concentric shield as a neutral conductor;

(B) Each individual conductor contains a separate concentric shield sized to no less than (~~(thirty-three and one-half)~~) 33 1/2 percent of the ampacity of the phase conductor for three-phase systems or (~~(one hundred)~~) 100 percent of the ampacity of the phase conductor for single-phase systems;

(C) The new or replacement cable's concentric shield is enclosed inside an outer insulating jacket; and

(D) Existing cable (i.e., existing cable installed directly in the circuit between the work and the circuit's overcurrent device) successfully passes the following tests:

- A cable maintenance high potential dielectric test. The test must be performed in accordance with the cable manufacturer's instruction or the 2019 ANSI/NETA maintenance test specifications; and

- A resistance test of the cable shield. Resistance must be based on the type, size, and length of the conductor used as the cable shield using the conductor properties described in NEC Table 8 Conductor Properties.

An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the test results of the maintenance high potential dielectric test and the resistance test have been reviewed by the electrical engineer and that the cable

shield is appropriate for the installation. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

Testing results are valid for a period of seven years from the date of testing. Cable will not be required to be tested at a shorter interval.

(ii) A concentric shield used as a neutral conductor in a multi-grounded system fulfills the requirements of an equipment grounding conductor.

(b) New installations.

(i) New installations do not include extensions of existing circuits.

(ii) The use of the concentric shield will not be allowed for use as a neutral conductor for new installations. A listed separate neutral conductor meeting the requirements of NEC 250.184(A) must be installed.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

**WAC 296-46B-300 General requirements for wiring methods and materials (~~(—Wiring methods)~~).** (1) Cables and raceways for power limited, NEC Class 2 and Class 3 conductors must be installed in compliance with Chapter 3 NEC unless other methods are specifically required elsewhere in the NEC, chapter 19.28 RCW, or this chapter.

**005 Underground installations.**

(2) Induction loops.

See WAC 296-46B-010(~~((18))~~) (17) for induction detection loops that are made in a public roadway and regulated by a governmental agency.

Other induction loops must comply with the following requirements:

(a) General:

(i) A preformed direct burial induction loop is designed to be installed within the road surface base (e.g., concrete or asphalt) or below the road surface of a road with an unpaved surface (e.g., gravel or brick pavers);

(ii) A saw-cut induction detection loop is designed to be installed into a groove saw-cut into an existing paved road surface (e.g., concrete or asphalt);

(iii) The loop system includes the loop and the lead-in conductor;

(iv) The loop system must be:

(A) Tested to assure that at 500 volts DC, the resistance between the conductor and ground equals or exceeds 50 megohms; and

(B) Without splice; or

(C) If spliced, the splice must be soldered and appropriately insulated;

(v) The lead-in conductor must comply with the following:

(A) Must be stranded and have a lay (i.e., twist) of two turns per foot; and

(B) If installed in an electrical raceway;

- Are not required to be listed or suitable for wet locations;
- and
- Must have a burial cover of at least ((6)) six inches; or
  - (C) If direct buried;
  - Must be listed for the use; and
  - Must have a burial cover of at least 18 inches.
- (b) Preformed direct burial induction detection loops must conform with the following:
- (i) The loop conductor must be rated for direct burial and be a minimum of No. 16 AWG;
  - (ii) The loop design must not allow movement of the loop conductor within the outer jacket. The outer jacket containing the loop conductor is not required to be listed;
  - (iii) The loop yoke casing (i.e., the location where the lead-in conductor is connected to the loop):
    - (A) Includes any device used to house the "loop to lead-in splice" or to otherwise couple the loop with the lead-in electrical raceway;
    - (B) Is not required to be listed; and
    - (C) Must have a coupler that will create a waterproof bond with the electrical raceway, containing the lead-in conductor, or a direct buried lead-in conductor.
  - (c) Saw-cut induction detection loops:
    - (i) The loop conductor must be cross-linked polyethylene or EPR Type USE insulation and be a minimum of No. 18 AWG stranded;
    - (ii) The saw-cut groove must not cut into rebar installed within the roadway.
- 011 Support of raceways, cables, or boxes in suspended ceilings.**
- (3) NEC power limited, Class 2, and Class 3 cables must be secured in compliance with NEC 334.30 and must be secured to boxes in compliance with NEC 314.17.
- (4) Telecommunications cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Telecommunications cables may be fished into inaccessible hollow spaces of finished buildings. Clamps or fittings are not required where telecommunications cables enter boxes.
- (5) Optical fiber cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Optical fiber cables may be fished into inaccessible hollow spaces of finished buildings. Supports must allow a bending radius that will not cause damage to the cables.
- (6) Where not restricted by the building code official or Article 300 NEC, the wires required in NEC 300.11(B) may support raceways, cables, or boxes under the following conditions:
- (a) Raceways and/or cables are not larger than three-quarter-inch trade size;
  - (b) No more than two raceways or cables are supported by a support wire. The two-cable limitation does not apply to telecommunications cables, Class 2 cables, or Class 3 cables on support wires installed exclusively for such cables. The support wire must be adequate to carry the cable(s) weight and all attached cables must be secured with approved fittings; or

(c) Raceways and cables are secured to the support wires by fittings designed and manufactured for the purpose.

In addition to (a), (b), and (c) of this subsection, the following conditions must be complied with:

(d) The support wires are minimum #12 AWG and are securely fastened to the structural ceiling and to the ceiling grid system; and

(e) The raceways or cables serve equipment that is located within the ceiling cavity or is mounted on or supported by the ceiling grid system. Telecommunications cables, Class 2 cables, or Class 3 cables supported as required by this section, may pass through ceiling cavities without serving equipment mounted on or supported by the ceiling grid system.

**017 Conductors in raceway.**

(7) Cables will be permitted in all raceway systems if:

(a) The cable is appropriate for the environment; and

(b) The percentage fill does not exceed that allowed in NEC Chapter 9, Table 1.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

**WAC 296-46B-314 (~~Wiring methods and materials~~) Outlet, device, pull, and junction boxes; conduit bodies; fittings; and handhole enclosures.**

**(~~001 Boxes and fittings~~) 029(A) Accessibility of conduit bodies and boxes.**

(1) Conduit bodies, junction, pull, and outlet boxes must be installed so that the wiring and devices contained in them is accessible without removing any part of the building structure, including insulation material.

**023(H) Flexible cord connection of pendant boxes.**

(2) The flexible cord and cord connection must comply with NEC 314.23(H) and the following:

(a) A suspended pendant box must not contain conduit "knockouts" and connection to a suspended box must utilize an integral threaded hub;

(b) The maximum length of the cord for a suspended pendant drop from a permanently installed junction box to a suitable tension take-up device above the pendant box must not exceed ((6)) six feet;

(c) The flexible cord must be supported at each end with an approved cord grip or strain relief connector fitting/device that will eliminate all stress on the conductor connections;

(d) The flexible cord must be a minimum #14 AWG copper;

(e) The flexible cord ampacity must be determined using NEC Table 400.5(A) column A; and

(f) The flexible cord must be hard or extra hard usage.

**027(C) Boxes at ceiling-suspended (paddle) fan outlets.**

(3) For the purposes of NEC 314.27(C), locations acceptable for the installation of ceiling-suspended (paddle) fans include all ceiling areas of habitable rooms of dwelling occupancies except: Areas within four feet of walls, soffits, or fixed cabinetry; or areas directly above permanently installed island or peninsular countertop surfaces.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-334 (~~(Wiring methods and materials)~~) Nonmetallic-sheathed cable.**

**010 Nonmetallic-sheathed cable.**

(1) The building classification, for subsections (2), (3), and (4) of this section, will be as determined by the building official. For the purposes of this section, Type III, IV-HT and V may be as defined in the International Building Code adopted in the state of Washington. The installer must provide the inspector documentation substantiating the type of building construction and finish material rating(s) prior to any electrical inspection.

(2) This section replaces NEC 334.10(2). In multifamily dwellings, Type NM, Type NMC, and Type NMS cable(s) may be used in structures of Types III, IV-HT, and V construction except as prohibited in NEC 334.12.

(3) This section replaces NEC 334.10(3). In all other structures, Type NM, Type NMC, and Type NMS cable(s) may be used in structures of Types III, IV-HT, and V construction except as prohibited in NEC 334.12. All cable(s) must be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.

(4) This section replaces NEC 334.10(4). Cable trays in structures of Types III, IV-HT, and V construction, where the cable(s) is identified for the use, except as prohibited in NEC 334.12.

**015 Exposed work.**

(5) Where Type NMC cable is installed in shallow chases in plaster, masonry, concrete, adobe or similar material, the cable must be protected against nails or screws by:

(a) A steel plate at least 1/16 inch thick and covered with plaster, adobe, or similar finish; or

(b) Being recessed in a chase at least 2 3/4 inches deep, as measured from the finished surface, and covered with plaster, adobe, or similar finish. The cable(s) must be at least 2 1/2 inches from the finished surface.

(6) The requirements for nonmetallic sheathed cable protection in NEC 334.15(C) do not apply in crawl spaces.

(7) Wet or damp locations prohibited in NEC 334.12 (B) (4) do not include the interior of conduits installed outdoors used for physical protection of NM cables under the following conditions:

(a) Cables emerging from a building interior, attic, or crawl-space remain unbroken until terminated; and

(b) Flexible metal conduits are not used; and

(c) No conduit systems are longer than 10 feet or below grade;  
and

(d) Conduits are sealed to prevent air movement and are arranged to naturally drain.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

**WAC 296-46B-358 ((Wiring methods and materials)) Electrical metallic tubing.**

**012 Electrical metallic tubing.**

(1) In addition to complying with the provisions of Article 358 NEC, electrical metallic tubing may not be installed in direct contact with the earth or in concrete on or below grade. Also see NEC 300.6 for resistance to corrosion.

(2) Where electrical metallic tubing is installed in wet locations, an equipment grounding conductor must be provided within the raceway and sized per NEC 250.122.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

**WAC 296-46B-394 ((Wiring methods and materials)) Concealed knob-and-tube wiring.**

**001 Knob-and-tube wiring.**

Article 394 NEC does not prohibit the installation of loose or rolled thermal insulating material in spaces containing existing knob-and-tube wiring provided that all the following conditions are met:

(1) The wiring must be surveyed by an appropriately licensed electrical contractor who must certify in writing to the department that the wiring is in good condition with no evidence of improper overcurrent protection, conductor insulation failure or deterioration, and with no improper connections or splices. The electrical inspector must inspect all repairs, alterations, or extensions to the electrical system.

(2) The insulation must meet Class I specifications as identified in the Uniform Building Code, with a flame spread factor of (~~twenty-five~~) 25 or less as tested using ASTM E84-81a. Foam insulation may not be used with knob-and-tube wiring.

(3) All knob-and-tube circuits must have overcurrent protection in compliance with NEC Table (~~(310.15 (B) (16))~~) 310.16, 60 degree centigrade (~~(7, Column C)~~) column. Overcurrent protection must be either circuit breakers or Type S fuses.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-408 ((Equipment for general use)) Switchboards, switchgear, and panelboards.** In addition to the requirements of NEC 230.70(A), service equipment, subpanels, and similar electrical equipment must be installed so that they are readily accessible and may not be installed in clothes closets, toilet rooms, or shower rooms.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-410 ((Equipment for general use—)) Luminaires, lamp-holders, and lamps.**

**010 Luminaires in specific locations.**

(1) All luminaires within an enclosed shower area or within five feet of the waterline of a bathtub must be enclosed, unless specifically listed for such use; these luminaires, with exposed metal parts that are grounded, must be ground fault circuit interrupter protected.

**042 ((Exposed luminaire (fixture) parts)) Luminaires with exposed conductive surfaces.**

(2) Replacement luminaires that are directly wired or attached to boxes supplied by wiring methods that do not provide a ready means for grounding and that have exposed conductive ((parts)) surfaces will be permitted only where the luminaires are provided with ground-fault circuit-interrupter protection and marked "no equipment ground."

**056 Protection of conductors and insulation.**

(3) Requirements for stranded conductors in NEC 410.56(E) do not apply to branch-circuit conductors.

**062 Flexible cord connection of electric discharge luminaires.**

(4) A ground-type attachment plug cap and receptacle connection at the source junction box is not required when the flexible cord complies with NEC 410.62 and the following:

(a) Connection to a source junction box must utilize an approved cable connector or clamp;

(b) The maximum length of the cord for a suspended pendant drop from a permanently installed junction box to a suitable tension take-up device above the pendant luminaire must not exceed ((6)) six feet;

(c) The flexible cord must be supported at each end with an approved cord grip or strain relief connector fitting/device that will eliminate all stress on the conductor connections;

(d) The flexible cord must be a minimum #14 AWG copper;

(e) The flexible cord ampacity must be determined in NEC Table 400.5(A) column A;

(f) The flexible cord must be hard or extra hard usage; and

(g) A vertical flexible cord supplying electric discharge luminaires must be secured to the luminaire support as per NEC 334.30(A).

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

**WAC 296-46B-422 ((Equipment for general use—)) Appliances.**

**010 Water heater circuit.**

Water heaters with a rated circuit load in excess of 3,500 watts at 208 or 240 volts must be provided with branch circuit conductors not smaller than #10 AWG copper or equal. Overcurrent protection must comply with NEC 422.11(E).

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

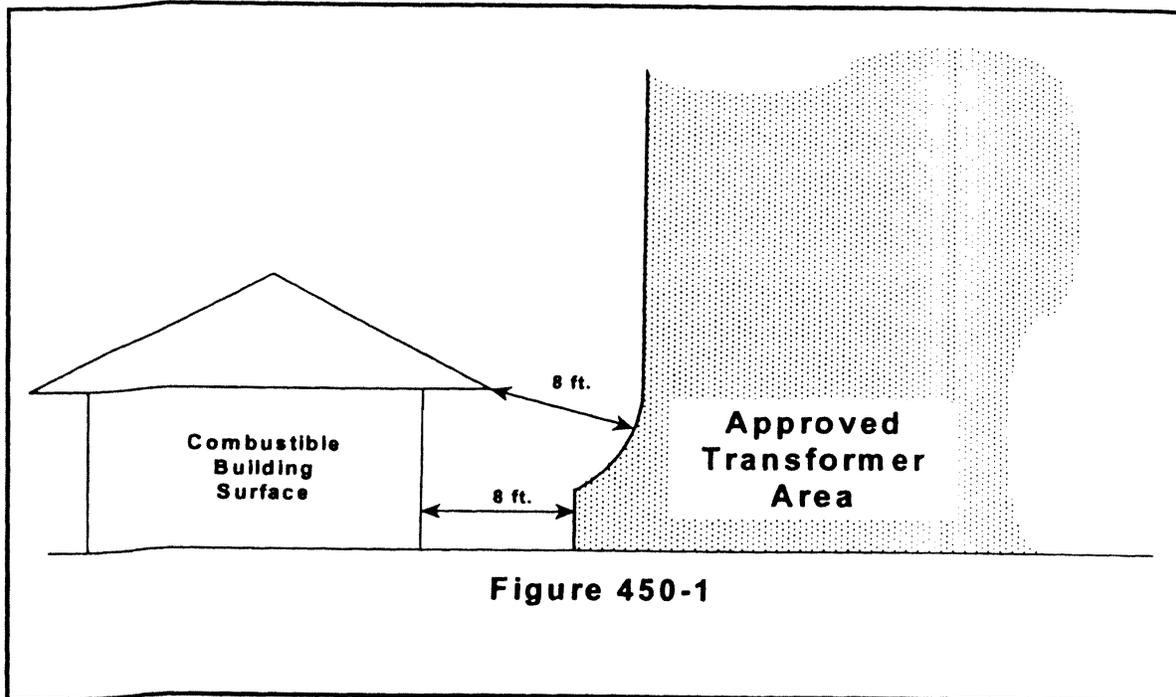
**WAC 296-46B-450 (~~(Equipment for general use)~~) Transformers and transformer vaults (including secondary ties).**

**027 Flammable-liquid or oil-filled transformers installed outdoors.**

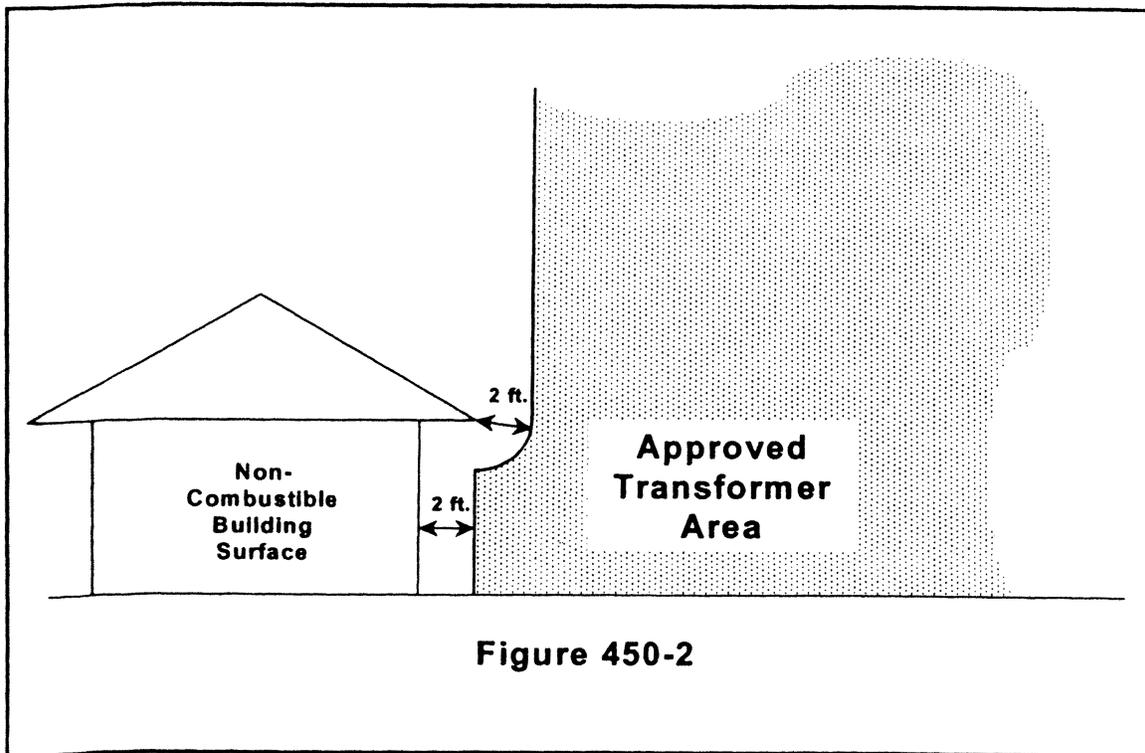
(1) Flammable-liquid or oil-filled transformers installed outdoors must meet the following requirements:

(a) A transformer installed adjacent to a building/structure with any combustible surface may be located only in the shaded "Approved Transformer Area" shown in Figure 450-1;

"Approved Transformer Area" shown in Figure 450-1;



(b) A transformer installed adjacent to a building/structure with no combustible surface(s) may be located only in the shaded "Approved Transformer Area" shown in Figure 450-2;



(c) In an area in which a transformer is to be installed next to a nonhabitable structure, the transformer may be no closer than ((2)) two feet to the building/structure and must be outside a line extended vertically from the ends of the eaves or rooflines;

(d) A building/structure may have no doors, windows, stairways, or other openings closer than ((8)) eight feet to the transformer;

(e) The finished grade at the location of the transformer must be such that any oil leaking from the transformer will flow away from the building/structure and will not pool; and

(f) If transformers are installed in areas subject to traffic other than pedestrian traffic, they must be provided with adequate guarding.

(2) Enclosures for total underground flammable-liquid or oil-filled transformers must not be located within ((8)) eight feet of a doorway, operable window, stairways or fire escape. Adequate space must be maintained above the enclosure so that a boom may be used to lift the transformer from the enclosure.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-501 ((~~Special occupancies-NEC~~)) Class I locations.**

**001 Sewage disposal systems.**

(1) Pumping chambers for sewage, effluent, or grinder pumps in on-site and septic tank effluent pump (S.T.E.P.) disposal systems will be considered unclassified when not more than five residential units are connected to the system, residential units are connected to a utility sewage system, or when nonresidential systems have residential

loading characteristics and all of the following general installations requirements are complied with:

(a) The pumping chamber must be adequately vented. Venting may be accomplished through the building or structure plumbing vents where the system venting has been approved by the local jurisdiction authority or by a direct two-inch minimum vent to the atmosphere;

(b) Equipment that in normal operation may cause an arc or spark must not be installed in any pumping chamber;

(c) Float switches installed in a pumping chamber must be hermetically sealed to prevent the entrance of gases or vapors;

(d) Junction boxes, conduits and fittings installed in the septic atmosphere must be of a noncorrosive type, installed to prevent the entrance of gases or vapors;

(e) Where a conduit system is installed between the pumping chamber and the control panel, motor disconnect, or power source, an approved sealing method must be installed to prevent the migration of gases or vapors from the pumping chamber, and must remain accessible; and

(f) Wire splices in junction boxes installed in pumping chambers must be suitable for wet locations.

(2) Residential wastewater loading characteristics in a nonresidential installation:

(a) For systems that process less than (~~three thousand five hundred~~) 3,500 gallons of wastewater per day may be certified by:

(i) An on-site wastewater designer licensed under chapter 18.210 RCW; or

(ii) A professional engineer, engaged in the business of on-site wastewater system design, licensed under chapter 18.43 RCW.

(b) For systems that process (~~three thousand five hundred~~) 3,500 gallons or more of wastewater per day may be certified by a professional engineer, engaged in the business of on-site wastewater system design, licensed under chapter 18.43 RCW.

Written documentation must be signed and stamped by the designer or engineer and provided to the electrical inspector prior to inspection.

(3) Any residential or nonresidential system that has building or structure floor drains being discharged into the system is classified as Class I Division 1. Drains from any commercially made tub, shower, basin, sink, or toilet are not considered floor drains.

(4) Pumping chamber access covers can be covered by gravel, light aggregate, or noncohesive granulated soil, and must be accessible for excavation. Access covers that are buried must have their exact location identified at the electrical panel or other prominent location by an identification plate. The authority having jurisdiction for performing electrical inspections must approve the identification plate location.

(5) Indoor grinder pumps installed in chambers with less than (~~fifty~~) 50 gallons capacity are not required to meet the requirements of this section, except for the venting requirements in subsection (1)(a) of this section. Indoor grinder pumps installed in chambers with less than (~~fifty~~) 50 gallons capacity are not classified systems as described in Article 500 NEC.

(6) Secondary treatment effluent pumping chambers such as sand filters are unclassified, and require no special wiring methods.

(7) Inspection approval is required prior to covering or concealing any portion of the septic electrical system, including the pump.

New septic and effluent tanks containing electrical wires and equipment must be inspected and approved prior to being loaded with sewage.

(8) On-site sewage disposal systems using pumps must have audible and visual alarms designed to alert the resident of a malfunction. The alarm must be placed on a circuit independent of the pump circuit.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

**WAC 296-46B-505 ((Class I,)) Zone 0, 1, and 2 locations.**

**007 Implementation of zone classification.**

For the purposes of NEC 505.7, qualified person means a professional engineer registered in Washington.

AMENDATORY SECTION (Amending WSR 13-03-128, filed 1/22/13, effective 3/1/13)

**WAC 296-46B-513 ((Special occupancies)) Aircraft hangars.**

**001 Scope.**

The scope for NEC 513 applies only when the property containing the building is classified or zoned as an aircraft hangar by the authority having jurisdiction.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-514 ((Special occupancies)) Motor fuel dispensing facilities.**

**001 General.**

(1) In addition to the scope included in NEC 514.1, Article 514 NEC must be complied with for all liquefied flammable gas storage or transfer facilities.

**003 Classifications of locations.**

(2) For the purposes of NEC 514.3 (D) (2), delete Exception No. 1 and No. 2 and replace with:

Dock, pier, or wharf sections that do not support fuel dispensers and may abut a section(s) that supports a fuel dispenser(s) are permitted to be unclassified where documented air space between the sections is provided and where flammable liquids or vapors cannot travel to these sections. See NEC 500.4((A)) for documentation requirements.

**011 Emergency disconnecting means - Dispensing and service stations.**

(3) An emergency disconnecting means or operator must be provided to disconnect the pump or dispensing equipment serving gasoline, volatile flammable liquids, or liquefied flammable gases. The emergency disconnecting means or operator must disconnect all conductors of the circuit supplying all station dispensers and/or pumps (including the grounded conductor) simultaneously from the source(s) of supply.

(4) For installations with only one dispensing device, the emergency disconnecting means/operator may be used to satisfy subsection (3) of this section.

(5) For multicircuit installations, an electrically held normally open contactor operated by a push-button may serve as the disconnecting means to satisfy subsection (3) of this section. If a disconnecting pushbutton is used, the pushbutton may not function as the resetting mechanism for the electrically held contactor. The resetting means must be:

(a) Located at least 15 feet or out of sight from the disconnecting pushbutton;

(b) Installed behind a cover or guard; and

(c) Identified with an identification plate that is substantially black in color.

(6) The disconnecting means satisfying subsection (3) of this section must be labeled with an identification plate, with letters at least ((4)) one inch high, as the emergency disconnecting means. The disconnecting means or operator must be substantially red in color.

#### **013 Maintenance and service of dispensing equipment.**

(7) The means to remove all external voltage sources for maintenance and service of dispensing equipment required by NEC 514.13 must be capable of isolating each dispenser individually from all external voltage sources including the grounded conductor, while all other dispensers remain operational.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

### **WAC 296-46B-517 ((~~Special occupancies~~)) Health care facilities.**

#### **001 Health care facilities.**

In health care facilities, the following methods must be used to determine adequate capacity and ratings of equipment providing electrical power for the essential electrical systems defined in Article 517 NEC:

(1) Systems in new facilities:

(a) Essential electrical system: The essential electrical system must consist of three branches known as:

(i) Life safety branch: The feeder conductors and equipment used to supply electrical power to the life safety branch must be determined by summation of the connected loads as determined by Article 220 NEC and may not be subjected to any reduction due to the diversity of the loads. Feeder and equipment will be subject to a ((~~one hundred twenty-five~~)) 125 percent multiplier for continuous loads in accordance with Article 220 NEC.

(ii) Critical branch: The feeder conductors and equipment must be calculated in accordance with Article 220 NEC, including a level of diversity as determined by such article.

(iii) Equipment branch: The feeder conductors and equipment used to supply electrical power to the equipment branch of the essential electrical system must be calculated in accordance with Article 220 NEC, including a level of diversity as determined by such article.

(b) Generator sizing: The rating of the generator(s) supplying electrical power to the essential system of a health care facility must meet or exceed the summation of the loads determined in (a) of

this subsection with no additional demand factors applied. Momentary X-ray loads may be ignored if the generator is rated at least (~~three hundred~~) 300 percent of the largest momentary X-ray load connected.

(2) Existing essential systems in facilities to which additional load is to be added:

(a) Existing loads: The existing loads of the separate branches of the essential electrical system may be determined by WAC 296-46B-900 (3) (j).

(b) Added loads: Added loads to the separate branches of the essential electrical system must be determined by subsection (1) of this section.

(c) Generator sizing: The rating of the generator(s) supplying electrical power to the essential electrical system must meet or exceed the summation of the loads determined by (a) and (b) of this subsection with no additional demand factors applied.

**013 Wiring methods.**

(3) The last sentence of NEC 517.13(A) is modified to read: The metal raceway system, or metallic cable armor, or sheath assembly shall itself qualify as an equipment grounding conductor in accordance with 250.118 with the exception of 250.118 (10) (a).

**017 Ground-fault protection of equipment.**

(4) The applicability of NEC 700.31 ground-fault protection of equipment, specified by NEC 517.26 for the life safety branch, will also apply to the NEC 517 essential electrical system's critical branch(es) and equipment branch(es).

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

**WAC 296-46B-547 (~~(Special occupancies)~~) Agricultural buildings.**

**001 Scope.**

NEC 547 requirements apply only when the agricultural building is greater than 1,000 square feet and is used as part of a business or commercial farming activity.

AMENDATORY SECTION (Amending WSR 13-03-128, filed 1/22/13, effective 3/1/13)

**WAC 296-46B-550 (~~(Special occupancies)~~) Mobile homes, manufactured homes and mobile home parks.**

**001 Mobile/manufactured homes - Inspection.**

(1) All alterations to the mobile/manufactured home electrical system must be permitted and inspected.

(a) Any circuit or feeder that is fed from the pedestal or panel from an outbuilding feeding the mobile/manufactured home requires a permit from the electrical section.

(b) Any circuit or feeder that originates from the mobile/manufactured home's (i.e., red factory assembled structures label) panel and feeds an addition or equipment that is attached (e.g., garage, heat pump, or air conditioning unit) requires an FAS alteration permit.

(c) Any circuit or feeder that originates in the mobile/manufactured home panel and feeds an unattached structure or equipment (e.g., detached garage, hot tub, pool, well, septic system, yard lighting, or generation equipment, etc.) requires two inspections. An FAS permit is required for the circuit or feeder from the panel and must terminate in a J-box located under the home's exterior wall near the rim joist. A second permit is required from the electrical section for electrical work from the J-box to the equipment or structure.

**032 Mobile/manufactured homes - Service.**

(2) If an electrical service is installed on the mobile/manufactured home:

(a) The manufacturer's instructions allowing mounting of service equipment on the mobile/manufactured home must be available to the inspector at the installation site at the time of the first inspection of the electrical service. The instructions must be specific regarding the type of service allowed: Overhead or underground; or

(b) It must be installed only by the manufacturer, at the manufacturing plant. The manufacturer must complete the service except for service connections, meter, and grounding electrode conductor; and

~~((b))~~ (c) The owner or an electrical contractor must complete the service at the site.

**033 Mobile/manufactured homes - Feeder.**

(3) When the mobile or manufactured home is supplied with power using a permanent wiring method, the equipment grounding conductor will be permitted to be bare. Bare conductors used underground must be copper. For the purposes of this section, portable cord is not considered a permanent wiring method.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-555 (~~(Special occupancies)~~) Marinas, boatyards, floating buildings, and commercial and noncommercial docking facilities.** (1) For the purposes of NEC 555.7, transformer terminations must be located a minimum of 12 inches above the deck of a dock (datum plane requirements do not apply for this section).

(2) For the purposes of NEC 555.4, adjacent means within sight.

(3) For the purposes of NEC 555.30, all electrical connections must be installed a minimum of 12 inches above the deck of a pier unless the connections are within junction boxes identified for wet locations, utilizing sealed wire connector systems listed and identified for submersion (datum plane requirements do not apply for this section).

(4) For the purposes of NEC 555.31, all enclosures (~~(must be corrosion resistant)~~) of a type referenced in NEC 110.28 must be marked with an enclosure type number referenced in NEC Table 110.28 that protects against corrosive agents. All gasketed enclosures must be arranged with a weep hole to discharge condensation.

(5) For the purposes of NEC 555.32, gasketed enclosures are only required for wet locations.

(6) For the purposes of NEC 555.34, the following wiring methods are allowed:

(a) All wiring installed in a damp or wet location must be suitable for wet locations.

(b) Extra-hard usage portable power cables rated not less than 75°C, 600 volts, listed for wet locations and sunlight resistance and having an outer jacket rated for the environment are permitted. Portable power cables are permitted as a permanent wiring method under or within docks and piers or where provided with physical protection. The requirements of NEC 555.34 (B)(3)(b) do not apply.

(c) Overhead wiring must be installed at the perimeter of areas where boats are moored, stored, moved, or serviced to avoid possible contact with masts and other parts of boats. NEC Article 398 open wiring on insulators is not an approved wiring method in or above any portion of a marina or docking facility.

(d) For the purposes of NEC 555.34 (B)(4), the wiring methods of Chapter 3 NEC will be permitted.

(7) For the purposes of NEC 555.33, receptacles must be mounted not less than 12 inches above the deck surface of the pier or dock (datum plane requirements do not apply for this section). Shore power receptacles that provide shore power for boats must be rated not less than 20 amperes and must be single outlet type and must be of the locking and grounding type or pin and sleeve type.

#### **Floating buildings.**

(8) Where shore power is provided, a disconnecting means must be located within sight of each floating building or similar facility. The disconnecting means must be installed adjacent to but not in or on the floating building or similar facility.

(9) NEC 555.53 is amended to read: The overcurrent protective device(s) that supply the floating building shall have ground-fault protection not exceeding 30 mA.

(10) Conductors operating in excess of 600 volts, nominal may not be installed on floating portions of a floating building or similar facility.

AMENDATORY SECTION (Amending WSR 08-24-048, filed 11/25/08, effective 12/31/08)

#### **WAC 296-46B-590 (~~(Special occupancies)~~) Temporary installations.**

##### **001 Temporary installations.**

(1) For the purposes of this section, any circuit used for construction purposes is considered to be temporary.

##### **003 Temporary installations - Time constraints.**

(2) Temporary construction service equipment may only be used for construction purposes and must be disconnected when the permanent service is connected unless the department grants an extension of time.

##### **004 Temporary installations - Splices.**

(3) A splice or junction box is required for all wiring splice or junction connections in a temporary installation.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-600 ((~~Special equipment~~)) Electric signs and outline lighting.**

**001 Electrical signs - General.**

(1) All electrical signs and outline lighting, regardless of voltage, must be listed or field evaluated by a testing laboratory accredited by the department to the applicable ANSI UL Standard. Installations will be inspected for compliance with installation instructions and the NEC.

(2) Luminaires in outdoor awnings must be suitable for wet locations and be connected by a wiring method suitable for wet locations.

(3) Fluorescent luminaires must be located at least ((6)) six inches from the awning fabric. Incandescent lamps or luminaires must be located at least 18 inches from the awning fabric. A disconnecting means must be installed per Article 600 NEC.

(4) Listed awning signs must be installed in compliance with the manufacturer's instructions and the NEC.

(5) Retrofitting signs. When listed signs or listed outline lighting are retrofitted to an LED light source, a licensed (01) general electrical contractor or (04) sign contractor using properly certified individuals or properly supervised trainees may make the retrofit in place so long as all the retrofit components and retrofit kit are listed and installation instructions applicable to the sign for making the retrofit are available for the inspector's use at the time of the inspection and physical access is provided to allow the inspector access to all components of the retrofit kit.

**004 Markings.**

(6) In addition to the markings required by the NEC, retrofit signs and outline lighting shall be marked with a label, made of a background color contrasting to the listed product, in a location visible during servicing near the listed retrofit subassembly that states, "This equipment contains a retrofit subassembly that may present a risk of electrical hazard. Replace parts only with same type and rating." The label's font must be Arial size 16 bold. This label may be an identification plate as described in WAC 296-46B-100 or an adhesive label approved by the electrical inspector. This label is in addition to any labeling required by the manufacturer's instructions or the UL Standard used to manufacture the retrofit kit.

**007 Grounding and bonding.**

(7) Remote metal parts of a section sign or outline lighting system only supplied by a remote Class 2 power supply that is listed or is a recognized component in a listed section sign or outline lighting is not required to be bonded to an equipment grounding conductor.

**010 Portable or mobile outdoor electrical signs.**

(8) A GFCI receptacle outlet that is weatherproof with the supply cord connected must be installed within ((6)) six feet of each portable or mobile electrical sign.

(9) Extension cords are not permitted to supply portable outdoor signs.

(10) All portable outdoor electrical signs must be listed by a qualified electrical testing laboratory accredited by the department.

**030 Neon tubing.**

(11) NEC 600, Part II, Field-Installed Skeleton Tubing, will apply to the installation of all neon tubing and neon circuit conductors.

(12) Field-installed skeleton tubing is not required to be listed. Installations will be inspected for compliance with installation instructions and the NEC.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-620 (~~(Special equipment)~~) Elevators, dumbwaiters, escalators, moving walks, platform lifts, and stairway chairlifts.**

**051 Disconnecting means.**

In accordance with WAC 296-96-02460, elevator section:

(1) The main line disconnect(s) must be located per NFPA 70, Article 620.51(C) and:

(a) Inside the machine room door on the strike side of the machine or control room door;

(b) Not more than (~~twenty-four~~) 24 inches from the door to the operating handle; and

(c) Be at a height not less than (~~thirty-six~~) 36 inches nor more than (~~sixty-six~~) 66 inches above the finish floor as measured centerline to the disconnect handle.

(2) For multicar machine rooms the switches shall be grouped together as close as possible to that location.

(3) For machine rooms with double swing doors, the doors must swing out and the switch(es) shall be located on the wall adjacent to the hinge side of the active door panel.

(4) Shunt-trip breakers, where provided shall be located in the elevator machine room or control room.

(5) Where shunt-trip breakers are also being used as a main line disconnect, they shall comply with subsections (1) through (3) of this section.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

**WAC 296-46B-680 (~~(Special equipment)~~) Swimming pools, fountains, and similar installations.**

**001 General.**

(1) Package spa or hot tubs. Electrical heating, pumping, filtering, and/or control equipment installed within (~~(5)~~) five feet of a spa or hot tub must be listed or field evaluated as a package with the spa or hot tub.

(2) A factory assembled skid pack of electrical heating, pumping, filtering, and/or control equipment must be installed more than (~~(5)~~) five feet from a spa or hot tub and must be listed as a package unit.

(3) The maintenance disconnect and field installed, listed electrical equipment for a hot tub, spa, or swim spa must be located at least five feet from the hot tub, spa or swim spa. Field installed listed equipment must meet the following additional requirements:

- (a) The heater is listed as a "spa heater or swimming pool heater";
- (b) The pump is listed as a "spa pump" or "swimming pool/spa pump" (the pump may be combined with a filter assembly); and
- (c) Other listed equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.
- (4) Field installed, listed electrical equipment for a swimming pool must be located at least ((5)) five feet from the swimming pool. Field installed listed equipment must meet the following additional requirements:
- (a) The heater must be listed as a "swimming pool heater or a spa heater";
- (b) The pump must be listed as a "swimming pool pump" or "spa pump" or "swimming pool/spa pump"; and
- (c) Other equipment such as panelboards, conduit, and wire must be suitable for the environment and comply with the applicable codes.
- The ((5)) five foot separation may be reduced by the installation of a permanent barrier, such as a solid wall, fixed glass windows or doors, etc. The ((5)) five foot separation will be determined by the shortest path or route that a cord can travel from the spa, hot tub, swim spa, or swimming pool to an object.
- (5) The field assembly or installation of "recognized components" will not be permitted.
- (6) Hydromassage bathtubs must be listed as a unit and bear a listing mark which reads "hydromassage bathtub."
- (7) Manufacturers' instructions must be followed as part of the listing requirements.
- (8) Electrical components which have failed and require replacement must be replaced with identical products unless the replacement part is no longer available; in which case, a like-in-kind product may be substituted provided the mechanical and grounding integrity of the equipment is maintained.
- (9) Cut-away-type display models may not be sold for other than display purposes and are not expected to bear a listing mark.
- ~~((040 Spas and hot tubs.~~
- ~~((10) NEC 680.42(C) will apply for interior and exterior wiring to outdoor installations of spas and hot tubs.))~~

**070 Hydromassage bathtubs.**

- ~~((11))~~ (10) For hydromassage bathtubs, the ground fault circuit interrupter device must be identified as to use and not located in a building or tub cavity, crawlspace, or attic.
- ~~((12))~~ (11) For hydromassage bathtubs, all electrical equipment installed to support the bathtub (e.g., disconnecting means, motor, etc.) must be accessible at the same grade level as the tub or from a landing on the exterior of the building without the use of a ladder or other access device.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-690 Solar photovoltaic systems.**

**002 Definitions.**

- (1) Building integrated means: Photovoltaic cells, modules, panels, or arrays that are integrated into the outer surface or structure

of a building and serve as the outer protective surface of that building, such as the roof, skylights, windows, or facades.

**004 Installation.**

(2) Support structure or foundation. For the purposes of this section, those portions of the structure support or foundation that are exclusively mechanical and are not part of a bonding or grounding path will not be considered part of the photovoltaic system as defined by this section. Such structural support or foundation may be done by the owner, registered general contractor, or licensed electrical contractor without electrical permit or inspection.

(3) A photovoltaic system design review defined in WAC 296-46B-100 must be available at the installation site at the time of the first inspection and until the inspection process is complete.

(4) The entity placing a building integrated cell, module, panel, or array is not subject to the requirements for electrical inspection, licensing, or certification so long as the work is limited to the placement and securing of the device and an electrical work permit has been previously obtained for the electrical work related to the equipment by an entity authorized to do that electrical work.

(5) All electrical work, including wiring installation, terminations, etc., necessary to complete the electrical installations must be completed by the entity authorized to do the electrical work (i.e., owner or appropriate electrical contractor).

**007 Maximum voltage.**

(6) The open-circuit voltage temperature coefficients supplied in the instructions of listed photovoltaic modules will be used to determine the maximum direct current photovoltaic system voltage. Otherwise the voltage will be calculated using Table 690.7 of the NEC. For the purposes of this calculation, a temperature correction factor of 1.25 will be used unless another factor can be justified and is approved by the authority having jurisdiction.

NEW SECTION

**WAC 296-46B-692 Fuel cell systems.** A fuel cell system design review defined in WAC 296-46B-100 must be available at the installation site at the time of the first inspection and until the inspection process is complete.

AMENDATORY SECTION (Amending WSR 14-11-075, filed 5/20/14, effective 7/1/14)

**WAC 296-46B-694 Wind electric systems.** A wind driven generator system design review defined in WAC 296-46B-100 must be available at the installation site at the time of the first inspection and until the inspection process is complete.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-700 Emergency systems.**

**001 Emergency systems - General.**

(1) In all health or personal care facilities defined in this chapter, educational facilities, institutional facilities, hotels, motels, and places of assembly for (~~one hundred~~) 100 or more persons, all exit and emergency lights must be installed in accordance with Article 700 NEC and located as required in standards adopted by the state building code council under chapter 19.27 RCW.

**007 Signs.**

(2) The sign(s) required in NEC 700.7 must be placed at the service disconnecting means and the meter base if the service disconnecting means and meter base are not located within sight and within (~~5~~) five feet of each other.

**010 Emergency systems - Equipment identification.**

(3) All exit and emergency lights, whether or not required by the NEC, must be installed in accordance with Article 700 NEC.

(4) All boxes and enclosures, for Article 700 NEC systems, larger than (~~6~~) six inches by (~~6~~) six inches, including transfer switches, generators, and power panels for emergency systems and circuits must be permanently identified with an identification plate that is substantially orange in color, except in existing health care facilities the existing nameplate identification color scheme can be retained for transfer switches, generators, and power panels for existing emergency systems that are not being replaced or modified. All other device and junction boxes for emergency systems and circuits must be substantially orange in color, both inside and outside.

**032 Selective coordination.**

(5) The requirements for selective coordination described in NEC 700.32 are not required where the emergency system was installed prior to June 1, 2006, provided that no system modifications, additions, deletions, or overcurrent protective devices in that system were replaced on or after April 1, 2024. For new emergency systems that are supplied from an existing emergency system installed prior to June 1, 2006, the new portion of the emergency system must comply with NEC 700.32. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other overcurrent protective devices.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

**WAC 296-46B-701 Legally required standby systems.****007 Signs.**

(1) The sign(s) required in NEC 701.7 must be placed at the service disconnecting means and the meter base if the service disconnecting means and meter base are not located within sight and within (~~5~~) five feet of each other.

**(~~027~~) 032 Selective coordination.**

(2) The requirements for selective coordination described in NEC (~~701.27~~) 701.32 are not required where the legally required standby system was installed prior to June 1, 2006, provided that no system modifications, additions, deletions, or overcurrent protective devices in that system were replaced on or after April 1, 2024. For new legally required standby systems that are supplied from an existing legally

required standby system installed prior to June 1, 2006, the new portion of the legally required standby system must comply with NEC 701.27. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other overcurrent protective devices.

AMENDATORY SECTION (Amending WSR 17-12-021, filed 5/30/17, effective 7/1/17)

**WAC 296-46B-702 Optional standby systems.**

**007 Signs.**

The sign(s) required in NEC 702.7(A) must be placed (~~at the service disconnecting means~~) where required and at the meter base if the ((service disconnecting means and)) meter base ((are)) is not located within sight and within ((5)) five feet of ((each other)) where a sign is required by NEC 702.7(A). When a disconnecting means required by NEC 230.85 is not present, the sign(s) required in NEC 702.7(A) must be placed at the service disconnecting means and the meter base if the service disconnecting means and the meter base are not located within sight and within five feet of each other.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-705 Interconnected electric power production sources.** (1) For utility interactive systems, any person making interconnections between a power production source and the utility distribution network must consult the serving utility and is required to meet all additional utility standards.

**011 Supply side source connections.**

(2) In addition to the requirements of NEC 705.11, electric power production source conductors connected to the supply side of the service disconnecting means must be installed using wiring methods specified for service conductors in WAC 296-46B-230(7). The disconnecting means providing overcurrent protection for the electric power production source conductors must comply with NEC 230.82(6). This disconnect is not required to be grouped with the service disconnecting means for the building or structure. Grounding and bonding must be in accordance with NEC 250.25.

(3) A system design review defined in WAC 296-46B-100 is required when any power sources regulated under NEC articles 230 (Services); 445 (Generators); 480 (Stationary Standby Batteries); 690 (Photovoltaic Systems); 692 (Fuel Cell Systems); 694 (Wind Electric Systems); 700 (Emergency Systems); 701 (Legally Required Systems); 702 (Optional Standby Systems); 706 (Energy Storage Systems), or other power sources are interconnected as part of a NEC 705 system. The system design review must be available at the installation site at the time of the first inspection and until the inspection process is complete.

NEW SECTION

**WAC 296-46B-710 Standalone systems.** A system design review defined in WAC 296-46B-100 is required when power sources regulated under NEC articles 445 (Generators); 480 (Stationary Standby Batteries); 690 (Photovoltaic Systems); 692 (Fuel Cell Systems); 694 (Wind Electric Systems); 700 (Emergency Systems); 701 (Legally Required Systems); 702 (Optional Standby Systems); 706 (Energy Storage Systems), or other power sources are interconnected as part of a NEC 710 system. The system design review must be available at the installation site at the time of the first inspection and until the inspection process is complete.

AMENDATORY SECTION (Amending WSR 13-03-128, filed 1/22/13, effective 3/1/13)

**WAC 296-46B-800 (~~Communications systems—Communications circuits~~.) General requirements for communications systems.**

~~((General.))~~

Chapters 1 through 7, NEC, supplement and modify the requirements of chapter 8, NEC. If there are specific requirements or exceptions described in chapter 8, NEC, that are different from those in chapters 1 through 7, NEC, chapter 8 will prevail.

**001 Installation.**

(1) All telecommunications installations on an end-user's property, beyond the end-user's telecommunications network demarcation point, made by a telecommunications service provider, both inside and outside of a building or structure, must conform to all licensing, certification, installation, permitting, and inspection requirements described in chapter 19.28 RCW and this chapter.

(2) Telecommunications service providers including its subcontractors and agents must install and maintain points of demarcation in conformance with Code of Federal Regulations (C.F.R.), Title 47, Chapter 1, Part 68, Subpart B, Sec. 68.105 and may not place a point of demarcation further than (~~twelve~~) 12 inches within an end-user's occupied space.

(3) The telecommunications service provider must identify the telecommunications network demarcation point(s) with an identification plate or label having:

- (a) The provider's name;
- (b) Customer/end-user's name; and
- (c) If a CWSTP is used, the option type used.

(4) The C.F.R. prescribes that telecommunications service providers must choose either a MPOE (minimum point of entry) or CWSTP (cable wire service termination policy) which regulates where demarcations are placed within a multitenant environment.

(5) A telecommunications service provider, including its subcontractors and agents provisioning service for a second provider who is not the end-user of the service, must place the point of demarcation no further than (~~twelve~~) 12 inches from the nearest POP (point of presence), of the serving provider, to the eventual end-user.

(6) Telecommunications service providers must designate each building that they provide services to with labeling at the terminating point(s) of their facilities indicating:

(a) Whether the building is under a MPOE policy; or

(b) Which option of a CWSTP is in effect.

(7) The CWSTP options for demarcation placement are as follows:

(a) All telecommunications service provider facilities will terminate at one location, mutually agreed upon by the provider and the building owner or designee, upon entry into the building, normally at the lowest common serving point. All demarcations will be placed no more than (~~twelve~~) 12 inches from this point. The building owner and/or tenants will provide, manage and maintain building wire and cable placed beyond this demarcation point location.

(b) The telecommunications service provider's facilities will terminate at common locations, mutually agreed upon by the provider and the building owner or designee, throughout the building (terminal rooms, utility closets, etc.). The telecommunications service provider will provide, manage and maintain the building cable and registration jacks that denote the demarcation points. The demarcation points will be placed at these locations and will be accessible to end-users at these locations. This (b) is not an option for single tenant buildings.

(c) The telecommunications service provider will terminate facilities and place demarcations at locations, mutually agreed upon by the provider and the building owner or designee, within the individually occupied units, within (~~twelve~~) 12 inches or a similarly reasonable distance of cable/wire entry. The provider will provide, manage and maintain the building cable, network terminating wire and registration jacks that denote the demarcation point. This (c) is not an option for single tenant buildings.

(d) All telecommunications service provider facilities and demarcations will terminate at one location on the property, mutually agreed upon by the provider and the building owner or designee. The building owner and/or tenants will provide, manage and maintain building wire and cable placed beyond the demarcation point location.

(8) The telecommunications installer must confer with the telecommunications provider when determining the point of demarcation.

#### **002 Definitions.**

(9) "**CWSTP (cable, wire and service termination policy)**" is the policy of the Federal Communications Commission (FCC) and the Washington utilities and transportation commission (WUTC) prescribed by tariff that governs negotiations between building owners and telecommunications service providers regarding the configuration of POP(s) and demarcation point(s) in multitenant buildings when a MPOE policy is not elected by the telecommunications service provider.

(10) "**MPOE (minimum point of entry)**" is a building wiring policy of the FCC and WUTC for multitenant environment locations that can be elected by telecommunications service providers. It prescribes that the telecommunications service provider will provide a single POP for access to its network and is located either at the closest practicable point to where a telecommunications service provider's facilities (fiber, coax, or copper) cross a property line or at the closest practicable point to where the wiring enters a multiunit building or buildings. All demarcations provided for customers and end-users by the provider will be placed within (~~twelve~~) 12 inches of that POP.

(11) "**POP (point-of-presence)**," also called a "**POT (point-of-termination)**," is a designated point at or near a customer premise at which a telecommunications service provider's facilities for the provision of access service ends. This can be a fiber, coax, or copper connection point. Depending on the telecommunications service provid-

er's CWSTP with the individual building owner, demarcations may be established at the POP or at other designated locations. When the customer of a telecommunications service provider is another carrier, the demarcation will be at the closest POP to the end-user. A telecommunications service provider may have multiple POPs within a multiple tenant environment.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-908 Class B permits.**

**Class B electrical work permit - Use.**

(1) The Class B basic electrical random inspection process (Class B process) may only be used by:

- (a) Licensed electrical/telecommunication contractors; or
- (b) Health care, commercial, or industrial facilities using an employee(s) who is an appropriately certified electrician(s) after requesting, in writing, and receiving permission from the chief electrical inspector.

Each entity doing work must use a separate label.

(2) The Class B random inspection process is only available if the label is validated and the label or label number is posted before beginning the work.

(a) For Class B labels obtained after February 28, 2013:

(i) Prior to, or immediately upon posting the Class B label/number, the purchaser must use the department's online Class B system to enter the job site information for an unused Class B label obtained by the purchaser. If the posting occurs on a weekend or a federal/state holiday, the purchaser must use the online system to enter the information no later than the first business day after posting the label/number;

(ii) The person identified as the installer on the Class B label must post the Class B label or label number, in a conspicuous permanent manner, at the:

(A) Main service/feeder location supplying the structure or system; or

(B) Purchaser's equipment, or on the equipment conductors if the equipment is not in place.

(iii) The Class B label is valid immediately upon the purchaser completing the job site information in the department's online Class B system, and posting of the Class B label or label number per (a)(ii) of this subsection.

(b) For Class B labels obtained before March 1, 2013:

(i) The purchaser must fully enter the job site information on the job site and contractor portions of the Class B label.

(ii) The person identified as the installer on the Class B label must post the completed job site copy, in a conspicuous permanent manner, at the:

(A) Main service/feeder location supplying the structure or system;

(B) Purchaser's equipment, or on the conductors if the equipment is not available.

(iii) The purchaser must return the contractor copy to the Department of Labor and Industries, Electrical Section, Chief Electrical

Inspector, P.O. Box 44460, Olympia, WA 98504-4460 within (~~fifteen~~) 15 working days after the job site portion of the Class B installation label is affixed.

(iv) The Class B label is valid immediately upon posting on the job site.

(3) Class B labels will be sold in blocks and are nonrefundable and nontransferable.

(4) Class B label installations will be inspected on a random basis as determined by the department.

(5) A progress inspection fee is required for any inspection required when a correction(s) is issued as a result of the inspection of a Class B label.

(6) Any entity using the Class B process may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

(7) A separate label is required for each line item listed below in subsection (10) of this section. For example, if the work includes an item under subsection (10)(a) and (b)(i) of this section, two labels are required.

(8) An entity using a Class B basic inspection label is restricted to using no more than two labels per week per job site.

(9) All Class B work must be completed within (~~fifteen~~) 15 days after the label is validated. If the work is not completed, another Class B may be posted.

Except that, in a one- or two-family residential structure, a label is valid for (~~ninety~~) 120 days after the label is validated, so long as all work described on the label is performed by the purchaser.

(10) Class B work includes the following:

(a) Extension of not more than one branch electrical circuit limited to 120 volts and 20 amps each where:

(i) No cover inspection is necessary. For the purposes of this section, cover inspection does not include work covered by any surface that may be removed for inspection without damaging the surface; and

(ii) The extension does not supply more than two outlets as defined by the NEC.

(b) Single like-in-kind replacement of:

(i) A motor larger than 10 horsepower; or

(ii) The internal wiring of a furnace, air conditioner, refrigeration unit or household appliance; or

(iii) An electric/gas/oil furnace not exceeding 240 volts and 100 amps and associated Class 2 low voltage wiring (i.e., altered and/or new low-voltage control wiring from the furnace to an existing and/or new thermostat, heat pump, air conditioner, condenser, etc.), when the furnace is connected to an existing branch circuit. For the purposes of this section, a boiler is not a furnace; or

(iv) An individually controlled electric room heater (e.g., baseboard, wall, fan forced air, etc.), air conditioning unit, heat pump unit, or refrigeration unit not exceeding 240 volts, 40 minimum circuit amps and associated Class 2 low voltage wiring when the unit is connected to an existing branch circuit; or

(v) Circuit modification required to install not more than five residential load control devices in a residence where installed as part of an energy conservation program sponsored by an electrical utility and where the circuit does not exceed 240 volts and 40 amps; or

(vi) A single, line-voltage flexible supply whip associated with (b)(i), (iii), or (iv) of this subsection, not over (~~6~~) six feet in

length, provided there are no modifications to the branch circuit/feeder load being supplied by the whip. May be done on the same Class B label with the replacement unit if done at the same time.

(c) The following low voltage systems:

(i) Repair and replacement of devices not exceeding 100 volt-amperes in Class 2, Class 3, or power limited low voltage systems in one- and two-family dwellings; or

(ii) Repair and replacement of devices not exceeding 100 volt-amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the NEC; or

(iii) The installation of Class 2 or 3 device(s) or wiring for thermostat, audio, security, burglar alarm, intercom, amplified sound, public address, or access control systems where the installation does not exceed (~~twenty~~) 20 devices or (~~five thousand~~) 5,000 square feet. This does not include fire alarm, nurse call, lighting control, industrial automation/control or energy management systems; or

(iv) Telecommunications cabling and equipment requiring inspection in RCW 19.28.470 where the installation does not exceed (~~twenty~~) 20 devices or (~~five thousand~~) 5,000 square feet;

(d) The replacement of not more than (~~ten~~) 10 standard receptacles with GFCI, AFCI, or dual function AFCI/GFCI receptacles;

(e) The conversion of not more than (~~ten~~) 10 snap switches to dimmers or occupancy sensors for the use of controlling a luminaire(s) conversion;

(f) The like-in-kind replacement of a maximum of (~~twenty~~) 20: Paddle fans, luminaires not exceeding 277 volts and 20 amperes; snap switches, dimmers, receptacle outlets, line voltage thermostats, heating elements, luminaire ballasts, or drivers/power supplies for single LED luminaires;

(g) The replacement of not more than two luminaires with paddle fans if a listed fan box has been previously installed to support the luminaires;

(h) The replacement of not more than four batteries rated not larger than 150 amp hours each that supply power to a single unit of equipment (e.g., uninterruptable power supply, photovoltaic storage system, control panel, etc.);

(i) The installation or repair of equipment powered by a stand-alone solar photovoltaic source where the:

(i) Electrical equipment requires no field assembly except for the attachment and electrical connection of the solar photovoltaic source to the equipment, the installation and attachment to a grounding electrode, and the placement of the equipment on a pad, pole, or other structure;

(ii) Solar photovoltaic source and the equipment operates at less than 15 volts DC;

(iii) Solar photovoltaic source is the only source of external power; and

(iv) Equipment and the solar photovoltaic source are appropriately labeled as a single unit. The label must be by an approved electrical testing laboratory or for equipment used for traffic control labeled according to WAC 296-46B-010(~~(-21)~~) (20).

(j) The installation or replacement of a single electric sign on an existing single 120-volt, 20-amp maximum branch circuit;

(k) The like-in-kind replacement of output cables consisting of a length of flexible EV cable and an electric vehicle connector when connected to fixed in place electric vehicle supply equipment.

(11) Class B basic electrical work does not include any work in:

- (a) Areas classified as Class I, Class II, Class III, or Zone locations per NEC 500; or
- (b) Areas regulated by NEC 517 or 680; or
- (c) Any work where electrical plan review is required; or
- (d) Fire alarm, nurse call, lighting control, industrial automation/control or energy management systems.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work.** (1) **General electrical (01):** A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations and minor plumbing under RCW 18.106.150. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater).

Specialties.

(2) All specialties listed in this subsection may perform the electrical work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. Except for residential (02), the scope of work for these specialties does not include plumbing work regulated under chapter 18.106 RCW. See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater). **Specialty** (limited) electrical licenses and/or certificates are as follows:

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-family dwellings, or multifamily dwellings of types III, IV or V construction when there are not more than six stories of multifamily dwellings of types III, IV or V construction above grade or above types I or II construction. All line voltage wiring for receptacle outlets and lighting outlets required by the National Electrical Code (NFPA 70) adopted under WAC 296-46B-010 is limited to nonmetallic sheathed cable, except for ((services and/or feeders, exposed installations where physical protection is required, and for wiring buried below grade)): Wiring subject to physical damage, wiring embedded in masonry or concrete, wiring buried below grade or located in a wet location, wiring to unfinished space areas adaptable to future dwelling unit living areas, or wiring where nonmetallic sheathed cable is not allowed by installation standards adopted under this chapter.

(i) This specialty also includes the wiring for ancillary structures located on the same property and under the same ownership as the dwelling structure(s) such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily

complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring of:

- (A) Any portion of any occupancy of types I or II construction; or
  - (B) Occupancies defined in WAC 296-46B-900(1), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores; or
  - (C) Services, generators, HVAC/refrigeration equipment, fire pumps or other equipment that serve other than one- and two-family dwellings, or multifamily dwellings of types III, IV, or V construction or ancillary structures, or facilities or equipment used primarily for commercial purposes except those directly associated with the functionality of multifamily complex residential units; or
  - (D) Interconnected electric power production sources not connected to equipment that supplies one- and two-family dwellings, or multifamily dwellings of types III, IV or V construction, or ancillary structures; or
  - (E) Any portion of wiring for conveyances regulated under chapter 70.87 RCW serving more than one residential dwelling unit.
- (iii) For the purposes of this section, classification of types of construction are as determined by the local building official.
- (iv) See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls, and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection.

Also see RCW 18.106.010 (~~((+10))~~) (14)(c).

(c) **Domestic pump (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase input power, regardless of motor controller output or motor voltage/phase, used in residential potable water or residential sewage disposal systems. Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls.

Also see RCW 18.106.010 (~~((+10))~~) (14)(c).

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, repair, or install retrofit kits within housings of existing exterior luminaires that are mounted on a pole or other structure with like-in-kind or retrofit kit components.

(i) Electrical licensing/certification is not required to:

- (A) Clean the nonelectrical parts of an electric sign;
- (B) Form or pour a concrete pole base used to support a sign;
- (C) Operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) Assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to: Install, modify, or maintain a sign, sign supporting pole, sign face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06)**: Limited to the installation, repair, replacement, and maintenance of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes (~~the installation of~~) telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

(i) For the purposes of this section, when a line voltage connection is removed and reconnected to a replacement component located inside the control cabinet, the replacement must be like-in-kind or replaced using the equipment manufacturer's authorized replacement component. The line voltage circuit is limited to 120 volts 20 amps maximum and must have a means of disconnect.

(ii) The limited energy systems (06) specialty may repair or replace line voltage connections terminated inside the cabinet to power supplies internal to the low voltage equipment provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the circuit.

(iii) The limited energy systems (06) specialty may not replace or modify the line voltage circuit or cabling or alter the means of connection of the line voltage circuit to the power supply or to the control cabinet.

Limited energy electrical contractors may perform all telecommunications work under their specialty **(06)** electrical license and administrator's certificate.

(f) **HVAC/refrigeration system(s) specialties**:

(i) See WAC 296-46B-100 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) (~~The~~) HVAC/refrigeration (~~specialties described in (f)(v) and (vi) of this subsection~~) **(06A)**:

(A) The (06A) specialty is not limited by voltage, phase, or amperage except as limited by (f)(iii)(A)(IX) and (X) of this subsection. No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or de-energized. This specialty may:

(~~(A)~~) (I) Install, repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(~~(B)~~) (II) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

~~((C))~~ (III) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard;

~~((D))~~ (IV) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

~~((E))~~ (V) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip other than a reduction in the HVAC unit's rated maximum overcurrent protection size. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

~~((iv))~~ (VI) Install, repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

That have no more than three stories on/above grade; or  
Regardless of the number of stories above grade if the installation:

- Is made in a previously occupied and wired space; and
- Is restricted to the HVAC/refrigeration system;

(VII) Repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of stories on/above grade.

(VIII) Install a bonding conductor for metal gas piping to an existing accessible grounding electrode conductor or grounding electrode only when terminations can be made external to electrical panelboards, switchboards, or other distribution equipment.

(IX) For mini-split HVAC/refrigeration systems installed for one- and two-family dwellings, or multifamily dwellings of types III, IV, or V construction when there are not more than six stories of multifamily dwellings of types III, IV, or V construction above grade or above types I or II construction or installed for other than residential occupancies that have no more than three stories on/above grade, install, repair, replace, and maintain: Single-phase branch circuits not exceeding 250 volts or 20 amps when those circuits are supplied from outdoor compressor/condensers units and distribution controllers of mini-split HVAC/refrigeration systems; wiring for condensate pumps connected to single-phase branch circuits allowed under this subsection when wiring is connected in accordance with the manufacturer's instructions for the mini-split HVAC/refrigeration system; disconnect switches and device, pull, and junction boxes, conduit bodies, and fittings when used for single-phase branch circuits allowed under this subsection; and raceway/conduit systems for single-phase branch circuits allowed under this section when the raceway/conduit system is installed outside of a building or when the raceway/conduit system is no more than six feet in length when connected to equipment located indoors provided that all the following conditions are met: HVAC/refrigeration equipment installed is certified for use as a system by an electrical product testing laboratory accredited by the department; manufacturer's instructions are provided for the system that include specifications for type and size of wiring between outdoor compressor/condenser units, distribution controllers, and indoor evaporators.

(X) Install, repair, replace, and maintain a single overcurrent device and branch circuit conductors connected to the load terminals

of that device when used to supply replacement gas or oil fired HVAC/refrigeration equipment provided that all the following conditions are met: The replacement gas or oil fired HVAC/refrigeration equipment is installed in the same location as the gas or oil fired HVAC/refrigeration equipment it replaced; the overcurrent protection for the existing gas or oil fired HVAC/refrigeration equipment circuit exceeds the maximum overcurrent protection allowed for the replacement gas or oil fired HVAC/refrigeration equipment; the branch circuit supplying the HVAC/refrigeration equipment does not exceed 125 volts; the rating of the device does not exceed 20 amperes; the device is installed within sight of and within six feet of the gas or oil fired HVAC/refrigeration equipment it supplies; raceways/conduits used to connect the device to the gas or oil fired HVAC/refrigeration equipment do not exceed six feet in length; the device is not installed within a panelboard or switchboard;

(XI) Install, repair, replace, and maintain devices that provide HVAC/refrigeration equipment one or more of the following: Surge protection, undervoltage protection, overvoltage protection provided that all of the following conditions are met: The device(s) is installed on or within the HVAC/refrigeration equipment, or at the disconnecting means nearest the HVAC/refrigeration equipment it serves; raceways/conduits used to connect the device(s) to HVAC/refrigeration equipment do not exceed six feet in length; the point of connection for the device(s) is not within a panelboard, switchboard, or motor control center external to the HVAC/refrigeration equipment.

(B) The (06A) HVAC/refrigeration ((specialties described in (f)(v) and (vi) of this subsection)) specialty may not:

((A)) (I) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment except disconnect switches allowed by (f)(iii)(A)(IX) of this subsection;

Exception: If HVAC/R equipment is being replaced, this specialty may remove and replace a disconnecting means enclosure mounted on the surface of the HVAC/R equipment with a like-in-kind disconnecting means enclosure rated not more than 20 amperes and 120 volts using the existing wiring method. When performing this work, this specialty may install up to ten feet of raceway to provide physical protection for nonmetallic cables, but the raceway may not terminate in a panelboard.

((B)) (II) Install, repair, replace, or maintain:

- Integrated building control systems, other than HVAC/refrigeration systems;
- Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

- Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

- Raceway/conduit systems, except as allowed for the (06A) specialty by (f)(iii)(A)(IX), (X), and (XI) of this subsection;
  - Line voltage: Service, feeder, or branch circuit conductors, except as allowed for the (06A) specialty by (f)(iii)(A)(IX) and (X) of this subsection. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other; or
    - Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.
- ~~((v) HVAC/refrigeration (06A) :~~
- ~~(A) This specialty is not limited by voltage, phase, or amperage.~~
- ~~(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.~~
- ~~(C) This specialty may:~~
- ~~• Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:~~
    - ~~That have no more than three stories on/above grade; or~~
    - ~~Regardless of the number of stories above grade if the installation:~~
      - ~~• Is made in a previously occupied and wired space; and~~
      - ~~• Is restricted to the HVAC/refrigeration system;~~
      - ~~• Repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of stories on/above grade.~~
      - ~~• Install a bonding conductor for metal gas piping to an existing accessible grounding electrode conductor or grounding electrode only when terminations can be made external to electrical panelboards, switchboards, or other distribution equipment.~~
- ~~(D) This specialty may not) (III) Install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.~~
- ~~((vi)) (iv) HVAC/refrigeration - Restricted (06B) :~~
- ~~((A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps.~~
- ~~(B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three stories on/above grade.~~
- ~~(C) This specialty may not) (A) The (06B) HVAC/refrigeration specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps or electrical work outlined in (f)(iv)(B) of this subsection. The (06B) HVAC/refrigeration specialty may:~~
- (I) Install, repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(II) Install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three stories on/above grade;

(III) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(IV) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard;

(V) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(IV) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip other than a reduction in the HVAC unit's rated maximum overcurrent protection size. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(B) The (06B) HVAC/refrigeration specialty may not:

(I) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

Exception: If HVAC/R equipment is being replaced, this specialty may remove and replace a disconnecting means enclosure mounted on the surface of the HVAC/R equipment with a like-in-kind disconnecting means enclosure rated not more than 20 amperes and 120 volts using the existing wiring method. When performing this work, this specialty may install up to ten feet of raceway to provide physical protection for nonmetallic cables, but the raceway may not terminate in a panelboard.

(II) Install, repair, replace, or maintain:

• Integrated building control systems, other than HVAC/refrigeration systems;

• Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

• Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

• Raceway/conduit systems;

• Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other; or

• Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(III) Install, repair, replace, or maintain:

• The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or

• Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(g) **Nonresidential maintenance (07)**: Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors. This specialty does not include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential **(02)** specialty electrician examination.

(i) This specialty includes the installation and connections of temporary conductors and equipment for the purpose of load testing, not to exceed 600 volts.

(ii) For the purposes of replacement of electrical equipment, where the new equipment has a lower ampere rating than the equipment being replaced and there are no modifications to the ampacity rating of the existing conductors, this specialty may replace a device(s) that provides overcurrent or overload protection for the new equipment with a device(s) having a lower ampere rating in accordance with the nameplate rating of the new equipment.

(iii) This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection.

(h) **Nonresidential lighting maintenance and lighting retrofit (07A)**: Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of ballasts, sockets, and the installation of listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B)**: This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided

there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(j) **Restricted nonresidential maintenance (07C):** This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-901 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection.

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(k) **Appliance repair (07D):** Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small electrical utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or electrical utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a single unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and electrical utilization equipment include, but are not limited to: Ovens, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-

in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(C) Any plumbing work regulated under chapter 18.106 RCW.

(l) **Equipment repair (07E)**: Servicing, maintaining, repairing, or replacing utilization equipment.

See RCW 19.28.095 for the equipment repair scope of work and definitions. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(m) **Telecommunications (09)**: Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed (~~fifty~~) 50 feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed (~~ten~~) 10 feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed by appropriately licensed electrical contractors and certified electricians.

(I) Customer satellite and conventional antenna systems receiving a telecommunications service provider's signal. All receiving equipment is on the customer side of the telecommunications network demarcation point.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates, doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detection, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the component is within sight of the listed door/gate/similar systems electric operator control panel.

(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

- There are no modifications to the characteristics of the branch circuit/feeder;
- The circuit/feeder does not exceed 600 volts, 20 amperes; and
- The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the **(06)** limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

AMENDATORY SECTION (Amending WSR 20-11-053 and 20-14-083, filed 5/19/20 and 6/30/20, effective 10/29/20)

**WAC 296-46B-925 Electrical/telecommunications contractor's license.**

**General.**

(1) The department will issue an electrical/telecommunications contractor's license that will expire (~~(twenty-four)~~) 24 months following the date of issue to a person, firm, partnership, corporation or other entity that complies with requirements for such license in chapter 19.28 RCW. An electrical/telecommunications contractor's license will not be issued to or renewed for a person, firm, or partnership unless the Social Security number, date of birth, and legal address of each member(s) (see WAC 296-46B-100 definition for member), are submitted with the application. The department may issue an electrical/telecommunications contractor's license for a period greater or less than (~~(twenty-four)~~) 24 months for the purpose of equalizing the number of electrical contractor's licenses that expire each month. The department may prorate the electrical/telecommunications contractor's license fee according to the license period.

The applicant, upon application and renewal, must provide the department with the Social Security number, date of birth, and legal address of each member(s).

(2) Combination specialty contractor's license. The department may issue a combination specialty contractor's license to a firm that qualifies for more than one specialty electrical contractor's license. The assigned administrator must be certified in all specialties applicable to the combination specialty contractor's license. The license will plainly indicate the specialty licenses' codes included in the combination license. An administrator assigned to a telecommunications contractor must be certified as a telecommunications administrator. A combination license will not be issued for telecommunications **(09)**.

(3) See RCW 19.28.041(7) for a contractor doing domestic pumping work as defined in RCW 18.106.010 (~~((+10))~~) (14)(c).

(4) The department may deny application, renewal, change of assignment of administrator/master electrician, reinstatement, or issuance of an electrical/telecommunications contractor's license if a firm, an owner, partner, member, or corporate officer owes money as a result of an outstanding final judgment(s) under chapter 19.28 RCW.

**Electrical/telecommunications contractor bond, cash or securities deposit.**

(5) Bond, cash, or securities deposit.

(a) The electrical/telecommunications contractor may furnish the department with a cash or security deposit to meet the bond requirements in lieu of posting a bond. A cash or security deposit assigned to the department for bond requirements will be held in place for one year after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as an electrical/telecommunications contractor. Upon written request, the cash or security deposit will then be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

(b) See RCW 19.28.041(7) for a contractor doing domestic pumping work as defined in RCW 18.106.010 (~~((+10))~~) (14)(c).

**Telecommunications contractor insurance.**

(6) To obtain a telecommunications contractor's license, the applicant must provide the department with an original certificate of insurance naming the department of labor and industries, electrical section as the certificate holder. Insurance coverage must be no less than (~~twenty thousand dollars~~) \$20,000 for injury or damages to property, (~~fifty thousand dollars~~) \$50,000 for injury or damage including death to any one person, and (~~one hundred thousand dollars~~) \$100,000 for injury or damage including death to more than one person. The insurance will be considered a continuing obligation unless canceled by the insurance company. The insurance company must notify the department in writing (~~ten~~) 10 days prior to the effective date of said cancellation or failure to renew.

(7) The telecommunications contractor may furnish the department with an assigned account to meet the insurance requirements in lieu of a certificate of insurance. An account assigned to the department for insurance requirements will be held in place for three years after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as a telecommunications contractor. Upon written request, the account then will be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

**Electrical/telecommunications contractor exemptions.**

(8) The following types of systems and circuits are considered exempt from the requirements for licensing and permitting described in chapter 19.28 RCW. The electrical failure of these systems does not inherently or functionally compromise safety to life or property.

Low-voltage thermocouple derived circuits and low-voltage circuits for:

(a) Residential: Garage doors and built-in vacuum systems; and

(b) Underground: Landscape sprinkler systems, landscape lighting, and antennas for wireless animal containment fences.

For these types of systems and circuits to be considered exempt, the following conditions must be met:

(c) The power supplying the installation must be derived from a listed Class 2 power supply;

(d) The installation and termination of line voltage equipment and conductors supplying these systems is performed by appropriately licensed and certified electrical contractors and electricians;

(e) The conductors of these systems do not pass through fire-rated walls, fire-rated ceilings or fire-rated floors in other than residential units; and

(f) Conductors or luminaires are not installed in installations covered by the scope of Article 680 NEC (swimming pools, fountains, and similar installations).

(9) Firms who clean and/or replace lamps in luminaires are not included in the requirements for licensing in chapter 19.28 RCW. This exemption does not apply to electric signs as defined in the NEC.

(10) Firms who install listed plug and cord connected utilization equipment are not included in the requirements for licensing in chapter 19.28 RCW. The plug and cord must be a single listed unit consisting of a molded plug and cord and not exceeding 250 volt 60 ampere single phase. The plug and cord can be field installed per the manufacturer's instructions and the product listing requirements. The utilization equipment must be a single manufactured unit, including the

plug and cord, that does not require any electrical field assembly except for the installation of the plug and cord and is allowed to be plug and cord connected by the NEC. Firms who perform field electrical servicing, maintaining, or repairing of plug and cord connected utilization equipment other than household appliances are not included in this exemption.

(11) Firms regulated by the Federal Communications Commission or the utilities and transportation commission, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(12) Unregulated firms, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(13) Leaseholders. For electrical installations, maintenance, or alterations to existing buildings only, any person, firm, partnership, corporation, or other entity holding a valid, signed lease from the property owner authorizing the leaseholder to perform electrical work, on the property the leaseholder occupies, will be allowed to purchase an electrical permit(s) and do electrical work on or within the property described in the lease. The lessee and/or his or her regularly employed employees must perform the electrical installation, maintenance and alteration.

The lessee who performs the electrical maintenance or installation work must be the sole occupant of the property or space. Property owners or leaseholders cannot perform electrical work on new buildings for rent, sale, or lease, without the proper electrical licensing and certification. For the purposes of this section, electrical work associated with setting a manufactured, mobile, or modular building is considered electrical work on a new building. Refer to RCW 19.28.261 for exemptions from licensing and certification.

(14) Assisting a householder. A friend, neighbor, relative, or other person (including a certified electrician) may assist a householder, at his/her residence in the performance of electrical work on the condition that the householder is present when the work is performed and the person assisting the householder does not accept money or other forms of compensation for the volunteer work. For the purposes of this subsection, a residence is a single-family residence.

(15) Volunteering to do electrical work. There are no exceptions from the electrical contractor's license or electrician certification requirements to allow persons to perform volunteer electrical work for anyone other than a householder or a nonprofit organization as allowed by RCW 19.28.091(7). For the purpose of this section, volunteer means that there is no remuneration or receiving of goods or services in return for electrical installations performed.

(16) Farms or place of business. See RCW 19.28.261 for licensing/certification exemptions allowed for the owner(s) of a farm or other place of business and for the employees of the owner.

(17) The licensing and certification requirements of chapter 19.28 RCW do not apply to persons or firms who remove electrical wiring and/or equipment for the purpose of disposal when all conductors, raceways, and equipment to be disposed of have been physically separated from the source of power by a properly certified electrician employed by a licensed electrical contractor, or person(s) meeting the

exemptions listed in RCW 19.28.261. Removal of a component or only a portion of an equipment unit is considered electrical maintenance and does not qualify for this exemption.

**Exemptions - Electrical utility and electrical utility's contractor.**

(18) Electrical utility exemptions.

(a) Utility system exemption - RCW 19.28.010(1) and 19.28.091(1).

(i) Neither a serving electrical utility nor a contractor or subcontractor employed by the serving electrical utility is required to have an electrical contractor's license for work on the "utility system" or on service connections or on meters or other apparatus used to measure the consumption of electricity.

(ii) Exemption from inspection. The work of a serving electrical utility and its contractor(s) on the work exempted by NEC 90.2 (b) (5), 1981 edition, is not subject to inspection.

(b) Street/area lighting exemption - RCW 19.28.091 (2) (a).

(i) On:

(A) Publicly owned streets, parks, athletic/play fields, beaches, and similar areas where the public has general, clear, and unrestricted access; or

(B) Outside area lighting installed on a utility owned pole(s) that is used to support the utility's electric distribution wiring or equipment that supplies a private property owner's property, the serving electrical utility is considered to be an owner and is not required to have an electrical contractor's license or electrical permit to install or work on wiring or equipment, owned by the utility and used in the lighting of those streets/areas.

(ii) On other privately or publicly owned property (e.g., private streets, parking lots, businesses, schools, etc.), the serving utility is not required to have an electrical contractor's license or electrical permit to install or work on outside street/area lighting where the light(s) is supplied directly from the utility system and installed according to the NESC or NEC.

This work is considered to be utility type work.

An electric utility is not allowed to install or work on street/area lighting:

(A) When the area is privately or publicly owned and the public does not have general, clear, and otherwise unrestricted access such as: Industrial property, residential property, or other property where the public's access is restricted in any manner.

(B) Where the lighting is supplied from a source of power derived from a customer-owned electrical system.

(C) Where the lighting or wiring is attached to a building or other customer-owned structure.

(D) If the utility does not directly perform the installation or work, it may only contract the work to an appropriately licensed electrical contractor(s). See RCW 19.28.091(3).

(c) Customer-owned equipment exemption - RCW 19.28.091 (2) (b). A serving electrical utility is not required to have an electrical contractor's license to work on electrical equipment owned by a commercial, industrial, or public institution customer if:

(i) The utility has not solicited such work; and

(ii) Such equipment:

(A) Is located outside a building or structure; and

(B) The work performed is ahead of the secondary side of the customer's transformer(s) which supplies power at the customer's utilization voltage.

If the utility does not directly perform the installation or work, it may only contract the work to an appropriately licensed electrical contractor(s). See RCW 19.28.091(3).

This work is considered to be utility type work.

The owner will provide the electrical work permit and be responsible for requesting inspections and for ensuring the work is installed per chapter 19.28 RCW and this chapter.

**Exemptions - Electrical utility telecommunications transition equipment installations, maintenance and repair.**

(19) No license, inspection or other permit will be required by the department of any electric utility or, of any person, firm, partnership or corporation or other entity employed or retained by an electric utility or its contractor, because of work in connection with the installation, maintenance, or repair of telecommunications transition equipment located ahead of the utility's telecommunications network demarcation point on the outside of a building or other structure when the work is performed by a qualified person consistent with the requirements of the National Electric Code (NEC) except as provided in (a) and (b) of this subsection:

(a) The following exceptions to the NEC will be permitted:

(i) An additional service disconnect supplying power to the transition equipment can be connected on the supply side of the main service disconnect supplying general power to the building;

(ii) Service entrance disconnects may be separated when clearly labeled;

(iii) The service disconnect used for supplying power to the transition equipment must be connected to the grounding electrode system using:

(A) #8 AWG copper or larger grounding electrode conductor if protected from physical damage; or

(B) #6 AWG copper or larger grounding electrode conductor if not protected from physical damage;

(iv) Use of equipment or materials that have been listed/field evaluated by a recognized independent testing laboratory or the department;

(v) Low-voltage circuits do not require a separate disconnecting means and may be grounded to the transition equipment grounding system;

(vi) Any other variance to the NEC must be approved by the department.

(b) A variance recommended by a joint utility standards group composed of representatives of both public and private utilities or certified by a professional engineer will be approved by the department unless the recommendation is inconsistent with meeting equivalent objectives for public safety.

(c) For the purposes of this section, a qualified worker is employed by a utility or its contractor and is familiar with the construction or operation of such lines and/or equipment that concerns his/her position and who is proficient with respect to the safety hazards connected therewith, or, one who has passed a journey status examination for the particular branch of the electrical trades with which he/she may be connected or is in a recognized training or apprenticeship course and is supervised by a journey level person.

(d) Although the utility is responsible for inspection and approval of the installation, including the selection of material and equipment, the department reserves the right to audit worker qualifications and inspect such installations semiannually for conformance with the requirements of (a), (b) and (c) of this subsection but will not collect a permit fee for such inspection or audit.

(e) If a utility fails to meet the requirements of this section, the department may require the utility to develop and submit a remedial action plan and schedule to attain compliance with this section which may be enforced by the department.

(f) This exemption will be in addition to any other exemption provided in chapter 19.28 RCW, this chapter or other applicable law.

**Exemptions - Independent electrical power production equipment exemption.**

(20) An independent electrical power production entity is not required to have an electrical contractor's license to work on electrical equipment used to produce or transmit electrical power if:

(a) The entity is:

(i) The owner or operator of the generating facility is regulated by the Federal Energy Regulatory Commission (FERC);

(ii) A municipal utility, or other form of governmental electric utility, or by an electrical cooperative or mutual corporation; or

(iii) The owner or operator of the generating facility is an independent electrical power producer and the facility generates electrical power only for sale to one or more:

(A) Electrical utilities regulated by FERC, municipal utility, or other form of governmental utility, or to an electric cooperative or mutual corporation; and

(B) The electrical power generated by the facility is not used for self-generation or any other on- or off-site function other than sale to one or more utilities regulated by FERC or by one or more state public utilities commissions, or to a PUD, municipal utility, or other form of governmental electric utility, or to an electric cooperative or mutual corporation.

(b) The entity must supply the chief electrical inspector a valid master business license issued by the department of licensing, state of Washington so that the entity's status as a revenue generating business can be confirmed.

(c) The entity has entered into an agreement to sell electricity to a utility or to a third party; and

(d) The electrical equipment is used to transmit electricity from the terminals of an electrical generating unit located on premises to the point of interconnection with a utility system.

(e) The electrical power production facility's generation capacity exceeds 100 KVA.

(f) Notwithstanding that a generating facility may be granted an exemption pursuant to this section, the facility will be subject to all the requirements of chapter 19.28 RCW if the facility at any time in the future ceases to comply with the requirements for exemption. All site facilities not exclusively and directly required to generate and/or distribute the electrical power generated on the site are subject to all the licensing and inspection requirements of chapter 19.28 RCW. All facility services, feeders, and circuits not exclusively and directly required to generate and/or distribute the electrical power (e.g., lights, outlets, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection. Facility circuits sup-

plied to equipment required for the function of generation equipment (e.g., block heaters, power supplies, wind generator tower circuits, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection up to and including the equipment termination point.

(g) The generation equipment must not be mounted on or in any building or structure not required for generation of power (e.g., schools, offices, residences, apartment buildings, hospitals, etc.).

**Exemptions - Telegraph and telephone utility and telegraph and telephone utility's contractor.**

(21) Telegraph and telephone utility exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.151. For the purposes of this exemption, "building or buildings used exclusively for that purpose" may mean any separate building or space of a building where the space is separated from the remainder of the building by a two-hour fire wall. The telecommunications or telegraph equipment within such a space must supply telephone or telegraph service to other customer's buildings (i.e., telecommunications or telegraph equipment cannot solely supply the building containing the telephone/telegraph space).

**Exemptions - Manufacturers of electrical/telecommunications products.**

(22) Manufacturers of electrical/telecommunications systems products will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing:

(a) Provided the product:

(i) Has not been previously energized;

(ii) Has been recalled by the Consumer Product Safety Commission;

(iii) Is within the manufacturer's written warranty period, a period not to exceed one year from date of original installation of the new product; or

(iv) The manufacturer is working under the written request and supervision of an appropriately licensed electrical contractor.

(b) Except for the replacement of individual components, as allowed above, this exemption does not include the on-site assembly, installation, removal, or replacement of the electrical product. Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring.

(c) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory.

(d) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

**Premanufactured electric power generation equipment assemblies and control gear.**

(23) Premanufactured electric power generation equipment assemblies and control gear.

(a) Manufacturers of premanufactured electric power generation equipment assemblies and control gear will be allowed to utilize a

manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing, provided:

(i) For transfer equipment, the product has not been previously energized or is within the manufacturer's written warranty period;

(ii) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring;

(iii) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory; or

(iv) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

(b) Premanufactured electric power generation equipment assemblies are made up of reciprocating internal combustion engines and the associated control gear equipment. Control gear equipment includes control logic, metering, and annunciation for the operation and the quality of power being generated by the reciprocating internal combustion engine and does not have the function of distribution of power.

(c) Modifications of a transfer switch must not include changes to the original intended configuration or changes or contact with externally field-connected components.

(d) For the purposes of this subsection, the following work on premanufactured electric power generation equipment assemblies is not exempt from the requirements of chapter 19.28 RCW:

(i) Installation or connection of conduit or wiring between the power generation unit, transfer switch, control gear;

(ii) Installation of the transfer switch;

(iii) Connections between the power generation unit, transfer switch, control gear, and utility's transmission or distribution systems;

(iv) Connections between the power generation unit, transfer switch, control gear, and any building or structure; or

(v) Test connections with any part of:

(A) The utility's transmission or distribution system; or

(B) The building or structure.

(24) The installation, maintenance, or repair of a medical device deemed in compliance with chapter 19.28 RCW is exempt from licensing requirements under RCW 19.28.091, certification requirements under RCW 19.28.161, and inspection and permitting requirements under RCW 19.28.101. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.

(25) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption. For the purposes of RCW 19.28.091(8), the like-in-kind replacement includes the appliance or any component part of the appliance such as, but not limited to, the thermostat in a water heater.

(26) Nothing in this section will alter or amend any other exemptions from or requirement for licensure or inspection, chapter 19.28 RCW or this chapter.

**Photovoltaic equipment.**

(27) See WAC 296-46B-690 for specific exemptions related to photovoltaic installations.

**Submersible well pump installers.**

(28) Firms that install submersible pumps and associated wiring in well casings, (excluding connection of pump wiring at the top of the wellhead) are not included in the requirements for licensing in chapter 19.28 RCW.

EXCEPTION: For testing purposes of a new submersible pump, well drillers and submersible pump installers registered under chapter 18.27 RCW may temporarily connect a submersible well pump to a portable generator with cord and plug output. All temporary wiring and equipment must be removed immediately upon completion of testing.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-942 Training certificate required.****General.**

(1) To work in the electrical construction trade as an electrical trainee, an individual must possess, wear, and visibly display a current valid electrical training certificate, learning the trade in the proper ratio, per RCW 19.28.161, under the supervision of a certified master journey level electrician, journey level electrician, master specialty electrician working in their specialty, or specialty electrician working in their specialty.

The trainee must meet all the requirements of WAC 296-46B-940 related to visibly displaying a current certificate and having a valid photo identification on his/her person.

(~~Beginning July 1, 2023,~~) Unless working in a specialty, apprentices and individuals learning the electrical construction trade must have in their possession proof of apprenticeship or journey level training program registration. They must show their apprenticeship or training program registration documents to an authorized representative of the department at the representative's request.

(2) An active training certificate is required for all individuals throughout the individual's enrollment and matriculation in an approved construction electrician training school program described in RCW 19.28.191. A training certificate is required to work in the electrical construction trade if an individual does not:

(a) Possess a current journey level certificate of competency issued by the department;

(b) Possess a current specialty electrician certificate of competency issued by the department while working in that specialty's scope of work; or

(c) Is not working in exempt status as allowed by chapter 19.28 RCW.

(3) Trainees who have had their training certificates revoked or suspended (during the duration of the revocation or suspension) will not be issued a training certificate.

**Original training certificates.**

(4) The department will issue an original training certificate when the trainee applicant submits a complete training certificate application including:

(a) Date of birth, mailing address, Social Security number; and

(b) All appropriate fees as listed in WAC 296-46B-909.

All applicants for an electrical training certificate must be at least (~~sixteen~~) 16 years of age. The original training certificate will be valid for two years. If an individual has previously held an electrical training certificate, then that individual is not eligible for a subsequent original training certificate.

**Specialty specific - Zero percent and (~~seventy-five~~) 75 percent supervision modified training certificates.**

(5) For specialties as allowed in Table 945-1 (i.e., specialties with (~~seven-hundred-twenty~~) 720 minimum hours of work experience required to be eligible for examination):

(a) The department will approve the trainee to take the appropriate specialty competency examination necessary to qualify for a zero percent supervision modified training certificate. To qualify, the trainee applicant must submit a complete zero percent supervision modified training certificate application including:

- (i) Date of birth, mailing address, Social Security number;
- (ii) Affidavit of experience fulfilling the minimum work experience hours required to qualify for the specialty examination described in Table 945-1; and
- (iii) All appropriate fees as listed in WAC 296-46B-909.

Upon successful completion of the appropriate examination, the trainee will be issued a nonrenewable zero percent supervision modified training certificate for the appropriate specialty. The zero percent supervision modified training certificate will be restricted in duration to the time allowed in Table 945-1, note 2.

(b) Prior to the expiration of the zero percent supervision modified training certificate, the individual must submit a complete application for a (~~seventy-five~~) 75 percent supervision modified training certificate for the appropriate specialty including:

- (i) Seventy-five percent supervision training certificate application including: Date of birth, mailing address, Social Security number; and
- (ii) All appropriate fees as listed in WAC 296-46B-909.

(c) A trainee may possess multiple (i.e., in different specialties) modified supervision training certificates for specialties where reduced supervision is allowed in Table 945-1. Combination training certificates will not be issued.

**Renewal of training certificates.**

(6) An individual must apply for renewal of their training certificate on or before the expiration date of the certificate. The individual may not apply for renewal more than (~~ninety~~) 90 days prior to the expiration date. Renewed certificates are valid for two years.

(7) An individual may renew their training certificate after the expiration date if the individual pays the late renewal fee listed in WAC 296-46B-909.

(8) All applicants for training certificate renewal must:

- (a) Submit a complete renewal application;
- (b) Pay all appropriate fees; and
- (c) Complete the approved basic trainee classes required by WAC 296-46B-970. Basic trainee classes are only valid when all the requirements of WAC 296-46B-970 are completed.

(d) Within (~~one-hundred-eighty~~) 180 days after the expiration date of an electrical training certificate, the individual, if not enrolled in a department approved apprenticeship program, must submit a completed, signed, and notarized affidavit(s) of experience for all

hours of experience gained since the individual's last training certificate was effective. Affidavits must be received by the department within 180 days after the expiration date of an electrical training certificate.

Employers are required to provide the necessary documentation and signed affidavit of experience to the trainee within ~~((twenty))~~ 20 days after the trainee requests the affidavit. See WAC 296-46B-942(12). See WAC 296-46B-985(4) for the penalty for providing a false or inaccurate affidavit of experience. If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual. The affidavit of experience must accurately attest to:

(i) The electrical installation work performed for each employer the individual worked for in the electrical trade during the previous period;

(ii) The correct electrical category the individual worked in;  
and

(iii) The actual number of hours worked in each category under the proper supervision of a Washington certified, master journey level electrician, journey level electrician or appropriate master specialty electrician or specialty electrician under that specific training certificate. If a trainee possesses multiple training certificates, an affidavit must be submitted for each training certificate for the hours worked under that specific training certificate.

If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual.

~~(9) ((Until July 1, 2020, an individual who has not completed the required hours of basic trainee class education can renew a training certificate if the individual applies for renewal before the training certificate expires and pays the appropriate renewal fee. However, the training certificate will be placed in an inactive status. The inactive training certificate will be returned to current status upon validation, by the department, of the required basic trainee class education. Effective July 1, 2020,))~~ An individual may not renew a training certificate until the required hours of basic classroom education have been completed.

(10) An individual may renew a suspended training certificate by submitting a complete renewal application including obtaining and submitting the basic trainee class education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(11) An individual will not be issued a renewed or reinstated training certificate if the individual owes the department money as a result of an outstanding final judgment under chapter 19.28 RCW.

(12) The individual should ask each employer and/or apprenticeship training director for an accurately completed, signed, and notarized affidavit of experience for the previous certification period. The employer(s) or apprenticeship training director(s) must provide the previous period's affidavit of experience to the individual within ~~((twenty))~~ 20 days of the request. If an individual is enrolled in an approved electrical construction trade apprenticeship program under chapter 49.04 RCW ~~((when the individual renews an electrical training certificate)),~~ the individual and their apprenticeship training director and/or each employer must give the department an accurately com-

pleted, signed, and notarized affidavit of experience accurately attesting to:

(a) The electrical installation work the individual performed in the electrical trade during the previous certification period;

(b) The correct electrical category the individual worked in; and

(c) The actual number of hours worked in each category under the proper supervision of a Washington certified master journey level electrician, journey level electrician or appropriate master specialty or specialty electrician for each employer. For apprentices enrolled in a registered apprenticeship program, (~~the applicant and~~) the training director or their designated authorized signer are the only authorized signatures the department will accept on affidavits of experience.

(13) The (~~individual and their~~) employer(s) and/or apprenticeship training director(s) or their designated authorized signer must sign and have notarized the affidavit of experience attesting to the accuracy of all information contained in the affidavit.

(14) The trainee, supervising electrician, contractor, and assigned administrator or master electrician are responsible for ensuring compliance with subsection (13) of this section. See WAC 296-46B-985 and 296-46B-990 (3)(c) and (f) for information about failing to submit or submitting false/fraudulent documents. Falsifying documents may be considered perjury and might result in criminal prosecution, civil penalty, or certificate revocation or suspension.

**Trainees without supervision present on the job site.**

(15) When the supervising electrician is found to not be present on the job site, the trainee may be given a form by the inspector that must be fully completed and returned or postmarked within (~~twenty-four~~) 24 hours to the inspector. The supervising electrician must sign the statement for the trainee if appropriate supervision was provided. If the supervising electrician fails or refuses to assist the trainee in completing the form, the trainee must return the form with a signed and dated statement stating the supervising electrician's name and saying that the supervising electrician refused to assist.

**Trainees seeking a journey level electrician certificate - Working with no supervision.**

(16) Trainee seeking a general (01) journey level electrician certificate of competency. After review by the department, a trainee may be issued a six-month, nonrenewable unsupervised electrical training certificate that will allow the individual to work without supervision if the trainee:

(a) Has submitted a complete application for an unsupervised electrical training certificate;

(b) Has worked over (~~seven thousand~~) 7,000 hours properly supervised not to include more than (~~four thousand~~) 4,000 of specialty experience;

(c) Has successfully completed or is currently enrolled in an approved apprenticeship program or an electrical construction trade program in a school approved by the board of community and technical colleges;

(d) Has paid all appropriate training certificate fees listed in WAC 296-46B-909;

(e) Is currently working for and continues to work for a licensed electrical contractor that employs at least one certified journey level or specialty electrician in the appropriate specialty; and

(f) Has not previously failed a journey level electrician certificate of competency examination (see WAC 296-46B-960(11)).

**Trainees seeking certain specialty electrician certificates - Working with reduced or no supervision.**

(17) After review by the department, a trainee may be issued a nonrenewable zero percent supervision training certificate that will allow the individual to work without supervision if the trainee meets the requirements in subsection (5) of this section.

(18) Electrical trainees may work unsupervised when installing HVAC/R thermostat cable when the HVAC/R system consists of a single thermostat in one- and two-family dwelling units where line voltage power has not been connected to the dwelling's electrical system.

AMENDATORY SECTION (Amending WSR 19-15-117, filed 7/23/19, effective 8/23/19)

**WAC 296-46B-960 Administrator and electrician certificate of competency examinations.**

**General.**

(1) The minimum passing score on any examination or examination section is (~~seventy~~) 70 percent. If examination is requested to be administered by the department, an application is required and the examination must be successfully completed within one year of application or the individual must submit a new application for exam including all appropriate fees.

(2) All examinations are open book.

(a) Candidates may use:

(i) Any original copyrighted material;

(ii) A silent, nonprinting, nonprogrammable calculator that is not designed for preprogrammed electrical calculations;

(iii) Copies of chapter 19.28 RCW and this chapter; or

(iv) A foreign language dictionary that does not contain definitions.

(b) Candidates may not use:

(i) Copies of copyrighted material;

(ii) Copies of internet publications, except for RCWs or WACs;

(iii) Personal notes; or

(iv) A personal computing device of any type other than the calculator in (a)(ii) of this subsection.

(3) Administrator, master electrician, and electrician examinations may consist of multiple sections. For all administrator examinations, all sections must be successfully completed within a one-year examination period after beginning the examination. For all master electrician and electrician examinations, all sections must be successfully completed within a one-year examination period beginning with the date of the examination approval. Within the one-year examination period, the candidate does not have to retake any sections successfully completed within the examination period. If all sections are not successfully completed within the one-year period, the candidate must begin a new examination period and retake all sections.

**Special accommodations for examination.**

(4) An applicant for an examination who, due to a specific physical, mental, (~~or~~) sensory impairment, requires special accommodation

in examination procedures, may submit a written request to the chief electrical inspector for the specific accommodation needed.

~~(a) ((The applicant must also submit to the department a signed and notarized release, authorizing the specifically identified physician or other specialist to discuss the matter with the department representative.))~~ The applicant must ~~((also))~~ submit an individualized written opinion from a physician or other appropriate specialist:

~~((i))~~ Verifying the existence of a specific physical, mental, ~~((or))~~ sensory impairment;

~~((ii))~~ Stating whether special accommodation is needed for a specific examination;

~~((iii))~~ Stating what special accommodation is necessary; and

~~((iv))~~ Stating if extra time for an examination is necessary and if so, how much time is required. The maximum allowance for extra time is double the normal time allowed.

~~(b) The written request for special accommodation and individualized written opinion ((must)) should be submitted to the department ((at least six weeks in advance of the examination date and must be accompanied by a completed application and fees as described in WAC 296-46B-909.~~

~~(c) Only readers and interpreters provided from the administrative office of the courts and/or approved by the department may be used for reading or interpreting the examination. The applicant will be required to bear all costs associated with providing any reading or interpretive services used for an examination.~~

~~(d) Applicants who pass the examination with the assistance of a reader or interpreter will be issued a certificate with the following printed restriction: "Requires reading supervision for product usage." A competent reader or interpreter must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.~~

~~Applicants who pass the examination with the assistance of a mechanical device (e.g., magnifier, etc.) will be issued a certificate with the following printed restriction: "Requires mechanical reading assistance for product usage." Appropriate mechanical reading assistance must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.~~

~~If a candidate successfully retakes the examination without the assistance of a reader or translator, a new certificate will be issued without the restriction.~~

~~(5) Applicants who wish to use a foreign language dictionary during an examination must obtain approval at the examination site prior to the examination. Only dictionaries without definitions will be approved for use.) only after the applicant has made application and received an examination approval from the department.~~

(5) An applicant for an examination who, due to limited English proficiency, requires special accommodation in examination procedures, including requesting extra time for examination, may submit a written request to the chief electrical inspector. The maximum allowance for extra time is double the normal time allowed. The written request should be submitted to the department after the applicant has made application and received an examination approval from the department.

#### **Failed examination appeal procedures.**

(6) Any candidate who takes an examination and does not pass the examination may request a review of the examination.

(a) The department will not modify examination results unless the candidate presents clear and convincing evidence of error in the grading of the examination.

(b) The department will not consider any challenge to examination grading unless the total of the potentially revised score would result in a passing score.

(7) The procedure for requesting an informal review of examination results is as follows:

(a) The request must be made in writing to the chief electrical inspector and must be received within (~~twenty~~) 20 days of the date of the examination and must request a rescore of the examination. The written request must include the appropriate fees for examination review described in WAC 296-46B-909.

(b) The following procedures apply to a review of the results of the examination:

(i) The candidate will be allowed one hour to review their examination.

(ii) The candidate must identify the challenged questions of the examination and must state the specific reason(s) why the results should be modified with multiple published reference material supporting the candidate's position.

(iii) Within (~~fifteen~~) 15 days of the candidate's review, the department will review the examination and candidate's justification and notify the candidate in writing of the department's decision.

**Failing an administrator certificate exam or electrician certificate of competency examination.**

(8) Anyone failing an administrator or electrician competency examination may retake the examination by making arrangements with the testing agency and paying the retesting fee.

(9) If the individual makes a failing score, the individual must wait two weeks before being eligible to retest.

(10) If the individual fails a part of an electrician, administrator, or master electrician examination three times within a one-year period, the individual must wait three months to retake the failed portion of the examination.

(11) Anyone failing an electrician competency examination may continue to work in the electrical trade if they have a valid electrical training certificate and work under the direct supervision of a certified journey level or specialty electrician in the proper ratio, per RCW 19.28.161.

**Cheating on an examination.**

(12) Anyone found cheating on an examination, attempting to bribe a proctor or other agent involved in administering an examination, or using inappropriate materials/equipment during an examination will be required to wait at least (~~eleven~~) 11 months before being allowed to reexamine. All such reexaminations will be administered by the department in Tumwater, Washington and the candidate will be required to apply and schedule for the examination with the chief electrical inspector. The department may also file a civil penalty action under chapter 19.28 RCW.

**Examination confidentiality.**

(13) All examination questions are confidential. Examination candidates and persons who have taken an examination are not allowed to copy or otherwise make note of or share examination content, in any manner, outside the individual's examination environment. Examination

candidates must agree, prior to beginning an examination, to keep all examination content confidential. The department may also file a civil penalty action under chapter 19.28 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-46B-406R      Equipment for general use—Receptacles.
- WAC 296-46B-440      Air conditioning and refrigerating equipment.

**WSR 23-24-086**

**WITHDRAWAL OF PROPOSED RULES**

**SECRETARY OF STATE**

(Elections Division)

[Filed December 5, 2023, 1:00 p.m.]

The office of the secretary of state, elections division would like to withdraw the CR-102 proposed rule making WSR 23-16-099. The code reviser's office certified this on August 10, 2023.

Our agency will contact individuals who provided comments during the CR-102 comment period to notify them of the withdrawal.

Amanda Doyle  
Chief of Staff

## WSR 23-24-096

## PROPOSED RULES

## DEPARTMENT OF REVENUE

[Filed December 6, 2023, 9:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-22-032.

Title of Rule and Other Identifying Information: WAC 458-20-19402  
Single factor receipts apportionment—Generally.

Hearing Location(s): On January 9, 2024, at 11:00 a.m. This meeting will be conducted over the internet/telephone. Please contact Cathy Holder at CathyH@dor.wa.gov for login/dial-in information.

Date of Intended Adoption: January 12, 2024.

Submit Written Comments to: Adam Becker, P.O. Box 47453, Olympia, WA 98504-7453, email adamb@dor.wa.gov, fax 360-534-1606, 360-534-1574, by January 10, 2024.

Assistance for Persons with Disabilities: Contact Julie King, phone 360-704-5733, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to update Rule 19402 to clarify the apportionment analysis and add additional examples.

Reasons Supporting Proposal: Since amending Rule 19402 in 2015 to recognize section 305 of SSB 6333 (chapter 97, Laws of 2014), the department has continued to receive public comments requesting additional guidance on Part 3 - "How to Attribute Receipts." Most comments are with regard to subsection (303)(c) on services relating to the customer's business activities. The department is therefore incorporating interim guidance and adding examples to the rule based on stakeholder feedback.

Statutory Authority for Adoption: RCW 82.01.060, 82.32.300.

Statute Being Implemented: RCW 82.04.462.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Adam Becker, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1574; Implementation and Enforcement: Heidi Geathers, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1615.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not a significant legislative rule as defined by RCW 34.05.328.

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 rule does not impose more-than-minor costs on businesses, as it does not propose any new requirements not already provided for in statute. The proposed rule does not impose fees, filing requirements, or recordkeeping guidelines that are not already established in statute.

December 6, 2023  
Atif Aziz  
Rules Coordinator

OTS-3536.4

AMENDATORY SECTION (Amending WSR 15-04-004, filed 1/22/15, effective 2/22/15)

**WAC 458-20-19402 Single factor receipts apportionment—Generally.**

**PART 1. INTRODUCTION.**

(101) **General.** RCW 82.04.462 establishes the ~~((apportionment))~~ method for ~~((businesses engaged in apportionable activities and that have nexus with Washington for))~~ determining the portion of a person's apportionable income that is derived from business activities performed within Washington and subject to business and occupation (B&O) tax ((liability incurred)) for periods after May 31, 2010. The express purpose of the ~~((change in the law was))~~ apportionment framework set out in RCW 82.04.462 is to require businesses that "((earn(ing)) earn significant income from Washington residents from providing services" to "pay their fair share of the cost of services that this state renders and the infrastructure it provides." Section 101, chapter 23, 1st special session, 2010.

(102) **Guide to this rule.**

(a) This rule is divided into six parts, as follows:

1. Introduction.
2. Overview of single factor receipts apportionment.
3. How to attribute receipts.
4. Receipts factor.
5. How to determine Washington taxable income.
6. Reporting instructions.

(b) (i) Examples included in this rule identify a number of facts and then state a conclusion; they should be used only as a general guide. The tax results of all situations must be determined after a review of all the relevant facts and circumstances.

(ii) The examples in this rule assume all gross income received by the taxpayer is from engaging in apportionable activities.

(iii) When an example uses a particular reasonable method of proportionally attributing the benefit of a service, this does not preclude the existence of other reasonable methods of proportionally attributing the benefit of a service depending on the specific facts and circumstances of a taxpayer's situation.

(103) **Scope of rule.** This rule applies to the apportionment of income from engaging in apportionable activities ~~((as defined in WAC 458-20-19401)),~~ except:

(a) To the apportionment of income received by financial institutions and taxable under RCW 82.04.290 ~~((, which is governed by WAC 458-20-19404));~~ and

(b) To the attribution of royalty income from granting the right to use intangible property ~~((, which is governed by WAC 458-20-19403)).~~

(104) **Separate accounting and cost apportionment.** ~~((The apportionment method explained in this rule replaces the previously allowed separate accounting and cost apportionment methods.))~~ Separate accounting and cost apportionment methods are not authorized for periods after May 31, 2010.

(105) **Other rules.** Taxpayers may also find helpful information in the following rules:

(a) WAC 458-20-19401 (~~(Minimum)~~) **Substantial nexus** (~~(thresholds for apportionable activities)~~). This rule (~~(describes minimum nexus thresholds applicable to apportionable activities that are effective after May 31, 2010)~~) explains the standards for substantial nexus in Washington beginning June 1, 2010.

(b) WAC 458-20-19403 **Royalty receipts attribution.** This rule describes the attribution of royalty income for the purposes of single factor receipts apportionment (~~(and applies only to tax liability incurred)~~) for periods after May 31, 2010.

(c) WAC ~~458-20-19404A~~ and 458-20-19404 **Single factor receipts apportionment—Financial institutions.** (~~(This)~~) These rules describe(~~(s)~~) the application of single factor receipts apportionment to certain income of financial institutions (~~(and applies only to)~~), for tax liability incurred (after May 31, 2010.

~~(d) WAC 458-20-194 **Doing business inside and outside the state.** This rule describes separate accounting and cost apportionment and applies only to tax liability incurred from January 1, 2006, through May 31, 2010.~~

~~(e) WAC 458-20-14601 **Financial institutions—Income apportionment.** This rule describes the apportionment of income for financial institutions for tax liability incurred prior to June 1, 2010) between June 1, 2010, and December 31, 2015, and on or after January 1, 2016, respectively.~~

(106) **Definitions.** The following definitions apply to this rule:

(a) "**Apportionable activities**" has the same meaning as used in WAC 458-20-19401 Minimum nexus thresholds for apportionable activities.

(b) "**Apportionable income**" means apportionable receipts less the deductions allowable under chapter 82.04 RCW.

(c) "**Apportionable receipts**" means gross income of the business from engaging in apportionable activities, including income received from apportionable activities attributed to locations outside this state. "Apportionable receipts" does not include amounts that are exempt under chapter 82.04 RCW.

(d) "**Business activities tax**" means a tax measured by the amount of, or economic results of, business activity conducted in a state. The term includes taxes measured in whole or in part on net income or gross income or receipts. (~~(In the case of sole proprietorships and pass-through entities,)~~) The term also includes personal income taxes or corporate income taxes if the gross income from apportionable activities is included in the gross income subject to the personal income tax or corporate income tax, as the case may be. The term "business activities tax" does not include retail sales tax, use tax, or similar transaction taxes, imposed on the sale or acquisition of goods or services, whether or not (~~(named)~~) labeled as a gross receipts tax or a tax imposed on the privilege of doing business.

(e) "**Customer**" means a person or entity to whom the taxpayer makes a sale, grants the right to use intangible property, or renders services or from whom the taxpayer otherwise directly or indirectly receives gross income of the business.

(i) If the taxpayer ((performs)) engages in apportionable ((services)) activities for the benefit of a third party, the term "customer" means the third-party beneficiary.

**Example 1.** Assume a parent purchases apportionable tax preparation services for their child. The child is the customer for the purpose of determining where the benefit is received.

(ii) The department will consider the terms of the contract and all other books and records as a whole to determine whether a "third-party beneficiary" relationship exists. A third-party beneficiary exists if the contracting parties intend that the taxpayer will assume a direct obligation to the intended beneficiary at the time they enter into a contract. This element of "intent" is met if performance under the contract would necessarily and directly benefit the third party.

(iii) Where the taxpayer does not render services under a contract or otherwise does not provide the department with a contract, the department will proceed, in such manner as it may deem best, to obtain facts and information to identify the customer.

(f) **"Reasonable method of proportionally attributing"** means a method of determining where the benefit of an activity is received and where the receipts are attributed that is uniform, consistent, fair, and ~~((accurately reflects the market, and))~~ does not distort the taxpayer's market.

(g) **"State"** means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country.

(h) (i) **"Taxable in another state"** means either:

(A) The taxpayer is subject to a business activities tax by another state on the taxpayer's income received from engaging in apportionable activity; or

(B) The taxpayer is not subject to a business activities tax by another state on the taxpayer's income received from engaging in apportionable activity, but the taxpayer meets the substantial nexus thresholds described in WAC 458-20-19401 for that state.

(ii) The determination of whether a taxpayer is taxable in a foreign country or political subdivision of a foreign country is made at the country or political subdivision level.

**Example 2.** Assume Taxpayer A is subject to a business activity tax in State X of Mexico (e.g., Taxpayer pays tax to State X), but nowhere else in Mexico. Also, assume that Taxpayer A is not subject to any national business activity tax in Mexico and does not meet the substantial nexus thresholds described in WAC 458-20-19401 for Mexico as a whole. In this case, Taxpayer is "taxable in another state," namely the Mexican state of State X, but not taxable in any other portion or any other state of Mexico.

**Example 3.** Assume Taxpayer B is not subject to any business activity taxes in Mexico, but satisfies the substantial nexus thresholds described in WAC 458-20-19401 for Mexico as a whole. Taxpayer B is "taxable in ((all)) another state," namely the foreign country of Mexico.

#### PART 2. OVERVIEW OF SINGLE FACTOR RECEIPTS APPORTIONMENT.

(201) **Single factor receipts apportionment generally.** ~~((Except as provided in WAC 458-20-19404 persons earning apportionable income who))~~

(a) Persons, other than financial institutions, that have substantial nexus with Washington as specified in WAC 458-20-19401 and ((who are)) earn apportionable income that is also taxable in another state must use the apportionment ((method provided)) formula described in this rule to determine their taxable income from apportionable activities for B&O tax purposes. The apportionment formula that applies to financial institutions is described in WAC 458-20-19404 and 458-20-19404A.

(b) Taxable income is determined by multiplying apportionable income from each apportionable activity by the receipts factor for that apportionable activity.

This formula is:

$$\text{(Taxable income)} = \text{(Apportionable income)} \times \text{(Receipts factor)}$$

See Part 4 of this rule for a discussion of the receipts factor.

(202) **Tax year.** The receipts factor applies to each tax year. A tax year is the calendar year, unless the taxpayer has specific permission from the department to use another period. (RCW 82.32.270.) For the purposes of this rule, "tax year" and "calendar year" have the same meaning.

### PART 3. HOW TO ATTRIBUTE RECEIPTS.

(301) **Attribution of receipts generally.** Except as specifically provided for in WAC 458-20-19403 for the attribution of apportionable royalty receipts, this Part 3 explains how to attribute apportionable receipts (the attribution method). Receipts are attributed to states based on a cascading method or series of steps. ~~((The department expects that most taxpayers will attribute apportionable receipts based on (a) (i) of this subsection because the department believes that either the taxpayer will know where the benefit is actually received or a "reasonable method of proportionally attributing receipts" will generally be available. These))~~ The steps in this cascading series are:

(a) Gross income of the business is attributed to a specific state(s) where the customer received the benefit of the taxpayer's service (see subsections ~~((302))~~ (303) through (304) of this rule for an explanation and examples of the benefit of the service) ~~((7))~~:

(i) If a taxpayer can reasonably determine the amount of a specific apportionable receipt that relates to a specific benefit of the services received in a state, that specific apportionable receipt is attributable to the state in which the benefit is received (see Example 12 in this rule). ~~((When))~~

(ii) If a taxpayer is unable to attribute an apportionable receipt under (a) (i) of this subsection, and a customer receives the benefit of the taxpayer's services in this and one or more other states and the amount of gross income of the business that was received by the taxpayer in return for the services received by the customer in this state can be reasonably determined by the taxpayer, such amount of gross income must be attributed to this state. This may be shown by application of a reasonable method of proportionally attributing the benefit among states. The result determines the receipts attributed to each state. Under certain situations, the use of data based on ~~((an))~~ another attribution method specified in ~~((b) through (f))~~ subsection (301) (c) through (g) of this ~~((subsection))~~ rule may also be a reasonable method of proportionally attributing receipts among states (see Examples ~~((4 and 5 below))~~ 10 and 17 in this rule).

~~((iii))~~ (b) If a taxpayer is unable to separately determine or use a reasonable method of proportionally attributing the benefit of the services in specific states under subsection (301) (a) ~~((i))~~ of this ~~((subsection))~~ rule, and the customer received the benefit of the service in multiple states, the apportionable receipt is attributed to the state in which the customer primarily received the benefit of the service ~~((was primarily received))~~. Primarily means, in this case, more than ~~((fifty))~~ 50 percent.

~~((b))~~ (c) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a) or (b) of this ~~((subsection))~~ rule, the apportionable receipt must be attributed to the state from which the customer ordered the service. Subsection (306) of this rule explains the meaning of "unable to attribute."

~~((e))~~ (d) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a) ~~((e))~~, (b), or (c) of this ~~((subsection))~~ rule, the apportionable receipt must be attributed to the state to which the billing statements or invoices are sent to the customer by the taxpayer.

~~((d))~~ (e) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a), (b), ~~((e))~~ (c), or (d) of this ~~((subsection))~~ rule, the apportionable receipt must be attributed to the state from which the customer sends payment to the taxpayer.

~~((e))~~ (f) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a), (b), (c), ~~((e))~~ (d), or (e) of this ~~((subsection))~~ rule, the apportionable receipt must be attributed to the state where the customer is located as indicated by the customer's address:

(i) Shown in the taxpayer's business records maintained in the regular course of business; or

(ii) Obtained during consummation of the sale or the negotiation of the contract, including any address of a customer's payment instrument when readily available to the taxpayer and no other address is available.

~~((f))~~ (g) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a), (b), (c), (d), ~~((e))~~ (e), or (f) of this ~~((subsection))~~ rule, the apportionable receipt must be attributed to the commercial domicile of the taxpayer.

~~((g))~~ (302) **Application of cascading steps.**

(a) The department expects that most taxpayers will be able to attribute apportionable receipts based on subsection (301)(a) of this rule because the taxpayer will either have access to books and records that contain sufficient information from which to determine where the customer actually received the benefit of the taxpayer's service, or will be able to use a "reasonable method of proportionally attributing receipts" that fairly apportions, and does not distort the apportionment of, where the customer received the benefit of the taxpayer's service.

(b) If a taxpayer is affiliated with another entity that has information indicating where the customer received the benefit of the taxpayer's service, the department will presume, unless the facts indicate otherwise, that the taxpayer is able to access that information from the affiliated entity (see Example 20 in this rule).

(c) (i) The taxpayer may not use an attribution method that unfairly attributes, or distorts the apportionment of, the taxpayer's apportionable receipts.

~~((302) **Examples.** Examples included in this rule identify a number of facts and then state a conclusion; they should be used only as a general guide. The tax results of all situations must be determined after a review of all the facts and circumstances. The examples in this rule assume all gross income received by the taxpayer is from engaging in apportionable activities. Unless otherwise stated, the examples do not apply to tax liability prior to June 1, 2010.~~

~~When an example states that a particular attribution method is a reasonable method of proportionally attributing the benefit of a service, this does not preclude the existence of other reasonable methods~~

of proportionally attributing the benefit depending on the specific facts and circumstances of a taxpayer's situation.)

(ii) A taxpayer that has Washington apportionable receipts must keep, and provide upon request from the department, all suitable books and records that are necessary to demonstrate that the attribution method used fairly apportions, and does not distort, the taxpayer's apportionable receipts.

(d) Except as otherwise provided in this rule, the taxpayer must use the same attribution method for all apportionable receipts in a tax year from the same service.

**Example 4.** Engineering Co. negotiates with Phone Manufacturer 1 and Phone Manufacturer 2 to provide design services for both manufacturers' upcoming lines of cell phones. Engineering Co. must use the same attribution method for its apportionable receipts from Phone Manufacturer 1 and Phone Manufacturer 2 for design services, because Engineering Co. is providing the same service to both customers.

Engineering Co. separately charges Phone Manufacturer 1 to solicit sales of Phone Manufacturer 1's phones on a commissioned sales basis. Engineering Co. would separately determine the attribution methods for its apportionable receipts from design services and commissioned sales for Phone Manufacturer 1, even if both services are taxable under the same B&O tax classification, because the design services and commissioned sales are separate services.

**Example ((4)) 5.** Assume Law Firm has thousands of charges to clients((-)), and that Law Firm can show it is not commercially reasonable for Law Firm to track each charge to each client to determine where the benefit related to each service is received. Assume the scope of Law Firm's practice is such that it is reasonable to assume that the benefits of Law Firm's services are received at the location of the customer as reflected by the customer's billing address. Under these circumstances, Law Firm can use the billing addresses of each client as a reasonable method of proportionally attributing the benefit of its services.

**Example ((5)) 6.** Same facts as Example ((4)) 5 except, Law Firm has a ((single)) client that represents a ((statistically)) significant portion of its revenue ((and whose)) from legal services (five percent for purposes of this example). Law Firm has records substantiating that the billing address of this client is unrelated to any of the services provided. In this case, using the billing address of this client would not fairly relate to where the customer received the benefit of the services. Using the billing address for this client to determine where the benefit is received would ((significantly distort)) not fairly represent, or distort, the apportionment of Law Firm's receipts. Therefore, Law Firm would need to evaluate the specific services provided to that client to determine where the benefits of those services are received ((and)). Similarly, use of billing address would not be a reasonable method of proportionally attributing the benefit of Law Firm's services for any other clients representing five percent or more of Law Firm's revenue from legal services. Law Firm would need to evaluate the specific services provided to these clients to determine where the benefits are received. However, Law Firm may use billing addresses to attribute the income received from other clients representing less than five percent of Law Firm's legal service revenue if appropriate.

**Example ((6)) 7.** Assume Taxpayer R attributes an apportionable receipt based on its customer's billing address, using ((-e)) subsection (301)(d) of this ((subsection)) rule, and the billing address is

a P.O. Box located in another state. Taxpayer R also knows that mail delivered to this P.O. Box is automatically forwarded to the customer's actual location. In this case, use of the billing address is not allowed because it would not fairly apportion, or would distort the apportionment of, Taxpayer R's receipts.

(303) **Benefit of the service explained.** The first two cascading steps (subsection (301)(a) ~~((i))~~ and ~~((ii))~~ (b) of this rule) used to attribute apportionable receipts to a state are based on where the taxpayer's customer receives the benefit of the service. This subsection explains the framework for determining where the customer receives the benefit of a service ~~((is received))~~.

(a) (i) If the taxpayer's service relates to real property, then the customer receives the benefit ((is received)) where the real property is located.

(ii) The following is a nonexclusive list of services that relate to real property:

- ~~((i))~~ (A) Architectural;
- ~~((ii))~~ (B) Surveying;
- ~~((iii))~~ (C) Janitorial;
- ~~((iv))~~ (D) Security;
- ~~((v))~~ (E) Appraisals; and
- ~~((vi))~~ (F) Real estate brokerage.

~~(b) ((If the taxpayer's service relates to tangible personal property, then the benefit is received where the tangible personal property is located or intended/expected to be located.~~

~~(i) Tangible personal property is generally treated as located where the place of principal use occurs. If the tangible personal property is subject to state licensing (e.g., motor vehicles), the principal place of use is presumed to be where the property is licensed; or~~

~~(ii) If the tangible personal property will be created or delivered in the future, the principal place of use is where it is expected to be used or delivered.~~

~~(iii) The following is a nonexclusive list of services that relate to tangible personal property:~~

- ~~(A) Designing specific/unique tangible personal property;~~
- ~~(B) Appraisals;~~
- ~~(C) Inspections of the tangible personal property;~~
- ~~(D) Testing of the tangible personal property;~~
- ~~(E) Veterinary services; and~~
- ~~(F) Commission sales of tangible personal property.)~~ (Reserved.)

~~(c) If ((the taxpayer's service does not relate to real or tangible personal property,)) subsection (303)(a) of this rule does not apply, the taxpayer's service is provided to a customer engaged in business, and the service relates to the customer's business activities, then the customer receives the benefit ((is received)) of the service where the customer's related business activities occur.~~

A customer's related business activities will generally occur either in the customer's market or at the customer's business location(s).

(i) Customer's market. The determination of a customer's market depends on the customer's facts and circumstances. The customer's related business activities occur in the customer's market if the taxpayer's service is directly:

- (A) Promoting the customer's products (goods and services);
- (B) Engaging in or completing sales of the customer's products;

(C) Obtaining or facilitating payment of amounts owed to the customer from the sale of its products; or

(D) Establishing or maintaining the customer's market. In determining whether a service is establishing or maintaining the customer's market, the department will consider the nonexclusive list of activities provided by WAC 458-20-193 (102) (d) (vii), but for purposes of this consideration, will replace any references to "this state" or "Washington" with "any state."

(ii) Customer's business location(s). The customer's related business activities occur at the customer's business location(s) if subsection (303) (c) (i) of this rule does not apply.

(iii) The customer's business location(s) is determined as follows:

(A) If the taxpayer's service requires the customer to be physically present, the customer's business location(s) is where the customer is located when the taxpayer provides the service.

(B) If the taxpayer's service does not require the customer to be physically present, and the taxpayer's service relates to a specific, known business location(s), the customer's business location(s) is that specific, known business location(s).

(C) If subsection (303) (c) (iv) (A) and (B) of this rule do not apply, then the customer's business location is the customer's principal place of business or commercial domicile.

(iv) The following is a nonexclusive list of business-related services:

~~((i))~~ (A) Designing, appraisal, inspection, or testing of tangible personal property;

~~((ii))~~ (B) Developing a business management plan;

~~((iii))~~ (C) Commission sales (other than sales of real ~~((or tangible personal))~~ property);

~~((iv))~~ (D) Debt collection services;

~~((v))~~ (E) Legal and accounting services not specific to real ~~((or tangible personal))~~ property; and

~~((vi))~~ (F) Advertising services ~~((; and~~

~~((vi))~~ Theater presentations).

**(d) If ~~((the taxpayer's service does not relate to real or tangible personal property, is either provided to a customer not engaged in business or unrelated to the customer's business activities; and))~~ subsection (303) (a) and (c) of this rule do not apply, then the location(s) where the customer receives the benefit of the service is determined as follows:**

(i) If the taxpayer's service requires the customer to be physically present, then the customer receives the benefit ~~((is received))~~ of the service where the customer is located when the taxpayer performs the service ~~((is performed))~~. The following is a nonexclusive list of services that require the customer to be physically present:

(A) Medical examinations;

(B) Hospital stays;

(C) Haircuts; and

(D) Massage services.

(ii) If the taxpayer's service does not require the customer to be physically present, and the taxpayer's service relates to a specific, known location(s), then the customer receives the benefit ~~((is received))~~ at ~~((those))~~ that location(s). The following is a nonexclusive list of services related to a specific, known location(s):

(A) Wedding planning;

(B) Receptions;

(C) Party planning;  
 (D) Travel agent and tour operator services (see Example 40); and  
 (E) Preparing ~~((and/or))~~ or filing state and local tax returns (see Example 39).

(iii) If subsection (303)(d)(i) and (ii) of this ~~((subsection))~~ rule do not apply, the customer receives the benefit of the service ~~((is received))~~ where the customer resides. The following is a nonexclusive list of services whose benefit is received at the customer's residence:

(A) Drafting a will (see Example 41);  
 (B) Preparing ~~((and/or))~~ or filing federal tax returns (see Examples 39 and 42);  
 (C) Selling investments; and  
 (D) Blood tests (not blood drawing).

(e) **Special rule for extension of credit.** See subsection (305) of this rule for special rules attributing income related to loans (secured and unsecured) and credit cards that is received by persons who are not financial institutions as defined in WAC 458-20-19404.

**(304) Examples of the application of the benefit of service analysis and reasonable methods of proportionally attributing receipts.**

(a) **Services related to real property:**

**Example ((7)) 8.** Architect drafts plans for a building to be built in Washington. Architect's services relate to real property, which is located in Washington, therefore the customer receives the benefit of that service in Washington at the location of the real property. Architect's receipts for this service are solely attributed to Washington because the customer receives the entire benefit ~~((is received))~~ in Washington.

**Example ((8)) 9.** Franchisor hires Taxpayer, an architect, to create a design of a standardized building that will be used at four locations in Washington and two locations in Oregon. Taxpayer's services relate to real property at those six locations, therefore the customer receives the benefit of the service at the four Washington locations and the two Oregon locations. Taxpayer will attribute 2/3 (4 of 6 sites) of the receipts for this service to Washington and 1/3 (2 of 6 sites) of the receipts to Oregon.

**Example ((9)) 10.** Assume the same facts as Example ((8)) 9 except Franchisor will use the same design in all 50 states for all its franchisee's locations. Taxpayer and Franchisor do not know at the time the service is provided (and cannot reasonably estimate) how many franchise locations will exist in each state. ~~((Therefore,))~~ If there is no reasonable means of proportionally attributing receipts at the time the services are performed, and it is clear that no state will have a majority of the franchise locations ~~((Accordingly))~~, the apportionable receipts must be attributed following the steps in subsection (301) ~~((b) through (f))~~ (c) through (g) of this rule.

**Example ((10)) 11.** Real estate broker located in Florida receives a commission for arranging the sale of real property located in Washington. The real estate broker's service is related to the real property, therefore the customer receives the benefit ~~((is received))~~ in Washington, where the real property is located, and the commission income is attributed to Washington.

(b) ~~((Services related to tangible personal property))~~ **Reserved.**

~~((Example 11. Big Manufacturing hires an engineer to design a tool that will only be used in a factory located in Brewster, Washington. Big Manufacturing receives the benefit of the engineer's services at a single location in Washington where the tool is intended to be~~

used. Therefore, 100% of engineer's receipts from this service must be attributed to Washington.

~~**Example 12.** The same facts as in Example 11, except Big Manufacturing will use the tool equally in factories located in Brewster and in Kapa'a, Hawai'i. Therefore, Big Manufacturer receives the benefit of the service equally in two states. Because the benefit of the service is received equally in both states, a reasonable method of proportionally attributing receipts would be to attribute 1/2 of the receipts to each state.~~

~~**Example 13.** Taxpayer, a commissioned salesperson, sells tangible personal property (100 widgets) for Distributor to XYZ Company for delivery to Spokane. Distributor receives the benefit of Taxpayer's service where the tangible personal property will be delivered. Therefore, Taxpayer will attribute the commission from this sale to Washington.~~

~~**Example 14.** Same facts as in Example 13, but the widgets are to be delivered 50 to Spokane, 25 to Idaho, and 25 to Oregon. In this case, the benefit is received in all three states. Taxpayer shall attribute the receipts (commission) from this sale 50% to Washington, 25% to Idaho, and 25% to Oregon where the tangible personal property is delivered to the buyer.~~

~~**Example 15.** Training Company provides training to Customer's employees on how to operate a specific piece of equipment used solely in Washington. Customer receives the benefit of the service where the equipment is used, which is in Washington. Therefore, Training Company will attribute 100% of its receipts received from Customer to Washington.)~~

(c) **Services related to customer's business activities.** The examples in this subsection assume that the customer is engaged in business and the services relate to the customer's business activities.

~~((**Example 16.** Manufacturer hires Law Firm to defend Manufacturer in a class action product liability lawsuit involving Manufacturer's Widgets. The benefit of Law Firm's services relates to Manufacturer's widget selling activity in various states. A reasonable method of proportionally attributing receipts in this case would be to attribute the receipts to the locations where the Manufacturer's Widgets were delivered, which relates to Manufacturer's business activities.)) (i) The following are examples where the customer's related business activities occur in the customer's market.~~

~~**Example 12.** Taxpayer, a commissioned salesperson, sells tangible personal property (100 widgets) for Distributor to XYZ Company for delivery to Spokane. Taxpayer's service is engaging in Distributor's product sales. Distributor receives the benefit of Taxpayer's service in its market, which in this case is Spokane, the location where XYZ Company receives the widgets. Taxpayer will attribute the commission income from this sale to Washington.~~

~~**Example 13.** Same facts as in Example 12, but 50 of the widgets are to be delivered to Spokane, 25 to Idaho, and 25 to Oregon. In this case, Distributor receives the benefit of Taxpayer's services in all three states. Taxpayer will attribute the receipts (commission income) from this sale 50% to Washington, 25% to Idaho, and 25% to Oregon, the locations where XYZ receives the widgets. It is assumed that the commission income is not proportionally different from percentage of widgets delivered into each state.~~

~~**Example ((17)) 14.** Debt Collector provides debt collection services to ABC. ((The benefit of Debt Collector's services relates to ABC's selling activity in various states.)) Debt Collector's service~~

is obtaining and facilitating amounts owed to ABC from the sale of ABC's products. ABC receives the benefit of Debt Collector's service in ABC's market. It is reasonable to assume that ABC's market is where the debtors are located (~~is the same as where ABC's business activity occurred~~) in various states. If Debt Collector is able to attribute specific receipts to a specific debtor, then the receipt is attributed to where the debtor is located.

**Example ((18)) 15.** Same facts as Example ((17)) 14, except Debt Collector is paid a lump sum amount and is unable to attribute specific benefits with specific debtors. In this case, a reasonable method of proportionally attributing benefits/receipts should be employed. Depending on Debt Collector's specific facts and circumstances, a reasonable method of proportionally attributing benefits/receipts could be: Relative number of debtors in each state; relative debt actually collected from debtors in each state; the relative amount of debt owed by debtors in each state; or another method that fairly apportions, and does not distort the apportionment of, Debt Collector's receipts.

~~((Example 19. Training Company provides training to Customer's employees who are all located in State A. The training is provided in State B. The training relates to the employees' ethical behavior within Customer's organization. Customer receives the benefit of Training Company's service in State A, where Customer's office is located and the employees presumably practice their ethical behavior. Training Company must attribute the apportionable receipts to State A where the benefit is solely received.~~

~~Example 20. Same facts as Example 19, except the training is provided for employees from several states and Training Company knows where each employee works. The benefit of the Training Company's services is received in those several states. Attributing receipts from the training based on where the employees work is a reasonable method of proportionally attributing the receipts income.)~~

**Example ((21)) 16.** Call Center provides "customer service" services to Retailer who has customers in all 50 states. Call Center handles inquiries from Retailer's customers on how to install and use Retailer's products, and troubleshoots customer issues related to the products sold. Call Center also informs Retailer's customers about package deals and other discounts on Retailer's new lines of products. Call Center's services (~~relate to Retailer's selling activity in all 50 states, therefore~~) are promoting Retailer's products by incentivizing customers to make additional purchases, and establishing or maintaining Retailer's market by supporting existing customers. Retailer receives the benefit of Call Center's services in its market, which in this case is all 50 states. Call Center has offices in Iowa and Alabama that answer questions about Retailer's products. Call Center records Retailer's (~~customer's~~) customers' calls by area code. Call Center may attribute receipts received from Retailer based on the number of calls from area codes assigned to each state. This would be a reasonable method of proportionally attributing receipts notwithstanding the fact that mobile phone numbers and related area codes may not exactly reflect the physical location of the customer in all cases.

**Example ((22)) 17.** Taxpayer provides internet advertising services to national retail chains, regional businesses, businesses with a single location, and businesses that operate solely over the internet. Taxpayer's services are promoting customers' products. Generally, each customer receives the benefit of ~~((the))~~ Taxpayer's advertising services (~~is received where the customer's related business activities~~

occur)) in each customer's market. Taxpayer determines, based on its books and records, where each customer receives the benefit in its market. If Taxpayer cannot obtain this information, it would then use a reasonable method of proportionally attributing the benefit of its service to the customer's market. Depending on what products or services ((are being provided by)) Taxpayer's customers are providing, the use of relative ((population)) internet connections in the customer's market based on Federal Communications Commission (FCC) data may be a reasonable method of proportionally attributing the benefit of Taxpayer's services to customers' markets.

**Example ((23)) 18.** Oregon Newspaper sells newspaper advertising to Merlin's Potion Shop. Merlin's only makes over-the-counter sales from its single location in Vancouver, Washington. Oregon Newspaper is promoting Merlin's Potion Shop's products. Merlin's Potion Shop receives the benefit of ((the)) Oregon Newspaper's advertising services in its market in Washington, where it makes sales to its customers. In this case Oregon Newspaper will report 100% of its receipts ((re-eeived)) from Merlin's to Washington.

**Example 19.** Recording Company provides content development services for its customer, Licensing Company. Recording Company's content development services consist of recording and developing a live television program, and selling this program to Licensing Company. Before Recording Company records and develops the program, Licensing Company has already sold the broadcasting rights for this program to third-party broadcasters. Licensing Company does not conduct any further development of its own on the television program. Recording Company's service is completing Licensing Company's sales. Licensing Company receives the benefit of Recording Company's service in Licensing Company's market. In this case Licensing Company's market is where the broadcasters use Licensing Company's rights to the television program.

**Example 20.** Marketer A contracts with Seller to conduct a "marketing campaign" service for Seller. Marketer A's marketing campaign consists of researching population groups most likely to purchase Seller's products, developing targeted promotional materials, and distributing those materials to the identified population groups via mail and social media. Marketer A subcontracts with Marketer B, for Marketer B to conduct the marketing campaign service.

Marketer A's services are promoting Seller's products. Seller receives the benefit of Marketer A's services in Seller's market, where Seller sells the products being promoted by Marketer A's campaign.

Marketer B's services are completing Marketer A's product sales. By conducting the marketing campaign for Marketer A, Marketer B is fulfilling Marketer A's contractual obligations to Seller. Marketer A receives the benefit of Marketer B's services in Marketer A's market. In this case, Marketer A's market is the same as Seller's market, where Seller receives the benefit of Marketer A's service.

Marketer B will attribute its receipts from Marketer A to Seller's market using information supplied by Marketer A about Seller's market. If Marketer A and Marketer B are affiliated, the presumption is that Marketer A should be able to provide to Marketer B the information about Seller's market.

**Example 21.** Investment Manager contracts with a mutual fund company to manage a fund. Investment Manager receives a fee from the mutual fund company for managing the fund based on the value of the assets in the fund on particular days. Responsibilities in managing the fund consist of: Helping the fund execute business strategies through daily management of the fund, overseeing the buying and selling of

fund holdings, and investor servicing. Investment Manager determines what assets the fund will buy with investors' money. The fund manager is responsible for making sure the portfolio is earning the expected return, which is a significant consideration when investors decide which fund to invest their money in. The mutual fund discloses to investors in the fund's prospectus statement who the Investment Manager is and the management fees paid. Investment Manager knows or should know the identity of the investors in the fund and their mailing addresses. Investment Manager's service is establishing or maintaining the mutual fund company's market. In this case, it is reasonable to assume that the mutual fund company's market is where the investors are located. Investment Manager will attribute its receipts from managing the fund to those investor locations.

**Example 22.** Staffing Co. contracts with ISP Inc., an internet service provider, to provide supplemental marketing staff at ISP's sole office in State A. The supplemental marketing staff make calls to current and prospective customers of ISP, offering additional or enhanced services such as faster internet speed, ad blocking, and video conferencing. ISP sells internet services in States A, B, and C. The activities of Staffing Co.'s supplemental marketing staff are promoting ISP's products. ISP receives the benefit of Staffing Co.'s service in ISP's market, which in this case is States A, B, and C.

**Example 23.** Management Co. provides customer support services to Customer A. Customer A's only physical location is its office in State Z. Customer A makes sales throughout the United States. Per the contract between Management Co. and Customer A, customer support services provided by Management Co. consist of operating a call center to handle Customer A's calls and emails related to services and sales. Management Co.'s customer support services are establishing and maintaining Customer A's market. Customer A receives the benefit of Management Co.'s service in Customer A's market throughout the United States.

(ii) The following are examples where the customer's related business activities occur at the customer's business location(s). In these examples, the taxpayer's service is not promoting the customer's products, is not engaging in or completing sales of the customer's products, is not obtaining or facilitating payment of amounts owed to the customer from the sale of its products, and is not establishing or maintaining the customer's market.

**Example 24.** Same facts as Example 22, except Staffing Co. provides supplemental human resources staff to support business operations at ISP Inc.'s office in State A. Some of the supplemental staff work remotely, while others work at ISP's office. The supplemental human resources staff's work consists of recruiting and onboarding employees, facilitating communications between employees and management, managing employee benefits, and handling internal disciplinary actions. ISP receives the benefit of Staffing Co.'s service at ISP's business location(s). ISP's only office location is in State A. In this case the staffing service does not require ISP to be physically present, but relates to a specific, known business location, ISP's office in State A. ISP receives the benefit of Staffing Co.'s service in State A.

**Example 25.** Same facts as Example 23, except Management Co. also provides network support services to Customer A. Per the contract between Management Co. and Customer A, network support services provided by Management Co. consist of providing administrative, technical, and engineering support staff to develop, implement, and maintain all internal software elements for Customer A. Customer A's internal soft-

ware allows Customer A's employees to perform their job duties, and includes operating systems, recordkeeping, filesharing, data and anti-virus protection, and timekeeping software. Customer A receives the benefit of Management Co.'s service at Customer A's business location(s). In this case the network support services do not require Management Co. to be physically present, but relate to a specific, known business location, Customer A's physical location in State Z. Customer A receives the benefit of Management Co.'s network support services in State Z.

**Example 26.** Big Manufacturing hires an engineer to design a tool that will only be used in a factory located in Brewster, Washington. Big Manufacturing receives the benefit of the engineer's services at its business location. In this case the design service does not require Big Manufacturing to be physically present, but relates to a specific, known business location, the single location in Washington where Big Manufacturing intends to use the tool. One hundred percent of engineer's receipts from this service must be attributed to Washington.

**Example 27.** The same facts as in Example 26, except Big Manufacturing will use the tool equally in factories located in Brewster and in Kapa'a, Hawai'i. Big Manufacturing receives the benefit of the service at its business locations equally in two states. As a result, a reasonable method of proportionally attributing receipts would be to attribute 1/2 of the receipts to each state.

**Example 28.** Training Company provides training to Customer's employees on how to operate a specific piece of equipment used solely in Washington. Customer receives the benefit of the service at its business location(s). In this case the training service does not require the customer to be physically present, but relates to a specific, known business location in Washington, where employees use the equipment. Training Company will attribute 100% of its receipts received from Customer to its business location in Washington.

**Example 29.** Training Company provides manufacturing process improvement training to Customer's employees who are all located in State A. The training is provided from State B. Customer receives the benefit of Training Company's service at Customer's business location(s). In this case the training service does not require Customer's employees to be physically present, but it relates to the specific, known business location at Customer's office in State A, where the employees improve the manufacturing process. Training Company must attribute the apportionable receipts to State A where Customer solely receives the benefit of Training Company's service.

**Example 30.** Same facts as Example 29, except the training is provided for employees from several states and Training Company knows where each employee is assigned to work. Training Company's services relate to Customer's specific, known business locations where the employees are assigned to work in those several states, which is presumed to be where the employees use the training. Attributing receipts from the training based on where the employees are assigned to work is a reasonable method of proportionally attributing the receipts income.

**Example 31.** Training Company provides sales strategy training to Retailer's sales employees who are all located at Retailer's office in State A but make sales to Retailer's customers in all 50 states. The training is provided from State B via a combination of in-person and virtual attendance. Retailer receives the benefit of Training Company's service at Retailer's business location(s). In this case the training service does not require Retailer's employees to be physical-

ly present, but it relates to the specific, known business location at Retailer's office in State A, where Retailer's employees are assigned to work. This location is presumed to be where Retailer's sales employees use their improved skill sets from the training. Retailer receives the benefit of Training Company's service at Retailer's business location in State A.

**Example 32.** Manufacturer hires Law Firm to defend Manufacturer in a class action product liability lawsuit involving Manufacturer's Widgets. Manufacturer's principal place of business is in Washington. Manufacturer receives the benefit of Law Firm's service at Manufacturer's business location(s). In this case, Law Firm's service does not require Manufacturer to be physically present, and does not relate to a specific, known business location(s). Manufacturer's business location is its principal place of business or commercial domicile in Washington, where Manufacturer receives the benefit of Law Firm's services.

**Example 33.** Game Publisher hires Developer to perform software development services in connection with a new computer game that Game Publisher will release in the following year. Under the contract between Game Publisher and Developer, Developer's primary duty is to deliver a "beta" version of the computer game that Game Publisher will use for further development. Developer performs all of its software development activities at its office in Seattle. After Developer delivers a beta version of the game, Game Publisher will perform additional development on the game at its locations in California. Game Publisher receives the benefit of Developer's service at Game Publisher's business location(s). In this case Developer's service does not require Game Publisher to be physically present, but relates to the specific, known business locations in California where Game Publisher performs additional development. Developer will attribute 100% of its receipts from Game Publisher to California where Game Publisher receives the benefit of the service.

**Example 34.** Game Publisher received consumer complaints about its game console overheating and contracts with QA Company to determine the cause of and a possible solution to the problem. Under the contract, QA Company will receive compensation for providing testing services specific to the game console. Game Publisher will use QA Company's findings and recommendation to determine how to repair the video game console at its manufacturing location in California. Game Publisher receives the benefit of QA Company's service at Game Publisher's business location(s). In this case QA Company's service does not require Game Publisher to be physically present, but relates to the specific, known business location(s) in California where Game Publisher will perform additional development to resolve the issue. QA Company will attribute 100% of its receipts from Game Publisher to California where Game Publisher receives the benefit of the service.

**Example ((24)) 35.** Company A provides human resources services to Racko, Inc. which has three offices that use those services in Washington, Oregon, and Idaho. Racko sells widgets and has customers for its widgets in all 50 states. Racko receives the benefit of ((the)) Company A's services ((performed by Company A is received)) at Racko's business locations. In this case Company A's services do not require Racko's employees to be physically present, but relate to the specific, known business locations of Racko's offices in Washington, Oregon, and Idaho. Assuming that each office is approximately the same size and uses the services to approximately the same extent, then attributing 1/3 of the receipts to each of the states in which Racko has loca-

tions using the services is a reasonable method of proportionally attributing Company A's receipts from Racko.

**Example ((25)) 36.** Director serves on the board of directors for DEF, Inc. Director's services relate to the general management of DEF(~~(Inc)~~). DEF(~~(Inc)~~) is Director's customer and receives the benefit of Director's services at (~~its corporate~~) DEF's business location(s). In this case Director's services do not require any employees of DEF to be physically present, and do not relate to any specific, known business location. DEF's business location is its principal place of business or commercial domicile. (~~Therefore,~~) Director must attribute the receipts earned from Director's services to DEF to DEF's (~~corporate~~) principal place of business or commercial domicile.

**Example 37.** Insurance Company hires Law Firm to provide insurance defense services. Law Firm's insurance defense services involve representing one of Insurance Company's policyholders to minimize liability in a third-party lawsuit claiming damages against that policyholder. Insurance Company receives the benefit of Law Firm's service at Insurance Company's business location(s). In this case, Law Firm's service does not require Insurance Company to be physically present. However, Law Firm's service relates to a specific, known business location(s) that can be tied to its representation of the specific policyholder. Law Firm knows or should know the jurisdiction where the third party files its lawsuit against the policyholder, or where settlement occurs. This jurisdiction is the business location where Law Firm represents the policyholder and minimizes Insurance Company's liability. Insurance Company receives the benefit of Law Firm's service at this jurisdiction where the third party files its lawsuit, or where settlement occurs.

(d) **Services not related to real (~~or tangible personal~~) property and either provided to customers not engaged in business or unrelated to the customer's business activities.**

**Example ((26)) 38.** A Washington resident travels to California for a medical procedure. Because the Washington resident must be physically present in California, the Washington resident receives the benefit of the service in California. (~~Therefore,~~) The service provider must attribute its income from the procedure to California.

**Example ((27)) 39.** Washington accountant prepares a Nevada couple's Arizona and Oregon state income tax returns as well as their federal income tax return. The benefit of the accountant's service associated with the state income tax returns is attributed to Arizona and Oregon because these returns relate to specific locations (states). The benefit associated with the federal income tax return is attributed to the couple's residence. The fees for the state tax returns are attributed to Arizona and Oregon, respectively, and the fee for the federal income tax return is attributed to Nevada.

**Example ((28)) 40.** Tour Operator provides cruises through Washington's San Juan Islands for four days and Victoria, British Columbia for one day. Tour Operator's customers receive the benefit of (~~the tour is received~~) Tour Operator's services where the tour occurs. Tour Operator may use a reasonable method of proportionally attributing the benefit to determine that its customers receive 80% of the benefit in Washington and 20% outside of Washington. (~~Therefore,~~) Tour Operator must attribute 80% of apportionable receipts to Washington and 20% to British Columbia.

**Example ((29)) 41.** A Washington couple hires a Washington attorney to prepare a last will and testament for Daughter who lives in California. Daughter is a third-party beneficiary and receives the

benefit of the attorney's services in California because that is where Daughter lives. Washington Attorney must attribute the fee to California.

**Example ((30)) 42.** A Washington couple hires a California accountant to prepare their joint federal income tax return. Because the couple does not have to be physically present for the accountant to perform services and services are not related to a specific location, the Washington couple receives the benefit of the accountant's services at their residence in Washington. California accountant must attribute its fee for this service to Washington.

**Example ((31)) 43.** An Arizona resident retains a Washington stockbroker to handle its investments. The stockbroker receives orders from the client and executes trades of securities on the New York Stock Exchange. Because (a) the Arizona resident is not investing as part of a business; (b) the activity does not relate to real (~~or tangible personal~~) property; (c) (~~and~~) the client does not need to be physically present for the stockbroker to perform its services; and (d) the services are not related to a specific location, the client receives the benefit of the services at client's place of residence. Washington stockbroker must attribute the fee to Arizona.

~~((Example 32. Investment Manager manages a mutual fund. Investment Manager receives a fee for managing the fund based on the value of the assets in the fund on particular days. Investment Manager knows or should know the identity of the investors in the fund and their mailing addresses. The fees received by Investment Manager (whether from the mutual fund or from individual investor's accounts) are for the services provided to the investors. Investment Manager's services do not relate to real or tangible personal property and do not require that the client be physically present, therefore, the benefit of Investment Manager's services is received where the investors are located and Investment Manager's apportionable receipts must be attributed to those locations.))~~

**(305) Special rules related to extending credit performed by non-financial institutions.** Businesses not included in the definition of a financial institution under WAC 458-20-19404 that provide services related to the extension of credit must attribute their income from such activities as follows:

(a) **Activities related to extending credit where real property secures the debt.** Such activities include, but are not limited to, servicing loans, making loans subject to deeds of trust or mortgages (including any fees in the nature of interest related to the loan), and buying and selling loans. Apportionable receipts from these activities are attributed in the same manner as a financial institution attributes these apportionable receipts under WAC 458-20-19404.

(b) **Activities related to credit cards.** Such activities include, but are not limited to, issuing credit cards, servicing, and billing. Apportionable receipts from these activities are attributed to the billing address of the card holder.

(c) **Other activities related to extending credit where real property does not secure the debt.** Such activities include, but are not limited to, servicing loans, making loans (including any fees related to such loans), and buying and selling loans. Apportionable receipts from these activities are attributed in the same manner a financial institution attributes income under WAC 458-20-19404.

(d) **All other apportionable receipts.** All other apportionable receipts from such businesses are attributed using subsections (301) through (304) of this rule or WAC 458-20-19403.

(306) **What does "unable to attribute" mean?** A taxpayer is "unable to attribute" apportionable receipts when the taxpayer has no commercially reasonable means to acquire the information necessary to attribute the apportionable receipts. Cost and time may be considered to determine whether a taxpayer has no commercially reasonable means to acquire the information necessary to attribute apportionable receipts. See Examples 44 through 46 below, as well as Examples 5 through 7 in this rule.

**Example ((33)) 44.** ((One)) The marketing office of ZYX LLC has information that can easily be used to determine a reasonable proportional attribution of receipts from providing marketing services to customers, but does not provide this information to the accounting office preparing the tax returns. ZYX ((LLC)) must use the information maintained by the marketing office to attribute its receipts.

**Example ((34)) 45.** CBA, Inc. is entitled to receive information from an affiliate or unrelated third party which it could use to determine where the customer receives the benefit of ((its)) CBA's services ((is received)), but chooses not to obtain that information. CBA((, Inc.)) must use the information maintained by the affiliate or unrelated third party to attribute its apportionable receipts.

**Example ((35)) 46.** Same facts as Example ((34)) 45, except that the information is raw data that must be formatted and otherwise processed at a cost that exceeds a reasonable estimate of the possible difference in the amount of tax CBA((, Inc.)) would owe if it used another attribution method authorized in subsection (301) ((b) through (f)) (c) through (g) of this rule. In this case, it is not commercially reasonable for CBA((, Inc.)) to use this data to determine where to attribute its income.

#### PART 4. RECEIPTS FACTOR.

(401) **General.** The receipts factor is a fraction that applies to apportionable income for each calendar year. Taxpayers must calculate a separate receipts factor for each apportionable activity ((business and occupation)) B&O tax classification engaged in.

(402) **Receipts factor calculation.** The receipts factor is: Washington-attributed apportionable receipts divided by world-wide apportionable receipts less throw-out income (see subsection (403) of this section). The receipts factor expressed algebraically is:

$$\text{(Receipts factor)} = \frac{\text{(Washington apportionable receipts)}}{\text{((Worldwide apportionable receipts) - (Throw-out income))}}$$

(a) The numerator of the receipts factor is: The total apportionable receipts attributable to Washington during the calendar year from engaging in the apportionable activity.

(b) The denominator of the receipts factor is: The total (world-wide, including Washington) apportionable receipts from engaging in the apportionable activity during the calendar year, less throw-out income.

**Example ((36)) 47.** NOP, Inc. has \$400,000 of receipts attributed to Washington and \$1,000,000 of worldwide receipts. Assuming that there is no throw-out income, NOP's receipts factor is 40% (400,000/1,000,000).

(c) In the very rare situation where the receipts factor (after reducing the denominator by the throw-out income) is zero divided by zero, the receipts factor is deemed to be zero.

(403) **Throw-out income.** Throw-out income includes all apportionable receipts attributed to states where the taxpayer:

(a) Is not taxable (see subsection (106) of this rule); and

(b) At least part of the activity of the taxpayer related to the throw-out income is performed in Washington.

**Example ((37)) 48.** During 2019, XYZ Corp. performs all services in Washington and has apportionable receipts attributed using the criteria listed in subsections (301) through (305) of this rule or WAC 458-20-19403 as follows: Washington \$500,000; Idaho (~~(\$200,000)~~) \$50,000; Oregon \$100,000; and California \$300,000. XYZ (~~(Corp.)~~) is subject to Oregon and Idaho corporate income tax, but does not owe any California business activities taxes. XYZ does not have any throw-out income because Oregon and Idaho impose a business activities tax on its activities and it is deemed to be taxable in California because it satisfies the minimum nexus standards for 2019 explained in WAC 458-20-19401 (~~((more than \$250,000 in receipts))~~). XYZ's receipts factor is: (~~((500,000/1,100,000 or 45.45%))~~) 500,000/950,000 or 52.63%. See current minimum nexus standard for periods beginning January 1, 2020.

**Example ((38)) 49.** Same facts as Example ((37)) 48 except Idaho does not impose any tax on XYZ (~~(Corp.)~~). The (~~(\$200,000)~~) \$50,000 attributed to Idaho is throw-out income that is excluded from the denominator because: XYZ (~~(Corp.)~~) is not subject to Idaho business activities taxes(~~(+)~~), does not have substantial nexus with Idaho under Washington standards(~~(+)~~), and performs in Washington at least part of the activities related to the receipts attributed to Idaho. The receipts factor is 500,000/900,000 or 55.56%.

**Example ((39)) 50.** The same facts as Example ((38)) 49 except XYZ (~~(Corp.)~~) performs no activities in Washington related to the (~~(\$200,000)~~) \$50,000 attributed to Idaho. In this situation, the (~~(\$200,000)~~) \$50,000 is not throw-out income and remains in the denominator. The receipts factor is: (~~((500,000/1,100,000 or 45.45%))~~) 500,000/950,000 or 52.63%.

**PART 5. HOW TO DETERMINE WASHINGTON TAXABLE INCOME.**

(501) **General.** Washington taxable income is determined by multiplying apportionable income by the receipts factor for each apportionable activity the taxpayer engages in. While the receipts factor is calculated without (~~(regard to))~~ accounting for deductions authorized under chapter 82.04 RCW, apportionable income is determined by reducing the apportionable receipts by amounts that are deductible under chapter 82.04 RCW, regardless of where the deduction may be attributed. This formula can be expressed algebraically as:

$$\begin{matrix} \text{(Taxable} \\ \text{Income)} \end{matrix} = \begin{matrix} \text{(Receipts} \\ \text{Factor)} \end{matrix} \times \begin{matrix} \text{(Apportionable} \\ \text{receipts} \\ \text{deductions)} \end{matrix}$$

**Example ((40)) 51.** Calculating apportionable income. Corporation A received \$2,000,000 in apportionable receipts from its worldwide apportionable activities, which included \$500,000 of receipts that are deductible under Washington law. Corporation A's total apportionable income is \$1,500,000 (\$2,000,000 minus \$500,000 of deductions). If Corporation A's receipts factor is 31.25%, then its taxable income is \$468,750 (\$1,500,000 multiplied by 0.3125).

**PART 6. REPORTING INSTRUCTIONS.**

(601) **General.**

(a) Taxpayers required to use this rule's apportionment method may report their taxable income based on their apportionable income

for the reporting period multiplied by the receipts factor for the most recent calendar year the taxpayer has available.

(b) If a taxpayer does not calculate its taxable income using (a) of this subsection, the taxpayer must use actual current calendar year information.

(602) **Reconciliation.** Regardless of how a taxpayer reports its taxable income under subsection (601)(a) or (b) of this rule, ~~((when the))~~ a taxpayer ~~((has the information))~~ that has reportable apportionable income must file a reconciliation to determine the receipts factor for an entire calendar year ~~((, it must file a))~~ by October 31st of the following year. If the date for filing falls on a Saturday, Sunday, or legal holiday, the reconciliation will be considered timely if filed on the next business day. The reconciliation filing must be on the department's "annual reconciliation of apportionable income" form. The reconciliation ~~((and))~~ may result in the taxpayer either ~~((obtain))~~ obtaining a refund or ~~((pay))~~ paying any additional tax due. ~~((The reconciliation must be filed on a form approved by the department.))~~ In either event (refund or additional taxes due), interest will apply in a manner consistent with tax assessments. If the reconciliation is completed ~~((prior to))~~ and any additional tax shown on the reconciliation has been paid by the October 31st ~~((of the following year))~~ due date, no penalties will apply to ~~((any))~~ the additional tax ~~((that may be due))~~ shown on the reconciliation.

**WSR 23-24-100  
PROPOSED RULES  
LIQUOR AND CANNABIS  
BOARD**

[Filed December 6, 2023, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-15-116.

Title of Rule and Other Identifying Information: Rules to implement SSB 5448 (chapter 279, Laws of 2023), and rules to address an accepted petition for rule making on mandatory alcohol server training (MAST) 13 permits:

SSB 5448	
Amended	WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees.
Amended	WAC 314-03-200 Outside or extended alcohol service.
Amended	WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service.
Amended	WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service.
Amended	WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service.
Repealed	WAC 314-03-205 Outdoor alcohol service for on-premises licensees.
New	WAC 314-03-600 Takeout/delivery endorsement comparison table.
MAST 13 Permit Petition	
Amended	WAC 314-11-040 What duties can an employee under twenty-one years of age perform on a licensed premises?
Amended	WAC 314-17-015 What are the two types of alcohol server training permits?

Hearing Location(s): On January 17, 2024, at 10:00 a.m. All public board activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The boardroom at the headquarters building, 1025 Union Avenue, Olympia, WA 98504, will be open for in-person attendance. The public may also log in using a computer or device, or call in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the boardroom will be staffed during a meeting, board members and agency participants may continue to appear virtually. For more information about board meetings, please visit <https://lcb.wa.gov/Boardmeetings/Board meetings>.

Date of Intended Adoption: No earlier than January 31, 2024.

Submit Written Comments to: Daniel Jacobs, Rules and Policy Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, email [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov), fax 360-704-5027, by January 10, 2024.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email [anita.bingham@lcb.wa.gov](mailto:anita.bingham@lcb.wa.gov), by January 10, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal reflects two separate rule-making endeavors: (1) Implementation of SSB 5448, primarily codified at RCW 66.24.710; and (2) revising rules related to MAST 13 permit holders and where they can open and pour beer and wine.

1. Adding references to RCW 66.24.710: SSB 5448 is primarily codified at RCW 66.24.710, named "Takeout or delivery." Some requirements in the rules below were put in place after the rule making done following E2SHB 1480 passed during the 2021 legislative session in the height of the COVID-19 pandemic. These requirements include requiring a purchased meal to accompany sales of alcohol sold for takeout or delivery, that delivery drivers hold certain alcohol server permits, and ID checks for customers when the alcohol is delivered, among others. Where these requirements are already in rule, a citation to RCW 66.24.710 is added to clarify that these rule requirements are also in statute. Where these requirements were not in place, the statutory language is added into the rule, with RCW 66.24.710 referenced, to clarify that these requirements are now in place.

2. Delineating takeout and delivery endorsements from other existing license privileges: Several types of liquor licensees identified in RCW 66.24.710 (1)(a) already had the ability to sell alcohol for takeout or delivery, either through off-premises endorsements that are separately available, or directly through statutory authority, and clarified in separate rules. Over the past few years, licensees have asked agency staff questions regarding the differences and different rules applicable to these licensees, depending on whether delivery or takeout is being done through the new takeout or delivery endorsement, or through the preexisting endorsement or privilege. This has caused a great deal of confusion for both licensees and agency staff. Language referring to these license types has been removed from some of the rules to help delineate the different endorsements and rules that apply to them, as well as a new rule created, WAC 314-03-600, in the form of a straightforward visual tool to answer in Yes/No form whether a meal is required or third-party delivery is allowed depending on the license type and endorsement at issue.

3. Ready to drink cocktails: Agency staff have also been frequently asked about the applicability of rules regarding the sale through delivery or takeout of "ready to drink cocktails," commonly packaged in cans, a relatively new presentation of alcohol that has become increasingly popular, and as such, increasingly inquired about to agency staff. Because these do not fit neatly into an existing rule, and to implement the takeout and delivery endorsement regarding these new drinks, explicit authorization to sell these, as well as a definition, is proposed in amended WAC 314-03-500.

4. Consolidating outside service rules: As authorized by RCW 66.24.710(7), the liquor and cannabis board (LCB) is seeking to simplify the outdoor alcohol service rules by combining what are currently two rules, WAC 314-03-200 and 314-03-205, into a single rule, amended WAC 314-03-200. WAC 314-03-205 was initially created as a temporary set of exceptions to WAC 314-03-200 following the passage of E2SHB 1480, which instructed the agency to create additional flexibility for licensees to utilize outdoor spaces for alcohol service, the idea at the time being that this would be temporary, when many state and local authorities were placing limits on the use of indoor spaces during the height of the COVID-19 pandemic. SSB 5448 made the temporary changes a permanent part of rule, and as a result, agency staff and licensees had two rules to consult regarding outdoor alcohol service. Much of the language of the two rules was identical, and to improve clarity and enable licensees and agency staff to instead consult one single rule regarding outdoor alcohol service, LCB is proposing a single amended WAC 314-03-200 that reflects the content of both rules. This necessarily involves the proposed repeal of WAC 314-03-205.

5. MAST 13 Rule Changes: During most of the COVID-19 pandemic, LCB allowed MAST 13 permit holders, employees between 18 and just under 21 years of age who can pour beer and wine at the customer's table, as well as take orders for spirits, to pour beer and wine away from the customer's table. After this allowance expired in September 2022, LCB received a petition for rule making that sought to amend WAC 314-17-015 and make this a permanent part of rule, allowing MAST 13 permit holders to pour beer and wine away from the customer's table. In January 2023, LCB accepted this petition for rule making. This rule-making project began in March 2023, and was later combined with the SSB 5448 rule making. To implement this change, the language in WAC 314-11-040 and 314-17-015 has been changed to state that MAST 13 permit holders may open and pour beer and wine without entering an age-restricted area, using language similarly used in other rules and statutes to describe the area classified by LCB as off limits to persons under the age of 21.

Reasons Supporting Proposal: The proposed rules are needed to align existing rule language with SSB 5448 (chapter 279, Laws of 2023) and implement RCW 66.24.710 as described below:

<b>SSB 5448</b>		
<b>Rule Section</b>	<b>Description of proposed rule change</b>	<b>Rule Necessity</b>
WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees. (AMENDED)	Added language stating that on-premises beer or wine licensees must obtain the takeout or delivery endorsement identified in RCW 66.24.710 (5)(a).	Aligning existing rule language with RCW 66.24.710.
	Removed language referring to third-party delivery.	
	Changed written numbers to numeric form.	Improving clarity without changing effect.
WAC 314-03-200 Outside or extended alcohol service. (AMENDED)	Stated that all language referring to outdoor alcohol service applies also to extended indoor alcohol service.	Improving clarity, reducing confusion and the need for licensees and agency staff to reference two separate rules on outdoor alcohol service and implementing RCW 66.24.710(7).
	Rearranged order and flow of subsections to allow consolidation with WAC 314-03-205 to create one single rule for outdoor alcohol service.	
	Copied language verbatim regarding alcohol service in outdoor privately owned spaces from WAC 314-03-205(1), with the following exceptions: 1. Added language stating that if interior access is from an area classified by LCB as off limits to any person under age of 21, people under age 21 are prohibited from outdoor or extended alcohol service area. 2. Moved language from subsections (6)(f) and (7) regarding the authority of LCB to grant limited exceptions from the permanent or moveable barrier requirement.	

<b>SSB 5448</b>		
<b>Rule Section</b>	<b>Description of proposed rule change</b>	<b>Rule Necessity</b>
	<p>Copied language verbatim regarding alcohol service in outdoor public spaces from WAC 314-03-205(2), with the following exceptions:</p> <ol style="list-style-type: none"> <li>1. Added the word "fence-free" before "permanent demarcation."</li> <li>2. Added language clarifying that certain outdoor public spaces must always have permanent or moveable barriers.</li> </ol>	
	<p>Copied language verbatim regarding liquor licensees sharing an outdoor service area, being jointly responsible for compliance with the outdoor service rules, and definitions from WAC 314-03-205 (3)-(5).</p>	
<p>WAC 314-03-205 Outdoor alcohol service for on-premises licensees. (REPEALED)</p>	<p>REPEALED</p>	<p>Improving clarity, reducing confusion and the need for licensees and agency staff to reference two separate rules on outdoor alcohol service and implementing RCW 66.24.710(7).</p>
<p>WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service. (AMENDED)</p>	<p>Replaced citations to chapter 279, Laws of 2023, with citations to RCW 66.24.710.</p>	<p>Improving clarity without changing effect.</p>
	<p>Amending language describing people age 21 and older.</p>	
	<p>Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.</p>	
	<p>Defining "spirits."</p>	
	<p>Removed language referencing domestic wineries, domestic breweries, microbreweries, and distilleries.</p>	<p>Aligning rule language with RCW 66.24.710 and preexisting statutes that authorized certain licensees to deliver alcohol.</p>
	<p>Added language stating that licensees authorized to sell spirits are authorized to sell "ready to drink cocktails" through takeout or delivery services.</p>	<p>Providing clarity regarding a frequent subject of questions to agency staff.</p>
	<p>Defining "ready to drink cocktails."</p>	
	<p>Removing language regarding kegs.</p>	<p>Improving clarity because kegs are the subject of a different rule.</p>
	<p>Adding language stating that employees delivering alcohol must have an MAST 12 permit.</p>	<p>Aligning rule language with RCW 66.24.710.</p>
	<p>Adding language that alcohol must be delivered by direct employees of the licensee.</p>	
<p>Adding language that alcohol sold for takeout and delivery must be accompanied by a purchased meal.</p>		

<b>SSB 5448</b>		
<b>Rule Section</b>	<b>Description of proposed rule change</b>	<b>Rule Necessity</b>
WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service. (AMENDED)	Replaced citations to chapter 279, Laws of 2023, with citations to RCW 66.24.710.	Improving clarity without changing effect, citing RCW 66.24.710 where appropriate.
	Copied language from WAC 314-03-500 clarifying that this endorsement is separate from the endorsement authorizing the sale of manufacturer sealed alcohol products at retail or growlers.	
	Adding citations to RCW 66.24.710.	
	Renumbering subsections to separate different requirements.	
	Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.	
WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service. (AMENDED)	Replaced citations to chapter 279, Laws of 2023, with citations to RCW 66.24.710.	Improved clarity without changing effect, citing RCW 66.24.710 where appropriate.
	Copied language from WAC 314-03-500 clarifying that this endorsement is separate from the endorsement authorizing the sale of manufacturer sealed alcohol products at retail, and nonmanufacturer or nonfactory sealed premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks.	
	Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.	
	Adding language stating that growlers do not need to be accompanied by a purchased meal.	
	Replacing definition of "growler" with a reference to RCW 66.24.710.	
WAC 314-03-600 Takeout/delivery endorsement comparison table. (NEW)	Demonstrates two tables that provide in a Yes/No format whether a meal is required to be sold with the alcohol, or third-party delivery is permitted, depending on the type of liquor licensee and the endorsement under which the alcohol is being sold. Identifies six liquor license types and six endorsements. Uses "n/a" if the liquor licensee cannot hold the endorsement at issue.	Some liquor license types are identified in RCW 66.24.710 as being eligible for the three different endorsements available, but already had endorsements or statutory authority to sell alcohol for takeout, and charts are necessary to provide licensees and agency staff a simple visual tool to enable them to understand what is permitted, prohibited, and required depending on the liquor license type and endorsement at issue.

The changes to WAC 314-11-040 and 314-17-015 reflect the decision by LCB to make what was a temporary allowance during the COVID-19 pandemic a permanent part of rule, as indicated when LCB accepted a rule-making petition in January 2023.

MAST 13 Permit Privilege Rule Revisions			
Rule Section	Current Rule Language	Proposed New Language	Rule Necessity
WAC 314-11-040 What duties can an employee under twenty-one years of age perform on a licensed premises? (AMENDED)	"What duties can an employee under twenty-one years of age perform on a licensed premises?"	"Permissible duties of an employee under 21 years of age on a licensed premises."	Improving clarity without changing effect.
	"Mixing drinks."	"Pouring spirits and mixing cocktails."	
	"Drawing beer or wine from a tap."	"Drawing beer or wine from a tap or spigot."	
	Replacing a comma with "or."		
	Changed written numbers to numeric form.		
	Corrected spelling of "speciality" to "specialty."		
	"Pouring beer or wine anywhere except at the patron's table."	"Opening or pouring beer or wine in area classified by the board as off limits to any person under the age of 21."	Amending rule to make what was a temporary allowance during the COVID-19 pandemic a permanent rule change.
WAC 314-17-015 What are the two types of alcohol server training permits? (AMENDED)	"What are the two types of alcohol server training permits?"	"Types of alcohol server training permits."	Improving clarity without changing effect.
	Changing written numbers to numeric form.		
	"Opens or pours beer or wine into customer's glass at a customer's table."	"Opens or pours beer or wine into a customer's glass without opening or pouring in an area classified by the board as off limits to any person under the age of 21."	Amending rule to make what was a temporary allowance during the COVID-19 pandemic a permanent rule change.

Statutory Authority for Adoption: RCW 66.08.030, 66.20.330, 66.24.710(7).

Statute Being Implemented: RCW 66.04.010(13), 66.20.310, 66.20.320, 66.24.710.

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

Name of Proponent: LCB, governmental.

Name of Agency Personnel Responsible for Drafting: Daniel Jacobs, Rules and Policy Coordinator, 1025 Union Avenue, Olympia, WA 98504, 360-480-1238; Implementation: Becky Smith, Director of Licensing, 1025 Union Avenue, Olympia, WA 98504, 360-664-1753; and Enforcement: Chandra Wax, Director of Enforcement and Education, 1025 Union Avenue, Olympia, WA 98504, 360-664-1726.

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 amended rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). LCB is not a listed agency under RCW 34.05.328 (5)(a)(i), so the cost-benefit analysis requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328 (5)(a)(ii). In this case, since most of the proposed amended rules change existing regulations in accordance with new statutory language, the agency did not decide to complete a cost-benefit analysis. Additionally, the proposed rule changes regarding the MAST 13 permits are aimed at allowing businesses to engage in a practice they were permitted to do during most of the COVID-19 pandemic, and so a de minimis amount of time is expected.

ted to be required to reacquaint staff with the new practices allowed in regulation.

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(3) through the exemptions in RCW 34.05.310 (4) (c) and (d).

Explanation of exemptions: Most of the proposed amended rules are exempt from the Regulatory Fairness Act's (RFA) small business economic impact statement (SBEIS) requirement under RCW 34.05.310 (4) (c) and (d) for the following reasons identified below:

The proposed amendment to WAC 314-03-035 states that on-premises beer or wine licensees must get the delivery endorsement in RCW 66.24.710 (5) (a) to deliver beer or wine, copying language from RCW 66.24.710 (5) (a) and placing it in rule. Several references to the use of third-party delivery are proposed to be removed, consistent with the framework of RCW 66.24.710. Lastly, some technical typographic changes are proposed. Because the proposed rule language is making technical changes without changing the effect of the rule and incorporating statutory provisions by reference, the proposed amendment to WAC 314-03-035 meets the requirements of RCW 34.05.310 (4) (c) and (d) and is thus exempt from RFA's SBEIS requirement.

The proposed amendment to WAC 314-03-500 replaces citations to session law with statutory citations and copies statutory language regarding the requirement for a driver delivering alcohol to have an MAST 12 permit from RCW 66.24.710 (5) (b) (i) and for certain licensees to sell an accompanying meal with the purchase of alcohol for takeout or delivery from RCW 66.24.710 (5) (b) (ii) and (c). Additionally, the proposed amendment removes references to licensees that have delivery privileges from their authorizing statutes separate from RCW 66.24.710. Also removed is a reference to kegs because the use of kegs is described in WAC 314-02-115. Because most of the proposed rule language is making technical changes without changing the effect of the rule and incorporating statutory provisions by reference, the proposed amendment to WAC 314-03-500 meets the requirements of RCW 34.05.310 (4) (c) and (d) and is thus exempt from RFA's SBEIS requirement.

There is one portion of WAC 314-03-500 regarding "ready to drink cocktails" that is not making technical changes and so is not exempt from RFA's SBEIS requirement.

The proposed amendment to WAC 314-03-505 replaces citations to session law with statutory citations and adds references to RCW 66.24.710 where the same requirements were already in place in WAC 314-03-505. Because the proposed rule language is making technical changes without changing the effect of the rule and incorporating statutory provisions by reference, the proposed amendment to WAC

314-03-505 meets the requirements of RCW 34.05.310 (4)(c) and (d) and is thus exempt from RFA's SBEIS requirement.

The proposed amendment to WAC 314-03-510 replaces citations to session law with statutory citations, replaces a definition provided in rule with a reference to one that is now in statute, and states that accompanying meals do not need to be purchased with a growler. Because the proposed rule language is making technical changes without changing the effect of the rule and incorporating statutory provisions by reference, the proposed amendment to WAC 314-03-510 meets the requirements of RCW 34.05.310 (4)(c) and (d) and is thus exempt from RFA's SBEIS requirement.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is <i>not</i> exempt - Analysis is required</b>	<b>This proposed rule section is <i>exempt</i>. Provide RCW to support this exemption.</b>
1.	WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees.	<input type="checkbox"/>	RCW 34.05.310 (4)(c) because the rules are adopting or incorporating by reference Washington state statutes. RCW 34.05.310 (4)(d) because the rule also clarifies some language without changing the rule's effect
2.	WAC 314-03-200 Outside or extended alcohol service.	X	
3.	WAC 314-03-205 Outdoor alcohol service for on-premises licensees.	X	
4.	WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service.	<input type="checkbox"/>	RCW 34.05.310 (4)(c) because the rules are adopting or incorporating by reference Washington state statutes, and RCW 34.05.310 (4)(d) because the rule also clarifies some language without changing the rule's effect.
5.	WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service.	<input type="checkbox"/>	RCW 34.05.310 (4)(c) because the rules are adopting or incorporating by reference Washington state statutes, and RCW 34.05.310 (4)(d) because the rule also clarifies some language without changing the rule's effect.
6.	WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service.	<input type="checkbox"/>	RCW 34.05.310 (4)(c) because the rules are adopting or incorporating by reference Washington state statutes, and RCW 34.05.310 (4)(d) because the rule also clarifies some language without changing the rule's effect.
7.	WAC 314-03-600 Takeout/delivery endorsement comparison table.	X	
8.	WAC 314-11-040 What duties can an employee under twenty-one years of age perform on a licensed premises?	X	
9.	WAC 314-17-015 What are the two types of alcohol server training permits?	X	

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. Agencies are required to consider costs imposed on business and costs associated with compliance with proposed rules.

Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, LCB considered potential administrative costs that a licensee may incur complying with the proposed rules.

LCB applied the North American Industry Classification System (NAICS) codes 722320 for Caterers, 722410 for Drinking Places (Alcoholic Beverages), 722511 for Full Service Restaurants and 722513 for Limited Service Restaurants. Drinking Places (Alcoholic Beverages) is described by the NAICS as follows: The industry comprised of establishments known as bars; taverns; nightclubs; or drinking places primarily engaged in preparing and serving alcohol beverages for immediate consumption. These establishments may also provide limited food service.

The industry description for this code is presented in the table below and can be accessed at <https://www.census.gov/naics/>.

LCB applied a default estimated compliance cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects a very generous estimated four hours of administrative time at \$50 per hour, for a total of \$200. The agency assumes this activity would involve reviewing the revised rules and explaining the changes to employees.

2022 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)
722320	\$200	Food Services and Drinking Places	Caterers	\$2,052.03	\$2,052.03 2021 Dataset pulled from ESD	\$956.07 2021 Dataset pulled from DOR
722410	\$200	Food Services and Drinking Places	Drinking Places (Alcoholic Beverages)	\$2,347.72	\$1,338.63 2021 Dataset pulled from ESD	\$2,347.72 2021 Dataset pulled from DOR
722511	\$200	Food Services and Drinking Places	Full Service Restaurants	\$3,553.63	\$3,221.87 2021 Dataset pulled from ESD	\$3,553.63 2021 Dataset pulled from DOR
722513	\$200	Food Services and Drinking Places	Limited Service Restaurants	\$5,011.98	\$5,011.98 2021 Dataset pulled from ESD	\$4,698.03 2021 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the thresholds for any of the license types. Therefore, implementation of these rules is not anticipated to result in more-than-minor costs on businesses as defined in RCW 19.85.020(2).

ESD - Washington state employment security department.

DOR - Washington state department of revenue.

A copy of the detailed cost calculations may be obtained by contacting Daniel Jacobs, Rules and Policy Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, phone 360-480-1238, fax 360-704-5027, email [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

December 6, 2023  
David Postman  
Chair

OTS-4973.2

AMENDATORY SECTION (Amending WSR 17-17-030, filed 8/9/17, effective 9/9/17)

**WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees.** An on-premises beer and/or wine licensee may accept orders for beer or wine from, and deliver beer or wine to, customers, if the licensee obtains a delivery endorsement under RCW 66.24.710.

(1) **Resale.** Beer and wine shall not be for resale.

(2) **Stock location.** Beer and wine must come directly from a licensed on-premises retail location.

(3) **How to place an order.** Beer and wine may be ordered in person at a licensed location, by mail, telephone, internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. The use of internet or mobile applications for retail customers to purchase alcohol in Washington state (~~are~~) is allowed under the following conditions:

(i) The sale must be made by the licensee;

(ii) The licensee processes the payment; and

(iii) The liquor licensee pays the owner of the mobile application a service fee.

(b) All orders and payments shall be fully processed before liquor transfers ownership (~~or, in the case of delivery, leaves a licensed premises~~).

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) Internet. To sell beer and wine via the internet, a new license applicant must request internet-sales privileges in his or her application. An existing licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States Postal Service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Beer and wine may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Per chapter 66.44 RCW, any person under (~~twenty-one~~) 21 years of age is prohibited from purchasing, delivering, or accepting delivery of beer and wine.

(b) A delivery person must verify the age of the person accepting delivery before handing over beer and wine.

(c) If no person (~~(twenty-one)~~) 21 years of age or older is present to accept a beer and wine order at the time of delivery, the beer and wine shall be returned to the licensee.

(8) **Intoxication.** Delivery of beer and wine is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of beer and wine must be factory sealed in bottles, cans, or other like packaging. Delivery of growlers, jugs or other similar, nonfactory sealed containers is prohibited. Delivery of malt liquor in kegs or other containers capable of holding four gallons or more of liquid is allowed, provided that kegs or containers are factory sealed and that the keg sales requirements (see WAC 314-02-115) are met prior to delivery. For the purposes of this subsection, "factory sealed" means that a unit is in (~~(one hundred)~~) 100 percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a beer and wine package (~~(, delivered by a third party,)~~) must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be (~~(twenty-one)~~) 21 years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at a licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Times and dates of purchase and delivery.

(b) (~~(A private carrier)~~) An employee delivering beer or wine must obtain the signature of the person who receives beer and wine upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Website requirements.** When selling over the internet, all website pages associated with the sale of beer and wine must display a licensee's registered trade name.

(12) **Accountability.** A licensee shall be accountable for all deliveries of beer and wine made (~~(on its behalf)~~) by employees.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement or restriction.

### OTS-4974.3

AMENDATORY SECTION (Amending WSR 23-14-119, filed 7/5/23, effective 7/5/23)

**WAC 314-03-200 Outside or extended alcohol service.** (1) A licensee must request approval from the board's licensing division for ongoing outside (~~(or extended)~~) alcohol service or extended indoor al-

cohol service. Any language in this rule referring to outdoor alcohol service applies also to extended indoor alcohol service.

~~(Except as provided in rules for outdoor alcohol service in WAC 314-03-205, the following conditions must be met:~~

~~(1) The area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height.~~

~~(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.~~

~~(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.~~

~~(4) Must have leasehold rights to the area and have and be connected to the licensed premises.~~

~~(5) Openings into and out of the outside area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet.~~

~~(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a 42 inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.~~

~~(a) The permanent demarcation must be at all boundaries of the outside service area;~~

~~(b) The permanent demarcation must be at least six inches in diameter;~~

~~(c) The permanent demarcation must be placed no more than 10 feet apart;~~

~~(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;~~

~~(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;~~

~~(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.~~

~~(7) **Limited exception.** The board may grant limited exceptions to the required 42 inch high barrier for outside alcohol service areas.~~

~~(a) The licensee must have exclusive leasehold rights to the outside service area.~~

~~(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.))~~

(2) **Outdoor alcohol services in privately owned spaces.** For outdoor alcohol service located in privately owned spaces, a licensee must meet the following requirements:

(a) The licensee must have legal authority to use the outdoor alcohol service area including, but not limited to, ownership or leasehold rights;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c) The outdoor alcohol service area must be contiguous to the licensed business or located on the same property or parcel of land as the licensed business;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) (i) Interior access to the licensed premises from the outdoor alcohol service area is not required. However, unless there is (A) interior access to the licensed premises from the outdoor alcohol serv-

ice area, or (B) an unobstructed direct line of sight from inside the licensed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption. This requirement is in addition to the requirement in (d) of this subsection that the outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(ii) If the interior access is from an area classified by the board as off limits to any person under the age of 21, people under the age of 21 are prohibited in the outside or extended alcohol service area;

(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;

(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. However, the board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area, but may not grant limited exceptions to beer gardens, standing room only venues, catered events, or permitted special events;

(h) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet; and

(i) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(3) **Outdoor alcohol services in public spaces.** For outdoor alcohol service located in public spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensed business must have a permit from their local jurisdiction allowing the business to use the public space as a service area, such as a sidewalk cafe permit or other similar outdoor area permit authorized by local regulation;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c) (i) Except as provided in (c) (ii) of this subsection, the outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height.

(ii) Licensees with outdoor alcohol service areas contiguous to the licensed premises may use a permanent fence-free demarcation of the designated alcohol service area for continued enforcement of the boundaries, instead of a permanent or movable barrier a minimum of 42 inches in height. The permanent fence-free demarcation used must be:

(A) At all boundaries of the outdoor alcohol service area;

(B) At least six inches in diameter; and

(C) Placed no more than 10 feet apart;

(iii) The exception identified in (c) (ii) of this subsection does not apply to beer gardens, standing room only venues, catered events, and permitted special events, all of which must always have a permanent or movable barrier a minimum of 42 inches in height;

(d) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet;

(e) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area; and

(g) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(4) For multiple licensees to share an outdoor alcohol service area, the licensees must request approval from the board's licensing division and meet the following requirements:

(a) The licensees' property parcels or buildings must be located in direct physical proximity to one another. For the purposes of this subsection, "direct physical proximity" means that the property parcels or buildings are physically connected or touching each other along a boundary or at a point;

(b) (i) If the shared outdoor alcohol service area is located on public space, the licensees sharing the space must meet all of the requirements in subsection (3) of this section and shared use of the outdoor service area must be authorized by the licensees' local jurisdiction permits; or

(ii) If the shared outdoor alcohol service area is located in a privately owned space, the licensees sharing the space must meet all of the requirements in subsection (2) of this section and must have legal authority to share use of the outdoor service area including, but not limited to, ownership or leasehold rights;

(c) The licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(d) The licensees must use distinctly marked glassware or serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer;

(e) The licensees must complete an operating plan for the shared outdoor alcohol service area. The operating plan should demonstrate in general how responsibility for the outdoor alcohol service area is shared among the licensees. Licensees are required to submit the operating plan to the board's licensing division at the time of application or alteration and must keep documentation of an up-to-date plan available for inspection on premises; and

(f) Consistent with WAC 314-11-065, a licensee may not permit the removal of alcohol in an open container from the shared outdoor alcohol service area, except to reenter the licensed premises where the alcohol was purchased. Signage prohibiting the removal of alcohol in an open container must be visible to patrons in the shared outdoor alcohol service area.

(5) If multiple licensees use a shared outdoor alcohol service area as described in subsection (4) of this section, all participating licensees are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol service" means service of liquor as defined in RCW 66.04.010.

(b) "Contiguous" means touching along a boundary or at a point.

(c) "Sidewalk cafe" means a designated seating area on the sidewalk, curb space, or other public space where a business provides table service and seating for their patrons during business hours.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-03-205 Outdoor alcohol service for on-premises licensees.

#### **OTS-4975.4**

AMENDATORY SECTION (Amending WSR 23-14-119, filed 7/5/23, effective 7/5/23)

**WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service.** (1) An endorsement for the sale of manufacturer sealed alcohol products is available through takeout and delivery service as set forth in (~~section 1 (5) (d), chapter 279, Laws of 2023~~) RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(2) (a) (i) An endorsement to sell manufacturer sealed alcohol products at retail through takeout or delivery service is available to the following licensees: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; (~~domestic wineries; domestic breweries and microbreweries; distilleries;~~) snack bars; nonprofit arts licensees; and caterers.

(ii) This endorsement allows licensees authorized to sell spirits to sell ready-to-drink cocktails through takeout or delivery service.

(b) This endorsement is separate from the endorsements in WAC 314-03-505 and 314-03-510 that authorize the sale through takeout or delivery service of nonmanufacturer or nonfactory sealed premixed cocktails, wine by the glass, premixed wine and spirits cocktails, premixed wine drinks, or growlers.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) Alcohol products must be sold in closed, factory or manufacturer sealed packages or containers, such as cans (~~(7)~~) and bottles (~~(7 and kegs)~~). Licensees may only sell the types of manufacturer sealed alcohol products under this endorsement that they are authorized to sell under the terms of their license.

(b) (~~(i) Except as provided in (b) (ii) of this subsection,~~) If an alcohol product authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through takeout or delivery service, the exterior of the bag, box, or other packaging must be clearly

marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size that is legible and readily visible.

~~((ii) Brewery, winery, and distillery licensees are not required to mark or label the exterior of the bag, box, or other packaging as described in (b) (i) of this subsection if the alcohol product is provided to the customer through takeout service.))~~

(c) If the alcohol products authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) (A) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(B) Delivery of an alcohol product must be performed by an employee of an alcohol delivery endorsement holder who is 21 years of age or older and possesses a class 12 permit, in accordance with RCW 66.20.310.

~~(iii) As set forth in ((section 1(8), chapter 279, Laws of 2023)) RCW 66.24.710, upon delivery of the alcohol product, the signature of the person ((age 21 or over)) who is 21 years of age or older receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.~~

(iv) If no person age 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. An alcohol product may not be left unattended at a delivery location.

(v) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(vi) Alcohol delivery under this section shall be performed by direct employees of the licensee.

(d) (i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through takeout or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through takeout or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(e) Delivery services conducted and alcohol sold for takeout by beer and wine restaurant licensees and spirits, beer and wine restaurant licensees must be accompanied by a purchased meal prepared and sold by the license holder under RCW 66.24.710.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to ~~((: Keg sale requirements in WAC 314-02-115 and))~~, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Factory sealed" or "manufacturer sealed" means that a package or container is in 100 percent resalable condition, with all manufacturer's seals intact.

(c) "Ready-to-drink cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream, that is:

(i) Factory sealed or manufacturer sealed;

(ii) No more than 12 percent alcohol per volume; and

(iii) No more than 12 ounces in volume.

(d) "Spirits" has the same meaning as defined in RCW 66.04.010.

(6) The delivery service endorsement described in this section expires July 1, 2025, as set forth in (~~section 1(3), chapter 279, Laws of 2023~~) RCW 66.24.710.

AMENDATORY SECTION (Amending WSR 23-14-119, filed 7/5/23, effective 7/5/23)

**WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service.** (1) (a) An endorsement is available for the sale of growlers through takeout and delivery service as set forth in (~~section 1(4), chapter 279, Laws of 2023~~) RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(b) This endorsement is separate from the endorsements in WAC 314-03-500 and 314-03-505 that authorize the sale through takeout or delivery service of manufacturer sealed alcohol products at retail, or nonmanufacturer or nonfactory sealed premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks.

(2) As set forth in (~~section 1(4), chapter 279, Laws of 2023~~) RCW 66.24.710, an endorsement to sell growlers for off-premises consumption through takeout or delivery service is available to licensees that were authorized by statute or rule before January 1, 2020, to sell growlers.

(a) Licensees eligible for this endorsement include: Taverns; beer and wine restaurants; spirits, beer, and wine restaurants; grocery stores; beer and wine specialty shops; breweries; microbreweries; wineries; combination spirits, beer, and wine licensees; and hotel licensees.

(b) For a beer and wine specialty shop to be eligible for the endorsement described in this section, the beer and wine specialty shop must meet the requirement in RCW 66.24.371(3), as it existed on December 31, 2019, that the licensee's beer and/or wine sales must be more than 50 percent of the licensee's total sales.

(3) In order to obtain and maintain this endorsement, licensees must meet the following requirements:

(a) Sale of growlers must meet federal alcohol and tobacco tax and trade bureau requirements.

(b) (i) Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries with this endorsement may sell prefilled growlers as set forth in (~~section 1(4), chapter 279, Laws of 2023~~) RCW 66.24.710. Prefilled growlers must be

sold the same day they are prepared for sale and not stored overnight for sale on future days.

(ii) Brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labeling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition.

(c) Growlers must be filled with alcohol products, such as beer, wine, or cider, that the licensee was authorized by statute or rule before January 1, 2020, to sell in growlers.

(d) If the growlers authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the delivery of growlers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least 21 years of age. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) As set forth in (~~section 1(8), chapter 279, Laws of 2023~~) RCW 66.24.710, upon delivery of the alcohol product, the signature of the person age 21 or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(e)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through takeout or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through takeout or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) Growlers sold under this endorsement do not need to be accompanied by a purchased meal prepared and sold by the license holder under RCW 66.24.710.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Beer" has the same meaning as defined in RCW 66.04.010.

(c) "Cider" has the same meaning as defined in RCW 66.24.210.

(d) "Growlers" has the same meaning as defined in ~~((section 2-10), chapter 48, Laws of 2021: Sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale))~~ RCW 66.24.710.

(e) "Wine" has the same meaning as defined in RCW 66.04.010.

~~((6))~~ (7) The delivery service endorsement described in this section expires July 1, 2025, as set forth in ~~((section 1(4), chapter 279, Laws of 2023))~~ RCW 66.24.710.

### OTS-5097.3

AMENDATORY SECTION (Amending WSR 23-14-119, filed 7/5/23, effective 7/5/23)

**WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service.**

(1) An endorsement is available for the sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout and delivery service as set forth in ~~((section 1(3), chapter 279, Laws of 2023))~~ RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(2) As set forth in ~~((section 1(2) and (3), chapter 279, Laws of 2023))~~ RCW 66.24.710:

(a) An endorsement is available to spirits, beer, and wine restaurants to sell premixed cocktails, wine by the glass, or premixed wine and spirits cocktails through takeout or delivery service. This endorsement does not authorize the sale of full bottles of spirits for off-premises consumption.

(b) An endorsement is also available to beer and wine restaurant licensees to sell wine or premixed wine drinks by the glass through takeout or delivery service.

(3) This endorsement is separate from the endorsements in WAC 314-03-500 and 314-03-510 that authorize the sale through takeout or delivery service of manufacturer sealed alcohol products at retail, or growlers.

(4) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) (i) For spirits, beer, and wine restaurants, food that qualifies as a complete meal under WAC 314-02-010 must be sold with the premixed cocktails, wine by the glass, or premixed wine and spirits cocktails authorized for sale through takeout or delivery service under this endorsement, as set forth in RCW 66.24.710.

(ii) Spirits, beer, and wine restaurants can sell up to three ounces of spirits per complete meal.

~~((ii))~~ (iii) For beer and wine restaurants, a food item that qualifies as minimum food service under WAC 314-02-010 must be sold with the wine or premixed wine drinks by the glass authorized for sale

through takeout or delivery service under this endorsement, as set forth in RCW 66.24.710.

(b) The alcohol products authorized for sale through takeout or delivery service under this endorsement must be prepared the same day they are sold.

(c) The alcohol products authorized for sale through takeout or delivery service under this endorsement must be packaged in a container that has been sealed in a manner designed to prevent consumption without removal of the tamper-evident lid, cap, or seal, as set forth in RCW 66.24.710. For the purposes of this subsection, "tamper-evident" means a lid, cap, or seal that visibly demonstrates when a container has been opened. Tape is not a tamper-evident seal. The following list of examples is not comprehensive and is not intended to capture all of the possible types of allowed or disallowed containers:

(i) Examples of containers that are allowed:

(A) Containers with a screw top cap or lid that breaks apart when the container is opened.

(B) Containers with a plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

(C) Vacuum or heat-sealed pouches without holes or openings for straws.

(ii) Examples of containers that are not allowed:

(A) Containers with lids with sipping holes or openings for straws.

(B) Containers such as styrofoam, paper, or plastic cups that lack a tamper-evident lid, cap, or seal.

(d) The containers that the alcohol products authorized for sale under this endorsement are packaged in must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible. If a container of alcohol authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before it is provided to the customer through takeout or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible.

(e) To deter public consumption or consumption in a vehicle of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks sold through takeout or delivery service, licensees may not put ice directly into the containers that the alcohol products authorized for sale under this endorsement are packaged in, except for frozen or blended drinks. Ice may be provided separately along with the takeout or delivery order.

(f) The premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale through takeout or delivery service under this endorsement must be placed in the trunk of the vehicle or beyond the immediate reach of the driver or any passengers in compliance with open container requirements in RCW 46.61.519 before being transported off the licensee's premises.

(g) If the premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules prohibit the sale of nonfactory sealed

containers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) As set forth in RCW 66.24.710, delivery must be made by an employee of the licensed business who is at least 21 years of age and holds a class 12 mandatory alcohol server training (MAST) permit under chapter 314-17 WAC. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) As set forth in (~~section 1(8), chapter 279, Laws of 2023~~) RCW 66.24.710, upon delivery of the alcohol product, the signature of the person age 21 or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(h)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through takeout or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through takeout or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

~~((4))~~ (5) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

~~((5))~~ (6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" or "alcoholic beverage" means liquor as defined in RCW 66.04.010.

(b) "Premixed cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(c) "Premixed wine and spirits cocktail" means a drink made by combining wine and spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(d) "Premixed wine drink" means a drink made by combining wine with nonalcoholic beverages and ingredients including, but not limited

to, fruit juice, carbonated beverages, flavorings, or cream. A pre-mixed wine drink may not include alcoholic beverages other than wine.  
 (e) "Spirits" has the same meaning as defined in RCW 66.04.010.  
 (f) "Wine" has the same meaning as defined in RCW 66.04.010.  
 ((+6)) (7) The delivery service endorsement described in this section expires July 1, 2025, as set forth in ((section 1(3), chapter 279, Laws of 2023)) RCW 66.24.710.

**OTS-5069.2**

NEW SECTION

**WAC 314-03-600 Takeout/delivery endorsement comparison table.**

Meal Required

		Endorsement					
		Takeout or Delivery			Takeout Only		
License Type		<b>Takeout/Delivery - Factory Sealed Containers WAC 314-03-500</b>	<b>Takeout/Delivery - Premixed Cocktails/Wine WAC 314-03-505</b>	<b>Growlers Takeout/Delivery WAC 314-03-510</b>	<b>Off premises WAC 314-02-045; 314-02-070</b>	<b>Off premises sale wine WAC 314-02-015</b>	<b>Spirits/beer/wine keg to go WAC 314-02-015</b>
	Beer/wine restaurant	Y	Y*	N	N	n/a	n/a
	Spirits/beer/wine restaurant	Y	Y	N	n/a	N	N
	Tavern	N	n/a	N	N	n/a	n/a
	Winery	n/a	n/a	N	n/a	n/a	n/a
	Brewery	n/a	n/a	N	n/a	n/a	n/a
	Distillery	n/a	n/a	n/a	n/a	n/a	n/a

Third Party Delivery Allowed

		Endorsement					
		Takeout or Delivery			Takeout Only		
License Type		Takeout/Delivery - Factory Sealed Containers WAC 314-03-500	Takeout/Delivery - Premixed Cocktails/Wine WAC 314-03-505	Growlers Takeout/Delivery WAC 314-03-510	Off premises WAC 314-02-045; 314-02-070	Off premises sale wine WAC 314-02-015	Spirits/beer/wine keg to go WAC 314-02-015
	Beer/wine restaurant	N	N*	N	N	n/a	n/a
	Spirits/beer/wine restaurant	N	N	N	n/a	N	N
	Tavern	N	n/a	N	N	n/a	n/a
	Winery	n/a**	n/a	N	n/a	n/a	n/a
	Brewery	n/a**	n/a	N	n/a	n/a	n/a
	Distillery	n/a**	n/a	n/a	n/a	n/a	n/a

\* Wine drinks only

\*\* Third party delivery authorized by statute in RCW 66.20.410, 66.24.170, 66.24.240, 66.24.244.

**OTS-4976.3**

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

**WAC 314-11-040** (~~What~~) Permissible duties (~~can~~) of an employee under (~~twenty-one~~) 21 years of age (~~perform~~) on a licensed premises (~~?~~). A person must be (~~twenty-one~~) 21 years of age or older to be employed in the sale, handling, or service of liquor, except as provided in this chapter.

(1) Per RCW 66.44.340 and RCW 66.44.350, persons between (~~eighteen and twenty-one~~) 18 and 21 years of age may perform the following duties:

	Duties 18, 19, and 20 year old employees may perform, as long as there is a person ( <del>twenty-one</del> ) <u>21</u> years of age or older on duty supervising the sale of liquor	Duties 18, 19, and 20 years old employees may not perform
(a) In a grocery store or beer/wine specialty shop:	<ul style="list-style-type: none"> <li>■ Sell, stock, and handle beer and wine; and</li> <li>■ Deliver beer and/or wine to a customer's car with the customer (for the purposes of this rule, there is no minimum age requirement for an employee of a grocery store or a beer/wine (<del>specialty</del>) <u>specialty</u> shop to deliver beer and/or wine to a customer's car with the customer).</li> </ul>	Supervise employees who sell, stock, or handle beer and/or wine.

	<b>Duties 18, 19, and 20 year old employees may perform, as long as there is a person <del>((twenty-one))</del> <u>21</u> years of age or older on duty supervising the sale of liquor</b>	<b>Duties 18, 19, and 20 years old employees may not perform</b>
(b) In a spirits retail business:	<ul style="list-style-type: none"> <li>■ As long as there are at least two supervisors at least <del>((twenty-one))</del> <u>21</u> years of age on duty, persons 18, 19, and 20 years old may sell, stock, and handle spirits.</li> <li>■ Deliver spirits to a customer's car with the customer (for purposes of this rule, there is no minimum age requirement for an employee of a spirits retailer to deliver spirits to a customer's car with the customer).</li> </ul>	Supervise employees who sell, stock, or handle spirits.
(c) In an establishment that sells liquor for on-premises consumption:	<ul style="list-style-type: none"> <li>■ Take orders for, serve, and sell liquor in areas classified as open to persons under <del>((twenty-one))</del> <u>21</u> years of age; and</li> <li>■ Enter areas designated as off-limits to persons under <del>((twenty-one))</del> <u>21</u> years of age to perform duties such as picking up liquor for service in other parts of the establishment; cleaning up, setting up, and arranging tables; delivering messages; serving food; and seating patrons; provided the employee does not remain in the area any longer than is necessary to perform the duties.</li> </ul>	Functions of a bartender, including: <ul style="list-style-type: none"> <li>■ <del>((Mixing drinks))</del> <u>Pouring spirits or mixing cocktails;</u></li> <li>■ Drawing beer or wine from a tap <u>or spigot;</u></li> <li>■ <u>Opening or pouring beer or wine</u> <del>((anywhere except at the patrons table))</del> <u>in an area classified by the board as off limits to any person under the age of 21; and</u></li> <li>■ Providing an employee spirits<del>(,)</del> <u>or</u> beer by the pitcher or glass, or wine by the carafe or glass for delivery to a customer.</li> </ul>
(d) In a spirits retail business:		Supervise employees who sell, stock, or handle spirits.

(2) Per RCW 66.44.316 and 66.44.318, the following persons that are ~~((eighteen, nineteen, or twenty))~~ 18, 19, or 20 years of age may remain on licensed premises or portions of premises that are restricted from persons under ~~((twenty-one))~~ 21 years of age, but only during the course of his or her employment:

- (a) Persons performing janitorial services during the hours when there is no sale, service, or consumption of liquor on the premises;
- (b) Employees of amusement device companies for the purpose of installing, maintaining, repairing, or removing any amusement device;
- (c) Security or law enforcement officers and firefighters during the course of their official duties and if they are not the direct employees of the licensee; and
- (d) Professional musicians, per WAC 314-11-045.

**OTS-4977.3**

AMENDATORY SECTION (Amending WSR 10-12-124, filed 6/2/10, effective 7/3/10)

**WAC 314-17-015** (~~(What are the two)~~) **Types of alcohol server training permits** (~~(?)~~). There are two types of permits for persons who serve, mix, sell, or who supervise the sale of, alcohol at a retail licensed premises.

Class 12 permit	Class 13 permit
(1) A class 12 permit holder must be at least <del>((twenty-one))</del> <u>21</u> years of age.	(5) A class 13 permit holder must be at least <del>((eighteen))</del> <u>18</u> years of age.
(2) A class 12 permit is required for any person who: (a) Manages a retail licensed premises licensed to sell alcoholic beverages for on-premises consumption; (b) Sells, mixes or draws from a dispensing device alcoholic beverages for on-premises consumption; or (c) Supervises a class 13 permit holder.	(6) A class 13 permit is required for any person who: (a) Takes orders for alcoholic beverages for on-premises consumption; (b) Delivers alcoholic beverages to customers for on-premises consumption; or (c) Opens or pours beer or wine into a customer's glass <del>((at a customer's table))</del> <u>without opening or pouring in an area classified by the board as off limits to any person under the age of 21.</u>
(3) A class 12 permit includes all authorities granted under a class 13 permit.	(7) See RCW 66.20.310 for exceptions for grocery store employees.
(4) See RCW 66.20.310 for exceptions for grocery store employees.	

(8) Upon a temporary absence of a class 12 permit holder, a class 13 permit holder may perform the functions of a class 12 permit holder until a class 12 permit holder arrives to fulfill those duties provided that a class 13 permit holder:

- (a) Is ~~((twenty-one))~~ 21 years of age or older; and
- (b) Functions as a class 12 permit holder for no more than ~~((thirty))~~ 30 calendar days per year.

(9) See RCW 66.44.310, 66.44.316, 66.44.318, and 66.44.350 for additional information about permissions and restrictions for ~~((eighteen to twenty))~~ 18 to 20-year-old persons.